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c 34 Health Disciplines Amendment Act, 1986

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CHAPTER 34

An Act to amend the Health Disciplines Act

Assented to July 10th, 1986

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

1. Section 73 of the Health Disciplines Act, being chapter 196 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

   (ma) requiring members to establish and maintain records of nursing services provided by them, prescribing the information that must be entered by members in nursing records maintained by them, prescribing classes of records of nursing services, prescribing periods of time for or circumstances in which members must retain specified classes of nursing records, specifying when and to whom members must deliver records of nursing services and governing custody of and access to specified classes of nursing records maintained by members.

2.—(1) Section 82 of the said Act is repealed and the following substituted therefor:

82.—(1) The Discipline Committee shall be composed of,

   (a) twelve persons who are members of the College; and

   (b) twelve persons who are members of the Council, of whom four shall be persons appointed to the Council by the Lieutenant Governor in Council.

(2) The Council shall appoint one of the members of the Discipline Committee to be chairman.

(3) The chairman of the Discipline Committee may assign a panel of five members of the Committee to hold a hearing, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.
(4) Every panel of the Discipline Committee shall be chaired either by the chairman of the Discipline Committee or by a member of the Discipline Committee designated by the chairman.

(5) Where a panel of the Discipline Committee commences a hearing and the member thereof who is appointed to the Council by the Lieutenant Governor in Council becomes unable to continue to act, the remaining members may complete the hearing notwithstanding the member's absence.

(6) Three members of a panel assigned under subsection (3), of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum for a hearing and all disciplinary decisions require the vote of a majority of members of the Discipline Committee presiding at the hearing, but in the event of a tie vote, the chairman shall have a second or casting vote.

(7) Notwithstanding section 81, the Council or the Executive Committee may direct the Discipline Committee to hold a hearing and determine any specified allegation of professional misconduct or incompetence on the part of a member.

(2) Where a proceeding was commenced before the Discipline Committee before the coming into force of subsection (1), section 82 of the said Act as it existed immediately before the coming into force of subsection (1), continues to apply in respect of the proceeding and, for the purpose, subsection (1) shall be deemed not to have come into force.

3. The said Act is amended by adding thereto the following section:

84a.—(1) Where the Director believes on reasonable and probable grounds that a member has committed an act of professional misconduct or incompetence, the Director may, with the approval of the Executive Committee, by order appoint one or more persons to make an investigation to ascertain whether such act has occurred, and the person appointed shall report the result of the investigation to the Director.

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the member in respect of whom the investigation is being made and may, upon production of proof of his or her appointment, enter at any reasonable time the premises where the member is providing or has provided nursing services and examine books, records, documents and things relevant to the subject-
matter of the investigation and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of the Public Inquiries Act, which Part applies to such inquiry as if it were an inquiry under that Act.

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from the person or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

(4) Where a justice of the peace is satisfied, upon an ex parte application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the justice of the peace may, whether or not an inspection has been made or attempted under subsection (2), issue an order authorizing the person making the investigation, together with such police officer or officers as the person calls upon for assistance, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the justice of the peace, by the order, authorizes the person making the investigation to make the search at night.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection (2) or (4) relating to the member whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member whose practice is being investigated.

(6) Any copy made as provided in subsection (5) and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as prima facie proof of the original book, record or document and its contents.

(7) The Director shall report the results of the investigation to the Council or the Executive Committee or to such other committee as the Director considers appropriate.
4. The said Act is further amended by adding thereto the following section:

86a.—(1) Every person employed in the administration of this Part, including any person making an inquiry or investigation under section 84a, and any member of the Council or a committee, shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of his or her duties, employment, inquiry or investigation under section 84a and shall not communicate any such matters to any other person except,

(a) in connection with,

(i) the administration of this Act and the regulations under this Act,

(ii) the administration of any Part of this Act and the regulations and by-laws under any Part of this Act, or

(iii) any proceedings under this Act or any Part of this Act or the regulations under this Act or any Part of this Act;

(b) as may be required for the enforcement of the Health Insurance Act;

(c) to his or her counsel: or

(d) with the consent of the person to whom the information relates.

(2) No person to whom subsection (1) applies shall be required to give testimony or to produce any book, record, document or thing in any proceeding with regard to information the person has obtained in the course of his or her duties, employment, inquiry or investigation except in a proceeding under this Act or any Part of this Act or any regulation or by-law under this Act or any Part of this Act.

5. Section 88 of the said Act is amended by adding thereto the following subsection:

(3) Every person who obstructs a person appointed to make an investigation under section 84a in the course of his or her duties is guilty of an offence and on conviction is liable to a fine not exceeding $2,000.
6. This Act comes into force on the day it receives Royal Assent.

7. The short title of this Act is the Health Disciplines Amendment Act, 1986.