

# CONSOLIDATION OF DENTAL PROFESSION ACT

R.S.N.W.T. 1988,c.33(Supp.)  
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## AS AMENDED BY NORTHWEST TERRITORIES STATUTES:

R.S.N.W.T. 1988,c.74(Supp.)  
S.N.W.T. 1994,c.7  
In force January 1, 1995: SI-019-94  
S.N.W.T. 1996,c.19  
In force April 1, 1998: SI-005-98  
S.N.W.T. 1998,c.10  
In force July 1, 1998, except s.4,5  
s.4,5 in force July 1, 2001  
S.N.W.T. 1998,c.24  
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## AS AMENDED BY STATUTES ENACTED UNDER SECTION 76.05 OF NUNAVUT ACT:

S.N.W.T. 1998,c.37  
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## AS AMENDED BY NUNAVUT STATUTES:

S.Nu. 2001,c.10,s.4  
s.4 in force May 29, 2001

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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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## DENTAL PROFESSION ACT

### INTERPRETATION

#### Definitions

1. In this Act,

"Board of Inquiry" means a Board of Inquiry appointed under subsection 49(1);  
(*commission d'enquête*)

"complaint" means a complaint made under subsection 36(1); (*plainte*)

"dentistry" means the diagnosis, prevention and treatment of the conditions, diseases, injuries and malformations of the teeth, soft tissues and bones of the human jaws and adjacent structures; (*dentisterie*)

"licensee" means an individual who is registered and licensed under this Act to practise dentistry; (*titulaire de licence*)

"professional corporation" means a corporation that is registered and licensed under this Act to practise dentistry; (*société professionnelle*)

"Registration Committee" means the Registration Committee established by subsection 77(1); (*comité d'inscription*)

"Review Officer" means the Review Officer designated under subsection 35(1). (*syndic*)  
S.N.W.T. 1998,c.37,Sch.A,s.1; S.Nu. 2001,c.10,s.4(2).

### PRACTICE OF DENTISTRY

#### Licence to practise

2. (1) Except as provided in this Act, no person other than a licensee or professional corporation shall practise dentistry in the Territories.

#### Proof of practice

(2) For the purpose of subsection (1), proof of the performance of one act in the practice of dentistry on one occasion is sufficient to establish the practice of dentistry.

#### Exception

(3) Nothing in this Act prevents a person who is not entitled to practise dentistry from giving necessary dental aid in an isolated case of urgent need if the aid is given without hire, gain or hope of reward.

#### No restriction

(4) Nothing in this Act restricts the practice of any profession or occupation authorized by any other Act.

## LICENSING AND REGISTRATION

### General

#### Registers

**3.** The secretary of the Registration Committee shall maintain a Dental Register, Temporary Register and any other prescribed registers and records.

#### Exemption

**4.** Sections 5 to 17, 21 and 22 do not apply to the registration of corporations.

### Dental Register

#### Application for registration in Part One

**5.** (1) A person may apply to the Registration Committee to be registered in Part One of the Dental Register.

#### Registration in Part One of Dental Register

(2) A person is eligible to be registered in Part One of the Dental Register where the person pays the prescribed fees and produces evidence satisfactory to the Registration Committee that he or she

- (a) is registered or eligible to be registered to practise dentistry in a province or the Yukon Territory or holds a certificate of qualification from the National Dental Examining Board of Canada; and
- (b) is of good character.

#### Application for registration in Part Two

**6.** (1) A person may apply to the Registration Committee to be registered in Part Two of the Dental Register.

#### Registration in Part Two of Dental Register

(2) A person is eligible to be registered in Part Two of the Dental Register where the person pays the prescribed fees and

- (a) is eligible to be registered in Part One of the Dental Register; and
- (b) produces evidence satisfactory to the Registration Committee that he or she has successfully completed a specialty training program accredited by the Canadian Dental Association.

#### Registration Committee shall register

**7.** (1) Where a person applying for registration under section 5 or 6 meets the requirements set out in this Act for the registration, the Registration Committee shall register the person and issue a licence to him or her.

## Terms and conditions

(2) A licence issued under subsection (1) is subject to the terms and conditions that the Committee specifies.

## Residency

**8.** (1) A person registered in either Part One or Part Two of the Dental Register who ceases to be a resident of the Territories for a period of one year or more may be required in the discretion of the Registration Committee to submit certificates of standing, or other documentation acceptable to the Registration Committee, from any other jurisdiction in which the person has been practising during the period that the person is not a resident of the Territories.

## Failure to comply

(2) The Registration Committee may cancel the registration and licence of a person who neglects to comply with subsection (1).

**9. Repealed, S.N.W.T. 1998,c.10,s.4.**

**9.1. Repealed, S.N.W.T. 1998,c.10,s.4.**

**10. Repealed, S.N.W.T. 1998,c.10,s.4.**

**11. Repealed, S.N.W.T. 1998,c.10,s.4.**

**12. Repealed, S.N.W.T. 1998,c.10,s.4.**

**13. Repealed, S.N.W.T. 1998,c.10,s.4.**

**14. Repealed, S.N.W.T. 1998,c.10,s.4.**

**15. Repealed, S.N.W.T. 1998,c.10,s.4.**

## Refusal to register

**16.** Notwithstanding anything in this Act, the Registration Committee may refuse to register a person, and the Minister may refuse to direct the registration of a person, where

- (a) any registration or licence previously granted to the person to practise dentistry in any jurisdiction has been cancelled, has lapsed or is under suspension as a result of disciplinary action against him or her for unbecoming, improper or criminal conduct; or
- (b) there is pending in any jurisdiction an investigation, review or proceedings conducted by a dental licensing body of that jurisdiction or by a court or other tribunal on appeal from that body, that could result in the cancellation or suspension of his or her registration or licence to practise dentistry in that jurisdiction.

Practice for three years or more

**17.** (1) A person who has graduated from a school of dentistry three or more years before the date of his or her application for registration is not eligible for registration until he or she produces evidence satisfactory to the Registration Committee that he or she has been active in the practice of dentistry for the major part of the three years preceding the date of his or her application.

Practice for less than three years

(2) A person who graduated from a school of dentistry less than three years but more than one year before the date of his or her application for registration is not eligible for registration until he or she produces evidence satisfactory to the Registration Committee that he or she has been active in the practice of dentistry or engaged in post-graduate study for the major part of the time between his or her graduation and his or her application.

Exemption

(3) The Registration Committee may exempt a person from producing the evidence referred to in subsection (1) or (2) where the Registration Committee is satisfied that the person is qualified to be registered.

Dental Register

**18.** (1) The secretary of the Registration Committee shall issue a licence each year to each person registered in the Dental Register

- (a) whose registration or licence has not been cancelled, suspended or expired; and
- (b) who pays to the secretary the prescribed licence fee.

Failure to pay annual fee

(2) Where a person registered in the Dental Register fails to pay the prescribed licence fee on or before March 31 in each year, the registration of that person is cancelled.

Reinstatement

**19.** (1) Subject to subsection (3), a person whose registration in the Dental Register is cancelled under subsection 18(2) shall be reinstated in the appropriate part of the Dental Register and a licence issued on payment to the secretary of the Registration Committee of the prescribed licence fee for that year and any other prescribed fee required to be paid for reinstatement.

(2) **Repealed, S.N.W.T. 1998,c.10,s.4.**

Refusal of reinstatement

(3) Where a person allows his or her registration to lapse for more than six months, the Registration Committee may refuse to reinstate that person.

S.N.W.T. 1998,c.10,s.4

Entitlement to practise

**20.** (1) A licence issued to a person registered in the Dental Register entitles the holder to practise dentistry during the year for which the licence is issued.

Expiry of licence

(2) A licence issued to a person registered in the Dental Register is valid from April 1 of the year specified on the licence to March 31 of the following year.

Temporary Register

Application for registration

**21.** (1) A person may apply to the Registration Committee to be registered in Part One or Part Two of the Temporary Register.

Registration in Part One of Temporary Register

(2) A person is eligible to be registered in Part One of the Temporary Register where the person

- (a) is eligible to be registered in Part One of the Dental Register; and
- (b) pays the prescribed fees.

Registration in Part Two of Temporary Register

(3) A person is eligible to be registered in Part Two of the Temporary Register where the person

- (a) is eligible to be registered in Part Two of the Dental Register; and
- (b) pays the prescribed fees.

Registration Committee shall register

**22.** (1) The Registration Committee shall register a person applying for registration under subsection 21(1) and issue a licence to that person, where the person meets the requirements set out in this Act for the registration.

Terms and conditions

(2) A licence issued under subsection (1) is subject to the terms and conditions that the Registration Committee specifies.

Validity of registration

**23.** (1) Subject to subsection (2), a person may be registered in the Temporary Register for a single period of not more than three months.

Extension of registration

(2) The Registration Committee may, on application, direct the secretary to extend the period of registration in the Temporary Register for a single period of not more than three months.

## Entitlement to practise

**24.** A licence issued to a person registered in the Temporary Register expires on the day specified in the licence and entitles the person to practise dentistry for the period specified in the licence.

## Student Register

## Student Register

**24.1.** A student may apply for registration in the Student Register where the student

- (a) has been promoted to the final year of dental studies; and
- (b) will provide dental services under the direct supervision of a licensee who is also employed by the Faculty of Dentistry of a Canadian university.

R.S.N.W.T. 1988,c.74(Supp.),s.3.

## Professional Corporations

## Application for registration

**25.** (1) An application may be made to the Registration Committee to register a corporation in Part One of the Dental Register or Part One of the Temporary Register.

## Registration of corporation

(2) A corporation is eligible to be registered in Part One of the Dental Register or Part One of the Temporary Register where the corporation pays the prescribed fees and provides evidence satisfactory to the Registration Committee that

- (a) the corporation is incorporated or registered under the *Business Corporations Act* and has filed the annual returns required by that Act;
- (b) the legal and beneficial ownership of all of the issued shares of the corporation belongs to one or more licensees;
- (c) all of the directors are licensees;
- (d) the corporation has the power to carry on the practice of dentistry; and
- (e) the persons who will carry on the practice of dentistry on behalf of the corporation are all licensees.

S.N.W.T. 1996,c.19,Sch.,s.4; S.N.W.T. 1998,c.24,s.6.

## Registration Committee shall register

**26.** (1) Where a corporation applying under subsection 25(1) meets the requirements set out in this Act for registration, the Registration Committee shall register the corporation and issue a licence to the corporation.

## Terms and conditions

(2) A licence issued under subsection (1) is subject to the terms and conditions that the Committee specifies.

### Cancellation of registration

**27.** The Registration Committee may cancel the registration and licence of a professional corporation or withhold the renewal of a licence where the Registration Committee is satisfied that

- (a) any of the conditions specified in subsection 25(2) cease to be fulfilled;
- (b) a person who is not a licensee has exercised voting rights in respect of any shares in the corporation; or
- (c) a person has been convicted of an offence in respect of the corporation under section 2, 87, 88 or 89, and
  - (i) no appeal has been made and the time for appealing the conviction has expired, or
  - (ii) an appeal has been made and the appeal has been dismissed.

### Death of shareholder

**28.** Where a professional corporation ceases to fulfill a condition specified in subsection 25(2) by reason of the death of one of the shareholders, the striking-off of a shareholder's name from the register or the suspension of a shareholder's registration or licence, the registration and licence of the professional corporation are automatically cancelled unless within 90 days after the death, striking-off or suspension the condition is fulfilled.

### Prohibition

**29.** (1) Subject to subsection (2), a licensee who is a shareholder in a professional corporation shall not permit any person who is not a licensee to exercise any voting rights in respect of any shares in the professional corporation.

### Exception

(2) Where a shareholder in a professional corporation dies, the personal representative may hold the shareholder's shares and exercise the shareholder's voting rights for six months after the day of the shareholder's death.

### Liability of shareholder

**30.** (1) Notwithstanding any provision to the contrary in the *Business Corporations Act*, every person who is a shareholder in a professional corporation during a time that the professional corporation

- (a) is the holder of a licence, and
- (b) acts in contravention of this Act or a predecessor of this Act,

is liable to the same extent and in the same manner as if the shareholders of the professional corporation during that time were carrying on the business of the professional corporation as a partnership or, if there is only one shareholder, as an individual.

#### Liability of employee or agent

(2) The liability of a person practising dentistry is not affected by the fact that the practice of dentistry is carried on by that person as an employee or on behalf of a professional corporation. S.N.W.T. 1996,c.19,Sch.,s.4; S.N.W.T. 1998,c.24,s.6.

#### Appeal

##### Notification

**31.** (1) Where the Registration Committee refuses to register a person who applies for registration and licensing under this Act, the Registration Committee shall serve on the person written notice of the refusal and the reasons for the refusal.

##### Appeal

(2) A person whose application for registration is refused by the Registration Committee may appeal the refusal by filing a notice of appeal with the Minister within 60 days after receiving written notice of the refusal.

##### Hearing

**32.** (1) On receipt of a notice of appeal under subsection 31(2), the Minister shall, without delay,

- (a) permit the appellant to make written submissions respecting the appeal; or
- (b) set a time and a place where the appellant may make oral and written submissions and present evidence respecting the appeal.

##### Natural justice

(2) The Minister is bound by the rules of natural justice when hearing an appeal under subsection (1).

##### Powers of Minister

**33.** (1) The Minister may, on hearing an appeal under section 32, confirm the decision of the Registration Committee or direct the Registration Committee to register the appellant in the register or part of the register applied for and to issue a licence to the appellant, subject to the terms and conditions that the Minister specifies.

##### Written decision

(2) The Minister shall, within a reasonable time after the conclusion of the hearing, make a written decision on the matter.

##### Notice

(3) The Minister shall serve a copy of his or her decision on the appellant and on the secretary of the Registration Committee.

##### Decision of Minister

**34.** The decision of the Minister under section 33 is final.



## DISCIPLINE

### Review Officer

**35.** The Review Officer appointed under subsection 35(1) of the *Dental Profession Act* (Northwest Territories) is designated as the Review Officer for all purposes of this Act. S.N.W.T. 1998,c.37,Sch.A,s.2.

### Complaints

**36.** (1) A person may make a complaint to the Review Officer about the conduct of a licensee or professional corporation.

### Duties of Review Officer

(2) The Review Officer shall investigate any written complaint.

### Continuing jurisdiction

(3) A complaint respecting the conduct of a person whose registration or licence has been cancelled or suspended under this Act or a predecessor of this Act may be dealt with within five years following the cancellation or suspension as if the cancellation or suspension had not occurred.

### Notice

**37.** (1) The Review Officer shall, before investigating a complaint, give the licensee or professional corporation whose conduct is being investigated at least 10 days notice in writing that an investigation will be conducted.

### Content of notice

(2) The notice referred to in subsection (1) must specify in general terms the complaint to be investigated.

### Written submission

(3) The Review Officer shall permit the licensee or professional corporation whose conduct is being investigated to submit to the Review Officer a written statement respecting the complaint under investigation.

### Powers of Review Officer

**38.** (1) The Review Officer may, in investigating a complaint,

- (a) inquire into and investigate the practice of the licensee or professional corporation whose conduct is being investigated; and
- (b) on production of his or her appointment, enter the business premises of the licensee or professional corporation whose conduct is being investigated during any reasonable time and examine books, records, documents and things relevant to the investigation.

### Health records must be produced

(2) Subsection (1) applies notwithstanding any provision in the *Territorial Hospital Insurance Services Regulations* respecting the secrecy of health records.

#### Search warrant

- 39.** Where on *ex parte* application a justice of the peace is satisfied that
- (a) an investigation is being conducted by the Review Officer; and
  - (b) there are reasonable grounds to believe that there are in any place any books, records, documents or things relevant to the investigation,

the justice of the peace may issue a warrant authorizing the Review Officer to enter and search the place for the books, records, documents or things, subject to the conditions that may be specified in the warrant.

#### Copies

- 40.** (1) The Review Officer may make copies of any books, records, documents or things examined under the authority of paragraph 38(1)(b) or section 39.

#### Removal of books

(2) Where the Review Officer removes books, records, documents or things for the purpose of copying them, the Review Officer shall return the books, records, documents or things to the place from where they were removed as soon as practicable.

#### Prohibition

- 41.** Where a Review Officer is carrying out an investigation under this Act, no person shall, in respect of the investigation,
- (a) knowingly make a false or misleading statement, either orally or in writing, to the Review Officer; or
  - (b) otherwise obstruct or hinder the Review Officer.

#### Review Officer must act

- 42.** The Review Officer, on completing an investigation under this Act, shall direct that
- (a) no further action be taken if the Review Officer believes that the complaint
    - (i) is without merit, made in bad faith or is otherwise an abuse of process, or
    - (ii) is such that, if proven, would not constitute either the unskilled practice of dentistry or professional misconduct; or
  - (b) the complaint be referred to a Board of Inquiry for a hearing.

#### Notice

- 43.** (1) The Review Officer shall give the complainant and the licensee or professional corporation whose conduct is being investigated written notice of the direction made under section 42.

#### Complainant may request hearing

(2) A complainant who is served with a notice under subsection (1) that no further action will be taken may, within 30 days after receipt of the notice, request that the Review Officer refer the complaint to a Board of Inquiry.

#### Duty of Review Officer

(3) The Review Officer shall, on the request of a complainant under subsection (2), refer the complaint to a Board of Inquiry.

#### Notice

**44.** Where the Review Officer refers a complaint to a Board of Inquiry for a hearing, the Review Officer shall notify the Minister.

#### Report

**45.** The Review Officer shall, within four months after March 31 in each year, make a report to the Minister on the complaints received and the investigations conducted by the Review Officer in the 12 months preceding that March 31.

#### Minister may refer

**46.** (1) The Minister may refer any matter related to the conduct of a licensee or professional corporation to a Board of Inquiry for a hearing.

#### Notice

(2) The Minister shall give the licensee or professional corporation referred to in subsection (1) written notice that the matter has been referred to a Board of Inquiry for a hearing.

#### Interim suspension

**47.** (1) Notwithstanding anything in this Act, the Minister may, on the recommendation of the Review Officer, suspend the licence or registration, or both, of a licensee or professional corporation whose conduct is being investigated under this Act pending the hearing of a complaint or matter against the licensee or professional corporation.

#### Period of suspension

(2) A suspension made under subsection (1) must not exceed eight weeks, unless extended by a Board of Inquiry.

#### Extension

(3) A Board of Inquiry may extend a suspension made under subsection (1) for an additional period of four weeks.

#### Application for stay of order

**48.** (1) A licensee or professional corporation whose conduct is being investigated may, by filing an originating notice with the Supreme Court and serving a copy on the Minister, apply for an order of the Supreme Court staying a suspension.

#### Order for stay

(2) The Supreme Court may grant an application under subsection (1) on the terms and conditions that the Supreme Court considers appropriate.

#### Appointment

**49.** (1) Where a complaint or matter is referred to a Board of Inquiry for a hearing, the Minister shall appoint three to five members to sit on the Board.

#### Composition of Board

- (2) The Board of Inquiry must be composed of
- (a) at least one licensee nominated by the Northwest Territories Dental Association, a society incorporated under the *Societies Act* (Northwest Territories);
  - (b) at least one person who is entitled to practise dentistry in a province or the Yukon Territory; and
  - (c) at least one member of the public.

#### Minister shall appoint

(3) Where the Northwest Territories Dental Association has nominated a person under paragraph (2)(a), the Minister shall appoint that person to the Board of Inquiry.

#### Chairperson

(4) The Minister shall designate one member of the Board of Inquiry as chairperson.

#### Quorum

(5) Three persons, two of whom must be eligible for appointment under paragraph (2)(a) or (b), constitute a quorum of the Board of Inquiry.  
S.N.W.T. 1998,c.37,Sch.A,s.3.

#### Rules

**50.** (1) A Board of Inquiry, subject to this Act and the regulations, may make rules of procedure under which a hearing is to be held.

#### Staffing

(2) A Board of Inquiry may hire any technical, legal or clerical staff that the Board considers necessary for carrying out its duties and the expenses shall be paid for by the Government of the Northwest Territories.

#### Security for costs

**51.** (1) Where a complaint is referred to the Board of Inquiry under subsection 43(3), the Minister, before appointing persons to sit on the Board, may require the complainant to pay to the Minister a prescribed sum to be held as security for the cost of the hearing.

### Order of Board

(2) Where the Board of Inquiry finds that a complaint is without merit, made in bad faith or is otherwise an abuse of process, the Board may order the security for costs to be used to pay the cost of the hearing in the amount and manner determined by the Board in accordance with the regulations.

### Return of security

(3) Any sum held as security for costs that is not ordered to be paid in accordance with subsection (2) must be returned to the complainant.

### Notice

**52.** (1) The chairperson of the Board of Inquiry shall give the licensee or professional corporation whose conduct is being investigated a written notice stating the date, time and place at which the hearing will be held and specifying the complaint or matter to be investigated.

### Period of notice

(2) The notice referred to in subsection (1) must be served at least 14 days before the hearing.

### Counsel may be present

**53.** (1) A Board of Inquiry and the licensee or professional corporation whose conduct is being investigated may be represented by counsel at a hearing before the Board.

### Private hearing

(2) Proceedings before a Board of Inquiry must be held in private.

### Powers of Board

**54.** (1) A Board of Inquiry may, in addition to the complaint or matter referred to the Board, hear any other matter related to the professional conduct of a licensee or professional corporation whose conduct is being investigated where

- (a) the matter arises during the course of the hearing; and
- (b) the Board gives the licensee or professional corporation notice of its intention to hear the matter at least 10 days before the matter is heard.

### Non-attendance at hearing

(2) Where a licensee or professional corporation whose conduct is being investigated does not attend the hearing, the Board of Inquiry, on proof of service of the notice of the hearing, may proceed with the hearing and take any action authorized by this Act without further notice to the licensee or professional corporation.

#### Notice to attend hearing

**55.** (1) The chairperson of a Board of Inquiry may enforce the attendance of a witness before a hearing of the Board of Inquiry and the production of books, records, documents or things, by issuing a notice requiring the witness to attend and stating the date, time and place at which the witness is to attend and the books, records, documents or things, if any, that the witness is required to produce.

#### Issue of notice on request

(2) On the written request of a licensee or professional corporation whose conduct is being investigated, or of his or her counsel or agent, the chairperson of the Board of Inquiry shall, without charge, issue and deliver to that licensee or professional corporation or his or her counsel or agent the notices that the licensee or professional corporation requires for the attendance of witnesses or production of documents under subsection (1).

#### Testimony of non-resident witness

**56.** For the purpose of obtaining the testimony of a witness who is out of the Territories, a judge of the Supreme Court, on application *ex parte* by the chairperson of a Board of Inquiry or the person whose conduct is being investigated, may direct the issuing of a commission for the obtaining of the evidence of the witness in accordance with the Rules of the Supreme Court.

#### Rules of evidence

**57.** The Board of Inquiry is not bound by the rules of evidence pertaining to actions and proceedings in courts of justice, but may proceed to ascertain the facts in the manner that the Board considers proper.

#### Oaths

**58.** Any member of a Board of Inquiry may administer an oath to any witness who is to give evidence before the Board.

#### Witness fees

**59.** A witness, other than the licensee or professional corporation whose conduct is being investigated, who has been served with a notice to attend or a notice for the production of documents, is entitled to demand and to be paid the usual fees payable to witnesses in an action in the Supreme Court.

#### Civil contempt

**60.** Proceedings for civil contempt of court may, on application to a judge of the Supreme Court in accordance with the Rules of the Supreme Court, be brought against a witness

- (a) who fails
  - (i) to attend before the Board of Inquiry in compliance with a notice to attend, or
  - (ii) to produce any books, records, documents or things in compliance to a notice to produce them; or

- (b) who refuses to be sworn or to answer any question he or she is directed to answer by the Board of Inquiry.

#### Compellable witness

**61.** (1) The licensee or professional corporation whose conduct is being investigated or any other person who in the opinion of the Board of Inquiry has knowledge of any complaint or matter being investigated is a compellable witness at a hearing at which that complaint, conduct or matter is being investigated.

#### Examination

(2) A witness may be examined on oath on all matters relevant to an investigation or hearing before a Board of Inquiry and shall not be excused from answering a question on the ground that the answer might

- (a) tend to incriminate the witness,
- (b) subject the witness to punishment under the disciplinary provisions of this Act, or
- (c) tend to establish the liability of the witness
  - (i) to a civil proceeding at the instance of the Government of the Northwest Territories or any person, or
  - (ii) to prosecution under any Act,

but if the answer so given tends to incriminate the witness, subjects the witness to punishment or tends to establish his or her liability, it shall not be used or received against the witness in any civil proceedings or in any proceedings under any other Act, except in a prosecution for or proceedings in respect of perjury or the giving of contradictory evidence.

#### Witnesses

**62.** The Board of Inquiry shall permit the licensee or professional corporation whose conduct is being investigated to give evidence and to call, examine and cross-examine witnesses.

#### Unskilled practice or professional misconduct

**63.** The Board of Inquiry may find that any conduct of a licensee or professional corporation constitutes either unskilled practice of dentistry or professional misconduct where, in the opinion of the Board, the conduct

- (a) is detrimental to the best interest of the public;
- (b) contravenes this Act or the regulations;
- (c) harms or tends to harm the standing of the profession of dentistry generally; or
- (d) displays a lack of knowledge of or lack of skill or judgment in the practice of dentistry.

#### Orders of Board

**64.** (1) Where a Board of Inquiry finds that any conduct of a licensee or professional corporation constitutes either unskilled practice of dentistry or professional misconduct, the Board may, by order,

- (a) reprimand the licensee or professional corporation;
- (b) suspend the registration or licence or both of the licensee or professional corporation for a stated period;
- (c) suspend the registration or licence or both of a licensee or professional corporation for an indefinite time and specify conditions that must be satisfied by the licensee or professional corporation to obtain the removal of the suspension;
- (d) cancel the registration or licence or both of the licensee or professional corporation;
- (e) impose restrictions on the registration or licence of the licensee or professional corporation for the period and subject to the conditions that the Board specifies;
- (f) impose conditions on the registration or licence of the licensee or professional corporation for the period that the Board specifies; or
- (g) fine the licensee or professional corporation an amount not exceeding \$10,000 for each finding of unskilled practice of dentistry or professional misconduct and \$50,000 in aggregate for all such findings arising out of the hearing, to be paid by the licensee or professional corporation to the Minister within the time specified in the order.

#### Order for costs

(2) The Board of Inquiry may order that the licensee or professional corporation whose conduct is being investigated pay all or part of the costs of the hearing as determined by the Board, within a time specified in the order.

#### Effect of order

(3) An order made under this section takes effect when it is made or at such later time as is specified in the order.

#### Written decision

**65.** (1) A Board of Inquiry shall, within a reasonable time after the conclusion of a hearing, make a written decision on the matter.

#### Service of decision

(2) The Board of Inquiry shall serve a copy of its decision on the person whose conduct the Board has been investigating, on the Minister and on the secretary of the Registration Committee.

#### Content of decision

(3) The decision of the Board of Inquiry must state the findings made by the Board, the order made by the Board and the reasons why the findings and order were made.



#### Appeal

(4) A person whose conduct has been investigated may appeal a finding or order of the Board of Inquiry to the Supreme Court within 60 days after receiving the decision of the Board.

#### Delivery of evidence

- 66.** (1) A Board of Inquiry shall forward to the Minister
- (a) all exhibits, documents and other evidence presented to the Board at the hearing;
  - (b) a summary of the testimony given at the hearing; and
  - (c) a copy of the decision.

#### Publication

(2) The Minister may publish a decision of the Board, or a summary of the decision, in any manner approved by the Minister.

#### Powers of Review Officer

**67.** (1) Where the Board of Inquiry makes an order under paragraph 64(1)(c), (e) or (f) or subsection 64(2), the Review Officer shall determine whether the restrictions or conditions specified in the order have been satisfied or the fine or costs have been paid.

#### Recommendation to Minister

(2) Where the Review Officer is satisfied that an order made under paragraph 64(1)(c), (e) or (f) or subsection 64(2) has been contravened, the Review Officer may recommend to the Minister that the registration or licence of the person against whom the order was made be cancelled or suspended.

#### Review of order

**68.** (1) The Minister may, after reviewing the order of the Board of Inquiry and all documents in the possession of the Review Officer related to the matter, cancel or suspend the registration or licence of a person referred to in subsection 67(2), on the terms and conditions that the Minister considers appropriate.

#### Written decision

(2) Where the Minister cancels or suspends the registration or licence of a person under subsection (1), the Minister shall make a written decision on the matter.

#### Service of decision

(3) The Minister shall serve a copy of his or her decision on the person whose registration or licence is canceled or suspended and on the secretary of the Registration Committee.

## Appeal

### Appeal to Supreme Court

**69.** A person whose registration or licence is cancelled or suspended under subsection 68(1) may appeal the decision of the Minister to the Supreme Court within 60 days after receiving the decision of the Minister.

### Notice

**70.** (1) An appeal to the Supreme Court shall be commenced by

- (a) filing an originating notice with the Supreme Court; and
- (b) serving a copy of the originating notice on the Minister.

### Content of notice

(2) The originating notice must

- (a) describe the refusal, finding, order or decision being appealed; and
- (b) state the reasons for the appeal.

### Extension of time

(3) The Supreme Court may, before or after the expiration of the time to appeal, extend the time within which an appeal may be made.

### Evidence

(4) The Supreme Court may receive the oral or written evidence that the Court considers appropriate.

### Stay of proceedings

**71.** An appeal to the Supreme Court does not operate as a stay of the finding, order or decision in respect of which the appeal is made, but the Supreme Court may grant a stay, in whole or in part, on the terms that the Supreme Court considers reasonable, until the appeal is decided.

### Application of Rules

**72.** Subject to this Act, the Rules of the Supreme Court apply to an appeal made under this Act, with such modifications as the circumstances require.

### Power of Supreme Court

**73.** (1) The Supreme Court, on hearing an appeal this Act, may

- (a) confirm, vary or set aside the decision of the Minister or order of the Board of Inquiry; and
- (b) make any finding that, in the opinion of the Supreme Court ought to have been made.

### Notification

(2) Where the Supreme Court varies or sets aside the decision of the Minister or Board of Inquiry or an order of the Board of Inquiry, or makes any finding, the appellant shall notify the secretary of the Registration Committee.

## Reinstatement

### Reinstatement of cancellation

**74.** (1) A person whose registration or licence or both has been cancelled may, after one year after the date of the cancellation

- (a) apply to the Minister for reinstatement in the appropriate register or part of the register and issuance of a licence, where the person has not appealed the order of the Board of Inquiry or decision of the Minister to cancel; or
- (b) apply to the Supreme Court for reinstatement in the appropriate register or part of the register and the issuance of a licence, where the person has appealed an order of the Board of Inquiry or decision of the Minister and the Supreme Court has confirmed or ordered the cancellation of the registration or licence.

### Reinstatement of suspension

(2) A person whose registration or licence has been suspended may, after one-half the period of the suspension or one year after the date of the suspension, whichever is less,

- (a) apply to the Minister for removal of the suspension, where the person has not appealed the order of the Board of Inquiry or decision of the Minister to suspend; or
- (b) apply to the Supreme Court for removal of the suspension and issuance of a licence, where the person has appealed an order of the Board of Inquiry or decision of the Minister and the Supreme Court has confirmed the suspension or ordered the suspension of the registration or licence.

### Exemption

(3) This section does not apply to a person whose registration in the Temporary Register has been cancelled. S.N.W.T. 1998,c.10,s.5.

### Application

**75.** (1) An application to the Supreme Court under section 74 shall be commenced by

- (a) filing an originating notice with the Supreme Court; and
- (b) serving a copy of the originating notice on the Minister.

### Order for reinstatement

(2) The Minister or Supreme Court may grant the application by order on the terms and conditions that the Minister or Supreme Court, as the case may be, considers appropriate.

### Notification

(3) Where the Minister or Supreme Court grants the application the applicant shall notify the secretary of the Registration Committee of the terms and conditions of the order.

Time limit

**76.** A person who has applied for reinstatement of registration or the issuance of a licence under section 74 and whose application has been rejected shall not make further application for a period of at least one year after the date of the previous application.

ADMINISTRATION

Registration Committee

Registration Committee

**77.** (1) The Registration Committee is established.

Composition

(2) The Registration Committee is composed of:

- (a) two licensees registered in Part I or Part II of the Dental Register, one of whom shall be appointed by the Minister for a term of two years, and one of whom shall be appointed by the Minister for a term of three years;
- (b) one employee of the Government of Nunavut, who shall be appointed by the Minister;
- (c) one employee of the Government of Nunavut, with the title of Registrar of Health Professions, who shall be appointed by the Minister;
- (d) one other person who is not a licensee or an employee of the Government of Nunavut, who shall be appointed by the Minister for a term of two years.

Secretary

(3) The Registrar of Health Professions is the secretary of the Registration Committee.

Chairperson

(4) The Registration Committee shall designate one of the members appointed under paragraph (2)(a) as chairperson.

Quorum

(5) Three members of the Registration Committee, at least two of whom must have been appointed under paragraph (2)(a), constitute a quorum.

S.N.W.T. 1998,c.37,Sch.A,s.4; S.Nu. 2001,c.10,s.4(3).

**78. Repealed, S.N.W.T. 1998,c.37,Sch.A,s.4.**

**79. Repealed, S.N.W.T. 1998,c.37,Sch.A,s.4.**

**80. Repealed, S.N.W.T. 1998,c.37,Sch.A,s.4.**

### Applications

**81.** (1) An application for registration under this Act must be in a form approved by the Registration Committee.

### Procedures

(2) The Registration Committee shall review applications for registration in accordance with any procedures set out by regulation.

### Available to public

**82.** The secretary of the Registration Committee shall permit any person to inspect the Dental Register, Temporary Register and other prescribed registers and records during regular office hours.

### Duties of secretary

**83.** (1) The secretary of the Registration Committee shall

- (a) have custody of all records and documents belonging to or filed with the Registration Committee;
- (b) keep a record of all meetings of the Registration Committee; and
- (c) perform other duties that are set out in this Act or the regulations.

### Registers to be kept

(2) The secretary of the Registration Committee shall enter into the appropriate register or part of the register the name of every person registered and licensed under this Act and shall identify

- (a) any terms and conditions attached to a licence;
- (b) in the case of a person registered in the Dental Register, the location in which the person is practising dentistry;
- (c) in the case of a person registered in the Temporary Register, the purpose for which the person is registered, the period of the registration and the location in which the person is practising dentistry;
- (d) any suspension of the registration or licence and the period of, the reason for and any terms or conditions of the suspension; and
- (e) any cancellation of the registration or licence.

### Removal from register

**84.** Where a person makes application to the Registration Committee to have his or her registration cancelled in a register or a part of a register, the secretary shall cancel that registration and any licence issued to that person shall be deemed to be cancelled.

## General

### Definition of "electronic transmission"

**85.** (1) In this section, "electronic transmission" includes a transmission by telex, facsimile transfer or computer.

### Service of documents

(2) Where this Act or the regulations require that a document or notice be given to or served on any person, the notice must be in writing and the document or notice may be

- (a) served personally on an individual;
- (b) served on a corporation by leaving the document or notice with the registered office of the corporation or an officer, director, manager, secretary or agent of the corporation;
- (c) mailed by registered mail with receipt acknowledged or sent by electronic transmission addressed to the person's usual place of business or residence; or
- (d) published in a newspaper that is circulated at or near the last known address of the person.

### Protection from liability

**86.** No action lies against the Minister, the Review Officer, a member of the Registration Committee, a Board of Inquiry or a member of a committee established by regulation for anything done, or neglected to be done, in good faith where the Minister, Review Officer, Board of Inquiry or member purports to act under this Act or the regulations.

## PROHIBITIONS

### Prohibition respecting unlicensed persons

**87.** (1) No person whose licence or registration is cancelled or suspended under this Act or a predecessor of this Act shall practise dentistry or directly associate himself or herself in the practice of dentistry with a licensee or a professional corporation.

### Practice prohibition

(2) No licensee or professional corporation shall practise dentistry or directly associate himself or herself in the practise of dentistry with a person whose registration or licence is cancelled or suspended under this Act.

### Prohibition respecting unqualified persons

**88.** (1) No licensee or professional corporation shall permit any person other than a licensee to take charge of the dental office or place of practise of the licensee or professional corporation.

### Prohibition respecting licensee acting as agent

(2) No licensee or professional corporation shall knowingly act as the professional agent of any person who is not a licensee or professional corporation, or permit his or her name to be used on account of or for the profit of that person or do any other act to enable or assist that person to practise dentistry.

Use of name

**89.** (1) No person shall use the name "dentist" or "dental surgeon" or any title, description, abbreviation, letter or symbol representing those names alone or in combination with any other name, title, description, abbreviation, letter or symbol that represents expressly or by implication that the person is entitled to practise dentistry unless the person is a licensee or a professional corporation.

Designation as specialist

(2) No person shall advertise himself or herself out to the public as a specialist or as being specially qualified in any branch of any class or system of dentistry unless the person is registered and licensed under Part Two of the Dental Register or Part Two of the Temporary Register in that specialty.

OFFENCES AND PUNISHMENT

Offence and punishment

**90.** (1) Every person who contravenes this Act or the regulations is guilty of an offence and liable on summary conviction to a fine not exceeding \$6,000 or to imprisonment for a term not exceeding six months or to both.

Company fined

(2) A company that contravenes this Act or the regulations is guilty of an offence and liable on summary conviction to a fine not exceeding \$10,000.

Onus of proof

**91.** In any prosecution of an offence under this Act, the burden of proving that a person is registered and licensed under this Act is on the accused.

Continuing offence

**92.** Where an offence under this Act is committed or continued on more than one day, the person who committed the offence is liable to be convicted for a separate offence for each day on which the offence is committed or continued.

Liability of directors

**93.** Where a company commits an offence under this Act, any officer, director or agent of the company who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to the offence and is liable to the punishment provided for the offence, whether or not the company is prosecuted or convicted.

Proof of offence

**94.** In any prosecution of an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or prosecuted for the offence.

## REGULATIONS

## Regulations

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

- (a) prescribing the establishment of registers under section 3;
- (b) prescribing the qualifications for registration in each register referred to in section 3;
- (c) respecting applications for registration, the rights and obligations of persons registered in each register and the information to be included in each register;
- (d) prescribing the establishment of records under section 3;
- (e) respecting the form and content of the records referred to in section 3;
- (f) respecting the issuing, suspension, cancellation and renewal of licences;
- (g) prescribing fees;
- (h) respecting the payment of fees, including the time of payment, penalties for late payment and related matters;
- (i) **repealed, S.N.W.T. 1998,c.10,s.4;**
- (j) **repealed, S.N.W.T. 1998,c.10,s.4;**
- (k) **repealed, S.N.W.T. 1998,c.10,s.4;**
- (l) **repealed, S.N.W.T. 1998,c.10,s.4;**
- (m) **repealed, S.N.W.T. 1998,c.10,s.4;**
- (n) respecting the recognition of dental schools, courses and examinations for the purposes of registration and licensing;
- (o) respecting the powers and duties of the Review Officer;
- (p) respecting remuneration to members of a Board of Inquiry and the Review Officer;
- (q) respecting procedures relating to hearings held by the Board of Inquiry;
- (r) respecting procedures relating to appeals to the Minister authorized by this Act;
- (s) prescribing the amount of security to be paid under subsection 51(1);
- (t) respecting the manner of determining the amount and payment of costs for the purposes of subsection 51(2);
- (u) respecting the duties of the secretary of the Registration Committee;
- (v) respecting procedures to be followed by the Registration Committee;
- (w) respecting practitioners who are specialists in any branch of dentistry;
- (x) respecting the establishment and operation of committees and the remuneration to members of the committees;



- (y) respecting standards for the practice of dentistry and the protection of the public;
  - (z) respecting the publishing, display, distribution or use of any form of advertising relating to the practice of dentistry; and
  - (z.1) governing any other matter or thing that the Commissioner considers necessary or advisable.
- S.N.W.T. 1998,c.10,s.4.

## TRANSITIONAL

### Definition of "former Act"

**96.** (1) In this section, "former Act" means the *Dental Profession Act*, R.S.N.W.T. 1974,c.D-3.

### Dental Register

(2) A person who is registered in the Dental Register under the former Act, other than a person who applied for a three-year period of registration under subsection 5(4) of the former Act, shall be deemed to be registered in Part One of the Dental Register under this Act.

### Part Three registration

(3) A person who is registered for a three-year period under subsection 5(4) of the former Act shall be deemed to be registered under Part Three of the Dental Register for the unexpired period of the registration.

### Permits

(4) Notwithstanding section 23 of this Act, a person who holds a permit under the former Act shall be deemed

- (a) to be registered in Part One of the Temporary Register for the unexpired period of the permit; and
- (b) to hold a licence under this Act for the unexpired period of the permit.

### Licences

(5) A person who holds a licence under the former Act shall be deemed to hold a licence under this Act for the unexpired period of the licence.

### Application for registration

**97.** An application for registration or a licence made but not concluded before the coming into force of this Act shall be dealt with under this Act.

### Prior discipline proceedings

**98.** (1) Any complaint made or discipline proceedings that were commenced but not concluded before the coming into force of this Act shall be dealt with under the former Act as though this Act had not come into force.

**Subsequent discipline proceedings**

(2) Any complaint made or discipline proceedings commenced after the coming into force of this Act when the complaint or proceedings relates to conduct occurring all or partly before the coming into force of this Act shall be dealt with under this Act.