

1999

CHAPTER M-14.1

An Act respecting Midwives

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(Assented to May 6, 1999)

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 Midwifery Act*.

Interpretation

2 In this Act:

(a) “**administrative bylaw**” means a bylaw made for a purpose set out in subsection 14(1);

- (b) “**bylaws**” means the valid and subsisting bylaws of the college;
- (c) “**college**” means the Saskatchewan College of Midwives established pursuant to section 3;
- (d) “**council**” means:
 - (i) the transitional council of the college established pursuant to section 51, for the period commencing on the day this Act comes into force and ending on the day the Lieutenant Governor in Council dissolves the transitional council; and
 - (ii) from the date the transitional council is dissolved, the council of the college as set out in section 7;
- (e) “**councillor**” means a person who is a member of council;
- (f) “**court**” means the Court of Queen’s Bench;
- (g) “**member**” means a member of the college who is in good standing;
- (h) “**minister**” means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (i) “**record**” includes any information that is recorded or stored in any medium or by means of any device, including a computer or electronic media;
- (j) “**register**” means the register kept pursuant to section 19;
- (k) “**registrar**” means the registrar appointed pursuant to section 11;
- (l) “**regulatory bylaw**” means a bylaw made for a purpose set out in subsection 14(2) or pursuant to subsection 16(3).

College

3 The Saskatchewan College of Midwives is established as a corporation.

Membership

4 The membership of the college consists of those persons who are admitted as members of the college pursuant to this Act and the bylaws.

Property

5(1) The college may acquire, hold, mortgage, lease, sell or dispose of any property.

(2) All fees, fines and penalties receivable or recoverable pursuant to this Act are the property of the college.

(3) The college may:

- (a) invest its funds in investments in which trustees are authorized to invest pursuant to *The Trustee Act*; and
- (b) sell or otherwise dispose of those investments and reinvest the proceeds in similar investments.

Meetings

6(1) An annual meeting of the college is to be held at the time and place that is determined by the council in accordance with the bylaws.

- (2) A special meeting of the college for the transaction of the business that is specified in the resolution or demand is to be held:
- (a) on resolution of the council; or
 - (b) on the demand, in writing, of the number of members specified in the bylaws.
- (3) The procedure at an annual meeting or special meeting is to be determined by bylaw.
- (4) The registrar shall send a notice of an annual meeting or special meeting to each member in the manner prescribed in the bylaws.

COUNCIL

Council

- 7(1) The council shall manage and regulate the affairs and business of the college.
- (2) The council consists of:
- (a) the number of councillors prescribed in the bylaws, which is not to be less than three councillors, elected by members in accordance with this Act and the bylaws; and
 - (b) the councillors appointed pursuant to section 8.
- (3) No member is eligible to be elected as a councillor unless that member resides or practises in Saskatchewan.
- (4) Elected councillors are entitled to remuneration and reimbursement for expenses in the amounts prescribed in the bylaws.
- (5) Elected councillors hold office for the term prescribed in the bylaws.

Public appointees

- 8(1) The Lieutenant Governor in Council may appoint three persons who reside in Saskatchewan as councillors.
- (2) Where the Lieutenant Governor in Council appoints a person as a councillor, the term of office of that person is not to exceed three years.
- (3) Subject to subsection (4), a councillor appointed pursuant to this section holds office until that person's successor is appointed and is eligible for reappointment, but is not eligible to hold office for more than two consecutive terms.
- (4) A councillor appointed pursuant to this section ceases to hold office if the person ceases to be a resident of Saskatchewan.
- (5) A councillor appointed pursuant to this section may exercise rights and serve as a member of committees to the same extent as other councillors.
- (6) At least one councillor appointed pursuant to this section shall be a member of the discipline committee.
- (7) The absence or inability to act as a member of the discipline committee by a councillor appointed pursuant to this section or the failure to appoint a councillor pursuant to this section does not impair the ability of the other members of the discipline committee to act.

(8) The minister shall remunerate and reimburse for expenses the councillors appointed pursuant to this section at the rate determined by the Lieutenant Governor in Council.

Resignation

9(1) An elected councillor may resign by giving written notice of his or her resignation to the council.

(2) A councillor appointed pursuant to section 8 may resign by giving written notice of his or her resignation to the minister.

(3) The resignation of a councillor is effective on the date stated in the written notice or, if no date is stated in the written notice:

(a) in the case of a resignation of an elected councillor, on the date the written notice is received by the council; or

(b) in the case of a resignation of a councillor appointed pursuant to section 8, on the date the written notice is received by the minister.

Vacancy

10(1) When a vacancy occurs in the elected membership of the council, the remaining councillors may appoint another member who resides in Saskatchewan to fill the vacancy until the earlier of the following:

(a) the expiry of the term of office of the person who ceased to be a councillor;

(b) the date on which a member is elected to fill the vacancy in accordance with this Act and the bylaws.

(2) A vacancy in the membership of the council does not impair the power of the remaining councillors to act.

(3) If a member serving as an elected councillor has his or her licence suspended, the member's powers and duties as an elected councillor are suspended for the same period.

(4) If a member serving as an elected councillor is expelled from the college, the member ceases to be an elected councillor on the day the member is expelled.

Officers and employees

11(1) The officers of the college are to be those that are:

(a) designated in the bylaws; and

(b) appointed or elected in accordance with the bylaws.

(2) The council shall appoint a registrar.

(3) The college may engage any employees that the council considers necessary to carry out the duties and functions of the college.

(4) Subject to this Act and the bylaws, the council shall determine the duties, responsibilities and remuneration of the officers and employees of the college.

Committees

12(1) The council may establish any committees that are provided for by the bylaws or that it considers necessary.

(2) The council shall appoint persons to any committees that are provided for by this Act or the bylaws or that it has established pursuant to subsection (1).

(3) Subject to this Act and the bylaws, the council, on any terms or conditions that it may determine, may delegate any of its powers or duties to a committee that is established pursuant to subsection (1) or that is provided for by this Act or the bylaws.

(4) The council shall not delegate the power to make bylaws.

(5) Subject to this Act and the bylaws, a committee may establish its own procedures.

BYLAWS

Procedures

13(1) The council, with the approval of two-thirds of the councillors, may make bylaws for any purpose set out in section 14.

(2) The registrar shall notify each member of each bylaw made pursuant to subsection (1) within 60 days after the bylaw is made.

(3) Failure to comply with subsection (2) does not invalidate a bylaw.

(4) No regulatory bylaw made by the council comes into force until it is:

- (a) approved by the minister pursuant to section 15; and
- (b) published in the Gazette.

(5) An administrative bylaw comes into force on the date specified in the bylaw, which may not be prior to the date it is made.

(6) If an administrative bylaw does not specify the date on which it is to become effective, the administrative bylaw becomes effective on the day it is passed by council.

Bylaws

14(1) Subject to this Act, administrative bylaws may be made pursuant to section 13 for the following purposes:

- (a) prescribing the seal of the college;
- (b) providing for the execution of documents by the college;
- (c) respecting the banking and financial dealings of the college;
- (d) fixing the fiscal year of the college and providing for the audit of the accounts and transactions of the college;
- (e) respecting the management of the property of the college;
- (f) prescribing the number and terms of office of elected councillors;
- (g) prescribing the officers of the college and governing the procedure for the appointment or election of those officers;
- (h) prescribing the duties of councillors, and officers and employees of the college;
- (i) prescribing the remuneration and reimbursement for expenses for elected councillors and committee members;
- (j) governing the procedures for the election of elected councillors;

- (k) prescribing the organization, powers and procedures of the council and regulating the council in the performance of its duties;
 - (l) respecting the holding and procedures of meetings of the council and annual and special meetings of the college;
 - (m) prescribing the amount of registration, licensing and other fees payable to the college, the times of payment and penalties for late payment;
 - (n) providing for the receipt, management and investment of contributions, donations or bequests;
 - (o) respecting joint participation by the college with any educational institution or any person, group, association, organization or body corporate inside or outside Saskatchewan that has goals or objectives similar to those of the college;
 - (p) establishing any committees that the council considers necessary, determining the duties of committees and prescribing the manner of election, appointment or removal of committee members;
 - (q) establishing and governing scholarships, bursaries and prizes;
 - (r) prescribing any other thing that is necessary for the effective administration of the college.
- (2) Subject to this Act, regulatory bylaws may be made pursuant to section 13 for the following purposes:
- (a) prescribing the qualifications, standards and tests of competency for:
 - (i) the registration of persons or any category of persons as members;
 - (ii) the issuing of licences;
 - (b) prescribing qualifications, standards and tests of competency for determining whether a member may be licensed to perform an authorized practice pursuant to section 23;
 - (c) prescribing:
 - (i) the procedures governing registration of persons or any category of persons as members;
 - (ii) the procedures governing the issuing of licences;
 - (iii) the terms and conditions of licences;
 - (d) setting standards of professional conduct, competency and proficiency of members;
 - (e) providing for a code of ethics for members;
 - (f) setting standards regarding the manner and method of practice of members;
 - (g) prescribing procedures for:
 - (i) the review, investigation and disposition by the professional conduct committee of complaints alleging that a member is guilty of professional misconduct or professional incompetence;

- (ii) hearings by the discipline committee of complaints alleging that a member is guilty of professional misconduct or professional incompetence;
- (iii) reviews pursuant to subsection 21(4);
- (h) establishing categories of membership in the college and prescribing the rights and privileges of each category;
- (i) prescribing the circumstances under which members are required to attend re-entry education programs and courses and approving programs and courses for that purpose;
- (j) governing the approval of education and competency assessment programs for the purposes of registration pursuant to this Act and prescribing terms and conditions for initial or continued approval of those programs;
- (k) setting standards for continuing education and the participation of members in continuing education;
- (l) governing the reinstatement of a member who has been expelled;
- (m) governing examinations to be held for the purposes of section 20;
- (n) setting requirements for maintenance of membership;
- (o) regulating advertising by members;
- (p) prescribing the number of members required to demand a special meeting of the college;
- (q) governing persons who practise under restricted licences issued pursuant to subsection 20(2);
- (r) prescribing the minimum amount of liability protection that members are required to obtain;
- (s) prescribing the minimum amount of liability protection that the college may obtain on behalf of each member;
- (t) prescribing the form, content and maintenance of the register and the information to be provided by members for the purpose of the register;
- (u) respecting the reporting and publication of decisions and reports of the council and committees;
- (v) respecting the types and service of notices that may be served electronically;
- (w) establishing programs for the assessment of the competency of members;
- (x) defining activities that constitute a conflict of interest and prohibiting the participation of members in those activities;
- (y) prescribing any other matters considered necessary for the better carrying out of this Act.

Filing of bylaws

15(1) The college shall file with the minister two copies, certified by the registrar to be true copies, of:

- (a) all regulatory bylaws; and
- (b) any amendment to a regulatory bylaw together with two certified copies of the regulatory bylaw to which the amendment relates.

(2) Where the minister does not advise the college, in writing, within 90 days of receiving copies of the regulatory bylaw or amendment that the minister approves the regulatory bylaw or amendment, the regulatory bylaw or amendment is deemed not to be approved.

(3) Where the minister approves a regulatory bylaw or an amendment to a regulatory bylaw, the minister shall file with the Department of Justice two copies, certified by the registrar to be true copies, of the regulatory bylaw or amendment.

(4) Where an amendment to a regulatory bylaw is filed pursuant to subsection (3), the minister shall file two copies, certified by the registrar to be true copies, of the regulatory bylaw with the amendment.

(5) Within 30 days after administrative bylaws or amendments to administrative bylaws are made, the council shall file with the Department of Justice two copies, certified by the registrar to be true copies, of all administrative bylaws and all amendments made to those bylaws.

(6) Where an amendment to an administrative bylaw is filed pursuant to subsection (5), the council shall also file two copies, certified by the registrar to be true copies, of the administrative bylaw with the amendment.

(7) Where an administrative bylaw or an amendment to an administrative bylaw is not filed within the time required by subsection (5), the administrative bylaw or amendment to the administrative bylaw is deemed to be revoked on the expiration of the 30 days mentioned in subsection (5).

Ministerial bylaws

16(1) The minister may request the council to amend or repeal a regulatory bylaw or to make a new regulatory bylaw if the minister is satisfied that it is necessary or advisable.

(2) Where the minister makes a request pursuant to subsection (1), the council shall be provided with the reasons for the amendment and, if the minister considers it appropriate, a draft of the amendment.

(3) If the council does not comply with a request pursuant to subsection (1) within 90 days after the date of the request, the minister may amend or revoke the existing regulatory bylaw or make the new regulatory bylaw in accordance with that request.

(4) A regulatory bylaw made pursuant to this section or an amendment or revocation of a regulatory bylaw pursuant to this section comes into force when it is published in the Gazette.

(5) Where the minister makes, amends or revokes a regulatory bylaw, the minister shall file with the Department of Justice two copies of the regulatory bylaw, amendment or revocation.

(6) Where an amendment to or a revocation of a regulatory bylaw is filed pursuant to subsection (5), the minister shall file two copies of the regulatory bylaw with the amendment or revocation.

Regulations

17 Following consultations with the council by the minister, the Lieutenant Governor in Council may make regulations:

- (a) respecting drugs that a member may prescribe, dispense or administer and any conditions or restrictions on the prescribing, dispensing or administering of those drugs;
- (b) respecting diagnostic tests that a member may order, perform or interpret and any conditions or restrictions on the ordering, performing or interpreting of those tests;
- (c) respecting invasive procedures that a member may perform and any conditions or restrictions on the performance of those procedures;
- (d) authorizing the council to make regulatory bylaws:
 - (i) respecting drugs that members may prescribe, dispense or administer;
 - (ii) respecting diagnostic tests that members may order, perform or interpret; and
 - (iii) respecting invasive procedures that members may perform;
- (e) prescribing a date for the purposes of subsection 20(4).

MEMBERSHIP AND REGISTRATION

Membership

18(1) The council, in accordance with this Act and the bylaws, may register persons as members.

(2) The council may issue licences to members.

Register

19(1) In accordance with the bylaws, the council shall keep a register in which the name, address and category of every member is to be recorded.

- (2) The register is to be:
 - (a) kept at the head office of the college; and
 - (b) open for inspection by all persons, without fee, during normal office hours of the college.
- (3) A certificate purporting to be signed by the registrar and stating that a named person was or was not, on a specified day or during a specified period, a member or a suspended member according to the register or an extract from the register that is certified by the registrar is admissible in evidence as proof, in the absence of evidence to the contrary, of its contents without proof of the registrar's appointment or signature.

Registration

20(1) The council may register as a member, and issue a licence to practise to, a person who produces evidence establishing to the satisfaction of the council that the person:

- (a) has paid the prescribed fees;
- (b) has complied with the bylaws with respect to registration as a member;
- (c) has successfully passed any examinations set out in the bylaws; and
- (d) has successfully completed a midwifery education program that is recognized by the council.

(2) The council may register as a member, and issue a restricted licence to practise to a person who:

- (a) does not meet the requirements of clause (1)(c) or (1)(d);
- (b) agrees to practise in accordance with the conditions or restrictions specified on the restricted licence;
- (c) has paid the prescribed fees; and
- (d) has complied with the bylaws with respect to registration as a member.

(3) A member granted a restricted licence to practise shall comply with the bylaws governing restricted licences.

(4) Notwithstanding clauses (1)(c) and (d), the council may register as a member, and issue a licence to practise to a person who:

- (a) prior to the date prescribed in the regulations for the purposes of this subsection, has successfully completed a formal assessment that is recognized by the council of that person's prior learning, experience and competencies;
- (b) has paid the prescribed fees; and
- (c) has complied with the bylaws with respect to registration as a member.

Delegation and appeal

21(1) The council may delegate to the registrar the power to do all or any of the following:

- (a) register persons as members;
- (b) issue licences to members;
- (c) issue restricted licences to members.

(2) Where a power is delegated pursuant to this section, the exercise of that power by the registrar is deemed to be an exercise of the power by the council.

(3) The council may impose any terms and conditions that it considers appropriate on a delegation of its powers.

(4) A person who is aggrieved by a decision of the registrar made pursuant to a delegated power may apply to the council to review that decision.

- (5) On a review pursuant to subsection (4), the council shall hear the review and may:
- (a) direct the registrar to exercise the power in a manner that the council considers appropriate; or
 - (b) confirm the registrar's decision.
- (6) On a review pursuant to subsection (4), the person who applies for a review of a decision of the registrar has the right to appear in person before the council in support of the application.
- (7) The council shall inform, in writing, the person who applies for a review of a decision of the registrar of its decision regarding the review.

PROHIBITION

Protection of title

22 No person other than a member or a physician licensed pursuant to *The Medical Profession Act, 1981* shall use the title "midwife", or any word, title or designation, abbreviated or otherwise, to imply that the person is a member.

Authorized practices

23(1) Subject to the terms, conditions and limitations of that member's licence, a member may perform the following authorized practices:

- (a) act as a primary care giver in managing pregnancy and labour, including the spontaneous normal vaginal delivery of a baby;
 - (b) prescribe, dispense or administer drugs in accordance with the regulations, the regulatory bylaws made pursuant to this Act and *The Drug Schedules Regulations, 1997*;
 - (c) order, perform or interpret diagnostic tests in accordance with the regulations, the regulatory bylaws made pursuant to this Act and *The Medical Laboratory Licensing Act, 1994*; and
 - (d) perform invasive procedures that are prescribed in the regulations and the regulatory bylaws made pursuant to this Act.
- (2) No person shall engage in the business or practice of performing any of the authorized practices described in subsection (1) with respect to another individual unless:
- (a) the person is a member who is authorized by his or her licence to perform that practice;
 - (b) the person is authorized pursuant to another Act to perform that practice; or
 - (c) the activity is one of daily living and is performed by the individual or by a person on the individual's behalf.

DISCIPLINE

Professional incompetence

24 Professional incompetence is a question of fact, but the display by a member of a lack of knowledge, skill or judgment or a disregard for the welfare of a member of the public served by the profession of a nature or to an extent that demonstrates that the member is unfit to:

- (a) continue in the practice of the profession; or
- (b) provide one or more services ordinarily provided as part of the practice of the profession;

is professional incompetence within the meaning of this Act.

Professional misconduct

25 Professional misconduct is a question of fact, but any matter, conduct or thing, whether or not disgraceful or dishonourable, is professional misconduct within the meaning of this Act if:

- (a) it is harmful to the best interests of the public or the members;
- (b) it tends to harm the standing of the profession;
- (c) it is a breach of this Act, the regulations or the bylaws; or
- (d) it is a failure to comply with an order of the professional conduct committee, the discipline committee or the council.

Professional conduct committee

26(1) The professional conduct committee is established consisting of at least two persons appointed by the council.

(2) No member of the discipline committee is eligible to be a member of the professional conduct committee.

Investigation

27(1) Where the professional conduct committee is requested by the council to consider a complaint relating to the conduct or competence of a member or receives a written complaint alleging that a member is guilty of professional misconduct or professional incompetence, the committee shall:

- (a) review the complaint; and
- (b) investigate the complaint by taking any steps it considers necessary, including summoning before it the member whose conduct is the subject of the complaint, or assessing the member's competence.

(2) On completion of its investigation, the professional conduct committee shall make a written report to the discipline committee recommending:

- (a) that the discipline committee hear and determine the formal complaint set out in the written report; or
- (b) that no further action be taken with respect to the matter under investigation because:
 - (i) the matter has been resolved, with the consent of the complainant and the member who is the subject of the investigation; or

(ii) in the opinion of the professional conduct committee, no further action is warranted on the facts of the case.

(3) The formal complaint set out in a written report made pursuant to clause (2)(a) may relate to any matter disclosed in the complaint received pursuant to subsection (1) or the investigation conducted pursuant to subsection (1).

(4) A report signed by a majority of the professional conduct committee is the decision of that committee.

(5) The professional conduct committee shall provide, or cause the registrar to provide, a copy of a written report made pursuant to clause (2)(b) to:

- (a) the council;
- (b) the person, if any, who made the complaint mentioned in subsection (1); and
- (c) the member whose conduct is the subject of the complaint mentioned in subsection (1).

Suspension

28(1) Where the professional conduct committee is of the opinion that, on the basis of the allegations or the nature of the case, the member's licence should be suspended or the member should be prohibited from performing any authorized practice or any procedure pending the outcome of the investigation or hearing, it may, with the prior approval of the council, apply to a judge of the court for an order:

- (a) suspending the licence of a member whose conduct is the subject of an investigation pursuant to subsection 27(1) or against whom a formal complaint has been made pursuant to subsection 27(2); or
- (b) temporarily prohibiting a member described in clause (a) from performing any specified authorized practice or procedure.

(2) An order of suspension or prohibition shall not extend past the earliest of the following:

- (a) 90 days from the date of the order;
- (b) the date of a report of the professional conduct committee made pursuant to clause 27(2)(b);
- (c) where the discipline committee finds that a member is not guilty of professional misconduct or professional incompetence, the day of its decision;
- (d) where the discipline committee finds that a member is guilty of professional misconduct or professional incompetence, the day on which an order is made pursuant to section 31.

(3) The professional conduct committee may apply to the court for an extension of an order of suspension or prohibition made pursuant to subsection (1).

Discipline committee

29(1) The discipline committee is established consisting of at least three persons appointed by the council, at least one of whom shall be a councillor appointed pursuant to section 8 or 51.

- (2) No member of the professional conduct committee or elected councillor is eligible to be appointed as a member of the discipline committee.
- (3) Subject to this Act and the bylaws, the discipline committee may make rules regulating its business and proceedings.

Discipline hearing

30(1) Where a report of the professional conduct committee recommends that the discipline committee hear and determine a formal complaint, the registrar shall, at least 14 days before the date the discipline committee is to sit:

- (a) send a copy of the formal complaint to the member whose conduct is the subject of the hearing; and
 - (b) serve notice on the member whose conduct is the subject of the hearing of the date, time and place of the hearing.
- (2) The professional conduct committee shall prosecute or direct the prosecution of the formal complaint, but its members shall not participate in any other manner in the hearing of the formal complaint except as witnesses when required.
 - (3) The discipline committee shall hear the formal complaint and shall determine whether or not the member is guilty of professional misconduct or professional incompetence, notwithstanding that the determination of a question of fact may be involved, and the discipline committee need not refer any question to a court for adjudication.
 - (4) The discipline committee may accept any evidence that it considers appropriate and is not bound by rules of law concerning evidence.
 - (5) The discipline committee may employ, at the expense of the college, any legal or other assistance that it considers necessary, and the member whose conduct is the subject of the hearing, at his or her own expense, may be represented by counsel.
 - (6) The testimony of witnesses is to be under oath or affirmation administered by the chairperson of the discipline committee.
 - (7) At a hearing by the discipline committee, there is to be full right:
 - (a) to examine, cross-examine and re-examine all witnesses; and
 - (b) to present evidence in defence and reply.
 - (8) On application and payment of the appropriate fee, the local registrar of the court at any judicial centre shall issue writs of *subpoena ad testificandum* or *subpoena duces tecum* to:
 - (a) a member whose conduct is the subject of a hearing pursuant to this Act;
 - (b) a member of the professional conduct committee;
 - (c) a member of the discipline committee.
 - (9) Where a writ issued pursuant to subsection (8) is disobeyed, the proceedings and penalties are those applicable in civil cases in the court.
 - (10) Subject to *The Saskatchewan Evidence Act*, but notwithstanding any other Act or the regulations or orders made pursuant to any other Act, the records of any hospital may be brought before the council, without special order, by writ of *subpoena duces tecum* issued pursuant to subsection (8) and served on the chief executive officer of the hospital.

- (11) Where the member whose conduct is the subject of the hearing fails to attend the hearing, the discipline committee, on proof of service of the notice mentioned in subsection (1), may proceed with the hearing in his or her absence.
- (12) If, during the course of a hearing, the evidence shows that the member whose conduct is the subject of the hearing may be guilty of a charge different from or in addition to any charge specified in the formal complaint, the discipline committee shall notify the member of that fact.
- (13) If the discipline committee proposes to amend, add to or substitute the charge in the formal complaint, the discipline committee shall adjourn the hearing for any period that the discipline committee considers sufficient to give the member an opportunity to prepare a defence to the amended formal complaint, unless the member consents to continue the hearing.
- (14) The person, if any, who made the complaint pursuant to section 27:
- (a) is to be advised orally or in writing by the registrar of the date, time and place of the hearing; and
 - (b) subject to subsection (16), is entitled to attend the hearing.
- (15) Subject to subsection (16), the discipline committee shall conduct all hearings in public.
- (16) The discipline committee may exclude members of the public and the person who made the complaint from any part of the hearing when the committee is of the opinion that evidence brought in the presence of the person or persons to be excluded will unduly violate the privacy of a person other than the member whose conduct is the subject of the hearing.

Disciplinary powers

- 31(1)** Where the discipline committee finds a member guilty of professional misconduct or professional incompetence, it may make one or more of the following orders:
- (a) an order that the member be expelled from the college and that the member's name be struck from the register;
 - (b) an order that the member's licence be suspended for a specified period;
 - (c) an order that the member's licence be suspended pending the satisfaction and completion of any conditions specified in the order;
 - (d) an order that the member may continue to practise, but only under conditions specified in the order, which may include, but are not restricted to, an order that the member:
 - (i) not do specified types of work;
 - (ii) successfully complete specified classes or courses of instruction;
 - (iii) obtain medical treatment, counselling or both;
 - (e) an order reprimanding the member;
 - (f) any other order that the discipline committee considers just.

- (2) In addition to any order made pursuant to subsection (1), the discipline committee may order:
- (a) that the member pay to the college, within a fixed period:
 - (i) a fine in a specified amount not exceeding \$5,000; and
 - (ii) the costs of the investigation and hearing into the member's conduct and the related costs, including the expenses of the professional conduct committee and the discipline committee and the costs of legal services and witnesses; and
 - (b) where a member fails to make payment in accordance with an order pursuant to clause (a), that the member's licence be suspended.
- (3) The registrar shall send a copy of an order made pursuant to this section to the member whose conduct is the subject of the order and to the person, if any, who made the complaint.
- (4) Where a member is expelled or his or her licence is suspended, the registrar shall strike the name of the member from the register or indicate the suspension on the register, as the case may be.
- (5) The discipline committee may inform a member's employer of the order made against that member where that member has been found guilty of professional misconduct or professional incompetence.

Continuity of committee members

32 Where an investigation is commenced by the professional conduct committee or a hearing is commenced by the discipline committee and the term of office of a member of the committee expires or is terminated before the investigation or hearing is disposed of, the person shall remain a member of the professional conduct committee or the discipline committee, as the case may be, for the purposes of completing the investigation or hearing, in the same manner as if the member's term of office had not expired or been terminated.

Criminal conviction

33 The discipline committee may make any order pursuant to section 31, where:

- (a) the member has been convicted of an offence pursuant to the *Criminal Code*, the *Narcotic Control Act* (Canada), the *Controlled Substances Act* (Canada) or the *Food and Drug Act* (Canada);
- (b) a report of the professional conduct committee is made to the discipline committee respecting the conviction mentioned in clause (a);
- (c) the discipline committee has given the member mentioned in clause (a) an opportunity to be heard; and
- (d) the discipline committee finds that the conduct of the member giving rise to the conviction is professional misconduct.

Duty to report

34 Where the professional conduct committee in its investigation pursuant to section 27 or the discipline committee at the conclusion of its hearing pursuant to section 30 believes that the member whose conduct is the subject of the investigation or hearing may be guilty of a criminal offence, the committee may immediately discontinue its investigation or hearing, as the case may be, and shall make a report of its findings to:

- (a) the president of the college; and
- (b) the Deputy Minister of Justice.

Suspension

35 A judge of the court, on the application of the council, may direct that a person's licence be suspended pending the disposition of a criminal charge where:

- (a) a criminal charge is laid against the member; and
- (b) the member has applied to the court for a stay of any disciplinary proceedings against the member.

Review by court

36(1) A member may appeal the decision or order of the discipline committee to a judge of the court by serving the registrar with a notice of appeal and filing the notice with the local registrar within 30 days of the decision or order where:

- (a) the member has been found guilty of professional misconduct or professional incompetence by the discipline committee pursuant to section 30; or
- (b) the member is subject to an order pursuant to section 31 or 33.

(2) An appellant shall set out the grounds of appeal in a notice of appeal mentioned in subsection (1).

(3) On receipt of a notice of appeal, the registrar shall file with the local registrar a true copy of:

- (a) the formal complaint sent and notice served pursuant to section 30 or the report of the professional conduct committee pursuant to section 33;
- (b) the transcript of the evidence presented to the discipline committee;
- (c) the decision of the discipline committee; and
- (d) the order of the discipline committee.

(4) The appellant or the appellant's solicitor or agent may obtain from the registrar a copy of the documents filed pursuant to subsection (3) on payment of the costs of producing them.

(5) On hearing an appeal, the judge may:

- (a) dismiss the appeal;
- (b) quash the finding of guilt;
- (c) direct a new hearing or further inquiries by the discipline committee;

- (d) vary the order of the discipline committee; or
 - (e) substitute his or her own decision for the decision appealed from.
- (6) The judge may make any order as to costs that he or she considers appropriate.

Effect of appeal

37 The commencement of an appeal pursuant to section 36 does not stay the effect of the decision or order appealed from, but, on five days' notice to the registrar, the appellant may apply to the court for a stay of the decision or order pending the disposition of the appeal.

Effect of expulsion or suspension

38 When a member is expelled from the college or his or her licence is suspended pursuant to this Act, that member's rights and privileges as a member are removed for the period during which he or she is expelled or his or her licence is suspended.

Reinstatement

39(1) A person who has been expelled as a member may apply to the council for reinstatement.

(2) Subject to the bylaws, on receipt of an application pursuant to subsection (1), the council shall:

- (a) review the application; and
- (b) investigate the application by taking any steps it considers necessary.

(3) On completion of its investigation, the council may:

- (a) where it is satisfied that the person's subsequent conduct and any other facts warrant reinstatement, order that the person be reinstated as a member on any terms and conditions that the council considers appropriate; or
- (b) by order, refuse to reinstate the person.

(4) Where, on an application pursuant to subsection (1), the council refuses to reinstate the person as a member, the person, within 30 days after the date of the order, may appeal the order of the council to a judge of the court, and the judge may allow or disallow the appeal.

(5) On an appeal pursuant to subsection (4), the judge shall consider:

- (a) the proceedings before the council on the application for reinstatement;
- (b) the past record of the appellant as shown by the books and records of the college; and
- (c) the evidence taken before the council and any committee that dealt with the expulsion and application for reinstatement and the report of that committee.

(6) A person whose application for reinstatement is refused or whose appeal of a refusal is dismissed may make another application for reinstatement, based on new information, at any time.

GENERAL

Immunity

40 No action lies or shall be instituted against:

- (a) members of the council;
- (b) the professional conduct committee;
- (c) the discipline committee;
- (d) any member of any committee; or
- (e) any officer, employee or agent;

of the college for any loss or damage suffered by a person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by any of them pursuant to or in the exercise or supposed exercise of any power conferred by this Act, the regulations or the bylaws or in the carrying out or supposed carrying out of any decision or order made pursuant to this Act, the regulations or the bylaws or any duty imposed by this Act, the regulations or the bylaws.

Offence and penalty

41 Every person who contravenes section 22 or 23 is guilty of an offence and liable on summary conviction to a fine of:

- (a) for a first offence, not more than \$4,000;
- (b) for a second offence, not more than \$6,000; and
- (c) for each subsequent offence, not more than \$8,000 or to imprisonment for a term of not more than six months, or to both.

Limitation of prosecution

42 No prosecution for a contravention of section 22 or 23 is to be commenced:

- (a) after the expiration of 24 months from the date of the alleged offence; and
- (b) without the consent of the Minister of Justice or the council.

Report of termination of employment

43 Any employer who terminates for cause the employment of a member or any hospital operator who revokes, suspends or otherwise alters the privileges of a member shall report the termination, revocation, suspension or alteration, as the case may be, to the college where the employer or hospital operator reasonably believes the member to have committed an act of professional incompetence or professional misconduct.

Review by Legislative Assembly

44(1) One copy of every bylaw and amendment filed with the Department of Justice pursuant to section 15 is to be laid before the Legislative Assembly by the Minister of Justice in accordance with *The Tabling of Documents Act, 1991*.

(2) Where any bylaw or amendment laid before the Legislative Assembly is found by the Assembly to be beyond the powers delegated by the Legislature or in any way prejudicial to the public interest, that bylaw or amendment ceases to have any effect and is deemed to have been revoked.

Record of revocation and notification

45(1) Where it appears from any Votes and Proceedings of the Legislative Assembly that any bylaw or amendment has ceased to have effect, the Clerk of the Legislative Assembly shall immediately:

- (a) forward two copies of the Votes and Proceedings to the Deputy Minister of Justice; and
- (b) advise him or her that the copies are forwarded pursuant to this subsection.

(2) On receipt of the copies mentioned in subsection (1), the Deputy Minister of Justice shall immediately:

- (a) file one of the copies with the bylaw or amendment to which it relates;
- (b) forward the other copy to the college; and
- (c) advise the college that the copy is forwarded pursuant to this subsection.

Liability protection

46(1) The college may enter into a contract of insurance under which members or any category of members are insured with respect to professional liability claims.

(2) The college is deemed to be an agent for the members or any category of members for the purpose of entering into a contract of insurance pursuant to this section.

Annual register

47 On or before February 1 in each year, the college shall file with the Minister of Justice a list, certified by the registrar to be a true list, showing:

- (a) the names of all members as at December 31 in the preceding year;
- (b) the addresses of the members mentioned in clause (a) as shown by the records of the college; and
- (c) the respective dates of registration of the members mentioned in clause (a).

Annual report

48 The college shall file an annual report with the minister in the form, with the contents and in the time prescribed by the minister.

Compliance

49 Every member shall comply with this Act, the regulations and the bylaws.

Service of notices, etc.

50(1) Unless otherwise provided for in this Act or the bylaws, any notice or other document that is required to be served pursuant to this Act may be served by:

- (a) personal service made:
 - (i) in the case of an individual, on that individual;
 - (ii) in the case of a partnership, on any partner; or
 - (iii) in the case of a corporation, on any officer or director;
- (b) registered mail addressed to the last business or residential address of the person to be served known to the registrar.

- (2) A notice or document sent by registered mail is deemed to have been served on the seventh day following the date of its mailing, unless the person to whom it was mailed establishes that, through no fault of that person, the person did not receive the notice or document or received it at a later date.
- (3) If it is for any reason impractical to effect service of any documents as set out in subsection (1), the court may, on an *ex parte* application, make an order for substitutional service.
- (4) Service of a document in accordance with the terms of an order mentioned in subsection (3) is deemed to be proper service.

TRANSITIONAL AND COMING INTO FORCE

Transitional – council

- 51(1)** The Lieutenant Governor in Council shall appoint a transitional council after consultations by the minister with the following associations:
- (a) the Midwives Association of Saskatchewan;
 - (b) the College of Physicians and Surgeons of the Province of Saskatchewan;
 - (c) the Saskatchewan Medical Association;
 - (d) The Saskatchewan Registered Nurses' Association;
 - (e) the Saskatchewan Health-Care Association, commonly known as the Saskatchewan Association of Health Organizations.
- (2) The transitional council consists of not more than 13 persons.
 - (3) The transitional council must include at least two, but not more than five, persons chosen by the minister from a list of not less than five persons who are recommended by the Midwives Association of Saskatchewan.
 - (4) The term of office of councillors appointed pursuant to this section is not to exceed three years.
 - (5) A councillor appointed pursuant to this section holds office until that person's successor is appointed and is eligible for reappointment.
 - (6) The Lieutenant Governor in Council may designate a chairperson from among the members of the transitional council.
 - (7) At least one member of the transitional council is to be a member of the discipline committee.
 - (8) The absence or inability to act as a member of the discipline committee by a member of the transitional council mentioned to in subsection (7) or the failure to designate a member pursuant to subsection (7) does not impair the power of the other members of the discipline committee to act.
 - (9) A member of the transitional council may resign by giving written notice of his or her resignation to the minister.

(10) In addition to making bylaws for any of the purposes set out in section 14, the transitional council shall pass bylaws pursuant to clauses 14(1)(f), (g), (h), (i), (j) and (k) and shall, on or before a date to be set by the Lieutenant Governor in Council conduct an election pursuant to those bylaws to elect members of council pursuant to subsection 7(2).

(11) The minister shall remunerate and reimburse for expenses the members of the transitional council appointed pursuant to this section at the rate determined by the Lieutenant Governor in Council.

Coming into force

52 This Act comes into force on proclamation.