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# The Atlantic Provinces Medical Peer Review



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## Enabling Legislation

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The Atlantic Provinces Medical Peer Review Program is mandated by enabling legislation within the Medical Acts of New Brunswick, Newfoundland & Labrador & Prince Edward Island, the wording of which is almost identical in all four Acts.

Following is the text from the New Brunswick Medical Act:

### **THE *MEDICAL ACT* 1981**

#### **An Act Respecting the New Brunswick Medical Society and the College Of Physicians and Surgeons of New Brunswick**

**62.1** Repealed: 1993, c.76, s.2.

**62.1(1)** In this section and in [sections 62.2](#) and [69](#)

"**Agreement**" means the agreement among any or all of the Licensing Authorities or Medical Societies in the Provinces of New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland referred to in subsection (3);

"**Assessment**" means an assessment pursuant to a peer assessment program established under this section;

"**Assessors**" means the assessors appointed by the Peer Assessment Committee under subsection (5);

"**Licensing Authorities**" means the College of Physicians and Surgeons of New Brunswick, the Provincial Medical Board of Nova Scotia, the College of Physicians and Surgeons of Prince Edward Island, and the Newfoundland Medical Board, or their successors;

"**Medical Societies**" means the [New Brunswick Medical Society](#), the Medical Society of Nova Scotia, the Medical Society of Prince Edward Island, Canadian Medical Association, Prince Edward Island Division, and the Newfoundland Medical Association, or their successors.

**62.1(2)** The Council may establish a Peer Assessment Committee.

**62.1(3)** The College may

(a) enter into an agreement with any or all of the other Licensing authorities and Medical Societies for the establishment of a joint Peer Assessment Committee; and

(b) agree with the other Licensing Authorities and Medical Societies to amend the agreement from time to time.

**62.1(4)** The Agreement shall

(a) authorize the Peer Assessment Committee to do or cause to be done, on behalf of the parties, any or all such things as the parties thereto are otherwise empowered to do and deem necessary for the development and administration of a peer assessment program;

- (b) provide for the financing of the operations of the Peer Assessment Committee and for cost-sharing arrangements;
- (c) provide for the preparation of an annual budget and its approval by the Licensing Authorities and Medical Societies;
- (d) provide for equal representation from each of the Licensing Authorities and Medical Societies which are signatories to the Agreement;
- (e) provide for the incorporation of the Peer Assessment Committee if considered advisable to achieve the objectives of the Committee; and
- (f) contain such other provisions as may be necessary or desirable to provide for the administration of the Peer Assessment Committee and for its operations.

**62.1(5)** The Peer Assessment Committee may appoint members of the College or persons licensed as medical practitioners in Nova Scotia, Prince Edward Island, or Newfoundland, or in other provinces of Canada, as Assessors for the purposes of the application of the peer assessment program to members of the College.

**62.1(6)** Subject to the approval of the Council, the Peer Assessment Committee shall develop and administer a peer assessment program including:

- (a) the assessment of the standards of practice of members including, but not limited to:
  - (i) standards for the clinical assessment and care of patients, and
  - (ii) standards for the maintenance of records of care administered to patients,
- (b) the selection and education of Assessors,
- (c) communication with physicians to be assessed,
- (d) budgetary and expense arrangements,
- (e) the preparation of assessment reports,
- (f) the development of policy and procedures of the Peer Assessment Committee and their delegation to subcommittees, Assessors, or employees as the Committee deems appropriate; and
- (g) such further activities, including the establishment of other committees or subcommittees, for the better administration of the peer assessment program.

**62.1(7)** Every member whose standards of practice are the subject of an Assessment shall co-operate fully with the Peer Assessment Committee and Assessors.

**62.1(8)** Without limiting the generality of the co-operation required by subsection (7), a member shall:

- (a) permit Assessors to enter and inspect the premises where the member engages in the practice of medicine;
- (b) permit the Assessors to inspect the member's records of care administered to patients;
- (c) provide to the Peer assessment Committee and Assessors, in the form required, information requested by the Committee or Assessors, as the case may be, in respect of the clinical assessment and care of patients by the member or the member's records of care administered to patients;
- (d) confer with the Peer Assessment Committee or Assessors when required to do so by the Committee or Assessors;
- (e) permit the reassessments the Peer Assessment Committee or Assessors deem necessary for the proper administration of a peer assessment program; and
- (f) comply with the remedial recommendations of the Peer Assessment Committee.

**62.1(9)** Upon completion of an assessment, an Assessor shall report to the Peer Assessment Committee who may

- (a) receive the report of the Assessor and make no recommendations to the member assessed, or

(b) confer with the member assessed and make any remedial recommendations to him as the Committee considers appropriate, and direct the member to comply with the recommendations.

**62.1(10)** Costs incurred by the member in implementing the remedial recommendations made by the Committee shall be payable by the member and shall not be the responsibility of the Peer Assessment Committee, the Licensing Authorities or the Medical Societies.

**62.1(11)** Where an Assessor or a member of the Peer Assessment Committee learns, in the course of an assessment, that a member of the College may be guilty of professional misconduct, or may be incapacitated or unfit to practise, the Assessment shall be terminated, the member shall be advised, and the matter shall be referred to the College to be dealt with as a complaint. The Assessor or a member of the Peer Assessment Committee shall not provide any information to the College except the information necessary to identify the nature of the complaint. Nothing in this subsection prevents any other person from providing evidence to establish the professional misconduct, incapacity or fitness to practise of a member.

**62.1(12)** Each year the Peer Assessment Committee shall prepare and publish a report on its activities for the preceding year.

**62.2(1)** In this section

**"Legal Proceeding"** means

(a) a proceeding in any court, including a proceeding for the imposition of punishment by fine, penalty or imprisonment to enforce an Act of the Legislature or a regulation made under that Act, or any civil proceeding, and

(b) a disciplinary proceeding pursuant to this Act or pursuant to the governing legislation of any of the other Licensing Authorities;

**"Witness"** means any member or associate member or officer or employee of the College, any Assessor or former Assessor, and any other person who, in connection with, or in the course of, a Legal Proceeding is called upon to provide information, to answer, orally or in writing, a question, or to produce a document, whether under oath or not.

**62.2(2)** A Witness in a Legal Proceeding, whether a party or not, is excused from

(a) providing any information obtained by the Witness in the course of or in relation to an assessment; and

(b) producing any document made by the Peer Assessment Committee, an Assessor appointed under this section, or any other document which was prepared pursuant to or in relation to an assessment.

**62.2(3)** Subsection (2) does not apply to

(a) records maintained by hospitals as required by the *Public Hospitals Act* or regulations; or

(b) medical records maintained by attending physicians pertaining to a patient.

**62.2(4)** Notwithstanding that a Witness

(a) is or has been an Assessor or a member of, or a member of a subcommittee of,

(b) has participated in the activities of, or

(c) has prepared a document for or has provided information to, the Peer Assessment Committee, the Witness is not, subject to subsection (2), excused from answering any question or producing any document that the witness is otherwise bound to answer or produce.

**62.2(5)** An Assessor or a member of the Peer Assessment Committee shall not provide evidence against a member in a disciplinary matter with respect to information given by the member to the Assessor or a member of the Peer Assessment Committee in the course of an Assessment of the member unless the member has knowingly given false information during the Assessment or the disciplinary matter. Nothing in this subsection prevents any other person from providing evidence against a member in a disciplinary matter with respect to the information given by the member in the course of his or her Assessment.

**63** Sections 54 to 62.2 and all regulations under this Act which are applicable to members of the College apply with all necessary modifications to former members, associate members, and former associate members unless otherwise expressly provided by this Act or the regulations.

**69** No action or other proceeding for damages or any other remedy may be brought against the Licensing Authorities, Medical Societies or the Peer Assessment Committee, the Registrar, an officer or employee of the Licensing Authorities, Medical Societies or the Peer Assessment Committee, an Assessor, a member of a committee or subcommittee of the Licensing Authorities, Medical Societies or the Peer Assessment Committee, or a member of the Council or committee of Council, or of a Board of Inquiry

(a) for any act or failure to act, or any proceeding initiated or taken, in good faith under this Act, or in carrying out their duties or obligations as an officer, employee or member under this Act, or

(b) for any decision or order made or enforced in good faith under this Act.

**69.1** No action or other proceeding for damages or any other remedy may be brought against the Council, or any other person, including a member, who, in good faith, makes a complaint to the College, or provides such other report as may be required under this Act or the regulations

(a) that a member or associate member is guilty of professional misconduct; or

(b) that a member or associate member is unfit to practise.