

EXPLANATORY NOTES

BILL No. 55

An Act to amend *The Medical Profession Act, 1981*

Clause of Bill

- 1 *The Medical Profession Amendment Act, 2026.*
- 2 *The Medical Profession Act, 1981 – SS 1981, c M-10.1.*

3 **Existing Provision**

Investigative powers

47.1 (10) A judge of the Provincial Court of Saskatchewan, on an application without notice by the council or the executive committee, may issue an order authorizing a person named in the order, together with any peace officer called to assist that person, to enter and search, by force if necessary, any building, dwelling, receptacle, premises or place specified in the order for any book, record, document or thing and to examine them, if the judge is satisfied that there are reasonable grounds for believing that there is in any building, dwelling, receptacle, premises or place any book, record, document or thing relating to the person registered under this Act who is being investigated that will afford evidence:

- (a) of a contravention of section 80; or
- (b) that the person is guilty of unbecoming, improper, unprofessional or discreditable conduct.

2023, c.6, s.7-11.

Explanation

Section 47.1(10) is amended to make it available for investigation of persons who are not licensed to practice medicine.

4 **Existing Provision**

Practising defined

79 Every person is deemed to practice medicine within the meaning of this Act who:

- (a) holds himself out as being able to diagnose, treat, operate or prescribe for any human disease, pain, injury, disability or physical condition; or
- (b) offers or undertakes by any means or methods to diagnose, treat, operate or prescribe for any human disease, pain, injury, disability or physical condition.

1980-81, c.M-10.1, s.79.

Explanation

Section 79 is amended to allow for faster government response when necessary and to make the provision gender neutral.

5 Existing Provision

None.

Explanation

New sections 79.1 to 79.3 are modelled on similar provisions in *The Regulated Health Professions Act* (RHPA). The College of Physicians and Surgeons of Saskatchewan (CPSS) has requested the power to seek an injunction to prohibit a person from practising medicine without a licence.

Explanation (2)

Section 79.2 applies only to potential contravention of section 79.1 or section 80 for unlawfully practising medicine. It is appropriate to require a court order for obtaining information from a person who is not part of the licensing regime. This allows CPSS to seek an order for provision of information and production of records.

6 Existing Provision

Penalty for unlawfully practising

80(1) A person who is not registered under this Act and who:

- (a) for hire, gain or hope of reward:
 - (i) engages in, professes to engage in or advertises to give advice in any aspect of practice; or
 - (ii) furnishes any medicine or treats any disease or ailment by medicine, drugs or any form of treatment, influence or appliance;
- (b) takes or uses any name, title, addition or description representing, implying or calculated to lead people to infer that the person is registered under this Act to practise or that the person is recognized by law as a physician, surgeon, physician assistant or podiatric surgeon;
- (c) assumes, uses or employs the term ‘doctor’, ‘surgeon’, ‘physician’, ‘physician assistant’ or ‘podiatric surgeon’, or any affix or prefix indicative of any such

title, as an occupational designation that relates to the treatment of human ailments, or advertises or holds oneself out as such;

- (d) pretends to be a physician, doctor of medicine, surgeon, physician assistant, podiatric surgeon, medical practitioner or healer of the sick;
- (e) assumes any title, addition or description other than that which he actually possesses and is legally entitled to use under this Act;

is guilty of an offence and liable on summary conviction, in the case of a first offence, to a fine of not more than \$5,000, in the case of a second offence, to a fine of not more than \$10,000, and, in the case of a third or subsequent offence, to a fine of not more than \$15,000.

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

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

1980-81, c.M-10.1, s.80; 1989-90, c.43, s.28; 2000, c.15, s.12; 2002, c.21, s.40; 2023, c36, s.16.

Explanation

Subsection 80(1) is amended to allow for faster government response when necessary. Clause 80(1)(e) is amended to ensure the provision is gender neutral. The fine amounts have been increased as the Ministry of Health recommends an increase to enhance significant deterrence of unlawful practice of medicine. The amendments also make fines for offences committed by corporations higher than fines for offences committed by individuals. Subsection 80(2) is repealed and re-drafted for clarity.

7 Existing Provision

None.

Explanation

A provision similar to subsection 80.1(1) is in the RHPA but language has been amended and strengthened to make it clearer that it is the responsibility of the CPSS to prosecute offences under the MPA.

Explanation (2)

Because the Ministry of Health is proposing that the Financial Services Branch repurpose \$100,000 from regulator funding to expand CPSS' investigative power and capacity to prosecute persons not registered under the Act, ss. 80.1(2) has been added to provide authority to do so, including the ability to seek a court ordered injunction. The provision also gives the Minister of Health the ability to place conditions on the funding.

8 Existing Provision

Limitation of prosecution

81 No prosecution shall be commenced for an offence against section 80 of this Act after the expiration of one year from the date of the commission of the alleged offence.

1980-81, c.M-10.1, s.81; 1989-90, c.43, s.29.

Explanation (1)

Section 81 is repealed and re-drafted to remove the one (1) year limitation on commencement of prosecutions for offences against section 80 and increase it to two (2) years for contraventions of section 79.1 or 80 to allow more time to investigate and commence a prosecution. The limitation period in the RHPA is also two years.

Explanation (2)

Subsection (1) is in the RHPA and is based on wording in *The Limitations Act*. It refers to the date on which the contravention is discovered rather than the date of commission of the offence. Subsection (2) adds clarity by indicating when a contravention is "discovered". Subsection (3) applies to continuing offences, providing that a separate contravention occurs on each day that the offence continues. Subsection (4) clarifies that if a contravention of section 80 occurred before these new limitation provisions come into force, the one-year limitation period that applied at the time of the contravention is the one that applies

9 New Provision

Regulations

96.1 The Lieutenant Governor in Council may make regulations:

(a) defining, enlarging or restricting the meaning of any word or expression used in

this Act but not defined in this Act;

(b) for the purposes of section 79, exempting activities from the meaning of ‘to practise medicine’;

(c) for the purposes of section 80, exempting activities that do not constitute an offence pursuant to that section;

(d) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;

(e) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

Explanation

New section 96.1 will permit the Lieutenant Governor in Council to make regulations for the purposes of section 79, exempting activities from the meaning of “to practise medicine” and for the purposes of section 80, exempting activities that do not constitute an offence pursuant to that section.

Prepared by the Ministry of Health