

2002

CHAPTER 21

An Act to amend *The Medical Profession Act, 1981*

(Assented to June 20, 2002)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

Short title

1 This Act may be cited as *The Medical Profession Amendment Act, 2002*.

S.S. 1980-81, c.M-10.1 amended

2 *The Medical Profession Act, 1981* is amended in the manner set forth in this Act.

Section 2 amended

3 Section 2 is amended:

(a) by adding the following clauses after clause (j):

“(j.1) ‘**podiatric surgeon**’ means a person registered pursuant to section 42.1;

“(j.2) ‘**podiatric surgical register**’ means the podiatric surgical register kept pursuant to section 42.2”; **and**

(b) by adding the following clause after clause (k):

“(k.1) ‘**practice of podiatric surgery**’ means the portion of the practice consisting of the provision of the services that, pursuant to the bylaws, a podiatric surgeon is authorized to perform”.

Section 6 amended

4 Subsection 6(2) is amended:

(a) by repealing subclause (a)(i) and substituting the following:

“(i) the registration of members, professional corporations and podiatric surgeons”;

(b) by adding the following clauses after clause (b):

“(b.1) delegating to another professional regulatory body approved by the minister the power to determine the matters set out in subsection 42.1(6) and imposing any terms that the council considers appropriate with respect to the delegation of that power;

“(b.2) specifying the services that a podiatric surgeon is authorized to provide”;

- (c) in clause (d) by striking out “members” wherever it appears and in each case substituting “persons registered under this Act”;
- (d) in clause (f) by striking out “and corporate register” and substituting “, corporate register and podiatric surgical register,”;
- (e) in clause (i) by striking out “the members” and substituting “persons registered under this Act”;
- (f) in clause (k) by striking out “the practice of medicine” and substituting “practice”;
- (g) in clause (n) by striking out “members in respect of their medical practice” and substituting “persons registered under this Act with respect to their practice”;
- (h) in clause (o) by striking out “member who has been out of active medical practice” and substituting “person registered under this Act who has been out of active practice”;
- (i) in clause (p) by striking out “members” and substituting “persons registered under this Act”;
- (j) in clause (q):
 - (i) by adding “or podiatric surgeon” after “physician”; and
 - (ii) by striking out “members” and substituting “persons registered under this Act”; and
- (k) in clause (t) by striking out “members” wherever it appears and in each case substituting “persons registered under this Act”.

Section 24 amended

5 Clause 24(2)(a) is repealed and the following substituted:

“(a) keep the register, the education register, the temporary register, the corporate register and the podiatric surgical register in accordance with this Act and the orders and bylaws of the council”.

Section 30 amended

6 Clause 30(2)(b) is repealed and the following substituted:

“(b) holds a specialty qualification in psychiatry that is recognized by the council”.

Section 31.1 amended

7 The following clause is added after clause 31.1(1)(d):

“(d.1) register and issue permits to podiatric surgeons”.

Section 33 amended

8 Section 33 is amended:

- (a) in the portion preceding clause (a) by striking out “or 30” and substituting “, 30 or 42.1”; and
- (b) in clause (b) by adding “or permit” after “licence”.

Section 36 amended

9 Section 36 is amended by striking out “or the temporary register” and substituting “, the temporary register, the corporate register or the podiatric surgical register”.

Section 37 repealed

10 Section 37 is repealed.

Section 37.1 amended

11 Section 37.1 is amended by striking out “the practice of medicine” and substituting “practice”:

- (a) in subsection (1); and**
- (b) in subsection (2).**

Section 37.2 amended

12 Subsection 37.2(1) is amended:

- (a) in the portion preceding clause (a) by striking out “the practice of medicine” and substituting “practice”; and**
- (b) by repealing clause (e) and substituting the following:**

“(e) all persons who carry on practice by, through or in the name of the professional corporation are registered under this Act”.

Section 37.4 amended

13 Clause 37.4(1)(c) is amended:

- (a) in subclause (ii) by striking out “member who may practise medicine” and substituting “person who carries on practice”; and**
- (b) in subclause (iii) by striking out “the practice of medicine by a member” and substituting “practice”.**

Section 37.5 amended

14 Subsection 37.5(2) is amended by striking out “practises medicine” and substituting “carries on practice”.

Section 37.6 amended

15 Subsection 37.6(1) is amended:

- (a) in the portion preceding clause (a):**
 - (i) by striking out “member” and substituting “person registered under this Act”; and**
 - (ii) by striking out “practising medicine” and substituting “carrying on practice”;**
- (b) in clause (a) by striking out “member or the member’s” and substituting “person or the person’s”; and**
- (c) in clause (b) by striking out “a member who is a shareholder of the professional corporation” and substituting “the person”.**

New sections 37.8 and 37.9

16 Sections 37.8 and 37.9 are repealed and the following substituted:

“Application of Act

37.8(1) The relationship of a person registered under this Act to a professional corporation does not affect the application of this Act or the bylaws to the person.

(2) The liability of a person registered under this Act to a patient who receives services from the person is not affected by the fact that services were provided to the patient by the person as an employee of, or on behalf of, a professional corporation.

“Patient relations

37.9(1) Nothing in this Part affects any law applicable to the confidential, ethical or fiduciary relationships between a person registered under this Act and a patient who receives services from the person.

(2) The relationship between a professional corporation and a patient who receives services from the professional corporation is subject to all applicable laws relating to the confidential, ethical and fiduciary relationships between the person registered under this Act who provides the services in the name of the professional corporation and the patient.

(3) All rights and obligations pertaining to communications made to, or information received by, a person registered under this Act apply to the shareholders, directors, officers and employees of a professional corporation”.

New Part IV.1

17 The following Part is added after section 42:

**“PART IV.1
Registration of Podiatric Surgeons**

“Podiatric surgeon permits

42.1(1) The council may register and issue a podiatric surgeon permit to a person who:

- (a) produces evidence that he or she has successfully completed a podiatric surgeon education program recognized by the council;
- (b) produces evidence that he or she has successfully completed any postgraduate training and examinations required by the bylaws;
- (c) meets all requirements of the bylaws respecting registration as a podiatric surgeon; and
- (d) pays the fees prescribed for the purpose by the council.

- (2) The council may register and issue a provisional podiatric surgeon permit to a person who does not meet a requirement set out in clause (1)(a) or (b) but who:
- (a) otherwise meets the requirements of the bylaws respecting registration as a podiatric surgeon; and
 - (b) pays the fees prescribed for the purpose by the council.
- (3) The council may set out any restrictions that it considers appropriate in a permit issued pursuant to subsection (1) or (2).
- (4) A permit issued pursuant to subsection (1) or (2) authorizes the person named in the permit to practise podiatric surgery in accordance with the bylaws and any restrictions set out in the permit.
- (5) A person who is registered only pursuant to this section:
- (a) is not a member of the college; and
 - (b) is restricted to the practice of podiatric surgery.
- (6) The council may, by bylaw, delegate to another professional regulatory body approved by the minister the power to determine any or all of the following matters:
- (a) whether a person meets the criteria for registration as a podiatric surgeon;
 - (b) whether a person should be issued a permit to practise podiatric surgery;
 - (c) whether any restrictions should be placed on a person's permit to practise podiatric surgery and the nature of those restrictions.
- (7) Where a power is delegated pursuant to subsection (6), the exercise of the power by the other professional regulatory body is deemed to be an exercise of the power by the council.
- (8) The council may enter into agreements with other professional regulatory bodies for the purposes of this section.

“Podiatric surgical register

42.2(1) The registrar shall keep a register to be called the podiatric surgical register in which the registrar shall enter the name of each person registered pursuant to section 42.1.

(2) The podiatric surgical register is to be kept at the head office of the college and is to be open for inspection by all persons, without fee, during normal office hours of the college.

“Protection of title

42.3(1) Subject to subsection (2), no person other than a person registered pursuant to section 42.1 shall use the title ‘podiatric surgeon’ or ‘podiatrist’ or any word, title or designation, abbreviated or otherwise, to imply that the person is registered pursuant to section 42.1.

(2) A chiropodist who is registered pursuant to *The Chiropody Profession Act* may use the title ‘podiatrist’.

“Practice not limited

42.4 Nothing in this Part limits the scope of practice of a person registered pursuant to any provision of this Act other than section 42.1”.

New sections 42.5 and 42.6**18 The following sections are added in Part V before section 43:****“Interpretation of Part**

42.5 In this Part, ‘**person registered under this Act**’ includes a person who formerly was registered under this Act.

“Limitation period

42.6 No proceedings pursuant to this Part shall be commenced against a person formerly registered under this Act:

- (a) with respect to an allegation received by the council pursuant to section 43.1 with respect to the person, unless the allegation is received by the council within two years after the day on which the person ceased to be registered under this Act; or
- (b) with respect to any conduct of the person that is or may be unbecoming, improper, unprofessional or discreditable or that may display a lack of skill and knowledge to practise, unless the council becomes aware of that conduct within two years after the day on which the person ceased to be registered under this Act”.

Section 43.1 amended

19 Clause 43.1(1)(a) is amended by striking out “medicine”.

Section 45 amended

20(1) Subsection 45(1) is amended by striking out “Where” and substituting “Subject to subsection (1.1), where”.

(2) The following subsection is added after subsection 45(1):

“(1.1) Where subsection (1) applies to a person registered pursuant to section 42.1, the council or the executive committee may appoint one or more persons that the council or executive committee considers appropriate to constitute a competency committee”.

(3) Subclause 45(4)(e)(i) is amended by striking out “or midwifery” and substituting “, midwifery or podiatric surgery”.

(4) Subsection 45(8) is repealed and the following substituted:

“(8) The competency hearing committee shall determine whether the person who is the subject of the hearing has adequate skill and knowledge to practise as authorized pursuant to this Act”.

- (5) **Subsection 45(10) is amended:**
- (a) **in the portion preceding clause (a):**
- (i) **by striking out “member” and substituting “person registered under this Act”; and**
- (ii) **by striking out “in the practice of medicine” and substituting “to practise as authorized pursuant to this Act”; and**
- (b) **in subclause (b)(i) by striking out “or midwifery” and substituting “, midwifery or podiatric surgery”.**
- (6) **Subsection 45(12) is amended:**
- (a) **by repealing clause (a) and substituting the following:**
- “(a) order that:
- (i) the name of the person be struck from the register, the education register, the temporary register or the podiatric surgical register; and
- (ii) the licence or permit of the person be revoked, and attach any conditions to the restoration of the name of the person to the register, the education register, the temporary register or the podiatric surgical register that the council considers proper”;
- (b) **in clause (b) by adding “or as a podiatric surgeon, as the case may be,” after “practitioner”;**
- (c) **in subclause (c)(i) by striking out “or midwifery” and substituting “, midwifery or podiatric surgery”;**
- (d) **in clause (d) by adding “or by a podiatric surgeon” after “practitioner”; and**
- (e) **in clause (e) by adding “or as a podiatric surgeon, as the case may be,” after “practitioner”.**
- (7) **Subsection 45(13) is amended by adding “or permit” after “licence”.**
- (8) **Subsection 45(14) is amended by striking out “member” and substituting “person”.**

Section 46 amended

21 Section 46 is amended:

- (a) **in the portion preceding clause (a) by striking out “or the temporary register” and substituting “, the temporary register or the podiatric surgical register”;**
- (b) **in clause (b) by striking out “physician” and substituting “person registered under this Act”; and**
- (c) **in clause (f) by striking out “licensed practitioner” and substituting “person registered under this Act”.**

Section 47 amended

22(1) Subsection 47(2) is repealed and the following substituted:

“(2) Where a person registered under this Act requests an investigation pursuant to subsection (1), the council may require the person to post a bond or security for costs, and that bond or security is forfeited to the college if the committee finds the allegations of the person to be frivolous or vexatious”.

(2) Subsection 47(3) is amended by striking out “member” and substituting “person”.

Section 47.1 amended

23 Clause 47.1(1)(b) is amended by striking out “member” and substituting “person registered under this Act”.

Section 47.8 amended

24 Subsection 47.8(2) is amended by striking out “member” and substituting “person”.

Section 50 amended

25(1) Subsection 50(5.2) is amended by striking out “member” wherever it appears and in each case substituting “person”.**(2) Subsection 50(5.3) is amended by striking out “member” and substituting “person registered under this Act”.**

Section 54 amended

26(1) Subsection 54(1) is amended:

(a) in clause (a) by striking out “or the temporary register” wherever it appears and in each case substituting “, the temporary register or the podiatric surgical register”;

(b) in clause (b) by adding “or podiatric surgeon, as the case may be,” after “practitioner” wherever it appears;

(c) in subclause (c)(i) by striking out “or midwifery” and substituting “, midwifery or podiatric surgery”;

(d) in clause (d) by adding “or podiatric surgeon” after “practitioner”;
and

(e) in clause (g) by adding “or podiatric surgeon, as the case may be,” after “practitioner”.

(2) Subsection 54(2) is amended by adding “or permit” after “licence”.

New section 54.01

27 The following section is added after section 54:**“Discipline in another jurisdiction**

54.01(1) In this section, ‘**external regulatory body**’ means a body that is responsible for licensing or regulating physicians or podiatric surgeons in a jurisdiction other than Saskatchewan.

- (2) Subject to subsection (3), the council may impose one or more of the penalties set out in section 54 on a person registered under this Act where, before or after registration under this Act:
- (a) the person is found by an external regulatory body to have done or failed to have done any act or thing and, in the opinion of the council, that act or failure is unbecoming, improper, unprofessional or discreditable; or
 - (b) the person's licence, permit or other authorization to practise medicine or podiatric surgery has been suspended, restricted or revoked by an external regulatory body.
- (3) Before imposing a penalty pursuant to subsection (2), the council must:
- (a) give the person registered under this Act an opportunity to be heard; and
 - (b) have evidence satisfactory to the council that the person registered under this Act is the person against whom the action described in clause (2)(a) or (b) was taken.
- (4) For the purposes of this section, the council may accept a certified copy of the record of the findings made or the action taken by an external regulatory body as proof, in the absence of evidence to the contrary, of the findings made or the action taken by that body, without proof of the signature of the person purporting to have signed on behalf of that body".

Section 54.1 amended

28 Section 54.1 is amended:

- (a) by striking out "or" after clause (a);
- (b) by adding "or" after clause (b); and
- (c) by adding the following clause after clause (b):

"(c) penalty imposed on the person pursuant to subsection 54.01(2)".

Section 55.1 amended

29(1) Subsection 55.1(1) is repealed and the following substituted:

"(1) The council may require the attendance before it of any person registered under this Act for the purpose of interviewing the person".

- (2) **Clause 55.1(2)(a) is amended by striking out "member" and substituting "person registered under this Act".**

Section 55.2 amended

30 Section 55.2 is amended by striking out "member" and substituting "person registered under this Act":

- (a) in the portion preceding clause (a); and
- (b) in the portion following clause (c).

Section 55.3 amended**31 Subsections 55.3(1) and (2) are repealed and the following substituted:**

“(1) The following may require any person registered under this Act to produce to it any books, records, documents or things in the person’s possession or control:

- (a) the council;
- (b) a preliminary inquiry committee, in relation to an investigation that it is conducting;
- (c) a special committee, in relation to an interview that it is conducting;
- (d) a competency committee, in relation to an investigation it is conducting.

“(2) The college may apply *ex parte* to a judge of the court for an order directing a person registered under this Act or any other person to produce to the council, a special committee appointed to interview a person, a preliminary inquiry committee or a competency committee any books, records, documents or things in his or her possession or under his or her control where:

- (a) the person has failed to produce them as required pursuant to subsection (1); or
- (b) the judge is of the opinion that the issue of the order is just and appropriate in the circumstances”.

Section 60 amended**32 Subsection 60(5) is amended by adding “or podiatric surgeons” after “physicians”.****Section 62 amended****33 Subsection 62(1) is amended:**

(a) in clause (a) by striking out “or the temporary register” and substituting “, the temporary register or the podiatric surgical register”; and

(b) in clause (d) by adding “or 54.01” after “section 54”.

Section 69.1 amended**34 Section 69.1 is amended:**

(a) by striking out “the safe and proper practice of medicine” and substituting “safe and proper practice”; and

(b) by striking out “member” and substituting “person registered under this Act”.

Section 70 repealed**35 Section 70 is repealed.****Section 73 amended****36 Section 73 is amended by striking out “under this Act” and substituting “pursuant to a provision of this Act other than section 42.1”.**

Section 74 amended

37 Section 74 is amended by adding “pursuant to a provision of this Act other than section 42.1” **after** “registered”.

Section 76 amended

38 Subsection 76(1.1) is amended:

- (a) by striking out “or” after clause (a);**
- (b) by adding “or” after clause (b); and**
- (c) by adding the following clause after clause (b):**

“(c) a person named in the certificate:

- (i) was or was not registered as a podiatric surgeon; or
- (ii) was or was not the holder of a valid permit”.

Section 78 amended

39 Section 78 is amended by striking out “medical practitioners” and substituting “persons”.

Section 80 amended

40 Subsection 80(1) is amended:

- (a) by repealing subclause (a)(i) and substituting the following:**

“(i) engages in, professes to engage in or advertises to give advice in any aspect of practice”;

- (b) in clause (b) by striking out “or surgeon” and substituting “, surgeon or podiatric surgeon”;**

- (c) in clause (c) by striking out “or ‘physician’” and substituting “, ‘physician’ or ‘podiatric surgeon’”; and**

- (d) in clause (d) by adding “, podiatric surgeon” after “surgeon”.**

Section 82 amended

41 Clause 82(d) is amended by striking out “or midwifery” and substituting “, midwifery or podiatric surgery”.

Section 84 amended

42 Section 84 is amended by adding “or podiatric surgeon” after “physician”.

Section 88 amended

43 Subsection 88(5) is repealed.

New section 89

44 Section 89 is repealed and the following substituted:

“Same

89 The college shall file with the Department of Justice two copies, certified by the registrar to be true copies, of all bylaws made pursuant to subsection 6(1)”.

Coming into force

45 This Act comes into force on proclamation.

