

Chapter 25

LICENSED PRACTICAL NURSES ACT

(Assented to November 1, 2010)

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

Definitions

1. In this Act,

"allegation" means an allegation that an act or omission of a licensed practical nurse may constitute unprofessional conduct made under section 11; (*allégation*)

"approved form" means a form approved by the Registrar under section 29; (*formule approuvée*)

"hearing panel" means a panel appointed by the Registrar under section 17 to conduct a hearing concerning an allegation; (*comité d'audience*)

"investigated person" means a licensed practical nurse or former licensed practical nurse in respect of whose conduct an allegation has been made, an investigation is conducted under section 15 or a hearing is held under section 17; (*personne visée par l'enquête*)

"investigator" means an investigator to whom an allegation is referred for investigation under paragraph 12(6)(a); (*enquêteur*)

"licence" means a licence to practice practical nursing or a non-practising licence issued under section 4; (*licence*)

"licensed practical nurse" means a holder of a licence issued under section 4; (*infirmière ou infirmier auxiliaire*)

"Register" means the Licensed Practical Nurses Register maintained by the Registrar in accordance with section 5; (*registre*)

"Registrar" means the Registrar of Health Professions appointed under the *Dental Profession Act*; (*registraire*)

"standards of competence" means standards of competence established or adopted under section 8; (*normes de compétence*)

"standards of practice" means standards of practice established or adopted under section 8. (*normes d'exercice*)

PART 1

LICENSED PRACTICAL NURSES

Practice

Practice of licensed practical nurses

2. (1) A licensed practical nurse who holds a licence to practice may engage in the practice of practical nursing for the purpose of

- (a) promoting, maintaining and restoring health;
- (b) preventing and alleviating illness, injury and disability;
- (c) assisting in prenatal care, childbirth, and postnatal care; and
- (d) caring for the terminally ill and the dying.

Practice of practical nursing

(2) The practice of practical nursing means the provision of practical nursing services

- (a) independently, for patients considered stable with predictable outcomes; and
- (b) under the guidance or direction of a registered nurse, nurse practitioner, medical practitioner or other health care professional authorized to provide such guidance or direction, for patients considered unstable with unpredictable outcomes.

Practical nursing services

(3) Practical nursing services means the application of practical nursing theory in the

- (a) assessment of patients;
- (b) collaboration in the development of a nursing plan of care for a patient;
- (c) implementation of a nursing plan of care for a patient; and
- (d) ongoing evaluation of a patient.

Related activities

(4) A licensed practical nurse may assist in administration, supervision, education, consultation, teaching, policy development and research with respect to any of the matters referred to in subsections (1) or (3).

Records

(5) A licensed practical nurse shall

- (a) collect, use, manage and disclose personal information required in the practice of practical nursing in accordance with the standards of practice, standards of competence and laws that apply to health records and practice records; and

- (b) keep the health records and practice records required under the standards of practice, standards of competence and laws that apply to health records and practice records.

Licensing and Registration

Eligibility for licence

- 3.** (1) A person is eligible to be issued a licence as a licensed practical nurse if the person
- (a) is of good character and has a satisfactory professional reputation;
 - (b) is a citizen or permanent resident of Canada, or is otherwise legally entitled to work in Canada;
 - (c) has satisfactorily completed a practical nursing education program approved by the Registrar that prepares people to engage in the practice of practical nursing;
 - (d) has successfully completed the prescribed examinations, or has applied to write the prescribed examinations or is awaiting the results of previously taken prescribed examinations; and
 - (e) maintains professional liability insurance as required by subsection 4(3).

Licensed or eligible in other jurisdiction

(2) A person who is registered and in good standing, or eligible to be licensed or registered as a practical nurse in another province or territory is deemed to be eligible to be issued a licence as provided for in subsection (1).

Application for licence

- 4.** (1) A person may apply to the Registrar on an approved form for
- (a) a licence to practice;
 - (b) a non-practising licence, if the person does not intend to practice practical nursing in the period for which the licence is to be issued; or
 - (c) the renewal of a licence to practice or a non-practising licence.

Material to be provided

- (2) An application under paragraphs (1)(a) or (b) must be accompanied by the following:
- (a) evidence satisfactory to the Registrar that the applicant meets the eligibility requirements for a licence;
 - (b) evidence satisfactory to the Registrar of the applicant's identity;
 - (c) references in an approved form;
 - (d) information in respect of the applicant about any
 - (i) denial or suspension of a licence by a professional regulatory body,
 - (ii) investigation or proceeding or finding in the three years preceding the application respecting the conduct,

- competence or fitness to practise of the applicant related to his or her practical nursing, and
- (iii) conviction for a criminal offence;
- (e) a statement by the applicant authorizing the Registrar, or a person designated by the Registrar, to make enquiries of any person, government or body in respect of the evidence or information provided by the applicant and authorizing any person to whom inquiries are made to provide the information requested;
- (f) evidence of any professional liability insurance required under subsection (3); and
- (g) the prescribed fee.

Professional Liability Insurance

(3) An applicant for a licence to practice shall be insured by professional liability insurance in an amount acceptable to the Registrar with an insurer acceptable to the Registrar.

Issue of licence

(4) The Registrar shall, if satisfied that the applicant meets the requirements for licensing set out in section 3 and subsection (2),

- (a) issue the requested licence or licence renewal to the applicant; and
- (b) register the applicant in the Register.

Licence pending examination results

(5) If an applicant has applied for but not yet written the prescribed examinations, or not yet received the results of the prescribed examinations, the Registrar may issue a licence to practice that is subject to

- (a) a condition that the applicant will provide evidence of successful completion of the prescribed examinations within a time determined by the Registrar; and
- (b) any other term or condition concerning supervision or limitations on the practice of the applicant that the Registrar considers necessary until the required evidence is provided under paragraph (a).

Prohibition on practice with non-practising licence

(6) The holder of a non-practising licence is not entitled to practice as a licensed practical nurse.

Conversion of non-practising licence

(7) The holder of a non-practising licence may apply for a licence to practice at any time, and the Registrar may issue to the applicant a licence to practice, subject to any terms with respect to refresher training or education that the Registrar considers necessary.

Expiration of licences

(8) A licence expires on the December 31 following the day on which it was issued or renewed.

Renewal of licence to practice

(9) A licensed practical nurse is eligible for annual renewal of a licence to practice if he or she

- (a) continues to meet the eligibility requirements for a licence under subsection 3(1);
- (b) has actively engaged in practical nursing in accordance with this Act and the regulations;
- (c) has complied with any terms and conditions imposed on his or her licence by the Registrar on issuance or renewal of a licence, or as a result of any review of conduct of the licensed practical nurse under Part 3;
- (d) has complied with any terms and conditions imposed on his or her licence or any undertaking or direction made in an order of a hearing panel at the conclusion of a hearing concerning an allegation made under section 11; and
- (e) has complied with any continuing competence program established or adopted by the Registrar under section 9.

Renewal of non-practising licence

(10) A licensed practical nurse is eligible for annual renewal of a non-practising licence if he or she continues to meet the eligibility requirements for the licence under subsection 3(1) and does not intend to practice practical nursing in the licence renewal period.

Failure to renew

(11) A licensed practical nurse who fails to renew his or her licence shall be removed from the Register.

Reinstatement

(12) A person who has been removed from the Register under subsection (11) may apply, in an approved form, for reinstatement of his or her licence within 60 days after expiration of the licence.

Reinstatement fees

(13) An application for reinstatement must be accompanied by the prescribed fee for reinstatement and the prescribed fee for renewal.

Licensed Practical Nurses Register

5. (1) The Registrar shall maintain a Licensed Practical Nurses Register in which shall be entered

- (a) the name, address, telephone number, and qualifications of each person to whom a licence is issued;

- (b) the type of licence and any terms and conditions imposed on each licence;
- (c) a notation of any suspension, cancellation or reinstatement of a licence; and
- (d) the result of any investigation or hearing into an allegation.

Information from Register

(2) A person may obtain, during regular office hours, the following information from the Register:

- (a) the information referred to in paragraphs (1)(a), (b) and (c); and
- (b) if an investigation or hearing resulted in any kind of disciplinary action or order against a licensed practical nurse, the result of an investigation or hearing concerning an allegation completed within the six years immediately preceding the date on which the information is obtained from the Register.

Paramountcy

(3) If there is a conflict or inconsistency between subsection (2) and the *Access to Information and Protection of Privacy Act*, subsection (2) prevails to the extent of the conflict or inconsistency.

Notice to applicant

6. The Registrar shall, on refusing an application for a licence or for renewal or reinstatement of a licence, provide to the applicant

- (a) written reasons for the refusal; and
- (b) written notice of the right to appeal.

Appeal

7. (1) A person whose application for a licence or for renewal or reinstatement of a licence is refused, or who is issued a licence or a renewal or reinstatement of a licence subject to limitations on the practice of the holder or other terms or conditions by the Registrar, may, within 30 days after receiving notice of the decision, appeal the decision to the Nunavut Court of Justice in accordance with the Rules of the Nunavut Court of Justice.

Notice

(2) Notice of an appeal under subsection (1) must be served on the Registrar.

Decision of Nunavut Court of Justice

(3) On hearing an appeal, the Nunavut Court of Justice may

- (a) make any decision that in its opinion should have been made; or
- (b) refer the matter back to the Registrar for further consideration in accordance with any direction of the Court.

PART 2

STANDARDS AND CONTINUING COMPETENCE PROGRAM

Standards of practice and standards of competence

- 8.** (1) The Registrar may
- (a) establish standards of practice and standards of competence for licensed practical nurses; or
 - (b) adopt standards of practice and standards of competence established by a professional association or regulatory authority for practical nurses in another jurisdiction, as amended from time to time, in whole or in part, and with such variations as may be specified, for use in Nunavut.

Mandatory compliance

(2) Every licensed practical nurse shall comply with all standards of practice and standards of competence established or adopted under subsection (1).

Copies to licence holders

(3) The Registrar shall provide a copy of the standards of practice and standards of competence, or an amendment to the standards of practice or standards of competence, to each licensed practical nurse within 30 days of the standards or an amendment being established or adopted.

Copies to public

(4) The Registrar shall, on request, provide a copy of part or all of the standards of practice and standards of competence to any person.

Continuing competence program

- 9.** (1) The Registrar may
- (a) establish a continuing competence program; or
 - (b) adopt a continuing competence program established by a professional association or regulatory authority for practical nurses in another jurisdiction, as amended from time to time, in whole or in part, and with such variations as may be specified, for use in Nunavut.

Mandatory compliance

(2) Every licensed practical nurse shall comply with a continuing competence program established or adopted under subsection (1).

Information to licence holders

- (3) The Registrar shall provide to each licensed practical nurse,
- (a) a description of a continuing competence program established or adopted under subsection (1), within 30 days of it being established or adopted; and

- (b) a copy of any amendment to the program, within 30 days of making or adopting the amendment.

Contents of program

(4) A continuing competence program established or adopted under subsection (1) may

- (a) require licensed practical nurses to practice a minimum number of hours in one or more licence periods to maintain and to enhance their competence;
- (b) require licensed practical nurses to participate in continuing education activities to maintain and to enhance their competence;
- (c) provide for the conduct of reviews of the practice of licensed practical nurses;
- (d) provide that failure to comply with the requirements of the continuing competence program may be the basis of an allegation of unprofessional conduct; and
- (e) provide that information obtained through the continuing competence program may be the basis of an allegation of unprofessional conduct, if it demonstrates that a licensed practical nurse
 - (i) lacks competence that has not been remedied by participating in the continuing competence program,
 - (ii) displays unprofessional conduct that cannot be readily remedied by means of the continuing competence program, or
 - (iii) lacks competence because of a disability or a condition.

Administration of program

(5) The Registrar may

- (a) appoint any person to administer a continuing competence program; or
- (b) authorize a body responsible for a continuing competence program in another province or territory to administer a continuing competence program adopted from that province or territory.

PART 3

REVIEW OF CONDUCT

Unprofessional Conduct

Unprofessional conduct

10. Unprofessional conduct by a licensed practical nurse is conduct that fails to meet the standards of practice or standards of competence and includes an act or omission that

- (a) demonstrates a lack of competence;
- (b) is detrimental to a patient or the public;

- (c) constitutes engaging in practical nursing when his or her capacity to practise in accordance with the standards of practice and standards of competence is impaired by a disability or a condition;
- (d) contravenes this Act, the regulations, the standards of practice, standards of competence or terms and conditions imposed on his or her licence;
- (e) constitutes the failure or refusal of an investigated person, without reasonable excuse and within a reasonable time, to respond to an inquiry by or comply with a demand made by an investigator under subsection 15(3);
- (f) contravenes an order of a hearing panel;
- (g) contravenes an agreement reached in an alternative dispute resolution process under section 13 or an agreement made under paragraph 16(1)(b); or
- (h) results in a conviction for a criminal offence, the nature of which could affect the practice of practical nursing.

Allegations of Unprofessional Conduct

Allegations

11. (1) A person may make an allegation to the Registrar that an act or omission of a licensed practical nurse constitutes unprofessional conduct.

Form of allegation

(2) An allegation made under subsection (1) must be

- (a) in writing;
- (b) signed by the person making it; and
- (c) accompanied by a mailing address or other address for the receipt of notices and other relevant information.

Allegation by Registrar

(3) The Registrar may, if he or she has reason to believe that an act or omission of a licensed practical nurse constitutes unprofessional conduct, make an allegation.

Notice by employer on suspension or termination

(4) An employer who suspends or terminates the employment of a licensed practical nurse because of misconduct, incompetence or incapacity shall, within 30 days of the suspension or termination, notify the Registrar of the suspension or termination and the reason for it, and the notice is deemed to be an allegation made under subsection (1).

Notice by employer on resignation

(5) An employer who would have suspended or terminated the employment of a licensed practical nurse in circumstances described in subsection (4) but for the prior resignation of the licensed practical nurse shall, within 30 days after the resignation, notify the Registrar of the resignation and the circumstances of it, and the notice is deemed to be an allegation made under subsection (1).

Time limit for allegations

- (6) An allegation may be made under this Part at any time up to the later of
- (a) two years after the alleged unprofessional conduct occurred; and
 - (b) two years after the person making the allegation became aware, or should reasonably have become aware, that the alleged unprofessional conduct occurred.

Allegations against former licence holders

(7) Despite paragraph (6)(b), an allegation concerning a person no longer licensed under this Act but which relates to an act or omission occurring while the person was licensed, may be made under this Part up to two years after the day on which the person ceased to be licensed.

Timely resolution

(8) An allegation must be dealt with in a timely manner in accordance with this Part and the regulations.

Notice

(9) On receiving an allegation under subsection (1), or making an allegation under subsection (3), the Registrar shall provide to the investigated person, in writing,

- (a) notice of the allegation;
- (b) information about the substance of the allegation; and
- (c) information about procedures that may be taken by the Registrar or an investigator to investigate and determine the validity of the allegation.

Preliminary review and inquiry

12. (1) Subject to subsection (7), the Registrar shall review information or make inquiries concerning an allegation to the extent that he or she considers warranted.

Dismissal of allegation

- (2) The Registrar shall dismiss an allegation if he or she finds that
- (a) the allegation does not pertain to conduct regulated under this Act;
or
 - (b) the allegation is frivolous or vexatious.

Notice of dismissal

(3) On dismissing an allegation under this section, the Registrar shall provide the investigated person and the person who made the allegation with written notice of and reasons for the dismissal.

Informal resolution

- (4) The Registrar may attempt to resolve a matter informally if
- (a) it appears after notifying an investigated person that an allegation may be resolved satisfactorily; and
 - (b) the person making the allegation and the investigated person consent.

Voluntary suspension or cancellation

- (5) The Registrar may agree to the voluntary suspension or cancellation of the licence of an investigated person if
- (a) the investigated person agrees that facts stated in an allegation are true and demonstrate unprofessional conduct by the investigated person; and
 - (b) the person who made the allegation consents.

Referral of allegation

- (6) Unless an allegation is dismissed under subsection (2) or resolved by agreement under subsection (4) or (5), the Registrar shall,
- (a) refer the matter to an investigator, selected by the Registrar, for further investigation; or
 - (b) refer the matter to a hearing panel for a hearing.

Conflict of interest of Registrar

(7) The Registrar shall refer an allegation to the Minister where the Registrar has a conflict of interest or there is a likelihood of a reasonable apprehension of bias on the part of the Registrar in respect of an allegation, and the Minister shall designate an employee of the department responsible for the administration of this Act to act in the place of the Registrar with respect to the allegation.

Deemed Registrar

(8) A person designated to act in the place of the Registrar under subsection (7) is deemed to be the Registrar for the purpose of any action or proceedings taken in respect of the affected allegation.

Alternative Dispute Resolution

Referral to alternative dispute resolution

- 13.** (1) Despite any provision of this Act or the regulations, the Registrar or chairperson of a hearing panel may, at any time after an allegation has been made but before a hearing into the allegation is complete, refer an allegation to an alternative dispute resolution process if
- (a) the person who made the allegation and the investigated person agree to the referral; and
 - (b) the Registrar or chairperson is satisfied that the referral is appropriate in the circumstances.

Approval of agreement

(2) An agreement reached in an alternative dispute resolution process is subject to the approval of the Registrar.

Revocation

(3) The Registrar or chairperson who made a referral to an alternative dispute resolution process under subsection (1) may revoke the referral where the issues raised by the referred allegation are not resolved within 60 days after the referral, or such further time as may be agreed by the parties.

Interim Suspension

Suspension pending decision

14. (1) If the Registrar considers it necessary to protect the public, the Registrar may, pending the outcome of an investigation or hearing concerning an allegation

- (a) suspend the licence of the investigated person; or
- (b) impose any terms or conditions on the investigated person's licence.

Notice of order

(2) On suspending a licence or imposing terms or conditions under subsection (1), the Registrar shall provide to the investigated person

- (a) written notice of and reasons for the suspension or imposition of terms and conditions; and
- (b) a written notice of the right to appeal.

Notice

(3) A suspension or imposition of terms made under subsection (1) is not effective until notice is served on the person affected by it.

Suspension or imposition revoked

(4) The Registrar shall revoke a suspension or imposition of terms made under subsection (1) if satisfied it is no longer necessary to protect the public.

Appeal

(5) A licensed practical nurse whose licence is suspended under paragraph (1)(a) or who has terms or conditions imposed on his or her licence under paragraph (1)(b) may, within 30 days after receiving notice of the suspension or imposition of terms, appeal the decision of the Registrar to the Nunavut Court of Justice in accordance with the Rules of the Nunavut Court of Justice.

Notice of appeal

(6) Notice of an appeal under subsection (5) must be served on the Registrar.

Decision of Nunavut Court of Justice

- (7) On hearing an appeal, the Nunavut Court of Justice may
- (a) confirm, revoke or vary the decision of the Registrar;
 - (b) refer the matter, or any issue, back to the Registrar for further consideration; or
 - (c) provide any direction that it considers appropriate.

Investigations

Investigation by investigator

15. (1) If the Registrar has referred an allegation to an investigator under paragraph 12(6)(a), the investigator shall investigate and report on the allegation within 90 days after the referral, or such further time as the Registrar may allow.

Notice to parties

(2) The Registrar shall inform the person who made the allegation and the investigated person of the appointment of an investigator.

Powers of investigator

- (3) An investigator investigating an allegation may
- (a) retain any legal or other assistance that he or she considers necessary for carrying out his or her duties;
 - (b) make oral or written inquiries of any person who may have information relevant to the allegation;
 - (c) demand the production for examination of documents, records and other materials that may be relevant to the allegation;
 - (d) copy and keep copies of any documents, records and other materials produced under paragraph (c); and
 - (e) investigate any matter, in addition to the allegation, arising in the course of the investigation that may constitute unprofessional conduct by the investigated person.

Application to Nunavut Court of Justice

(4) An investigator may apply to the Nunavut Court of Justice for an order requiring a person to respond to an inquiry made under paragraph (3)(b) or to comply with a demand made under paragraph (3)(c) where a person refuses or fails, within a reasonable time, to respond to the inquiry or to comply with the demand.

Report to Registrar

(5) On completing an investigation, an investigator shall report his or her findings in writing to the Registrar.

Copies to parties

(6) On receiving a report from an investigator, the Registrar shall provide a copy of the report to the investigated person and the person who made the allegation.

Completion of investigation

16. (1) The Registrar shall, on the completion of an investigation and the review of an investigator's report,

- (a) dismiss the allegation if the Registrar is satisfied that there is insufficient evidence of unprofessional conduct to provide a reasonable basis for further action;
- (b) enter into an agreement with the investigated person, if the Registrar considers it in the public interest, providing for
 - (i) the suspension of the person's licence,
 - (ii) the cancellation of the person's licence,
 - (iii) the imposition of any terms and conditions on the person's licence that the Registrar considers necessary to protect the public,
 - (iv) an assessment of the person's capacity or fitness to practise, or
 - (v) counselling, treatment or a course of study or training for the person; or
- (c) refer the matter to a hearing panel if the matter is not dismissed or resolved by an agreement with the investigated person.

Notice of decision

(2) The Registrar shall provide to the investigated person and the person who made the allegation written notice of and reasons for the decision made under subsection (1).

Hearing

Establishment of hearing panel

17. (1) A hearing panel of not less than three and not more than five persons shall be established by the Registrar within 45 days of an allegation being referred to a hearing panel under paragraph 12(6)(b) or paragraph 16(1)(c).

Appointment of members

(2) The Registrar shall appoint the members of a hearing panel and designate one member as chairperson of the panel.

Members of hearing panel

- (3) A hearing panel shall consist of
- (a) at least one person who is a licensed practical nurse, or a person who is registered and in good standing as a licensed practical nurse under an Act or regulation of a province or territory;
 - (b) one person who is an employee of the department responsible for the administration of this Act; and
 - (c) at least one person who is not a licensed practical nurse or a registered nurse or nurse practitioner, and is not an employee of the Government of Nunavut.

Hearing panel may retain assistance

(4) A hearing panel may retain any legal or other assistance that it considers necessary for carrying out its duties.

Hearing without delay

(5) A hearing panel shall, without delay, hold a hearing into the issues raised by an allegation referred to it.

Notice of hearing

(6) A hearing panel shall, at least 21 days before the date of a hearing, serve on an investigated person, the Registrar and the person who made an allegation, a notice of hearing

- a) stating the date, time and place at which the hearing will be held;
- b) identifying the substance of the issues in respect of which the hearing will be held; and
- c) providing information on the procedures to be followed by the panel in conducting the hearing.

Powers of hearing panel

18. (1) Subject to subsections (2) and (3), a hearing panel conducting a hearing under this Act has all the powers and duties of a Board appointed under the *Public Inquiries Act*.

Rules of evidence

(2) A hearing panel is not subject to the rules of law respecting evidence applicable to judicial proceedings and evidence may be given in any manner that the hearing panel considers proper.

Hearing open to public

(3) A hearing under this Act shall be open to the public unless the hearing panel is of the opinion that

- (a) personal, medical, financial or other interests of a person other than the investigated person may be detrimentally affected if all or part of the hearing is held in public; and
- (b) the privacy interests of the person described in paragraph (a) outweigh the public interest in the hearing being open to the public.

Decision and Order

Decision in writing

19. (1) A hearing panel shall, without delay at the conclusion of a hearing, issue a written decision that includes

- (a) the findings of fact made by the hearing panel;
- (b) the reasons for the decision; and
- (c) any order made by the hearing panel.

Service of decision and notice

- (2) On issuing a decision under subsection (1), a hearing panel shall
- (a) serve on the investigated person and the person who made the allegation
 - (i) a copy of the decision, and
 - (ii) a notice of the right to appeal; and
 - (b) provide to the Registrar
 - (i) a copy of the decision, and
 - (ii) the record of the hearing.

Examination of record

(3) The investigated person and the person who made the allegation may examine the record of the hearing or any part of the record.

Dismissal of allegation

20. (1) A hearing panel shall dismiss an allegation if the panel finds that the conduct of the investigated person is not unprofessional conduct.

Order where finding of unprofessional conduct

(2) A hearing panel may make one or more of the following orders on finding that the conduct of the investigated person constitutes unprofessional conduct:

- (a) the person be reprimanded;
- (b) the licence of the person be suspended for a specified period;
- (c) the licence of the person be suspended until the person has completed a specified course of studies, obtained specified supervised practical experience, written the prescribed examinations, or otherwise satisfied the Registrar as to the competence of the person;
- (d) the licence of the person be suspended until one or more appropriate medical practitioners provide confirmation to the Registrar that a disability or condition is unlikely to result in further unprofessional conduct;
- (e) accepting, in place of a suspension, the person's undertaking to limit the practice of practical nursing, for a specified period or until the Registrar is satisfied that the limit is no longer required;
- (f) impose any terms or conditions on the person's licence that the hearing panel determines are necessary to protect the public, for a specified period or until the Registrar is satisfied that the terms or conditions are no longer required;
- (g) direct the person to complete a specified course of studies or write the prescribed examinations or otherwise satisfy the Registrar as to the competence of the person;
- (h) direct the person to provide confirmation to the Registrar from one or more appropriate medical practitioners that a disability or condition has been, or is being, successfully treated, or that the

disability or condition does not impair the person's capacity to provide practical nursing services in accordance with this Act, the regulations and the standards of practice and standards of competence;

- (i) direct the person to take counselling or to undergo treatment that, in the opinion of the hearing panel, is appropriate;
- (j) the licence of the person be canceled and the person be removed from the Register;
- (k) make any further or other order that it considers appropriate.

Administrative penalty

(3) A hearing panel may, in addition to or instead of making an order under subsection (2), order the investigated person to pay to the Government of Nunavut, within the time specified in the order, an administrative penalty not exceeding \$5,000.

Costs

21. A hearing panel may, in addition to or instead of making an order under subsection 20(2), order the investigated person pay to the Government of Nunavut, within the time specified in the order, all or part of the costs of the hearing.

Appeal

Appeal

22. (1) An investigated person, a person who made an allegation or the Registrar may, within 30 days after receiving notice of the decision or order, appeal a decision or order of a hearing panel to the Nunavut Court of Justice.

Notice of appeal by investigated person

(2) Notice of an appeal under subsection (1) by an investigated person must be served on the Registrar and the person who made an allegation.

Notice of appeal by person who made allegation

(3) Notice of an appeal under subsection (1) by a person who made an allegation must be served on the Registrar and the investigated person.

Notice of appeal by Registrar

(4) Notice of an appeal under subsection (1) by the Registrar must be served on the person who made the allegation and the investigated person.

Appeal on the record

(5) An appeal of a decision or order of a hearing panel shall be based on the record of the hearing before the hearing panel and on the decision or order of the hearing panel.

Decision of Nunavut Court of Justice

- 23.** The Nunavut Court of Justice, on hearing an appeal, may
- (a) make any finding of fact that in its opinion should have been made;
 - (b) confirm, revoke or vary the decision or order;
 - (c) refer the matter, or any issue, back to the hearing panel for further consideration in accordance with any direction of the Court; or
 - (d) provide any direction that it considers appropriate.

Stay pending appeal

- 24.** A decision or order of a hearing panel remains in effect pending an appeal unless the Nunavut Court of Justice, on application, stays the decision or order pending the appeal.

PART 4

GENERAL

Emergencies

Emergency nursing services

- 25.** (1) Nothing in this Act restricts the provision of practical nursing services in case of an emergency.

Emergency services

(2) Nothing in the *Dental Profession Act*, the *Dental Auxiliaries Act*, the *Medical Profession Act*, the *Midwifery Profession Act*, the *Nursing Act*, the *Pharmacy Act* or the *Veterinary Profession Act* prohibits a licensed practical nurse 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.

Exclusion of liability in emergencies

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

Exclusion of Liability

Exclusion of liability - Registrar, investigator, member of a hearing panel

- 26.** No proceedings lie against the Registrar, an investigator, a member of a hearing panel or a person engaged or employed by any of them for anything done or not done by that person in good faith in the exercise of powers or the performance of duties or functions under this Act.

Offences and Punishment

Prohibited use of title

- 27.** (1) No person except a licensed practical nurse shall
- (a) use the title "licensed practical nurse" or the designation "L.P.N." or a variation or equivalent of that title in another language;
 - (b) represent or hold himself or herself out, expressly or by implication, as a licensed practical nurse; or
 - (c) provide services that are in the scope of practice of a licensed practical nurse.

Services of licensed practical nurse

(2) No person shall knowingly employ or engage a person to provide services of a licensed practical nurse unless the person employed or engaged is the holder of a licence to practice.

Practising while suspended

(3) No person whose licence is suspended or cancelled under this Act shall directly or indirectly engage in the practice of practical nursing.

Offence and punishment

(4) Every person who contravenes this Act or the regulations is guilty of an offence and liable on summary conviction to a fine not exceeding \$5000 or to imprisonment for a term not exceeding 90 days or to both.

Limitation period

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

Burden of proof

(6) 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, the person was a licensed practical nurse.

Administration

Service of notice or document

- 28.** Where a notice or other document is required to be served on a person under this Act or the regulations, the notice or document may be
- (a) served personally on the person;
 - (b) sent by registered mail to the last known mailing address of the person; or
 - (c) sent by any electronic or other means if the person has indicated a preference to receive documents in that form.

Approved forms

29. The forms to be used for the purposes of this Act may be approved by the Registrar.

Honoraria to and expenses of hearing panel

30. Members of a hearing panel are entitled to be paid honoraria, and to be reimbursed for their reasonable expenses incurred, in accordance with the directives issued by the Financial Management Board.

Regulations

Regulations

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

- (a) respecting programs of education approved for the training of licensed practical nurses;
- (b) respecting examinations for licensed practical nurses;
- (c) prescribing fees to be paid for licence applications and renewals or for reinstatement of a licence;
- (d) respecting the services that licensed practical nurses may be permitted to provide;
- (e) respecting programs to ensure the continuing competence and professional development of licensed practical nurses, including requirements for training, refresher programs and clinical experience;
- (f) respecting alternative dispute resolution processes for the resolution of issues raised by allegations;
- (g) respecting procedures to be followed by an investigator in the investigation of allegations;
- (h) respecting procedures to be followed by a hearing panel in the consideration of allegations;
- (i) respecting any other matter considered necessary or advisable to carry out the intent and purpose of this Act.

CONSEQUENTIAL AMENDMENTS

Emergency Medical Aid Act

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

(2) Section 1 is amended by adding "or a licensed practical nurse under the *Licensed Practical Nurses Act*" after "(Northwest Territories)".

Evidence Act

33. (1) The *Evidence Act* is amended by this section.

(2) The definition "health care professional" in section 13 is amended by repealing paragraph (e) and substituting the following:

(e) is licensed under the *Licensed Practical Nurses Act*,

(3) Subparagraph (b)(i) of the definition "legal proceedings" in section 13 is amended by adding after "or" at the end of the subparagraph, "a hearing panel established under the *Licensed Practical Nurses Act*, or".

Liquor Act

34. (1) The *Liquor Act* is amended by this section.

(2) Subsection 51.2(3) is amended by striking out "or" at the end of paragraph (c) and adding the following after paragraph (c):

(c.1) a licensed practical nurse as defined in the *Licensed Practical Nurses Act*; or

Medical Profession Act

35. (1) The *Medical Profession Act* is amended by this section.

(2) Paragraph 46(h) is repealed and the following substituted:

(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*;

Mental Health Act

36. (1) The *Mental Health Act* is amended by this section.

(2) Subsection 48(1) is amended by repealing the definition "nurse" and substituting the following:

"nurse" means a registered nurse, nurse practitioner or temporary certificate holder entitled to practice in Nunavut under the *Nursing Profession Act* (Northwest Territories) or a licensed practical nurse under the *Licensed Practical Nurses Act*;

Pharmacy Act

37. (1) The *Pharmacy Act* is amended by this section.

(2) Section 1 is amended by repealing the definition "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), a licensed practical nurse under the *Licensed Practical Nurses Act*, or a person registered under the law of a province or a territory to practice the profession of nursing or practical nursing; (*infirmière ou infirmier*)

TRANSITIONAL PROVISIONS

Certified nursing assistants

38. (1) On the coming into force of this Act, the Registrar shall issue a licence to each holder of a valid and subsisting certified nursing assistant certificate issued under the *Certified Nursing Assistants Act* before the day this Act comes into force.

Limitations on practice

(2) A licence issued under subsection (1) and any renewal of that licence may be made subject to any limitations on the practice of the holder of the licence that the Registrar considers appropriate in light of the training or other qualifications of the licence holder.

REPEAL AND COMMENCEMENT

Certified Nursing Assistants Act

39. The *Certified Nursing Assistants Act*, R.S.N.W.T. 1988, c.C-2, as amended for Nunavut under section 76.05 of the *Nunavut Act* (Canada), is repealed.

Coming into force

40. This Act or any provision of this Act comes into force on a day or days to be fixed by order of the Commissioner.