

REOPENING OF THE ACT: Revisions and Rationale Updated May 2017

| Section                        | Current   | Revised   | Rationale   |
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| Official Languages             | Not included in current legislation   | English and French are the official languages of the Association  | Necessary for review  |
| Definitions and Interpretation | <p>«Association» designe l' Association des travailleurs sociaux du Nouveau-Brunswick;</p> <p>"practice of social work" includes the assessment, remediation and prevention of social problems, and the enhancement of social functioning of individuals, families, groups and communities by means of</p> <ul style="list-style-type: none"> <li>(a) the provision of direct counselling services within an established relationship between a social worker and client;</li> <li>(b) the development, promotion and delivery of human service programs, including that done in collaboration with other professionals;</li> <li>(c) the development and promotion of social policies aimed at improving social conditions and promoting social equality; and</li> <li>(d) any other activities consistent with the objects of the Association;</li> </ul> | <p>«Association » signifie l'Association des travailleuses et des travailleurs sociaux du Nouveau-Brunswick.</p> <p>“practice of social work” means the assessment, diagnosis, rehabilitation and prevention of social problems, and the enhancement of social functioning of individuals, families, groups and communities by means of</p> <ul style="list-style-type: none"> <li>(a) the provision of direct counselling services within an established relationship between a social worker and a client or in collaboration with health and other professionals;</li> <li>(b) the development, promotion and delivery of human service programs, including that done in collaboration with health and other professionals;</li> <li>(c) the development and promotion of social policies aimed at improving social conditions and promoting social equality; and</li> <li>(d) any other activities consistent with the objects of the Association.</li> </ul> | <p>In order to adequately reflect the reality of the profession, the French name has been modified to include the feminine as well as masculine version of the term social worker.</p> <p>Practice of social work section has been expanded to include the term “diagnosis”. Many jurisdictions in Canada and the United States allow for qualified social workers to do some form of diagnosis. The goal is to ensure qualified social workers have the ability to practice to their full scope.</p> |
| Objects                        | <p>5 The objects of the association are to</p> <ul style="list-style-type: none"> <li>(a) Regulate the practice of social work and govern its members in accordance with this Act and the by-laws, in order to serve and protect the public interest;</li> <li>(b) Establish, maintain and develop standards of knowledge, skill and efficiency for the practice of social work;</li> <li>(c) Establish, maintain, develop and enforce standards of qualification for the practice of social work;</li> <li>(d) Establish, maintain, develop and enforce standards of professional ethics;</li> <li>(e) Promote public awareness of the role of the Association and social work, and to communicate and co-operate</li> </ul>   | <p>4 The objects of the Association are to:</p> <ul style="list-style-type: none"> <li>(a) provide for the regulation, discipline, governance, control and honour of the persons practicing the profession of social work, including the determination of the standards of knowledge, skill and efficiency, and standards of qualification, standards of professional conduct and ethics;</li> <li>(b) promote public awareness of the role of the Association and the Profession, and to communicate and co-operate with other professional organizations for the advancement of the best interests of the Association, including the publication of books, papers, and journals;</li> <li>(c) advocate for social justice and social change within the</li> </ul>   | <p>What was formerly listed in the first part of the section for Powers was really an object. We have drafted (a) to be all encompassing regarding regulation and effectively have collapsed (b), (c) and (d) into one.</p>   |

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|                       | <p>with other professional organizations for the advancement of the best interests of the Association, including the publication of books, papers and journals;</p> <p>(f) Provide means whereby its members may take action to pursue social justice and effect social change; and</p> <p>(g) encourage studies in social work and provide assistance and facilities for special studies and research</p>  | <p>practice of social work;</p> <p>(d) encourage studies in social work and provide assistance and facilities for special studies and research.</p>  |  |
| Board                 | <p>9(1) There shall be a Board of Directors of the Association consisting of the president, vice-president, immediate past president, secretary and treasurer, plus additional members to be elected in such number and for such term as established by by-law, and one other person, not a member of the Association, who shall be appointed by the Minister of Health and Community Services from a list of three names submitted by the Association.</p> <p>9(2) There shall be an Executive Committee consisting of the president, vice-president, secretary and treasurer, together with such additional members as provided by by-law.</p> <p>9(3) Subject to the provisions of this Act and the by-laws, the management of the Association shall be vested in the Board and the Executive Committee.</p> <p>9(4) The members of the Board in office when this Act comes into force shall continue in office until their successors are elected or appointed in accordance with subsection (1) and the by-laws.</p> <p>9(5) At the first meeting following the election, or so soon thereafter as possible, the Board shall appoint such other persons or committees as may be necessary for the carrying out of the provisions of this Act, who shall hold office during the pleasure of the Board or as provided by by-law.</p> | <p>5(1) The responsibility for administration of this Act and the management of the Association shall be vested in a Board which shall consist of not less than 13 members, including a President and other officers provided for in by-law.</p> <p>5(2) The Board shall also be comprised of no less than 1 public representative in a manner consistent with the by-laws.</p> <p>5(3) The number of Directors, their respective terms of office, the manner of their appointment or election, and their respective qualifications shall be established and governed by the by-laws and such by-law may provide for additional Directors who are not members, alternative Directors, for the filling of vacancies and for the appointment of additional public representatives.</p> | <p>The order of progression is now Association, It's Objects, it's governance (The Board)</p> <p>It is recommended to use language that puts parameters around the minimum size of the board and leave the rest to by-laws which do not require statutory amendment to change.</p> |
| Officers to the Board | Not included in current legislation   | <p>6(1) The Board shall appoint an Executive Director of the Association.</p> <p>6(2) The Board shall appoint a Registrar of the Association.</p>  | New section added to recognize that the organization is required to have officers in the form of the Executive Director and Registrar.   |

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|                |  | <p>6(3) The offices of the Executive Director and Registrar may be held by one person at the same time and the Board may determine that the Registrar reports to the Executive Director.</p>  |  |
| <p>By-Laws</p> | <p>7(1) For the purpose of attaining its objects, and for the implementation of its powers, the Association may make by-laws not inconsistent with the provisions of this Act.</p> <p>7(2) No by-law, amendment, or repeal thereof shall be effective until passed by resolution of two thirds of members voting<br/> (a) at the annual general meeting; or<br/> (b) at a special meeting of the Association called for the purpose.</p> <p>7(3) A proposed new by-law, amendment or repeal of an existing by-law, shall be in writing signed by at least two members and shall, not less than sixty days before the meeting, be presented to the secretary who shall include a copy in the notice calling the meeting.</p> <p>7(4) No by-law passed for the attainment of objects contained in paragraphs 5(b) and (c), or for the implementation of powers contained in paragraph 6(i), are effective until approved by the Minister of Health and Community Services.</p> | <p>7(1) The Association may make by-laws not inconsistent with the provisions of this Act for:</p> <ul style="list-style-type: none"> <li>(a) governing and regulating <ul style="list-style-type: none"> <li>(i) the admission, suspension, expulsion, removal, discipline and reinstatement of members, and the conditions precedent to membership in the Association, and</li> <li>(ii) the registration, licensing and renewal, suspension, cancellation, and reinstatement of registration in the Register of members, including the imposition of limitations, restrictions, and conditions on members.</li> </ul> </li> <li>(b) the establishment of categories of membership in the Association, including the conditions, obligations, and privileges associated with any categories of membership;</li> <li>(c) levying and collecting fees from members, and any penalty or consequence associated with the failure to pay such fees;</li> <li>(d) the location of a Head Office and other offices of the Association;</li> <li>(e) the notice, quorum, location, and time for the Annual Meeting or any other meetings of the members and the rules pertaining to methods of voting at such meetings;</li> <li>(f) regulation of professional advertising;</li> <li>(g) the requirements pertaining to professional liability insurance for members;</li> <li>(h) requirements pertaining to continuing competency for members;</li> <li>(i) requirements pertaining to rules of professional conduct, professional misconduct, and a code of ethics;</li> <li>(j) the appointment of auditors; and</li> <li>(k) other purposes necessary for the exercise of any of the powers conferred by this Act.</li> </ul> <p>7(2) All by-laws and amendments thereto shall be ratified by a</p> | <p>Former section on by-laws was inadequate and did not underscore what the organization would leave to by-law. Much of this was in the Power's section.</p> <p>Recommendation for using broad language regarding governing and regulating members.</p> <p>Acknowledges that these issues are to be left with the members, for by-law.</p> |

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|                           |  | <p>majority of the Board and by two-thirds of the members, in attendance, in good standing, at any Annual Meeting or by two-thirds of the members, in attendance, in good standing, at any Special Meeting duly convened for the purpose of ratifying such amendments.</p>  |   |
| <p>Rules by the Board</p> | <p>8(1) The Board may make rules not inconsistent with the provisions of this Act or the by-laws, providing for</p> <ul style="list-style-type: none"> <li>(a) the appointment, revocation and filling of vacancies on committees;</li> <li>(b) the calling, conduct and proceedings of meetings of all committees;</li> <li>(c) preliminary investigations into the conduct of a member;</li> <li>(d) the establishment and conduct of committees of inquiry;</li> <li>(e) the custody and use of the Association seal;</li> <li>(f) the execution of documents by the Association;</li> <li>(g) banking and finance;</li> <li>(h) fixing the financial year of the Association and for the audit of the accounts and transactions of the Association;</li> <li>(i) calling, holding and conducting of meetings of the Board and the duties of members of the Board;</li> <li>(j) meetings of the Board and committees by conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and a member of the Board or committee participating in such a meeting shall be deemed to be present in person at the meeting;</li> <li>(k) the calling, holding and conduct of special meetings of the membership of the Association;</li> <li>(l) the payment of necessary expenses of the Board and committees in the conduct of their business;</li> <li>(m) the management of the property of the Association;</li> <li>(n) the appointment, composition, powers and duties of additional or special committees;</li> </ul> | <p>8(1) The Board may make rules not inconsistent with the provisions of this Act or the by-laws providing for:</p> <ul style="list-style-type: none"> <li>(a) the management of the Association and its property and affairs;</li> <li>(b) banking, finance, and borrowing of money;</li> <li>(c) the custody and use of the Association seal;</li> <li>(d) the execution of documents by the Association;</li> <li>(e) the use of Association funds for scholarships and prizes for students of the Profession;</li> <li>(f) the Association’s fiscal year end;</li> <li>(g) the calling, holding, and conducting of meetings of the Board and the duties of Directors;</li> <li>(h) the establishment of an Executive Committee of the Board;</li> <li>(i) the appointment, revocation and proceedings of meetings of all committees of the Board;</li> <li>(j) the manner and proof of personal service of documents and notices required under this Act;</li> <li>(k) the assessment of members, for special or extraordinary expenditures that may be deemed necessary or expedient to further the objects of the Association; and</li> <li>(l) the establishment of chapters within the province and rules for the management of such chapters, known as Chapters By-Laws;</li> <li>(m) the definition of any term used in this Act.</li> </ul> <p>8(2) A rule made under subsection (1) is for the administrative purposes of the Association only, and is not effective until confirmed by an ordinary resolution of the Board and may not be exercised inconsistent with this Act or the by-laws.</p> | <p>Rules are intended to be policy which can be modified by the Board without the same procedure as a by-law at an AGM.</p> |

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|   | <p>(o) the application of the funds of the Association and the investment and reinvestment of any of its funds not immediately required, and for the safekeeping of its securities.</p> <p>8(2) A rule proposed by the Board is not effective until confirmed by the Board by resolution</p>  |  |   |
| Title and Right to Practice (Authorized Practice) | <p>These are separate sections in current legislation and are merged into one section in the revised legislation.</p>   | <p>9 Only persons who are members of the Association, as provided in this Act or by-laws, shall be entitled to:</p> <p>(a) take and use the title or designation "Registered Social Worker", "Social Worker" or the initials "R.S.W." in English or "travailleur social immatriculé", "travailleuse sociale immatriculée", "travailleur social", "travailleuse sociale" or "T.S.I." in French or any similar titles or designations; or</p> <p>(b) practise social work in or for application in New Brunswick, either privately or employed by another.</p>   | <p>These provisions were separated in the current act. This is collapsed into one and repositioned in a logical manner in the Act. It is recommended to start with those who have the right and what titles they can use, then a deemed practice provision.</p> <p>As a result of a recommendation from membership during the Chapter tour, the title "social worker" was included in this section.</p>   |
| Committee of Examiners                            | <p>10(1) There shall be a Committee of Examiners for the examination of persons seeking to be registered as social workers, consisting of seven members of whom six shall be appointed by the Association, one of whom shall be chairperson, and one appointed by the Minister of Health and Community Services from a list of three names submitted by the Association.</p> <p>10(2) The members of the Committee shall hold office for a period of two years, provided that members in office when this Act comes into effect shall continue in office until their successors are appointed.</p> <p>10(3) Any member of the Committee shall be eligible for reappointment.</p> <p>10(4) When a vacancy occurs in the membership of the Committee, otherwise than by expiration of the term of office of the member, the person who made the initial appointment may appoint another person to hold office during the unexpired term.</p> <p>11(1) Every person who is approved by the Committee for</p> | <p>11(1) There shall be a Committee of Examiners annually appointed by the Board, composed of not fewer than two members, and at least one person who is a public representative and none of the Committee members shall be members of the Board.</p> <p>11(2) Every person who is approved by the Committee of Examiners for registration may become a member of the Association upon compliance with the provisions of the by-laws.</p> <p>11(3) The Registrar shall enter into the Register the name of each member entitled to practice the Profession and any certificate or license issued by the Registrar shall be prima facie evidence of registration and licensure under this Act.</p> <p>11(4) Subject to the approval of the Board, the Committee of Examiners may delegate to the Registrar or other appropriate Association staff, such functions for the approval of an application of members, as it considers appropriate.</p> <p>11(5) In carrying out its functions under subsection (2), the Committee of Examiners may determine its own procedure and</p> | <p>The language has been modified to establish a committee, a delegation provision to the Registrar, and appeal. This is the first statutory committee provided for in the legislation. It is recommended that the committee be comprised of members who are not on the Board as the Board hears the appeals from this committee.</p> <p>The government will want to have the provision that the Association will register RSWs from other provinces to comply with labor mobility.</p> |

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|  | <p>registration may become a member of the Association upon compliance with the provisions of the by-laws.</p> <p>11(2) The Committee may approve for registration a person of good character who</p> <ul style="list-style-type: none"> <li>(a) has obtained a Bachelors, Masters or Doctors Degree in social work or the equivalent from a school of social work approved by the Committee;</li> <li>(b) has passed examinations prescribed by the Committee and in the opinion of the Committee has sufficient experience in social work to qualify for registration under this Act; or</li> <li>(c) is a registered member in good standing of an association of social workers approved by the Committee; and has filed with the Committee proofs as prescribed by the by-laws.</li> </ul> <p>12(1) The Committee may make by-laws</p> <ul style="list-style-type: none"> <li>(a) prescribing the proofs to be furnished as to education, good character and experience;</li> <li>(b) prescribing the subjects for examination of candidates for registration as registered social workers and the fees to be paid on examinations and registration;</li> <li>(c) relating to examinations, the duties and functions of examiners and the place examinations are to be held;</li> <li>(d) respecting such other matters as the Committee considers necessary or advisable for the more effectual discharge of its functions or exercise of its powers.</li> </ul> <p>12(2) No by-law passed pursuant to paragraph (1 )(b) is effective until approved by the Minister of Health and Community Services.</p> <p>13 The Committee shall meet at such places and time as it shall determine.</p> <p>14(1) If the Committee refuses to approve a person for</p> | <p>policies in a manner consistent with the Act and by-laws regarding:</p> <ul style="list-style-type: none"> <li>(a) prescribing the proofs to be furnished as to education, good character and experience;</li> <li>(b) prescribing the subjects for examination of candidates for membership;</li> <li>(c) prescribing the fees to be paid on examinations and registration;</li> <li>(d) relating to examinations, the duties and functions of examiners and the place examinations are to be held;</li> <li>(e) respecting such other matters as the Committee considers necessary or advisable for the more effectual discharge of its functions or exercise of its powers.</li> </ul> <p>11(6) The Committee of Examiners, in consultation with the Board shall have the power, conjointly with the council or appropriate governing body of any association in any other province or territory of Canada, having objects similar to those of the Association, to establish a central examining board and to delegate to such central examining board all or any of the powers possessed by the Association or the Board respecting the examination of candidates for admission to practice.</p> <p>11(7) Any by-law passed pursuant to paragraph 5(b) or agreement pursuant to subsection (6) will be submitted by the Board to the Minister for final approval.</p> <p>11(8) The Committee shall approve any person who is, at the time, a duly registered member of an Association of social work of some other province or territory of Canada, with an act of incorporation or constitution similar to that of the Association, as a member upon application and payment of requisite fees and upon provision of satisfactory evidence to the Committee of registration in good standing in the other Association.</p> <p>11(9) If the Committee refuses to approve a person for registration that person may appeal to the Board in writing within 30 days of receipt of notification of the decision of the Committee.</p> <p>11(10) In the event of an appeal pursuant to subsection (9), after</p> |  |
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|                                  | <p>registration that person may appeal to the Board in writing within thirty days of receipt of notification of the decision of the Committee.</p> <p>14(2) In the event of an appeal the Board, after considering all relevant factors, may</p> <ul style="list-style-type: none"> <li>(a) direct that the person be registered;</li> <li>(b) refer the matter back to the Committee for reconsideration with such directions as the Board considers necessary; or</li> <li>(c) refuse the appeal and uphold the decision of the Committee.</li> </ul> <p>14(3) No member of the Board who is also a member of the Committee shall sit for the purpose of considering an appeal under this section.</p> | <p>considering all relevant factors, the Board may</p> <ul style="list-style-type: none"> <li>(a) direct that the person be registered;</li> <li>(b) refer the matter back to the Committee of Examiners for reconsideration with such directions as the Board considers necessary; or</li> <li>(c) refuse the appeal and uphold the decision of the Committee of Examiners.</li> </ul>  |   |
| <p>Professional Corporations</p> | <p>Not included in current legislation</p>   | <p>13(1) No corporation shall be entitled to have its name entered in a register other than the professional corporations register.</p> <p>13(2) No professional corporation shall be entitled to vote at any meeting of the Association.</p> <p>13(3) All the provisions of this act, the by-laws and the rules applicable to a member apply with all necessary modifications to a professional corporation unless otherwise expressly provided.</p> <p>13(4) The Board may make by-laws</p> <ul style="list-style-type: none"> <li>(a) prescribing the types of names, designations or titles by which <ul style="list-style-type: none"> <li>(i) a professional corporation,</li> <li>(ii) a partnership of two or more professional corporations, or</li> <li>(iii) a partnership of one or more professional corporations and one or more social workers, may be known, and</li> </ul> </li> <li>(b) regulating the practice of social work by professional corporations and requiring the filing of such reports,</li> </ul> | <p>This is a new section being introduced to the Act. While forming a professional corporation will not be a requirement for private practice, there may be financial benefits for some members in private practice to form a professional corporation. Several other social worker organizations in Canada allow for the formation of professional corporations.</p> |

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|  |  | <p>information and returns the Board considers necessary.</p> <p>14(1) The articles of incorporation, articles of continuance or other constating documents of each professional corporation shall not prevent the professional corporation from</p> <ul style="list-style-type: none"><li>(a) engaging in every phase and aspect of rendering the same social work services to the public that a social worker is authorized to render; and</li><li>(b) having the capacity and exercising the rights, powers and privileges of a natural person as may be necessary or incidental or ancillary to the rendering of social work services including without restricting the foregoing, the power<ul style="list-style-type: none"><li>(i) to purchase, lease or otherwise acquire and to own, mortgage, pledge, sell, assign, transfer or otherwise dispose of, and to invest in, deal in or with, real or personal property;</li><li>(ii) to contract debts and borrow money, issue and sell or pledge bonds, debentures, notes and other evidences of indebtedness and execute such mortgages, transfers of corporate property and other instruments to secure the payment of corporate indebtedness as required; and</li><li>(iii) to enter into partnership, consolidate or merge with or purchase the assets of another corporation or individual rendering the same type of professional services.</li></ul></li></ul> <p>14(2) The legal and beneficial ownership of a majority of the issued shares of a professional corporation shall be vested in one or more members and shall entitle such member or members to elect all of the directors of the professional corporation.</p> <p>14(3) No member who is a shareholder of a professional corporation shall enter into a voting trust agreement, proxy or any other type of agreement vesting in a person which is not a member the authority to exercise the voting rights attached to any or all of the member's shares, and every shareholder who does so</p> |  |
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|  |  | <p>commits offence.</p> <p>14(4) The practice of social work on behalf of a professional corporation shall be carried on by social workers.</p> <p>14(5) For the purpose of subsection (4), the practice of a social worker shall be deemed not to be carried on by clerks, secretaries, assistants and other persons employed by the professional corporation to perform services that are not usually and ordinarily considered by law, custom or practice to be services that may be performed only by a social worker.</p> <p>14(6) The registration of a professional corporation may be revoked, or its renewal withheld, by the Registrar where any of the conditions specified in subsections (1),(2),(3) or (4) no longer exist.</p> <p>14(7) Where a professional corporation ceases to fulfill any conditions specified in subsections (2) or (3) by reason only of</p> <ul style="list-style-type: none"><li>(a) the death of a member in the Association</li><li>(b) the striking off or other removal from the register of the name of a member, or</li><li>(c) the suspension or revocation of the license of a member, the professional corporation has one hundred and eighty days or such longer period as the Board may permit, from the date of death, striking off, removal, suspension or revocation, as the case may be, in which to fulfill the condition, failing which the Registrar shall revoke the registration of the professional corporation.</li></ul> <p>14(8) A professional corporation may offer social work services in its own name, subject to any conditions, limitations or restrictions as may be prescribed or as set out in its registration.</p> <p>14(9) The name of each professional corporation shall contain the words "Professional Corporation" or "Corporation professionnelle".</p> <p>15(1) The relationship of an individual member to a professional corporation, whether as a shareholder, director, officer or</p> |  |
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|                      |  | <p>employee, does not affect, modify or diminish the application to the individual member of the provisions of this Act, the by-laws or the rules.</p> <p>15(2) The liability for professional services rendered by any person carrying on the practice of social work is not affected by the fact that the social work is carried on by such a person as an employee of and on behalf of a professional corporation.</p> <p>16(1) Nothing contained in this act shall affect, modify or limit any law applicable to the confidential or ethical relationships between a social worker and a client.</p> <p>16(2) The relationship between a professional corporation carrying on the practice of social work and a person receiving the professional services of the professional corporation is subject to all applicable laws relating to the confidential and ethical relationship between a social worker and the client.</p> <p>16(3) All rights and obligations pertaining to communications made to, or information received by, a social worker apply to the shareholders, directors, officers and employees of a professional corporation.</p> |  |
| Complaints Committee | Covered in current act but is granted own section in revised legislation | <p>17(1) There shall be a Complaints Committee, appointed by the Board, composed of not fewer than two members, and at least one person who is a public representative and none of the Committee members shall be members of the Board.</p> <p>17(2) The quorum, number of Complaints Committee members, their terms of office, qualifications, and the manner of their appointment shall be established and governed by the by-laws and the by-laws may regulate the procedures, functions, and operations of the Complaints Committee and may permit the establishment of panels of the Complaints Committee to act for and to carry out and exercise all the duties and powers of the Complaints Committee provided that each panel shall include at least 1 person who is a public representative.</p> <p>17(3) The Board shall name 1 member of the Complaints</p>  | <p>The Complaints Committee is the second statutory committee. Again we recommend independence from the Board of its members as the Board hears appeals.</p> <p>It is recommended to have a public representative.</p> <p>Language is flexible to permit appointment of alternates without constraints.</p> <p>Language expresses that there is ability to resolve complaints to satisfaction of complainant and respondent.</p> |

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|  |  | <p>Committee to be chairperson.</p> <p>17(4) No person who is a member of the Discipline Committee shall be a member of the Complaints Committee.</p> <p>17(5) Upon receipt by the Association of a complaint alleging:</p> <ul style="list-style-type: none"> <li>(a) a violation of any provision of this Act, by-laws, or rules;</li> <li>(b) sexual abuse of a client;</li> <li>(c) failure to file a report as required in this Act;</li> <li>(d) professional misconduct, including negligence in the practice of the Profession;</li> <li>(e) incompetence in the practice of the Profession;</li> <li>(f) a conviction of a criminal or quasi-criminal offence in Canada, or any other jurisdiction;</li> <li>(g) the obtaining of registration as a member, in the Association by reason of misrepresentation or any improper means;</li> <li>(h) an investigation by another regulating body in New Brunswick or any other jurisdiction with respect to professional misconduct or incompetence, or imposed professional discipline as a result of a concluded investigation with respect to professional misconduct or incompetence; or</li> <li>(i) other conduct of such a nature as the Board considers should be investigated;</li> </ul> <p>it shall be referred to the Complaints Committee.</p> <p>17(6) The Complaints Committee shall consider and investigate complaints referred to it, but no action shall be taken by the Committee under subsection (10) before it has :</p> <ul style="list-style-type: none"> <li>(a) notified the respondent of the complaint and the respondent is given at least two weeks to submit in writing to the Committee any explanations or representations the respondent may wish to make concerning the matter; and</li> <li>(b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.</li> </ul> | <p>Language confirms that matters in other jurisdictions, including investigations can constitute complaints.</p> <p>Language requiring reporting of Complaints Committee to Board was in another section of the Act and has been moved here for logic</p> |
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|  |  | <p>17(7) Notwithstanding subsection (8), the Complaints Committee is not required to hold a hearing or to give the complainant or the respondent an opportunity for a hearing, or an opportunity to make oral submissions, before making a decision or giving directions under this section.</p> <p>17(8) A respondent may be requested to appear before the Complaints Committee to respond to the complaint and, if the respondent fails to appear, the Committee may proceed to deal with the complaint in accordance with subsection (10).</p> <p>17(9) The Complaints Committee may engage such persons as it deems necessary including legal counsel to assist it in the consideration and investigation of complaints and shall determine its own rules of procedure.</p> <p>17(10) The Complaints Committee, in accordance with the information it has received, may:</p> <ul style="list-style-type: none"><li>(a) direct that the matter be referred, in whole or in part, to the Discipline Committee;</li><li>(b) direct that the matter not be referred under paragraph (a); or</li><li>(c) take such action as it considers appropriate in the circumstances to resolve the complaint with the agreement of the complainant and the respondent, as long as such resolution is not inconsistent with this Act, by-laws, or rules.</li></ul> <p>17(11) The Complaints Committee shall give its decision, together with reasons, in writing to the Registrar who shall notify the complainant and respondent.</p> <p>17(12) A complainant who is not satisfied with the disposition of the complaint by the Complaints Committee may apply to the Board for a review of the treatment of the complaint, which the Board may refer to the Discipline Committee under subsection 18(3).</p> <p>17(13) In circumstances where the Complaints Committee makes a</p> |  |
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|                      |  | <p>referral under paragraph (10)(a), the Committee may suspend or place conditions on the member, pending completion of the proceedings before the Discipline Committee if it is of the opinion that a danger to the public could result from not suspending or placing conditions on the member.</p> <p>17(14) No order under paragraph (13) shall be made unless the member has been given 5 days notice of the Committee's intention and the opportunity to make representations.</p> <p>17(15) An order of the Complaints Committee under subsection (13) shall be in writing.</p> <p>17(16) An order under subsection (13) continues in force until the matter is disposed of by the Discipline Committee, unless the order is stayed pursuant to an application under subsection (17).</p> <p>17(17) A member against whom action is taken under paragraph (13) may apply to the Court for an order staying the decision.</p> <p>17(18) When an order under paragraph (13) is made, the Association shall act expeditiously with respect to the hearing of the matter by the Discipline Committee.</p> <p>17(19) The Complaints Committee shall submit a written report annually to the Board containing a summary of the complaints received during the preceding year by source and type of complaint and the disposition of such complaints.</p> |  |
| Discipline Committee |  | <p>18(1) There shall be a Discipline Committee appointed by the Board, composed of not fewer than 2 members, and 1 person who is a public representative and none of the Committee members shall be members of the Board.</p> <p>18(2) The quorum, number of Discipline Committee members, their terms of office, qualifications, and the manner of their appointment shall be established and governed by the by-laws and the by-laws may regulate the procedures, functions, and</p>  | <p>The Discipline Committee is the third statutory committee. It is recommended independence from the Board.</p> <p>It is recommended to have a public representative and small panels.</p> <p>Language is flexible to permit appointment of alternates without constraints.</p> |

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|  |  | <p>operations of the Committee and may permit the establishment of panels of the Committee to act for and to carry out and exercise all the duties and powers of the Committee provided that each panel shall include at least one person who is a public representative .</p> <p>18(3) In addition to a complaint under paragraph 17(10)(a), the Board, by resolution, may direct the Discipline Committee to hold a hearing and determine any allegation of professional misconduct or incompetence on the part of an individual.</p> <p>18(4) The Discipline Committee and the Board when acting pursuant to subsection 17(12), shall conduct its proceedings in accordance with its own rules of procedure and may do all things and engage such persons including legal counsel it deems necessary to provide for the investigation, hearing and consideration of any complaint or appeal and in no case is the Discipline Committee or the Board bound to follow the technical rules of evidence or procedure applicable in judicial proceedings.</p> <p>18(5) The Discipline Committee on being satisfied with proof of service that the individual was notified of a Discipline Committee hearing and the individual fails to appear at the hearing, may continue with the hearing, deem the individual to have admitted the substance of the complaint, and make whatever decision considered appropriate.</p> <p>18(6) An individual may be found guilty of professional misconduct by the Discipline Committee if:</p> <ul style="list-style-type: none"> <li>(a) the individual has been found guilty of an offence which, in the opinion of the Committee, is relevant to suitability to practise the Profession; or</li> <li>(b) the individual has been guilty, in the opinion of the Committee, of conduct relative to the practice of the Profession which constitutes professional misconduct including, but not limited to, that defined in the by-laws.</li> </ul> <p>18(7) The Discipline Committee may find an individual incompetent if in its opinion:</p> | <p>Language requiring reporting of Discipline Committee to Board was in another section of the Act and has been moved here for logic.</p> |
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|  |  | <p>(a) the individual has displayed a lack of knowledge, skill, judgment, or disregard for the welfare of the public of a nature or to an extent that demonstrates the individual is unfit to carry out the responsibilities of the Profession; or</p> <p>(b) the individual has a physical or mental condition or disorder of a similar nature and extent making it desirable in the interests of the public, that the individual no longer be permitted to engage in the practice of the Profession or the individual's practice of the Profession be restricted.</p> <p>18(8) When the Discipline Committee finds an individual guilty of professional misconduct or incompetence it may, by order, do any one or more of the following:</p> <p>(a) revoke the right to practise the Profession;</p> <p>(b) suspend the right to practise the Profession for a stated period, not exceeding 24 months;</p> <p>(c) accept the undertaking of the individual to limit their practice in the Profession to the extent specified in the undertaking;</p> <p>(d) impose terms, conditions or limitations on the individual including, but not limited to the successful completion of one or more particular courses of study;</p> <p>(e) impose specific restrictions on the individual, including but not limited to:</p> <p>(i) requiring the individual to engage in the practice of the Profession only under the personal supervision and direction of a member;</p> <p>(ii) requiring the individual to not alone engage in the practice of the Profession;</p> <p>(iii) requiring the individual to submit to periodic inspections by the Discipline Committee, or its delegate, of documents, records and work in connection with the individual's practice of the Profession; or</p> <p>(iv) requiring the individual to report to the Registrar or to such committee of the Board as the Discipline Committee may name on such matters with respect to the individual's practice of the Profession for such period and in such form, as the Committee may specify;</p> |  |
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|  |  | <ul style="list-style-type: none"><li>(f) reprimand, admonish or counsel the individual, and if considered warranted, direct that the fact of the reprimand, admonishment or counselling be recorded on the Register for a stated or unlimited period of time;</li><li>(g) revoke or suspend for a stated period of time any designation of the individual in the Practice;</li><li>(h) impose such fine as it considers appropriate, to a maximum of \$5,000.00, to be paid by the individual;</li><li>(i) subject to subsection (9) in respect of orders of revocation or suspension, direct that the finding and the order of the Discipline Committee be published in detail or in summary and either with or without including the name of the individual in the official publication of the Association and in such other manner or medium as it considers appropriate;</li><li>(j) fix and impose costs of any investigation or procedures by the Complaints Committee or the Discipline Committee to be paid by the individual to the Association;</li><li>(k) direct that the imposition of a penalty or order be suspended or postponed for such period, and upon such terms, or for such purpose, including but not limited to:<ul style="list-style-type: none"><li>(i) the successful completion by the individual of one or more courses of study,</li><li>(ii) the production to the Discipline Committee of evidence satisfactory to it that the individual no longer poses a danger to the public in the practice of the Profession.</li></ul></li></ul> <p>18(9) The Discipline Committee shall cause an order of the Committee revoking or suspending an individual to be published, with or without the reasons, in the official publication of the Association together with the name of the individual.</p> <p>18(10) Upon the request of an individual, the Discipline Committee shall cause the decision of the Committee that an allegation of professional misconduct or incompetence was unfounded be published in the official publication of the Association.</p> <p>18(11) Where the Discipline Committee revokes, suspends or</p> |  |
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|  |  | <p>restricts the right to practice social work on the ground of incompetence or professional misconduct involving the sexual abuse of a client, the decision takes effect immediately notwithstanding that an appeal is taken from the decision unless the court to which the appeal is taken otherwise orders.</p> <p>18(12) Where the Discipline Committee revokes, suspends or restricts the right to practice social work on a ground other than incompetence or professional misconduct involving the sexual abuse of a client, the decision does not take effect until the time for appeal from the decision has expired, or until an appeal has been disposed of or abandoned, except that when the Committee considers it is necessary for the protection of the public it may otherwise order.</p> <p>18(13) Where the Discipline Committee finds that a member has committed an act of professional misconduct or is incompetent, a copy of the decision shall be served upon the person complaining in respect of the conduct of the member.</p> <p>18(14) Where a proceeding is commenced before the Discipline Committee and the term of office of a member on the Committee expires or is terminated, other than for cause, before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if the term of office of the member had not expired or been terminated.</p> <p>18(15) In proceedings before the Discipline Committee, the Association and the individual are parties.</p> <p>18(16) An individual whose conduct is being investigated in proceedings before the Discipline Committee shall be afforded the right to be heard and to examine, before the hearing, any written or documentary evidence that will be produced, or any report the contents of which will be given in evidence at the hearing.</p> <p>18(17) Members of the Discipline Committee panel shall not have</p> |  |
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|                        |   | <p>previously participated in any investigation of the subject-matter of the hearing, and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or the representative of the party except upon notice to and opportunity for all parties to participate.</p> <p>18(18) The Discipline Committee shall submit a written report annually to the Board containing a summary of the complaints received during the preceding year by source and type of complaint and the disposition of such complaints.</p>   |   |
| <p>Public Hearings</p> | <p>Covered in current act but is granted own section in revised legislation</p> | <p>19(1) Subject to subsection (2), Discipline Committee hearings shall be open to the public.</p> <p>19(2) The Discipline Committee may order that the public, in whole or in part, be excluded from a hearing or any part of a hearing if it is satisfied that</p> <ul style="list-style-type: none"> <li>(a) financial, personal, or other matters that would otherwise be disclosed are of such nature that it is within the public interest that they not be disclosed; or</li> <li>(b) the safety or security of a person may be jeopardized.</li> </ul> <p>19(3) The Discipline Committee may make whatever order it considers necessary to prevent public disclosure, including orders prohibiting publication, broadcasting, or any other means of communication that the Committee considers may risk disclosure.</p> <p>19(4) No order shall be made pursuant to subsection (3) that prevents the publication of anything that is otherwise available to the public.</p> <p>19(5) The Discipline Committee may order that the public be excluded from that part of a hearing dealing with a motion for an order pursuant to subsection (2).</p> <p>19(6) The Discipline Committee may make any order it considers necessary to prevent public disclosure of matters disclosed in a submission relating to any motion under this section, including any</p> | <p>This is a section that will be required under review of Attorney General. Effectively this gives guidance of how to make hearings public and how to restrict reporting and related matters through publication bans.</p> |

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|                   |  | <p>order it could make under subsection (3).</p> <p>19(7) The Discipline Committee shall state at the hearing the reasons for any order made pursuant to this section.</p> <p>19(8) mWhere the Discipline Committee makes an order pursuant to subsection (2), it</p> <ul style="list-style-type: none"> <li>(a) shall allow the parties and their legal or other representatives to attend the hearing, and</li> <li>(b) may allow such other persons as it considers necessary to attend all or part of the hearing.</li> </ul> <p>19(9) Notwithstanding anything contained in this section, public attendance at a hearing does not constitute authorization to take photographs, record sound, videotape, or otherwise mechanically, electronically, or by any other means record the proceedings, and no such recording is permitted, unless specifically authorized by the Discipline Committee.</p> <p>19(10) It is professional misconduct for any individual to disclose or in any way facilitate the disclosure of matters ordered by the Discipline Committee not to be disclosed.</p> |  |
| Hearing Procedure | Covered in current act but is granted own section in revised legislation | <p>20(1) The Discipline Committee, or someone designated by it to act on its behalf, may by summons in a form prescribed by Rule, require the attendance before it of any person whose evidence may be material to the subject matter of the hearing and may order any person to produce such records, reports or other documents as appear necessary for the purpose of the hearing.</p> <p>20(2) A person served with a summons shall attend and answer all questions concerning matters being inquired into at the hearing and shall produce to the Discipline Committee all records, reports or other documents that are in that person’s custody or control.</p> <p>20(3) The testimony of any witness may be taken under oath or affirmation which may be administered by the Chairperson of the Discipline Committee or any person designated to do so on the</p>  | This is largely in place in current Act, but is given its own section for logic. |

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|  |  | <p>Chairperson's behalf.</p> <p>20(4) If a person on whom a summons has been served, either personally or by leaving a copy of the summons with some adult person at that person's last or most usual place of residence or business, fails to appear before the Discipline Committee, or upon appearing refuses to be sworn or refuses without sufficient cause to answer any question relevant to the hearing, the Committee may by application to the Court, cause the person to be cited for contempt under the provisions of the Rules of Court in the same manner and to the same extent as if the alleged contempt took place in proceedings before the Court.</p> <p>20(5) The oral evidence taken before the Discipline Committee shall be recorded and, if requested, copies of the transcript shall be furnished to the parties at their own expense.</p> <p>20(6) All findings of the Discipline Committee shall be based exclusively on evidence admitted before it.</p> <p>20(7) No member of the Discipline Committee shall participate in a decision of the Committee unless that member was present throughout the hearing and heard the evidence and argument of the parties.</p> <p>20(8) Documents and things put in evidence at a hearing of the Discipline Committee shall, upon the request of the party who produced them, be returned by the Committee within a reasonable time after the matter in issue has been finally determined.</p> <p>20(9) Where a proceeding is commenced before the Discipline Committee, and the term of office of a member thereof on the Committee expires or is terminated, other than for cause, before the proceeding is disposed of, but after evidence has been heard, the member shall be deemed to remain a member of the Committee for the purpose of completing the disposition of the proceeding as if that member's term of office had not expired or</p> |  |
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|                    |  | <p>been terminated.</p> <p>20(10) A copy of the decision of the Discipline Committee shall be served upon the individual and the person who filed the complaint.</p>   |  |
| Investigations     | Covered in current act but is granted own section in revised legislation | <p>22(1) The Registrar may appoint one or more investigators to investigate whether a member has committed an act of professional misconduct or is incompetent if:</p> <ul style="list-style-type: none"> <li>(a) the Complaints Committee has received a complaint about the member and has requested the Registrar to appoint an investigator; or</li> <li>(b) the Registrar has reason to believe that the member has committed an act of professional misconduct.</li> </ul> <p>22(2) An investigator appointed by the Registrar may at any reasonable time, and upon producing proof of his or her appointment, enter and inspect the business premises of a member and examine anything found there that the investigator has reason to believe will provide evidence in respect of the matter being investigated.</p> <p>22(3) Subsection (1) applies notwithstanding any provision in any Act relating to the confidentiality of health records.</p> <p>22(4) No person shall, without reasonable excuse, obstruct or cause to be obstructed, an investigator while the investigator is performing his or her duties under this Act.</p> <p>22(5) No person shall withhold, conceal or destroy, or cause to be withheld, concealed or destroyed, anything that is relevant to an investigation under this Act.</p> | <p>This provision is an important power and has been given its own section. Notably we are recommending that the Board no longer approve the Registrar's act of appointing an investigator. The Board serves, ultimately as an appeal function for complaints that are rejected by the Complaints Committee and ought not to be involved in the approval of investigators.</p> <p>It is recommended to confirm in the statute that PNB is obliged to participate in investigation without court order.</p> |
| Court Intervention | Covered in current Act but is granted own section in revised legislation | <p>23(1) Upon the ex parte application of an investigator, a judge of The Court who is satisfied on information by oath or solemn affirmation that the investigator has been properly appointed and that there are reasonable grounds for believing that:</p> <ul style="list-style-type: none"> <li>(a) the member being investigated has committed an act of</li> </ul>  | <p>This is largely the same in the current Act, but the sections have been separated for logic.</p>  |

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|  |  | <p>professional misconduct or is incompetent, and</p> <p>(b) there is in a building, receptacle or place anything that will provide evidence in respect of the matter being investigated,</p> <p>may issue a warrant authorizing the investigator to enter the building, receptacle or place and search for and examine or remove anything described in the warrant.</p> <p>23(2) An investigator entering and searching a place under the authority of a warrant issued under subsection (1) may be assisted by other persons and may enter a place by force.</p> <p>23(3) An investigator entering and searching a place under the authority of a warrant issued under subsection (1) shall produce his or her identification and a copy of the warrant, upon request, to any person at that place.</p> <p>23(4) A person conducting an entry or search under the authority of a warrant issued under sub- section (1) who finds anything not described in the warrant that the person believes on reasonable grounds will provide evidence in respect of the matter being investigated, may seize and remove that thing.</p> <p>23(5) An investigator, may copy, at the expense of the Association and examine a document referred to in subsection (1) or under the authority vested in section 22.</p> <p>23(6) An investigator acting under this section or section 17, may remove a document if it is not practicable to copy it in the place where it is examined or a copy is not sufficient for the purposes of the investigation and may remove any object that is relevant to the investigation and shall provide the person in whose possession it was with a receipt for the document or object.</p> <p>23(7) An investigator, where a copy can be made, under this section or section 17, shall return a document removed as soon as possible after the copy has been made.</p> <p>23(8) A copy of a document certified by an investigator to be a</p> |  |
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|              |  | <p>true copy shall be received in evidence in any proceeding to the same extent and shall have the same evidentiary value as the document itself.</p> <p>23(9) In this section, "document" means a record of information in any form and includes any part of it.</p> <p>23(10) An investigator shall report the results of the investigation to the Registrar in writing.</p> <p>23(11) The Registrar shall report the results of the investigation to the Complaints Committee that made the request or take whatever action deemed necessary if the investigation was commenced by the Registrar.</p>  |  |
| Sexual Abuse | Covered in current act but is granted own section in revised legislation | <p>24(1) The Association shall undertake measures for prevention of the sexual abuse of clients by its members.</p> <p>24(2) Such measures referred to in subsection (1) shall include</p> <ul style="list-style-type: none"> <li>(a) education of members about sexual abuse</li> <li>(b) guidelines for the conduct of members with clients,</li> <li>(c) providing information to the public respecting such guidelines, and</li> <li>(d) informing the public as to the complaint procedures under this Act.</li> </ul> <p>24(3) Measures referred to in subsection (2) may, where appropriate, be taken jointly with other organizations or associations of health professionals.</p> <p>24(4) The Association shall report to the Minister within thirty days on the request of the Minister, respecting the measures the Association is taking and has taken to prevent and deal with the sexual abuse of clients by its members.</p> <p>24(5) The Association shall report annually to the Minister respecting any complaints received concerning sexual abuse of clients by members or former members of the Association and the</p> | These provisions were added to the legislation and this is an opportunity to give it prominence with a separate section. |

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|  |  | <p>resolution of such complaints.</p> <p>24(6) A report under subsection (2) shall be made within two months after the end of each calendar year and shall contain the following information:</p> <ul style="list-style-type: none"><li>(a) the number of complaints received during the calendar year for which the report is made and the date each complaint was received;</li><li>(b) with respect to each complaint received during the calendar year for which the report is made<ul style="list-style-type: none"><li>(i) a description of the complaint in general non-identifying terms,</li><li>(ii) the decision of the Complaints Committee with respect to the complaint and the date of the decision,</li><li>(iii) if allegations are referred to the Discipline Committee, the decision of the Committee, including any penalty imposed, and the date of the decision,</li><li>(iv) whether an appeal was made from the decision of the Discipline Committee and the date and outcome of the appeal, and</li></ul></li><li>(c) with respect to each complaint reported in a previous calendar year, a report on the status of the complaint in accordance with paragraph (b) if the proceedings initiated as a result of the complaint were not finally determined in the calendar year in which the complaint was first received.</li></ul> <p>24(7) Sexual abuse of a client by a member means:</p> <ul style="list-style-type: none"><li>(a) sexual intercourse or other forms of physical sexual relations between the member and the client,</li><li>(b) touching, of a sexual nature, of the client by the member, or</li><li>(c) behaviour or remarks of a sexual nature by the member towards the client.</li></ul> <p>24(8) For the purposes of subsection (7), "sexual nature" does not include touching, behaviour or remarks of a clinical nature appropriate to the service provided.</p> |  |
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| <p>Reporting sexual abuse</p> | <p>Covered in current Act but is granted own section in revised legislation</p> | <p>25(1) A member who, in the course of practicing the Profession, has reasonable grounds to believe that another health professional has sexually abused a patient or client and who fails to file a report in writing in accordance with subsection (4), with the governing body of the health professional within twenty-one days after the circumstances occur that give rise to the reasonable grounds for the belief commits an act of professional misconduct.</p> <p>25(2) A member is not required to file a report pursuant to subsection (1) if the member does not know the name of the health professional who would be the subject of the report.</p> <p>25(3) If the reasonable grounds for filing a report pursuant to subsection (1) have been obtained from one of the member's clients, the member shall use his or her best efforts to advise the client that the member is filing the report before doing so.</p> <p>25(4) A report filed pursuant to subsection (1) shall contain the following information:</p> <ul style="list-style-type: none"> <li>(a) the name of the member filing the report;</li> <li>(b) the name of the health professional who is the subject of the report;</li> <li>(c) the information the member has of the alleged sexual abuse; and</li> <li>(d) subject to subsection (5), if the grounds of the member filing the report are related to a particular patient or client of the health professional who is the subject of the report, the name of the patient or client.</li> </ul> <p>25(5) The name of a patient or client who may have been sexually abused shall not be included in a report unless the patient or client, or if the patient or client is incapable, the patient's or client's representative, consents in writing to the inclusion of the patient's or client's name.</p> <p>25(6) Subsections 24(7) and 24(8) apply with the necessary modifications to sexual abuse of a client or patient by another health professional.</p> | <p>This provision is to be separate under its own heading.</p> |
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|                        |  | <p>25(7) No action or other proceeding shall be instituted against a member for filing a report in good faith pursuant to subsection (1).</p>   |  |
| <p>Public Offences</p> | <p>26 Except as provided in this Act, the by-laws or rules, any person not registered to practice as a social worker under this Act, or whose registration is revoked or suspended, and who</p> <ul style="list-style-type: none"> <li>a) practices as a social worker,</li> <li>b) uses the title of social worker or registered social worker, or makes use of any abbreviation of such title, or any name, title or designation which may lead to the belief that the person is a social worker,</li> <li>c) advertises or in any way or by any means holds himself out as a social worker, or</li> <li>d) acts or holds himself out in such manner as to lead to the belief that he is authorized to fill the office of or to act as a social worker</li> </ul> <p>commits an offence and is liable upon summary conviction for the first offence to a fine of not less than five hundred dollars and not more than two thousand dollars and costs, and for any subsequent offence to a fine of not less than one thousand dollars and not more than five thousand dollars and costs, or to imprisonment for not more than six months, or both, and upon failure to pay a fine to imprisonment for not more than six months.</p> <p>27 Any person who procures or attempts to procure admission to the Association for himself or for another person by making, or causing to be made, any fraudulent representation or declaration, either oral or written, or who makes any false statement in any application, declaration or other document under this Act or the by-laws, commits an offence punishable on summary conviction.</p> <p>28(1) Upon conviction of any person for an offence under section 26, the judge convicting the person may in addition to any other punishment imposed, immediately prohibit that person from engaging in the practice of social work or from</p> | <p>27(1) Commits an offence, any person, other than a member, who:</p> <ul style="list-style-type: none"> <li>(a) practices the Profession or uses orally or otherwise any title or designation allowed to be used under section 9, or uses any addition to or abbreviation of such titles, or any words, names or designations, with the intent that such use will lead to the belief that the person is a member;</li> <li>(b) advertises, holds out, or represents in any way or by any means to be a member;</li> <li>(c) wilfully procures or attempts to procure registration or licensing under this Act for that person or for another person by making, producing or causing to be made or produced any fraudulent representation or declaration, either verbal or written; or</li> <li>(d) engages in the practice of the profession.</li> </ul> <p>27(2) Any person who knowingly makes a false statement in any application or declaration signed or filed under this Act commits an offence.</p> <p>27(3) No partnership, association of persons, or corporation shall:</p> <ul style="list-style-type: none"> <li>(a) practise the Profession;</li> <li>(b) use any name, title, description or designation that will lead to the belief that it is entitled to practise the Profession;</li> <li>(c) advertise, hold itself out, or conduct itself in any manner as to lead to the belief it is entitled to practise the Profession.</li> </ul> <p>27(4) Every person, member, or manager of a partnership or Association of persons, and every shareholder, director, officer or manager of a corporation who commits an offence under this section is liable:</p> <ul style="list-style-type: none"> <li>(a) for the first offence, to a fine of not less than \$1,000.00</li> </ul> | <p>This provision is for illegal practitioners. This now follows all the regulatory matters of membership and is more logically located.</p> |

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|  | <p>doing anything for which the person was convicted.</p> <p>28(2) Any person who fails to comply with an order under subsection (1) commits an offence and is liable to a fine of not less than one thousand dollars and not more than five thousand dollars or to imprisonment for a term of not more than six months, or both, and on failure to pay the fine to imprisonment for not more than six months.</p> <p>29 Nothing in this Act applies to or prevents</p> <ul style="list-style-type: none"> <li>a) the practice of nursing by a person authorized to practise nursing under the provisions of the Nurses Act</li> <li>b) the practice of teaching by a person authorized to practise teaching under the provisions of and as defined in section 1 of An Act to Amend and Revise An Act to Incorporate The New Brunswick Teachers' Federation, The New Brunswick Teachers' Association, and l'Association des enseignants francophones du Nouveau-Brunswick, chapter 107 of the Acts of New Brunswick 1983;</li> <li>c) the practice of any occupation, calling or profession authorized by an Act of the Province of New Brunswick;</li> <li>d) the practice of a recognized and established profession of which the practice of social work is a traditional, necessary and integral part;</li> <li>e) a person from carrying out functions which may include, in part, the practice of social work, provided the person does not perform such functions for remuneration and does not represent to be a social worker;</li> <li>j) a person from carrying out, for remuneration, functions which include, in part, the practice of social work, provided such functions are performed under the supervision of a social worker and the person does not represent to be a social worker; or</li> <li>g) a person employed by a recognized volunteer social agency from carrying out functions which include, in part, the practice of social work, provided such</li> </ul> | <p>and not more than \$10,000.00;</p> <ul style="list-style-type: none"> <li>(b) for the second and each subsequent offence, to a fine of not less than \$5,000.00 and not more than \$50,000.00 or to imprisonment for a term of not more than 6 months, or to both; and</li> <li>(c) upon failure to pay a fine imposed under paragraph (a) or (b) to imprisonment for a term of not more than 6 months.</li> </ul> <p>27(5) Upon conviction of any person for an offence under subsection (1) or (3), the judge convicting the person may in addition prohibit that person from engaging in the practice of the Profession or from doing anything for which the person was convicted.</p> <p>27(6) Any person who fails to comply with an order under subsection (5) commits an offence and is liable to a fine of not less than \$1,000.00 and not more than \$10,000.00 or to imprisonment for a term of not more than 6 months, or both, and on failure to pay the fine to imprisonment for not more than 6 months.</p> <p>27(7) Any person who refuses or neglects to perform any of the duties imposed by this Act, or who violates any of the provisions of this Act, shall be liable to a penalty, when not otherwise provided for, of a sum not less than \$500.00 and not more than \$10,000.00 and in default of payment to imprisonment for a term of not more than 3 months.</p> <p>27(8) Proceedings for a contravention of this Act may be carried out by the Association without the consent of the Attorney General of New Brunswick.</p> <p>27(9) No proceedings shall be commenced for an offence under this section after 2 years from the date of commission of the offence.</p> <p>27(10) Subject to subsection (9), the Provincial Offences Procedure Act applies to the prosecution of all offences under this Act.</p> |  |
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REOPENING OF THE ACT: Revisions and Rationale Updated May 2017

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|                 | functions are restricted to carrying out the approved and recognized purposes and responsibilities of the agency, and provided the person does not represent to be a social worker, or requires any person to become registered under this Act to perform such functions. |  |                        |
| General         |   |  | Moved to end for logic |
| Regulations Act |   |  | Moved to end for logic |