

2000

CHAPTER 15

An Act to amend *The Medical Profession Act, 1981* and to make consequential amendments to *The Saskatchewan Medical Care Insurance Act*

(Assented to June 21, 2000)

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, 2000*.

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 clause after clause (b):

“(b.1) **“corporate register”** means the corporate register kept pursuant to section 37.3”; and

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

“(l.01) **“professional corporation”** means a corporation described in subsection 37.1(1)”.

Section 5 amended

4 Clause 5(1)(b) is amended by striking out “three” and substituting “five”.

Section 6 amended

5(1) Subclause 6(1)(s)(i) is amended by striking out “licensing” and substituting “licence, permit”.

(2) Subsection 6(2) is amended:

(a) in subclause (a)(i) by adding “and professional corporations” after “members”;

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

“(d.1) regulating, controlling and prohibiting the use of names by which professional corporations and partnerships involving professional corporations may be known”;

(c) in clause (f) by striking out “and temporary register” and substituting “, temporary register and corporate register”;

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

“(k.1) governing advertising by professional corporations”;

(e) by adding the following clause after clause (n):

“(n.1) prescribing the records that are to be kept by professional corporations and governing the access to those records by the council or any committee of the council”; **and**

(f) by adding the following clause after clause (q):

“(q.1) for the purpose of clause 54(1)(i), defining ‘costs of and incidental to the investigation and hearing’ and determining the method of calculating those costs or any part of those costs”.

(3) The following subsection is added after subsection 6(2):

“(3) Subject to this Act, the council shall make bylaws respecting and requiring professional liability protection for members and permit holders”.

New section 9**6 Section 9 is repealed and the following substituted:****“Public appointees**

9(1) The Lieutenant Governor in Council may appoint five persons who reside in Saskatchewan as members of the council.

(2) Where the Lieutenant Governor in Council appoints a person as a member of the council, the term of office of that person is not to exceed three years.

(3) Subject to subsection (4), a member of the council 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 member of the council appointed pursuant to this section ceases to hold office if the person ceases to be a resident of Saskatchewan.

(5) A member of the council appointed pursuant to this section may exercise rights and serve as a member of committees to the same extent as other members of the council.

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

Section 27 amended**7 Subsection 27(2) is repealed and the following substituted:**

“(2) The 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”.

Section 30 amended**8 Clause 30(2)(c) is repealed and the following substituted:**

- “(c) is to be engaged as a psychiatrist:
- (i) in a branch of the public service of Saskatchewan;
 - (ii) in a branch of the public service of Canada to provide services in Saskatchewan; or
 - (iii) by a district health board”.

New section 31.1**9 The following section is added after section 31:****“Delegation to registrar**

31.1(1) The council may delegate to the registrar the power to do any of the following:

- (a) register persons as members of the college;
 - (b) issue licences to members;
 - (c) register professional corporations;
 - (d) issue permits to physicians or professional corporations;
 - (e) revoke a permit issued to a professional corporation.
- (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 aggrieved by the decision of the registrar has the right to appear in person before the council in support of the application.
- (7) The council shall cause the applicant to be informed in writing of its decision regarding the review”.

New Part III.1

10 The following Part is added after Part III:

“PART III.1
Professional Corporations”

“Professional corporation

37.1(1) One or more members may incorporate a corporation pursuant to *The Business Corporations Act* for the purpose of carrying on the practice of medicine in the name of the corporation.

(2) The words ‘Professional Corporation’ or the abbreviation ‘Prof. Corp.’ or ‘P.C.’ must be part of the name of a professional corporation and the name must appropriately depict, in accordance with the bylaws, that the professional corporation is engaged in the practice of medicine.

(3) No owner of voting shares of a professional corporation shall pledge or enter into a voting trust agreement or proxy or any other type of agreement that vests in a person who is not a member the authority to exercise the voting rights attached to any or all of the owner’s shares.

“Restrictions on practising in name of corporation

37.2(1) No person shall carry on, purport to carry on or advertise the carrying on of the practice of medicine by, through or in the name of a professional corporation unless:

(a) the professional corporation is registered and holds a valid permit pursuant to section 37.4;

(b) subject to subsection (2), all of the issued voting shares of the professional corporation are legally and beneficially owned by one or more members;

(c) subject to subsection (2), all of the issued non-voting shares of the professional corporation are legally and beneficially owned by:

(i) members;

(ii) spouses, children or parents of members who own voting shares;

(iii) a corporation incorporated pursuant to *The Business Corporations Act*, all of the shares of which are owned by individuals mentioned in subclause (i) or (ii); or

(iv) a trust, all of the beneficiaries of which are individuals mentioned in subclause (i) or (ii);

(d) all of the directors of the professional corporation are members; and

(e) all persons who practise medicine by, through or in the name of the professional corporation are members.

(2) The voting and non-voting shares of a professional corporation may be vested in:

(a) an executor or administrator of the estate of a shareholder, for the limited purpose of permitting the executor or administrator to discharge his or her duties in relation to the administration of the estate; or

(b) a trustee in bankruptcy, for the limited purpose of permitting the trustee to discharge his or her duties as trustee in bankruptcy of the estate of a shareholder or the professional corporation.

“Corporate register

37.3(1) The registrar shall keep a register to be called the corporate register.

(2) The registrar shall enter in the corporate register the name and address of each professional corporation that is registered by the council pursuant to section 37.4 and the name and address of each director of each professional corporation that is registered.

(3) The corporate 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.

“Registration, permit

37.4(1) The council may register and issue a permit to a professional corporation that:

- (a) applies in the form prescribed by the council;
- (b) pays the fees prescribed for the purpose by the council; and
- (c) satisfies the council that:
 - (i) the professional corporation:
 - (A) is a corporation in good standing pursuant to *The Business Corporations Act*;
 - (B) meets the requirements of this Part; and
 - (C) meets the requirements of the bylaws;
 - (ii) each member who may practise medicine by, through or in the name of the professional corporation holds liability insurance that meets the requirements of the bylaws; and
 - (iii) the articles of the professional corporation do not prevent it from carrying on all business and activities associated with the practice of medicine by a member.

(2) A professional corporation shall not be registered pursuant to any other provision of this Act.

(3) A permit issued pursuant to subsection (1) may contain any terms and conditions that the council considers appropriate.

(4) Subject to section 37.5, a permit expires on December 31 of the year for which it is issued.

(5) The council may renew a permit issued to a professional corporation that applies in the form prescribed by the council and pays the prescribed fees, if the council is satisfied that the professional corporation continues to meet the requirements set out in clause (1)(c).

(6) Where an application for renewal of a permit is refused, the registrar shall send notice of that fact to the professional corporation and to the minister.

“Revocation of permit

37.5(1) The council may revoke a permit issued to a professional corporation where the professional corporation:

- (a) does not meet one or more of the requirements set out in clause 37.4(1)(c);
- (b) fails to comply with a term or condition set out in the permit; or
- (c) is convicted of an offence described in section 55.

(2) The council shall revoke a permit issued to a professional corporation where only one member practises medicine in the name of the professional corporation, and:

- (a) the member dies or becomes incompetent; or
- (b) the member’s licence is suspended or revoked pursuant to this Act.

(3) Where a permit is revoked, the registrar shall send notice of that fact to the professional corporation and to the minister.

(4) Where a permit issued to a professional corporation is revoked, the registrar shall strike the name of the professional corporation from the corporate register.

“Discipline

37.6(1) If the subject of a complaint, investigation or inquiry is the conduct of a member through whom a professional corporation was practising medicine when the conduct occurred:

- (a) any power of inspection, investigation or inquiry that may be exercised with respect to the member or the member’s records may be exercised with respect to the professional corporation or the professional corporation’s records; and
- (b) the professional corporation and its shareholders are jointly and severally liable for all fines and costs that a member who is a shareholder of the professional corporation is ordered to pay.

(2) The shareholders, directors, officers and employees of a professional corporation are compellable to give evidence in any proceeding pursuant to Part V.

“Appeal

37.7(1) A professional corporation may, in accordance with this section, appeal a decision of the council to the court where:

- (a) the application of the professional corporation for registration, for a permit or for renewal of a permit is rejected;
- (b) the permit of the professional corporation is issued subject to terms and conditions; or
- (c) the permit of the professional corporation is revoked.

(2) An appeal pursuant to subsection (1) must be commenced within 60 days after the date of the decision by a notice of appeal setting out the grounds of the appeal, a copy of which is to be served on the registrar.

- (3) On hearing an appeal pursuant to subsection (1), the court may:
 - (a) confirm or vary the decision of the council or substitute its own decision for that of the council; and
 - (b) make any order as to costs that it considers appropriate.

“Application of Act

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

(2) The liability of a member to a person who receives services from the member is not affected by the fact that the services were provided by the member 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 member and a person who receives services from a member.

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

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

Section 76 amended

11 Subsection 76(1) is repealed and the following substituted:

“(1) A certificate purporting to be signed by the registrar setting out one or more of the facts described in subsection (1.1) constitutes proof, in the absence of evidence to the contrary, of those facts without proof that the person signing it is the registrar or proof of the registrar’s signature.

“(1.1) Subsection (1) applies to a certificate stating that, on a specified day or during a specified period:

- (a) a person named in the certificate was or was not a member and, in the case of a member, stating the category of membership of the member; or
- (b) a corporation named in the certificate:
 - (i) was or was not registered as a professional corporation; or
 - (ii) was or was not the holder of a valid permit”.

Section 80 amended

12 Section 80 is amended:

- (a) by renumbering it as subsection 80(1); and**
- (b) by adding the following subsection after subsection (1):**

“(2) Every director, officer or agent of a corporation who directed, authorized, assented to, acquiesced in or participated in an act or omission of the corporation that would constitute an offence by the corporation is guilty of that offence, and is liable on summary conviction:

- (a) for a first offence, to a fine of not more than \$5,000;
- (b) for a second offence, to a fine of not more than \$12,000; and
- (c) for a third or subsequent offence, to a fine of not more than \$20,000”.

New section 86.1

13 The following section is added after section 86:

“PROFESSIONAL ENHANCEMENT COMMITTEE RECORDS

“Non-compellability re professional enhancement committee records

86.1(1) In this section:

- (a) **‘legal proceeding’** means any proceeding in a court, and includes any proceeding that arises out of, is required by or is incidental to a proceeding in a court, whether it is held in court or not;
- (b) **‘practice enhancement committee’** means the committee of the college established, and in which the Saskatchewan Medical Association participates, for the purpose of reviewing and improving the quality of medical care provided by members.

(2) No person is compellable to give evidence in a legal proceeding with respect to any proceedings before the practice enhancement committee or any information or evidence provided to the practice enhancement committee.

(3) No person is compellable in a legal proceeding to produce a record of a proceeding before the practice enhancement committee or any record, document or information prepared from, or statement given at, a proceeding before the practice enhancement committee.

(4) This section does not apply to:

- (a) records, documents or information with respect to patients that are kept by:
 - (i) a member or a professional corporation;
 - (ii) a district health board or an affiliate as defined in *The Health Districts Act*; or
 - (iii) any other person who operates a health care facility or provides a health service; or
- (b) any other record, document or information that has been prepared or kept for a purpose unrelated to the practice enhancement committee”.

R.S.S. 1978, c.S-29 amended

14(1) *The Saskatchewan Medical Care Insurance Act* is amended in the manner set forth in this section.

(2) Clause 2(m) is repealed and the following substituted:

“(m) ‘**physician**’ means:

- (i) an individual who is registered pursuant to *The Medical Profession Act, 1981* and holds a valid licence or permit issued pursuant to that Act; or
- (ii) a professional corporation that is registered pursuant to *The Medical Profession Act, 1981* and holds a valid permit issued pursuant to that Act”.

(3) The following subsection is added after subsection 49(1):

“(1.1) For the purposes of subsection (1), ‘physician’ does not include a professional corporation mentioned in subclause 2(m)(ii)”.

(4) The following subsection is added after subsection 49.3(4):

“(5) Where an order is made pursuant to section 49.2 or 49.22 against a physician that is a professional corporation:

- (a) all persons who were shareholders of the professional corporation during the period with respect to which the order was made are jointly and severally liable for the debt of the professional corporation;
- (b) the debt of the professional corporation may be recovered from any or all of the shareholders mentioned in clause (a) by any remedy that may be exercised against the professional corporation; and
- (c) subsections (1) to (4) apply, with any necessary modification, to the shareholders mentioned in clause (a)”.

Coming into force

15 This Act comes into force on proclamation.

