

CONSOLIDATION OF MEDICAL PROFESSION ACT
R.S.N.W.T. 1988,c.M-9

(Current to: January 25, 2013)

AS AMENDED BY NORTHWEST TERRITORIES STATUTES:

R.S.N.W.T. 1988,c.105(Supp.)
S.N.W.T. 1995,c.11
S.N.W.T. 1997,c.8
S.N.W.T. 1998,c.5
S.N.W.T. 1998,c.24

AS AMENDED BY STATUTES ENACTED UNDER SECTION 76.05 OF NUNAVUT ACT:

S.N.W.T. 1998,c.37
In force April 1, 1999

AS AMENDED BY NUNAVUT STATUTES:

S.Nu. 2001,c.10,s.5
s.5 in force August 15, 2001: SI-003-2001
S.Nu. 2008,c.18,s.59
s.59 in force July 31, 2009: SI-003-2009
S.Nu. 2010,c.25,s.35
s.35 in force March 21, 2011: SI-001-2011
S.Nu. 2012,c.17,s.18
s.18 in force June 8, 2012

This consolidation is not an official statement of the law. It is an office consolidation prepared for convenience only. The authoritative text of statutes can be ascertained from the *Revised Statutes of the Northwest Territories, 1988* and the Annual Volumes of the Statutes of the Northwest Territories (for statutes passed before April 1, 1999) and the Statutes of Nunavut (for statutes passed on or after April 1, 1999).

A copy of a statute of Nunavut can be obtained from the Territorial Printer at the address below. The Annual Volumes of the Statutes of Nunavut and this consolidation are also available online at <http://www.justice.gov.nu.ca/english/legislation.html> but are not official statements of the law.

Any certified Bills not yet included in the Annual Volumes of the Statutes of Nunavut can be obtained through the Office of the Clerk of the Legislative Assembly.

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GLOSSARY OF TERMS USED IN CONSOLIDATIONS

Miscellaneous

- c. means "chapter".
- CIF means "comes into force".
- NIF means "not in force".
- s. means "section" or "sections", "subsection" or "subsections", "paragraph" or "paragraphs".
- Sch. means "schedule".
- SI-005-98 means the instrument registered as SI-005-98 in 1998. (*Note: This is a Northwest Territories statutory instrument if it is made before April 1, 1999, and a Nunavut statutory instrument if it is made on or after April 1, 1999 and before January 1, 2000.*)
- SI-012-2003 means the instrument registered as SI-012-2003 in 2003. (*Note: This is a Nunavut statutory instrument made on or after January 1, 2000.*)

Citation of Acts

- R.S.N.W.T. 1988,c.D-22 means Chapter D-22 of the *Revised Statutes of the Northwest Territories, 1988*.
- R.S.N.W.T. 1988,c.10(Supp.) means Chapter 10 of the Supplement to the *Revised Statutes of the Northwest Territories, 1988*. (*Note: The Supplement is in three volumes.*)
- S.N.W.T. 1996,c.26 means Chapter 26 of the 1996 Annual Volume of the Statutes of the Northwest Territories.
- S.Nu. 2002,c.14 means Chapter 14 of the 2002 Annual Volume of the Statutes of Nunavut.

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MEDICAL PROFESSION ACT

INTERPRETATION

Definitions

1. In this Act,

"chairperson" means the chairperson of the Medical Registration Committee appointed under subsection 5(3); (*président du comité d'inscription des médecins*)

"complainant" means a person who lodges a complaint under section 24; (*plaignant*)

"Court" means the Nunavut Court of Justice; (*Cour*)

"Education Register" means the Education Register referred to in section 13; (*registre des étudiants*)

"judge" means a judge of the Nunavut Court of Justice; (*juge*)

"licence" means a licence issued under this Act to practise medicine in Nunavut; (*licence*)

"medical" includes surgical and obstetrical; (*médical*)

"medical practitioner" means a person who is entitled to practise medicine in Nunavut under this Act; (*médecin*)

"Medical Register" means the Medical Register referred to in subsection 8(1); (*registre des médecins*)

"Medical Registration Committee" means the Medical Registration Committee established by subsection 5(1); (*comité d'inscription des médecins*)

"medicine" includes surgery and obstetrics, but does not include homeopathy, osteopathy, veterinary surgery or veterinary medicine; (*médecine*)

"permit" means a permit issued under this Act to practise medicine in Nunavut; (*permis*)

"practise medicine" means to offer or undertake by any means or method to diagnose, treat, operate, or prescribe for any human disease, pain, injury, disability or physical condition or to hold oneself out as being able to diagnose, treat, operate or prescribe for any human disease, pain, injury, disability or physical condition; (*exercer la médecine*)

"President" means the President of the Board of Inquiry appointed under subsection 21(2); (*président du comité d'enquête*)

"Registrar" means the Registrar of Health Professions mentioned in paragraph 5(2)(c); (*registraire*)

"Temporary Register" means the Temporary Register referred to in section 15. (*registre provisoire*)
S.N.W.T. 1998,c.37,Sch.B,s.1; S.Nu. 2001,c.10,s.5(2); S.Nu. 2012,c.17,s.18(2),(3).

PART I

REGISTRATION AND LICENSING

RIGHT TO PRACTISE MEDICINE

Right to practise

2. Except as provided in this Act, no person shall practise medicine in Nunavut unless he or she is registered and licensed or holds a permit issued under this Act.
S.Nu. 2012,c.17,s.18(3).

Validity of licences and permits

3. No licence or permit issued under this Act is valid unless the licence or permit fee in respect of the year for which the licence is issued is paid.

Lapse of licence

4. Where a person registered under subsection 10(1) allows his or her registration to lapse for a period exceeding six months, the Medical Registration Committee, in its discretion, may refuse to issue a licence unless that person requalifies in accordance with sections 9 and 10.

MEDICAL REGISTRATION COMMITTEE

Medical Registration Committee

5. (1) The Medical Registration Committee is established.

Members

(2) The Medical Registration Committee is composed of:

- (a) three persons who are qualified to practice medicine in a province or territory of Canada, two of whom shall be appointed by the Minister for a term of three years, and one of whom shall be appointed by the Minister for a term of two years;
- (b) one employee of the Government of Nunavut, who shall be appointed by the Minister for a term of two years;
- (c) the Registrar of Health Professions appointed under the *Dental Profession Act*;

- (d) one other person who does not have the qualification mentioned in paragraph (a) and is not an employee of the Government of Nunavut, who shall be appointed by the Minister for a term of two years.

Recommendations

(3) Persons appointed under paragraph 2(a) shall be appointed on the nomination of the committee known as the Medical Advisory Committee, established under the by-laws for the Baffin Regional Hospital, or any successor to that Committee.

Secretary

(4) The Registrar of Health Professions is the Secretary of the Medical Registration Committee.

Chairperson

(5) The Medical Registration Committee shall designate one of its members as chairperson.

Quorum

(6) Three members of the Medical Registration Committee constitute a quorum.

Re-appointments

(7) Persons appointed under paragraphs 2(a) or (b) may be re-appointed for additional terms of the same length as their original terms.

Liability of members

(8) No proceedings lie against a member of the Medical Registration Committee for anything done in or arising out of the exercise of powers or the performance of duties or functions under this Act. S.N.W.T. 1995,c.11,s.35; S.N.W.T. 1998,c.5,s.22(2); S.N.W.T. 1998,c.37,Sch.B,s.2; S.Nu. 2001,c.10,s.5(3).

Committee duties

6. The Medical Registration Committee shall review and decide on applications for licensing and registration under this Act.

REGISTERS

Registers

7. The Minister shall cause to be kept three registers, the Medical Register, the Education Register and the Temporary Register, which shall be open to inspection by any person on reasonable notice to the Registrar.

MEDICAL REGISTER

Medical Register

- 8.** (1) The Medical Register shall be divided into two parts, namely,
- (a) Part One, which shall contain the name, address and qualifications of every general or family practitioner in Nunavut; and
 - (b) Part Two, which shall contain the name, address and qualifications of every person who, because of special training, is a specialist in any branch of medicine in Nunavut.

Restriction

(2) A person registered in Part Two only of the Medical Register shall be restricted to that branch of medicine for which that person has been certified as a specialist. S.Nu. 2012,c.17,s.18(3).

Part One registration

- 9.** (1) A person is qualified to be registered in Part One of the Medical Register if the person produces evidence satisfactory to the Medical Registration Committee that
- (a) he or she is registered or is eligible as a medical practitioner in a province;
 - (b) he or she holds the Licentiate of the Medical Council of Canada;
 - (c) he or she has undertaken an internship, residency or other training or experience acceptable to the Medical Registration Committee for Part One registration;
 - (d) he or she is the person referred to in the evidence produced;
 - (e) he or she is of good character; and
 - (f) his or her name has not for disciplinary reasons been removed from the register of any college of physicians and surgeons and the person has not for disciplinary reasons been suspended from the privileges of a medical practitioner by any college of physicians and surgeons, or by any medical council or similar body in Canada or elsewhere.

Part Two registration

- (2) A person is qualified to be registered in Part Two of the Medical Register if the person produces evidence satisfactory to the Medical Registration Committee that he or she
- (a) has complied with paragraphs (1)(a), (b), (d), (e) and (f);
 - (b) has undertaken an internship, residency or other training or experience acceptable to the Medical Registration Committee for Part Two registration; and
 - (c) is a certified specialist in a province.

Exception for registration in Part One and Part Two

(3) The Minister may, subject to the terms and conditions that the Minister considers necessary or advisable, direct that the Registrar register an applicant who does not have the Licentiate of the Medical Council of Canada, in Part One or Part Two of the Medical Register if the applicant satisfies all other appropriate requirements for registration, and such registration, subject to the terms and conditions imposed by the Minister, is registration for the purposes of this Act.

Exception for registration in Part Two

(4) The Minister may, subject to the terms and conditions that the Minister considers necessary or advisable, direct that the Registrar register, for a one-year period, an applicant who is not a fellow or certificated specialist of the Royal College of Physicians and Surgeons of Canada, in Part Two of the Medical Register if

- (a) the applicant is eligible for registration in Part One of the Medical Register,
- (b) the training and experience of the applicant in a post-graduate speciality training program is acceptable to the Medical Registration Committee, and
- (c) the Medical Registration Committee is of the opinion that there are exceptional circumstances warranting the registration, and recommends registration to the Minister,

and such registration, subject to the terms and conditions imposed by the Minister, is registration for the purposes of this Act.

Registration

10. (1) A person who is qualified to be registered in either Part One or Part Two of the Medical Register shall, on payment of the prescribed fee, be registered.

Where no payment

(2) Where a person registered in one part is accepted for registration in the other part of the Medical Register, no additional fee is payable.

Renewal

(3) The Minister may, on the recommendation of the Medical Registration Committee, renew a registration made under subsection 9(3) or (4).

Effect of conviction

(4) Despite any other provision of this Act, but subject to subsection (5), a person who has been convicted of an offence under this Act or an indictable offence under the *Criminal Code* shall be refused registration in the Medical Register and the Minister shall remove from the Medical Register the name of any registered person who has been so convicted.

Exception

(5) Subsection (4) does not apply where, in the opinion of the Minister, after consultation with the Medical Registration Committee, the nature of the offence or the circumstances under which it was committed should not disqualify a person from being or remaining registered in the Medical Register. S.Nu. 2012,c.17,s.18(3).

Excessive absence

11. (1) Despite sections 9 and 10, a person registered in either Part One or Part Two of the Medical Register who ceases to be a resident of Nunavut for a period of one year or more may be required, in the discretion of the Medical Registration Committee, to submit certificates of standing or other documentation acceptable to the Medical Registration Committee, from any other jurisdiction in which the person has been practising medicine during the absence.

Failure to comply

(2) A person who fails to comply with subsection (1) may be struck from the Medical Register in the discretion of the Minister after consultation with the Medical Registration Committee. S.Nu. 2012,c.17,s.18(3).

Annual fee

12. Every person who is registered in the Medical Register shall pay to the Minister at the time that the person's name is registered in the Medical Register and subsequently on or before March 31 in each year a prescribed annual licence fee.

EDUCATION REGISTER

Education Register

13. The Education Register shall record the name, address and qualifications of every person who, in the opinion of the Medical Registration Committee, is

- (a) an undergraduate student at a medical school approved by the Minister, after consultation with the Medical Registration Committee, who is certified by the school to be qualified to act as an undergraduate clinical student and who is undertaking training experience of limited duration in Nunavut; or
- (b) a graduate of a medical school approved by the Minister, after consultation with the Medical Registration Committee, currently enrolled as an intern or resident in a program of post-graduate training, approved by the Minister and who is undertaking training experience of a limited duration in Nunavut.

S.Nu. 2012,c.17,s.18(3).

Undergraduate responsibilities

14. (1) An undergraduate student whose name is entered in the Education Register may, subject to the discretion of the Minister, provide medical services in a hospital,

office or other premises acceptable to the Minister subject to the limitations and restrictions that may be imposed by the Medical Registration Committee.

Graduate responsibilities

(2) A graduate in medicine whose name is entered in the Education Register may be

- (a) appointed as an intern or resident, or
- (b) engaged in post-graduate training,

in any hospital, office or other premises in Nunavut acceptable to the Minister but the graduate is subject to the limitations and restrictions that may be imposed by the Medical Registration Committee.

Prohibition

(3) No person shall practise as an intern or resident in any hospital, office or other premises in Nunavut unless the person's name is entered in the Education Register or unless the person is a duly qualified medical practitioner.

Where appointment terminates

(4) The Registrar shall strike from the Education Register the name of a person registered where the appointment of that person as an intern, a resident or a physician engaged in other post-graduate training in Nunavut is terminated or completed.

Eligibility to practise

(5) A person whose name is entered in the Education Register may practise medicine in accordance with this Act.

Prohibition

(6) No undergraduate medical student shall provide services in a hospital, office or other premises unless his or her name has been entered in the Education Register.

Ceasing to be medical student

(7) Where the name of an undergraduate medical student has been entered in the Education Register and that person ceases to be a medical student in Nunavut, the Registrar shall strike his or her name from the Education Register.

Duties of student

(8) No person whose name is entered in the Education Register shall, unless he or she is a duly qualified physician registered under this Act,

- (a) sign a document that requires the signature of a duly qualified medical practitioner, or
- (b) prescribe drugs, except for in-patients or out-patients of the hospital or other premises acceptable to the Minister where the person is engaged in the practice of medicine,

and any written order for treatment signed by the person is effective only if countersigned or approved by a duly qualified medical practitioner. S.Nu. 2012,c.17,s.18(3).

TEMPORARY REGISTER AND PERMITS

Temporary Register

15. The Temporary Register shall record the name, address and qualifications and the terms and conditions of temporary registration of every person who is issued a temporary permit.

Visiting forces permits

16. (1) The Minister may issue a temporary permit to practise medicine to a member of a visiting force, as defined in the *Visiting Forces Act (Canada)*, who is authorized to practise medicine with the visiting force and who furnishes credentials satisfactory to the Medical Registration Committee.

Restriction on practice of medicine

(2) A permit issued under subsection (1) entitles the holder to practise medicine in the parts of Nunavut and during the periods of time that are specified by the Minister in the permit.

Fee

(3) No fee shall be charged for a permit issued under subsection (1).
S.Nu. 2012,c.17,s.18(3).

Temporary permit

17. (1) The Minister, on the recommendation of the Medical Registration Committee, may issue a temporary permit to practise medicine in Nunavut for the periods of time, on payment of the fees and on the terms and conditions that the Minister may specify, to a person who satisfies the requirements of subsection 9(1) or (2).

Effect of conviction

(2) A permit shall not be issued to a person under this section if that person has been convicted of an offence under this Act or the *Criminal Code*, but the Minister may issue a permit to that person if, from the nature of the offence or from the circumstances under which it was committed, the Minister thinks the permit should be granted.

Where appointment terminates

(3) The Registrar shall strike from the Temporary Register the name of a registered person where the person ceases to practise in Nunavut or where the permit issued expires. S.Nu. 2012,c.17,s.18(3).

APPEAL

Appeal to Minister

18. Any decision of the Medical Registration Committee may be appealed to the Minister, in writing, within 30 days, and the decision of the Minister is final.

PART II

DISCIPLINE AND REMOVAL

REMOVAL FROM REGISTER

Failure to pay licence fees

19. (1) Subject to subsection (2), the Minister shall direct the Registrar to remove from the appropriate register the name of any person registered in the register who fails to comply with the provisions of this Act respecting licence or permit fees, and the licence or permit issued to that person is invalid until such time as that person is again registered in the appropriate register.

Extension of time

(2) Where reasons satisfactory to the Medical Registration Committee are advanced as to why the licence or permit fee has not been paid as required, the Minister may grant an extension of the time within which the fee may be paid, but shall not in any case grant an extension exceeding 60 days.

Reinstatement

(3) Subject to section 4, a person whose name is removed from a register under subsection (1) is entitled to have his or her name reinstated on the register on payment to the Registrar of the prescribed fee in addition to the required licence or permit fee.

IMPROPER CONDUCT

Improper conduct

20. A person registered under this Act is guilty of improper conduct if the person

- (a) engages or has engaged in unbecoming or criminal conduct, whether in a professional capacity or otherwise;
- (b) is incapable of practising or is unfit to practise medicine or is suffering from an ailment either organic or mental that might, if the person continues to practise, constitute a danger to the public;
- (c) is convicted of an offence under this Act or of an indictable offence under the *Criminal Code*;
- (d) engages or has engaged in conduct that is inimical to the best interests of the public or the medical profession;
- (e) uses or has used fraud, misrepresentation or falsification of records to obtain registration under this Act; or
- (f) engages in any other conduct that is prescribed as being improper conduct for the purposes of this Act.

BOARD OF INQUIRY

Board of Inquiry

21. (1) There is established a board called the Board of Inquiry, which may, in addition to any inquiry commenced under this Act concerning the improper conduct of a medical practitioner, investigate any matter referred to the Board of Inquiry by the Minister.

President of Board of Inquiry

(2) A medical practitioner shall be appointed by the Minister as President of the Board of Inquiry for a term not exceeding two years, and that person may be reappointed for additional two-year terms in the discretion of the Minister.

Additional appointments

(3) The Minister shall, from time to time as required for the purposes of this Act, appoint not less than two and not more than four persons as members of the Board of Inquiry in addition to the President.

Qualifications of Board members

(4) Of the persons, including the President, appointed to the Board of Inquiry under this section,

- (a) at least one person shall be a medical practitioner who is entitled to practise medicine in Nunavut under this Act and is nominated by the Northwest Territories Medical Association, a society incorporated under the *Societies Act* (Northwest Territories);
 - (b) at least one person shall be a medical practitioner registered in a medical register of a province; and
 - (c) at least one person shall not be a medical practitioner who is entitled to practise medicine in Nunavut under this Act or a person registered in a medical register of a province.
- S.N.W.T. 1998,c.37,Sch.B,s.3; S.Nu. 2012,c.17,s.18(3).

Staffing

22. The Board of Inquiry may hire any technical, legal or clerical staff that it considers necessary for carrying out its duties and the expenses shall be paid for by the Government of Nunavut. S.Nu. 2012,c.17,s.18(3).

Protection from actions

23. Despite any want of form in the proceedings of an investigation, no action shall be brought against an individual appointed under paragraph 25(1.1)(b), the Board of Inquiry, any member of the Board of Inquiry, including the President, or any person retained or employed by the Board of Inquiry for any act done, proceeding taken or judgment given or enforced in good faith under this Act.

R.S.N.W.T. 1988,c.105(Supp.),s.2; S.Nu. 2012,c.17,s.18(3).

COMPLAINTS

Complaint

24. Any person may lodge with the President a written complaint against a medical practitioner.

Definition of "investigator"

25. (1) In this section, "investigator" means an individual appointed under paragraph (1.1)(b).

Duties of President where complaint made

- (1.1) The President, on receiving a written complaint,
- (a) shall review the complaint and either
 - (i) dismiss the complaint, if the President is of the opinion that the conduct in question does not amount to improper conduct, or
 - (ii) refer the complaint to a Board of Inquiry; or
 - (b) where the President is of the opinion that he or she should not or cannot adequately review the complaint, shall
 - (i) appoint an individual to act in the President's place and stead with respect to the review of the complaint, and
 - (ii) shall refer the complaint to the appointee.

Powers and term of investigator

- (1.2) An investigator
- (a) shall investigate the complaint;
 - (b) may hire any legal counsel and staff that he or she considers necessary for carrying out his or her duties; and
 - (c) holds office until the complaint referred to him or her has been dealt with in its entirety.

Duties of investigator where review

(1.3) An investigator, after reviewing the complaint, shall report in writing to the President and the report shall include a recommendation that the complaint be dismissed or that it be referred to a Board of Inquiry.

Decision of President

- (1.4) The President, on receiving a report under subsection (1.3), shall review the report and either
- (a) dismiss the complaint, if the President is of the opinion that the conduct in question does not amount to improper conduct; or
 - (b) refer the complaint to a Board of Inquiry.

Notification

(2) The President shall notify the complainant and the medical practitioner of the decision made under paragraph (1.1)(a) or subsection (1.4) and where the decision is in favour of a dismissal, the notification to the complainant shall inform the complainant of

- (a) the right to have the complaint referred to the Board of Inquiry under subsection (3); and
- (b) the provisions of this section regarding security for costs.

Additional hearing

(3) Where a complaint is dismissed by the President, the complainant may request that the complaint be referred to the Board of Inquiry and the President shall comply with the request.

Referral of complaint to Board of Inquiry

(4) On a complaint being referred to the Board of Inquiry, the President shall request that the Minister appoint members to the Board of Inquiry under section 21.

Security for costs

(5) Where

- (a) a complaint is dismissed by the President, and
- (b) the complainant requests that the complaint be referred to the Board of Inquiry under subsection (3),

the Minister, before appointing members to the Board of Inquiry, may request a prescribed sum as security for the cost of the investigation.

Where complaint frivolous or vexatious

(6) If in the opinion of the Board of Inquiry, a complaint is frivolous or vexatious, the Board of Inquiry shall order the security for costs to be used to defray the costs of the medical practitioner but otherwise the security shall be returned to the complainant.

R.S.N.W.T. 1988,c.105(Supp.),s.3.

HEARING OF BOARD OF INQUIRY

Hearing

26. (1) On receiving a complaint under section 24, or on having a matter referred by the Minister, the Board of Inquiry, on the appointments being made under section 21, shall with all due dispatch conduct a hearing investigating the matter.

Notice

(2) Notice of the hearing shall be sent to all interested parties at least two weeks before the first meeting of the Board of Inquiry to consider the matter.

Contents of notice

- (3) A notice referred to in subsection (2) must contain
- (a) a copy of the substance of the charge against the medical practitioner or a statement of the subject-matter of the investigation; and
 - (b) a statement of the time and place of the meeting.

Medical examination of practitioner

27. In an investigation under this Act, the Board of Inquiry may require a medical practitioner to undergo such medical examinations, including psychiatric examinations, as the Board of Inquiry considers necessary to aid its investigation.

Testimony before Board

28. (1) Testimony may be adduced before the Board of Inquiry in such manner as the Board of Inquiry considers proper and the Board of Inquiry is not bound by the rules of law concerning evidence applicable to judicial proceedings.

Administration of oaths

(2) Any member of the Board of Inquiry may administer an oath to a witness who is to give evidence before it.

Complainant's right to be heard

(3) A complainant has the same right as an accused medical practitioner to attend and be heard at any hearings before the Board of Inquiry.

Compellable witness

29. (1) An accused medical practitioner is a compellable witness in proceedings before the Board of Inquiry.

No professional privilege

(2) An accused medical practitioner may not, in any proceedings before the Board of Inquiry, refuse to give evidence or produce a document on the grounds of professional privilege.

Commission for hearing of evidence

(3) For the purpose of obtaining the testimony of a witness who is out of Nunavut, a judge on an *ex parte* application by the Board of Inquiry, by the complainant, or by the accused medical practitioner, may direct the issuing of a commission for obtaining of evidence from the witness under the Rules of the Nunavut Court of Justice.
S.Nu. 2012,c.17,s.18(3).

Examination

30. A witness may be examined under oath on all matters relevant to the investigation and shall not be excused from answering any questions on the grounds that the answer

- (a) may tend to incriminate the witness,

- (b) might subject the witness to punishment under this Act, or
- (c) might tend to establish the liability of the witness
 - (i) to a civil proceeding at the instance of the Commissioner or of any person, or
 - (ii) to prosecution under any Act,

but any incriminating evidence so given may not be used to incriminate that person in any other proceedings, except in a prosecution for perjury or for the giving of contradictory evidence.

Production of documents and attendance of witnesses

31. (1) Where the attendance of a witness or the production of books, papers or other documents are required by the Board of Inquiry, the President shall send a written notice to the witness stating the time and place at which the witness is to attend and the books, papers or other documents, if any, that the witness is required to produce.

Notice

(2) On the written request of an accused medical practitioner or a complainant, the President shall, without charge, issue and deliver to the accused medical practitioner or the complainant, as the case may be, such notices as the accused medical practitioner or the complainant may require for the attendance of witnesses or the production of relevant documents.

Witness fees

32. A witness, other than an accused medical practitioner, is entitled to witness fees in accordance with the Rules of the Nunavut Court of Justice. S.Nu. 2012,c.17,s.18(3).

Civil contempt

33. A witness

- (a) who fails to attend before the Board of Inquiry in obedience to a notice to attend,
- (b) who fails to produce any relevant document as required in a notice to produce them, or
- (c) who refuses to be sworn or to answer any question directed to be answered by the Board of Inquiry,

on application to a judge, may be proceeded against as for civil contempt in accordance with the Rules of the Nunavut Court of Justice. S.Nu. 2012,c.17,s.18(3).

Witnesses

34. The Board of Inquiry shall allow a complainant and an accused medical practitioner to give evidence and to call, examine or cross-examine witnesses.

Legal representation

35. A complainant or an accused medical practitioner may be represented by agent or by legal counsel in proceedings before the Board of Inquiry.

Rules of natural justice

36. The Board of Inquiry shall conduct its proceedings in accordance with the rules of natural justice.

Majority

37. In a decision of the Board of Inquiry, the votes of the majority shall govern.

Decision of Board of Inquiry

38. (1) On concluding its investigation, the Board of Inquiry may

- (a) dismiss the proceedings; or
- (b) order that
 - (i) a person registered under this Act be reprimanded or fined an amount not exceeding \$5,000 or both,
 - (ii) a person registered under this Act be suspended for a period not exceeding three years, and any licence or permit issued under this Act be cancelled and the name of that person be struck from the appropriate register for the period of suspension,
 - (iii) a person registered under this Act have his or her name struck from the appropriate register and any licence or permit issued to that person under this Act be cancelled, or
 - (iv) any conditions or terms be attached to any licence or permit issued under this Act including any limitations on the practice of medicine, or any requirement for treatment in any alcohol or drug program, as a condition of the licence or permit being continued in force under this Act.

Costs

(2) The Board of Inquiry may make an order as to costs

- (a) against the medical practitioner where an order is made against the medical practitioner under subsection (1), or
- (b) against the complainant who requested that the matter in question be referred to the Board of Inquiry under subsection 25(3),

and the order as to costs shall be calculated and collected in accordance with the Rules of the Nunavut Court of Justice. S.N.W.T. 1997,c.8,s.19; S.Nu. 2012,c.17,s.18(3).

Notice of decision to medical practitioner

39. (1) Where the Board of Inquiry makes an order against a medical practitioner under section 38, the Board of Inquiry shall notify the medical practitioner in writing by registered mail or by personal service of the order.

Payment of fine

(2) Where under this Part, a fine is imposed on a medical practitioner, the fine must be paid to the Commissioner within 30 days after the receipt of the written notice sent to the medical practitioner under subsection (1).

Suspension if fine unpaid

(3) If a medical practitioner fails to pay in full the fine imposed on the medical practitioner within the 30 day period, the medical practitioner shall be suspended from the practice of medicine until the fine has been fully paid.

APPEAL

Appeal to Court

40. (1) Where an order is made against a medical practitioner under section 38, the medical practitioner may, within 30 days after receipt of the notice sent under subsection 39(1), appeal to the Court.

Power of Court

- (2) On hearing an appeal made under subsection (1), the Court may
- (a) quash, alter or confirm the order; or
 - (b) suspend the operation of the order until the appeal has been heard and ruled on.

Duty of Minister

(3) Where the Court on appeal quashes, alters or confirms an order of the Board of Inquiry, the Court shall notify the Minister of the decision and the Minister shall do whatever is necessary to give effect to the decision.

REINSTATEMENT AND REMOVAL OF SUSPENSION

Application for reinstatement

41. (1) Where the licence or permit of a person is cancelled, the person may, after the expiration of one year after the date of the order of cancellation, apply to the Minister for reinstatement or, where the order of cancellation had been appealed under section 40, to a judge for reinstatement.

Application for removal of suspension

(2) Where the licence or permit of a person is suspended, the person may, after the expiration of half of the period of the suspension, or one year, whichever is less, apply to the Minister for the removal of the suspension or, where the order of suspension had been appealed under section 40, to a judge.

Order of judge

(3) The Minister or a judge may, on application made under subsection (1) or (2), grant the application by order on such conditions as the Minister or judge, as the case may be, may determine.

Duty to comply

(4) The Minister shall, on receiving an order of a judge under subsection (3), comply with the order in the manner that the order directs.

Revocation

(5) Where a person becomes entitled to practise medicine again by an order of a judge or the Minister that is subject to conditions and the person breaches any of those conditions, the Minister or the judge making the order, as the case may be, may revoke the order and, on revocation, the original order of suspension or cancellation is reinstated.

SUSPENSION

Interim suspension

42. Despite anything in this Act, the Minister may suspend a medical practitioner pending an investigation as to whether the medical practitioner has been guilty of improper conduct, but the suspension shall not exceed a period of six weeks. S.Nu. 2012,c.17,s.18(3).

PART III

PRACTICE OF MEDICINE

Where fees not recoverable

43. No person is entitled to recover a fee, reward or remuneration for professional services rendered or material or appliances provided by him or her in practising medicine unless he or she holds a licence or permit under this Act at the time the services are rendered or materials or appliances are provided.

Right to recover fees

44. A person who holds a licence or a permit under this Act is entitled to practise medicine in Nunavut and may bring an action before a judge for the recovery of reasonable charges for professional aid, advice and visits and the costs of any medicines, materials or appliances supplied by him or her. S.Nu. 2012,c.17,s.18(3).

Practising while suspended

45. (1) No medical practitioner whose licence or permit is under suspension or has been cancelled shall directly or indirectly practise medicine or be associated in practice with any other medical practitioner.

Offence and punishment

(2) Every medical practitioner who directly or indirectly associates himself or herself in the practice of medicine

(a) with a medical practitioner whose licence or permit is under suspension or has been cancelled, or

(b) with a person who is not qualified to practise medicine,

is guilty of an offence punishable on summary conviction.

Exceptions

- 46.** Nothing in this Act applies to or affects
- (a) a duly qualified medical practitioner of any province or country meeting in consultation in Nunavut with a medical practitioner who is entitled to practise medicine in Nunavut under this Act;
 - (b) the furnishing of first aid or temporary assistance in cases of emergency;
 - (c) the domestic administration of family remedies;
 - (d) those who practise the religious tenets of their church or religion without pretending a knowledge of medicine or surgery;
 - (e) a person who manufactures, fits or sells artificial limbs or similar appliances;
 - (f) the practising of dentistry by a dentist duly authorized to practise dentistry under the laws of Nunavut;
 - (g) the practising of pharmacy by a pharmacist, chemist or druggist duly authorized to practise pharmacy under the laws of Nunavut;
 - (h) the practice of nursing by a registered nurse, nurse practitioner, or temporary certificate holder under the *Nursing Profession Act* (Northwest Territories), or the practice of practical nursing by a licensed practical nurse under the *Licensed Practical Nurses Act*;
 - (h.1) the practising of midwifery by a registered midwife duly authorized to practise midwifery under the laws of Nunavut;
 - (i) any person dispensing drugs and providing medical treatment under the general direction of a medical practitioner to persons in areas remote from locations where medical services are available; or
 - (j) any person practising psychology in accordance with the *Psychologists Act*.
- S.Nu. 2008,c.18,s.59(2); S.Nu. 2010,c.25,s.35(2);
S.Nu. 2012,c.17,s.18(3).

Effects of other Acts

47. Nothing in the *Dental Profession Act*, the *Midwifery Profession Act*, the *Veterinary Profession Act* or the *Pharmacy Act* shall be held to prohibit a medical practitioner from doing, in the course of administering medical aid or treatment, anything for which a licence is required under these Acts or from doing anything in an emergency to attempt to relieve the pain or suffering of a person or animal. S.Nu. 2008,c.18,s.59(3).

PART IV

OFFENCES AND PUNISHMENT

Offences and punishment

48. (1) Every person who is not the holder of a licence or a permit under this Act and who, in Nunavut,

- (a) publicly or privately practises medicine,
- (b) uses any name, title or description implying or calculated to lead people to believe that he or she is a medical practitioner,
- (c) uses the title "Doctor", "Surgeon" or "Physician" or an abbreviation of these titles, or any word or combination of words or abbreviation of any word or combination of words indicative of these titles or used in substitution of these titles, or
- (d) advertises or holds himself or herself out in any way to be a medical practitioner,

is guilty of an offence and liable on summary conviction, for the first offence, to a fine not exceeding \$500 and, for each subsequent offence, to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding six months or to both.

Exceptions

(2) Paragraph (1)(c) does not prevent

- (a) a dentist registered under the *Dental Profession Act* or for whom a permit has been issued under that Act from using the titles "Doctor" or "Dental Surgeon" with his or her name;
- (b) a veterinary surgeon from using the titles "Doctor" or "Veterinary Surgeon" with his or her name; or
- (c) any person who is entitled by reason of a degree granted by a university from using the title "Doctor" with his or her name, unless the use of the title as an occupational designation relating to the treatment of human ailments or physical defects may imply or lead people to infer that the person is a medical practitioner. S.Nu. 2012,c.17,s.18(3).

Limitation period

49. A prosecution for an offence under this Act may not be commenced more than two years after the date when the offence is alleged to have been committed. S.Nu. 2012,c.17,s.18(3).

Burden of proof

50. In a prosecution for an offence under this Act the burden of proof as to the right of the person accused of the offence to practise medicine in Nunavut is on the person accused. S.Nu. 2012,c.17,s.18(3).

PART V
REGULATIONS

Regulations

51. The Commissioner, on the recommendation of the Minister, may make regulations

- (a) regarding the educational, training and professional requirements of an applicant for registration or for maintaining registration;
- (b) regarding the manner of proof in respect of any matter required to be proven by an applicant for registration;
- (c) regarding the recognition of medical schools, courses and examinations for the purposes of registration and licensing;
- (d) regarding any matter ancillary to this Act with regard to the issuing, suspension and revocation of licences and permits;
- (e) regarding the payment of fees by registrants including the time of payment, penalties for late payment and related matters;
- (f) regarding the prescribing of forms, licences, permits and conditions and provisions of their use;
- (g) regarding the issuance, renewal and suspension of licences and permits;
- (h) regarding the maintenance of the Medical Register, Education Register and Temporary Register and the form and contents of these registers;
- (i) regarding the standards of practice including the publishing, display, distribution or use of any form of advertising relating to the practice of medicine;
- (j) regarding punishment and matters related to punishment for a contravention of this Act or the regulations;
- (k) prescribing any matter that by this Act may or is to be prescribed;
- (l) regarding practitioners who are specialists in any branch of medicine;
- (m) regarding the operation of the Medical Registration Committee;
- (n) regarding the operations of the Board of Inquiry;
- (o) defining additional types of conduct as improper conduct for the purposes of this Act;
- (p) regarding remuneration to members of a Board of Inquiry; and
- (q) governing any other matter or thing that under this Act is necessary or advisable.