



# Professional Dietitians Act

CHAPTER 361

OF THE

REVISED STATUTES, 1989

amended 1990, c. 43

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# **An Act Respecting the Nova Scotia Dietetic Association**

## **Short title**

**1** This Act may be cited as the *Professional Dietitians Act*. R.S., c. 361, s. 1.

## **Interpretation**

**2** In this Act,

- (a) "Association" means the Nova Scotia Dietetic Association;
- (b) "Board" means the Board of Directors of the Association;
- (c) "Canadian Dietetic Association" means the association incorporated under that name by letters patent in 1935 under Part II of the former *Companies Act* (Canada);
- (d) "member" means a member of the Association as described in Section 9;
- (e) "professional dietitian" means a person who is a member in good standing of the Association and whose name is entered in the register;
- (f) "register" means the register of the Association provided for in Section 10;
- (g) "Registrar" means the Registrar of the Association. R.S., c. 361, s. 2; 1990, c. 43, s. 1.

## **Nova Scotia Dietetic Association**

**3** The members of the association known as the Nova Scotia Dietetic Association and all other persons who hereafter become members of the Association under the provisions of this Act shall be a body corporate and politic under the name of the Nova Scotia Dietetic Association. R.S., c. 361, s. 3.

## **Acquisition and alienation of property**

**4** The Association may acquire by gift, devise, bequest or purchase or in any other manner any property, real or personal, for its corporate purposes and may sell, lease, mortgage, alienate or otherwise charge or dispose of the same or any part thereof, as the occasion may require. R.S., c. 361, s. 4.

## **Objects**

**5** The objects of the Association shall be to

(a) promote, encourage and improve the status of dietitians, dietitian-nutritionists and nutritionists and maintain, improve and increase the professional knowledge, ability and competency of its members;

(aa) adopt and enforce a code of ethics for its members;

(b) regulate standards of training and practice of its members; and

(c) do all such lawful things as may be incidental or conducive to the attainment of these objects. R.S., c. 361, s. 5; 1990, c. 43, s. 2.

## **By-laws of Association**

**6** The Association may make by-laws, rules or regulations not inconsistent with this Act for

(a) the governing and discipline of its members;

(b) the management of its property or properties;

(c) the registration and licensing of members;

(ca) the development, adoption and enforcement of standards of education and practice for its members;

(cb) the adopting of professional education requirements for the renewal of a licence;

(d) all other purposes necessary for the management and operation of the Association. R.S., c. 361, s. 6; 1990, c. 43, s. 3.

## **Board of Directors**

**7 (1)** The affairs of the Association shall be under the management of a Board of Directors composed of the President, the Vice-president, the President elect, the Secretary, the Registrar, the Treasurer, not less than two nor more than five members at large elected by the Association from the members in good standing and the Nova Scotia Member of the Canadian Dietetic Association as an *ex officio* member.

### **Election of directors**

(2) The members of the Board, other than the *ex officio* member, shall be elected annually at the annual meeting of the Association and the Association shall determine the number of members at large on the Board.

### **Term of office**

(3) Members of the Board, other than the *ex officio* member, shall remain in office for a period to be fixed by the by-laws of the Association and shall continue in office until their successors are elected.

### **Casual vacancy**

(4) In case of a vacancy in the Board through the resignation or death of a member, or otherwise, the remaining members may fill the vacancy by election of a duly qualified member of the Association, who shall act until the next annual meeting.

### **Voting**

(5) The election of the members of the Board other than the *ex officio* member, and all other questions voted on at a meeting of the Association, shall be decided by a plurality of the votes of members or their proxies present in person, or in such other manner as may be provided by by-laws, each member in good standing being entitled to one vote. R.S., c. 361, s. 7; 1990, c. 43, s. 4.

### **By-laws of the Board**

**8 (1)** The Board may make by-laws, rules or regulations, not contrary to law or to this Act, for the purposes relating to the affairs, business and property of the Association and its management, government, aims, objects and interests, including

- (a) the licensing of a member and the issuance of a licence;
- (b) the appointment, functions, duties and removal of officers or servants of the Association, and their remuneration;
- (c) the time at which and the place where the annual meetings of the Association shall be held;
- (d) the amount of and method of collecting fees;
- (e) the suspension and expulsion of members;
- (f) the conduct of all other necessary business of the Association.

## **Confirmation by general meeting**

(2) Such by-laws, rules and regulations, unless in the meantime confirmed by a general meeting of the Association duly called, shall respectively have force only until the next annual meeting following their approval, and in default of confirmation thereat shall be null and void. R.S., c. 361, s. 8.

## **Membership**

9 (1) Upon payment of the proper fees, the Board shall consider for membership in the Association persons who produce with their application for membership

(a) evidence satisfactory to the Board as to good character and professional reputation;

(b) evidence that the applicant meets the minimum requirements for professional membership in the Canadian Dietetic Association;

(c) proof that the applicant

(i) has a bachelors, masters or doctoral degree from an educational institution which is acceptable to the Association and has taken such university or college courses as are determined by the Association, or

(ii) has an educational background which is declared by the Association to be equivalent to the educational requirements described in subclause (i);

(d) proof that the applicant has

(i) completed a dietetic internship or equivalent planned professional foundation approved by the Board, or

(ii) graduate experience acceptable to the Board in human nutrition concurrent with or following completion of a masters or doctoral degree in food, nutrition or food service administration; and

(e) where the Board so recommends, proof that the applicant has successfully completed a qualifying examination set by the Board.

## **Alternate qualifications**

(1A) Notwithstanding subsection (1), the Board may grant membership in the Association to a person who is a member of the Canadian Dietetic Association and who either

(a) has practised as a dietitian or as a dietitian-nutritionist within the three-year period immediately prior to the persons application to the Association for membership and who

is a member in good standing of a dietetic association of another province if that association has, in the opinion of the Board, standards of education and experience for admission to membership which are at least equivalent to the standards of education and experience for admission to membership in the Association; or

(b) provides evidence of competence satisfactory to the Board.

### **Associate member**

(2) The Board shall have the power to create by by-law a class of membership to be known as associate membership, but no associate member shall be entitled to hold office in the Association, to be licensed or to vote at meetings of the Association.

### **Honourary membership**

(3) The Board may grant an honorary membership in the Association to

(a) a member who, in the opinion of the Board, has made an outstanding contribution in the field of dietetics; or

(b) a person who is not a member of the Association as long as the grant of the honorary membership is unanimously approved by the Board and by a majority of the members of the Association. R.S., c. 361, s. 9; 1990, c. 43, s. 5.

### **Register**

10 (1) The Board shall cause to be kept by the Registrar a register in which shall be entered the names of those licensed under this Act and associate members.

### **Inspection of register**

(2) The register shall be open to inspection during regular office hours by any person free of charge provided a request for this inspection has been made to the Registrar.

### **Register as prima facie evidence**

(3) The register, or a copy thereof to be certified by the Registrar, shall be *prima facie* evidence that the persons therein named are members of the Association in good standing. R.S., c. 361, s. 10.

### **Issue of licence**

11 (1) Subject to the provisions of subsection (1) of Section 8, the Registrar shall issue a licence to every person admitted to membership in the Association.

## **Renewal of licence**

(2) The Registrar shall issue a renewal of licence to a member upon payment of the prescribed annual fee and production of such evidence of continuing professional education as may be required by the Association. R.S., c. 361, s. 11; 1990, c. 43, s. 6.

## **Designation of professional dietitian**

**12 (1)** Every person licenced pursuant to this Act may use the designation "Dietitian" or "Dietician", "Dietitian-Nutritionist", "Nutritionist", "Professional Dietitian" or "Professional Dietician", "Professional Dietitian-Nutritionist", "Professional Nutritionist", "Dietetiste", "Dietetiste-Nutritionniste", "Dietetiste Professionelle", "Dieteticienne", "Nutritionniste" or the initials "P. Dt." or "Dt. P.".

## **Prohibited use of designation**

(2) A person not licensed under this Act who is not qualified for membership in the Association may not use any of the following titles or designations: "Dietitian" or "Dietician", "Dietitian-Nutritionist", "Nutritionist", "Professional Dietitian" or "Professional Dietician", "Professional Dietitian-Nutritionist", "Professional Nutritionist", "Dietetiste", "Dietetiste-Nutritionniste", "Dietetiste Professionelle", "Dieteticienne", "Nutritionniste" or the initials "P.Dt." or "Dt.P." either alone or in combination with other words, letters or descriptions.

## **Offence and penalty**

(3) Any person who violates subsection (2) or in any way represents that that person is a professional dietitian or who by false and fraudulent declaration attempts to procure registration under this Act, is guilty of an offence and liable on summary conviction to a fine not exceeding two thousand dollars and in default of payment to imprisonment for a period not exceeding six months. R.S., c. 361, s. 12; 1990, c. 43, s. 7.

## **Filing of by-law or regulation**

**13 (1)** The Association shall file in the Department of Health and Fitness two copies, certified by the Secretary to be true copies, of

(a) all by-laws, rules and regulations made under this Act; and

(b) all amendments made to those by-laws, rules and regulations,

within thirty days after they are made.

### **Code of ethics deemed by-law**

(2) Where the Association adopts a code of ethics governing its members, and subscription thereto or observance thereof is a condition of membership, the code of ethics shall be for the purpose of this Section and of Sections 6 and 8 to be deemed to be a by-law made under this Act.

### **Filing of amendment of by-law or regulation**

(3) Where a by-law, rule or regulation is amended, two copies thereof shall be filed with the amendment.

### **Effective date**

(4) All by-laws, rules and regulations and amendments thereto shall take effect after the passing thereof or on a date stated therein for the purpose, whichever is the later, and upon approval by the Minister of Health and Fitness.

### **Failure to file**

(5) Failure to file any by-law, rule or regulation or amendment as required by this Section shall render the by-law, rule or regulation or amendment ineffective as from the expiration of the time allowed for filing it and it shall be deemed to have been revoked. R.S., c. 361, s. 13.

### **Revocation or suspension of licence**

**14 (1)** Subject to subsection (2), the Board, by a two-thirds majority of members personally present and voting at a duly convened meeting of the Board, may, for cause, revoke the licence of any member or suspend the licence of any member for such a period as the Board may in its discretion decide.

### **Grounds for revocation or suspension**

(2) The licence of any member may be suspended or revoked on any of the following grounds:

- (a) dishonesty;
- (b) incompetence in his or her performance;
- (c) fraud or misrepresentation in the obtaining of a membership or licence;
- (d) default of not less than forty-five days in payment of the annual fee fixed by the by-laws, rules and regulations of the Association;

(e) breach of the code of ethics adopted pursuant to this Act.

### **Name struck upon revocation**

(3) The name of a person whose licence is revoked shall be struck off the register and shall not again be entered therein except by the direction of the Board.

### **Complaint**

(4) The Board may hear any complaints for which membership or licence could be revoked under subsection (2). R.S., c. 361, s. 14; 1990, c. 43, s. 8.

### **Notice of proposed refusal or revocation**

15 (1) Where the Board proposes to refuse to issue a licence or renew a licence or proposes to suspend or revoke a licence, it shall serve notice of this proposal, together with written reasons therefor, on the applicant or licensee.

### **Notice of right to require hearing**

(2) A notice under subsection (1) shall inform the applicant or licensee that the applicant or licensee is entitled to a hearing by the Board if the applicant or licensee mails or delivers, within fifteen days after the notice under subsection (1) is served on the applicant or licensee, notice in writing requiring a hearing to the Board, and the applicant or licensee may so require such a hearing.

### **If hearing not required**

(3) Where an applicant or licensee does not require a hearing by the Board in accordance with subsection (2), the Registrar may carry out the proposals stated in his notice under subsection (1).

### **If hearing required**

(4) Where an applicant or licensee requires a hearing by the Board in accordance with subsection (2), the Board shall appoint a time for and hold the hearing and, on the application of the Registrar at the hearing, may by order direct the Registrar to

(a) carry out his proposal or refrain from carrying out his proposal; and

(b) take such action as the Board considers the Registrar ought to take in accordance with this Act and the regulations,

and for such purposes the Board may substitute its opinion for that of the Registrar.

### **Terms and conditions of order or licence**

(5) The Board may attach such terms and conditions to its order or the licence as it considers proper to give effect to the purposes of this Act.

### **Extension of time**

(6) The Board may extend the time for the giving of notice requiring a hearing by an applicant or licensee under this Section either before or after the expiration of such time where it is satisfied that there are *prima facie* grounds for granting relief to the applicant or licensee pursuant to a hearing and that there are reasonable grounds for applying for the extension, and the Board may give such directions as it considers proper consequent upon the extension.

### **Continuation of licence pending renewal**

(7) Where before expiry of a persons licence, the person has applied for renewal of the licence and paid the prescribed fee, the licence shall be deemed to continue

(a) until the renewal is granted; or

(b) where the person is served with notice that the Board proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing by the Board has expired and, where a hearing is required, until the Board has made its decision. R.S., c. 361, s. 15.

### **Party to proceeding**

**16 (1)** The Registrar, the applicant or licensee who has required the hearing and such other persons as the Board specifies are parties to proceedings before the Board under this Act.

### **Opportunity to comply before hearing**

(2) Notice of a hearing under Section 15 shall afford the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

### **Opportunity to examine evidence**

(3) An applicant or licensee who is a party to proceedings under Section 15 shall be afforded an opportunity 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.

### **Prior information of certain allegations**

(4) Where the good character, propriety of conduct or competence of a party is an issue in a hearing, the party is entitled to be furnished prior to the hearing with reasonable information of any allegations with respect thereto.

### **Public or private hearing**

(5) A hearing shall be open to the public except where the Board is of the opinion that intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public, in which case the Board may hold the hearing concerning any such matters in camera.

### **Rights of party at hearing**

(6) A party to a hearing may at a hearing

(a) be represented by counsel or an agent;

(b) call and examine witnesses and present arguments and submissions;

(c) conduct cross-examinations of witnesses reasonably required for a full and fair disclosure of the facts in relation to which they have given evidence.

### **Duties of directors respecting hearing**

(7) Members of the Board holding a hearing shall not have taken part before the hearing in any investigation or consideration 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 his or her representative except upon notice to and opportunity for all parties to participate, but the Board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

### **Recording of oral evidence**

(8) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies of the recording or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

### **Findings of fact**

(9) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible under Sections 17 and 18 or matters that may be noticed under those Sections.

### **Participation in decision of Board**

(10) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless the member of the Board was present throughout the hearing and heard the evidence and argument of the parties.

### **Release of exhibits**

(11) Documents and things put in evidence at the hearing shall, upon the request of the person who produced them, be released to that person by the Board within a reasonable time after the matter in issue has been fully determined. R.S., c. 361, s. 16; 1990, c. 43, s. 9.

### **Admissible evidence**

17 (1) Subject to subsections (2) and (3), the Board may admit as evidence at a hearing, whether or not given or proven under oath or affirmation or admissible as evidence in a court,

(a) any oral testimony;

(b) any document or other thing,

relevant to the subject-matter of the proceedings and may act on such evidence, but the Board may exclude anything unduly repetitious.

### **Inadmissible evidence**

(2) Nothing is admissible in evidence at a hearing that

(a) would be inadmissible in a court by reason of any privilege under the law of evidence;  
or

(b) is inadmissible by any statute.

### **Restriction on subsection (1)**

(3) Nothing in subsection (1) overrides the provisions of any Act expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence in any proceedings.

### **Admissibility of copy**

(4) Where the Board is satisfied as to their authenticity, a copy of a document or other thing may be admitted as evidence at a hearing.

### **Copy of filed document**

(5) Where a document has been filed in evidence at a hearing, the Board may, or the person producing it or entitled to it may with the leave of the Board, cause the document to be photocopied and the Board may authorize the photocopy to be filed in evidence in the place of the document filed and release the document filed, or may furnish to the person producing it or the person entitled to it a photocopy of the document filed certified by a member of the Board.

### **Admissibility of copy of filed document**

(6) A document purporting to be a copy of a document filed in evidence at a hearing, certified to be a true copy thereof by a member of the Board, is admissible in evidence in proceedings in which the document is admissible as evidence of the document. R.S., c. 361, s. 17.

### **Judicial notice**

18 The Board may, in making its decision in any hearing, take notice of facts that may be judicially noticed. R.S., c. 361, s. 18.

### **Appeal**

19 (1) Any party to a hearing before the Board may appeal from the decision of the Board to a judge of the Trial Division of the Supreme Court and therefrom to the Appeal Division of the Supreme Court.

### **Right of Minister to be heard**

(2) The Minister of Health and Fitness is entitled to be heard by counsel or otherwise upon the argument of an appeal under this Section.

### **Record on appeal**

(3) The Board shall certify, to the prothonotary of the Supreme Court, the record of the proceedings before the Board which, together with a transcript of the evidence before the Board if it is not part of the Boards record, shall constitute the record in the appeal.

## **Grounds of appeal and powers of Court**

(4) An appeal under this Section may be made on questions of law or fact or both and the Court may confirm or alter the decision of the Board or direct the Registrar to do any act the Registrar is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the Board as the Court considers proper and the Court may substitute its opinion for that of the Registrar or the Board.

## **Effect of decision pending appeal**

(5) Notwithstanding that an applicant or licensee has appealed under this Section from a decision of the Board, unless the Board otherwise directs, the decision of the Board is effective until the appeal is disposed of. R.S., c. 361, s. 19; 1990, c. 43, s. 10.

## **Service of notice**

20 (1) Except where otherwise provided, any notice required by this Act to be served may be served personally or by registered mail addressed to the person to whom notice is to be given at the persons last known address and, where notice is served by registered mail, the service shall be deemed to have been made on the fifth day after the day of mailing unless the person to whom notice is given establishes that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the persons control receive the notice until a later date.

## **Substituted service**

(2) Notwithstanding subsection (1), the Board may order any other method of service in respect of any matter before the Board. R.S., c. 361, s. 20.

## **No action lies**

21 No action or other proceeding for damages shall be instituted against the Registrar, the Board or any member of the Board or anyone acting under the authority of such Registrar, Board or member, for any act done in good faith in the execution or intended execution of the persons duty or for any alleged neglect or default in the execution in good faith of the persons duty. R.S., c. 361, s. 21.

