

LEGISLATIVE ASSEMBLY OF THE
NORTHWEST TERRITORIES
7TH COUNCIL, 53RD SESSION

RECOMMENDATION TO COUNCIL

NO. 5-53

TABLED ON JUNE 18, 1974



Not for release before
tabling during the
53rd session of Council

COUNCIL OF THE NORTHWEST TERRITORIES
CANADA

RECOMMENDATION TO COUNCIL 5-53

ORDINANCES FOR PROFESSIONS
OCCUPATIONS AND OTHER BUSINESS GROUPS

DISPOSITION

Tabled	To Committee	Accepted as Read	Accepted as Amended	Deferred (to Session)	Rejected	Noted not Considered
<i>June 18</i>	<i>June 27</i>		<i>June 27</i>			

ORDINANCES FOR PROFESSIONS
OCCUPATIONS AND OTHER BUSINESS GROUPS

On February 6, 1974, Question W29-51 was asked in session of the Council of the Northwest Territories by Air Marshal Campbell. It reads as follows:

"Mr. Commissioner, the following professions are governed by Northwest Territories ordinances: legal, medical doctors and specialists, registered nurses, certified nursing assistants, teachers, dentists, dental mechanics, insurance & securities salesmen & brokers, pawnbrokers, movie theatres, door-to-door salesmen. The following professions are governed in bylaws in most, if not all, of the provinces but not in the Northwest Territories: engineers, architects, accountants, car dealers, credit reporting agencies.

Question

Would the Administration table a program as to when draft ordinances covering the aforementioned professions will be presented to Council.

By way of comment it would seem that engineers and car dealers should receive priority."

At the present time, the Northwest Territories has enacted ordinances in this field as follows:

Certified Nursing Assistants Ordinance
Dental Mechanics Ordinance
Dental Profession Ordinance
Insurance Ordinance
Legal Profession Ordinance
Medical Profession Ordinance
Motion Pictures Ordinance
Optometry Ordinance
Pharmacy Ordinance
Registered Nurses Ordinance
Veterinary Profession Ordinance

The number of persons registered under the above is as follows:

Certified Nursing Assistants Ordinance

- none (this ordinance was passed in January of 1973 and the administrative mechanics have not been worked out with the parties concerned.)

Dental Mechanics Ordinance

- none

Dental Profession Ordinance

- (a) Registered and license - (resident) 7, (non-resident) 3.
- (b) Dental Permits -(resident) none, (non-resident) 12

Insurance Ordinance

- (a) Accident and sickness - (resident) none, (non-resident) 1.
- (b) General - (resident) 21, (non-resident) 19.
- (c) Life - (resident) 9, (non-resident) 21.

Legal Profession Ordinance

- (resident) 18 - seven of whom are federal or Northwest Territories government personnel, (non-resident) 71.

Medical Profession Ordinance

- (a) Registered and licensed - (resident) 18, (non-resident) 1.
- (b) Annual permits - (resident) 6, (non-resident) 44.
- (c) Limited permits - (resident) 2, (non-resident) 13.

Motion Pictures Ordinance

- (a) Exhibitors - 5 (resident).
- (b) Motion picture operators - 16 (resident).

Optometry Ordinance

- (resident) none, (non-resident) 3.

Pharmacy Ordinance

- (resident) 10, (non-resident) 3.

Registered Nurses Ordinance

- none (this ordinance was passed in January of 1973 and the administrative mechanics have not been worked out with the parties concerned).

Veterinary Profession Ordinance

- (resident) 1, (non-resident) 2.

Some ordinances, for example, the Insurance Ordinance, provide for qualifications, licensing, and penalties for non-compliance (of agents).

The ordinances applicable to the professions (legal, dental, medical, etc.) contain rather detailed provisions.

Basically the contents are as follows:

1. The Commissioner may, upon receiving certain documentation, register a professional person and grant annual licenses to that person upon the payment of fees prescribed by the Commissioner. The documentation that is usually required is proof of education and membership in the same profession in another specified jurisdictions (a certificate of good standing) and evidence of good character.
2. Penalties are provided for non-compliance with the provisions of the ordinance.
3. A disciplinary procedure is outlined whereby the Commissioner may:
 - (a) in some instances take direct action;
 - (b) in other instances appoint a board, composed of members of the profession concerned, to investigate and recommend action.

Appeal procedures are also outlined

In the provinces, a large number of professions and businesses are created by provincial statute. In the province of Alberta there are approximately thirty such statutes; in Saskatchewan approximately fifty; and in British Columbia approximately forty.

In addition to the professions and businesses that we cover by ordinance, the following are some examples of provincial acts:

Agrologists
Architects
Auctioneers
Certified Public Accounts
Chartered Accounts
Chiropody
Collection Agents
Direct Sellers
Engineering Profession
Motor Dealers
Naturopathy
Professional Dietitians
Registered Music Teachers

Seed Dealers
Veterinarians
X-ray Technicians

Some of these acts, for example the Collection Agents Act, are regulatory and provide for the appointment of a registrar, qualifications for licensing, powers to suspend, procedures for appeal, etc.

The acts dealing with the professions (legal, medical, dental, etc.) create an association or society that is completely independent of government.

These acts:

1. Set up or constitute an association or society and establish its powers.
2. Provide for a governing body and qualifications and procedures for electing same.
3. Outline the powers of the governing body.
4. Set out provisions covering membership and enrolment.
5. Set out disciplinary procedures including procedures for appeals.
6. Make provision for the protection of persons dealing with members of the society or association.

In recent years there has been a growing concern among the public at large that many of the professions and occupations are operating "behind closed doors". so to speak. This has led to studies, recommendations, and in some instances to the appointment of lay persons to some governing bodies.

In December of 1973 a Special Legislative Committee on professions and occupations reported to the Legislative Assembly of Alberta. The consolidated recommendations, twenty-eight in number, are attached to this paper.

Legislation covering professions and occupations could be developed in several ways. To state three that would be applicable in the Northwest Territories:

1. The present method could be continued.
2. Ordinances could be drafted to give certain professions the independence that has been delegated in the provinces.

3. Ordinances could be drafted to provide for provisions of each of the above.

The cost factor in setting up the office of registrar must be considered. This function at present is performed by the Registries Division of the Department of Public Services and it is felt that some professions and occupations are too small to raise the funds that would be necessary to provide for complete independence. Consideration must also be given to public concern and awareness.

Therefore, consideration should be given to the number three approach above. Ordinances could be developed to provide for a governing body composed of:

1. Members of the profession (to constitute a majority).
2. Lay person (or persons) appointed by the Commissioner.
3. A registrar (the present position in the Department of Public Services).

The governing body could be delegated the powers to make bylaws, rules and regulations; establish qualifications on admission, education, character and experience; set fees; and discipline members for professional misconduct or unprofessional conduct, and do so in formalized procedures. At the same time the expense of the office of registrar would be avoided.

It should be mentioned that some departments of the federal government with responsibilities and staff in the Northwest Territories may not favour the above mentioned proposal.

RECOMMENDATION

The Administration recommends that the policy and procedure outlined above be accepted for governing professional groups and that appropriate ordinances be prepared.

SELECT COMMITTEE OF THE LEGISLATIVE ASSEMBLY
CONSOLIDATED RECOMMENDATIONS

IV.

The following recommendations, all of which have been discussed earlier, are restated here for the convenience of the reader. They are intended by the Committee to be considered as the general direction of and the basis for the establishment of procedures to be applied when granting statutes to new professional and occupational groups. It should, however, be recognized that some of the existing statutes relating to professions and occupations do not contain the necessary safeguards to ensure that the basic rights of individuals are protected. Therefore, all such legislation will need to be reviewed and amended where necessary to ensure that fundamental rights are not encroached upon.

It is the feeling of the Committee that the planning of new legislative procedures for professions and occupations is desirable and will require that the government and members of the professions and occupations work together in a co-operative way.

RECOMMENDATION 1: That there be no action on the part of government designed to prevent the logical and desirable development of professions and occupations which may emerge in response to the needs of society.

RECOMMENDATION 2: That there be developed clearly-articulated criteria to be used in determining the eligibility of a professional or occupational association for recognition under specific or general legislation granting some measure of self-governing power.

RECOMMENDATION 3: That the following criteria be used for determining eligibility for recognition under legislation as a professional or occupational organization to be granted some degree of autonomous rights or authorities:

- a. Evidence that there be a sufficient number of persons qualified in the field and wishing to be members of the proposed association to make the

service available on a broad basis throughout the Province;

- b. Evidence that the services to be provided by members of the association are of such a nature as to justify the requirement of adequate qualification;
- c. Evidence that standards of qualification will be realistic and subject to independent appraisal;
- d. Evidence that the services to be provided are of such a nature that they cannot be provided adequately by persons not qualified to become members;
- e. Evidence that there are or will be available acceptable training facilities, preferably in Alberta or Canada, to accommodate those who wish to take up the profession or occupation and who have acceptable basic aptitudes and educational backgrounds;
- f. Evidence that the services to be provided by the members of the association are not merely fragmentations or duplications of more comprehensive service programs of associations already recognized;
- g. Evidence that the granting of recognized status will not permit a monopoly which can unduly restrict the numbers licensed to practice or establish unreasonable fee schedules;
- h. Evidence that the granting of recognized status under legislation is clearly in the public interest and that the public interest will be better served if such legislation is passed;
- i. Evidence of proper administrative procedures and facilities (such as by-laws, business office, regular review of rules relating to quorums, minority sub-

group representation on committees and governing councils, and use of mailed ballots for votes on resolutions) indicating the capacity to fulfill the function of an association enjoying some degree of self-government;

- j. Evidence that the association has been operational for a certain period of time (i.e. three years) and currently represents ninety percent of the practitioners in the particular profession or occupation it represents;
- k. Evidence of the existence of a code of conduct and a demonstrated capacity to set up a satisfactory disciplinary process to enforce this code of conduct;
- l. Evidence of some mechanism that provides for ongoing upgrading and continuing competence of members;
- m. Evidence that the type of service to be provided by members is clearly identified;
- n. Evidence of clearly identifiable admission procedures.

RECOMMENDATION 4: That a self-governing professional or occupational association not have control over certification.

RECOMMENDATION 5: That when the public interest requires that a profession or occupation be licensed, that the qualifications required to obtain a license be set out in legislation.

RECOMMENDATION 6: That legislation provide an appropriate procedure for an appeal for those who have been refused a license to practice.

RECOMMENDATION 7: That certification of education and competence continue to be handled by some agency external to the association, such as the Universities Co-ordinating Council or boards of examiners.

RECOMMENDATION 8: That decisions of agencies involved in certification be subject to review and comment by a body such as a Council for Professions and Occupations.

RECOMMENDATION 9: That definitions of areas of practice of a profession or occupation be reasonably flexible.

RECOMMENDATION 10: That some specific mechanism be developed to resolve disputes relating to jurisdictions.

RECOMMENDATION 11: That no professional or occupational group be controlled by the members of another professional or occupational group, except for matters of work supervision.

RECOMMENDATION 12: That a comprehensive review and evaluation of standards for admission into the various professions and occupations be undertaken, including standards of admission into educational facilities.

RECOMMENDATION 13: That the statute creating a professional or occupational association to which collective bargaining may apply not designate the association as the official agent for collective bargaining, but that this be properly determined under the Alberta Labour Act.

RECOMMENDATION 14: That each of the professional and occupational groups be encouraged to inform the public to a greater degree than at present of the general nature of the services its members offer as well as the specialized services offered by certain members.

RECOMMENDATION 15: That legislation assure that standards of conduct as applied to professional and occupational practice be as clearly defined as possible.

RECOMMENDATION 16: That the range of sanctions which may be imposed for particular breaches of conduct be as clearly delineated as possible and should be set out in legislation, if a statute has been granted.

RECOMMENDATION 17: That professional and occupational groups require their members to advise their clients, patients, or recipients of a service in advance, to the extent possible, regarding fees or charges for services.

RECOMMENDATION 18: That the professional and occupational groups be encouraged to publicize more effectively the complaint procedures available.

RECOMMENDATION 19: That there be provided a widely publicized mechanism for receiving and channeling complaints to the appropriate disciplinary body to accommodate that sector of the public which does not wish to go directly to the professional or occupational group.

RECOMMENDATION 20:

- a. That legislation provide that a complainant with a complaint against a member of a self-governing profession be provided by the disciplinary committee with a written copy of the decision with reasons.
- b. That legislation provide that a complainant or a member who is not satisfied with a decision made by a disciplinary committee may, within thirty days of the decision, appeal that decision to the governing body or governing council of the self-governing profession.
- c. That legislation provide that when a governing body or governing council reviews a decision made by the disciplinary committee, it may:
 - i. Confirm the decision of the disciplinary committee;
 - ii. Recommend changes in the decision of the disciplinary committee; and/or
 - iii. Require the disciplinary committee to reconsider the entire matter.

- d. That statutes relating to self-governing professions and occupations provide that a complaint be investigated and a decision given within a specified time and provide for an appeal procedure if it is not received within the specified time.

- e. That legislation provide that any party to proceedings before a disciplinary body may appeal the final decision to a Judge of the Supreme Court.

- f. That legislation provide that appeals to a Judge against decisions of disciplinary committees may be made on questions of law and/or fact, and the Judge may:

- i. Rescind the decision of the disciplinary body;

- ii. Direct the disciplinary committee to take any action the Court considers proper;

- iii. Substitute his or her opinion for that of the disciplinary body; and/or

- iv. Refer the matter back to the disciplinary body for re-hearing in whole or in part.

RECOMMENDATION 21: That all professions and occupations be encouraged to develop formalized continuing education programs for their members through the resources of their own association and through co-ordination with specific institutions.

RECOMMENDATION 22: That all new legislation and amendments to legislation relating to professional and occupational associations recognized by legislation be dealt with by one Minister.

RECOMMENDATION 23: That an advisory body such as a Council for Professions and Occupations be established to review, assess and make recommendations to the designated

Minister on all new legislation and amendments to existing legislation relating to professions and occupations. The following types of representation could be considered when members of the Council are selected:

- a. Three representatives named from the Council of Professional Associations (C.O.P.A.);
- b. One member from the University Affairs Committee;
- c. One member from the College Affairs Committee;
- d. One representative from the Alberta Federation of Labour (A.F.L.);
- e. Two Members of the Legislature;
- f. Two citizens at large; and
- g. One government-appointed Chairman.

RECOMMENDATION 24: That the designated Minister may call on the Council for Professions and Occupations to carry out such functions and duties as the Minister sees fit, including any or all of the following:

- a. Accept and refer complaints;
- b. Scrutinize and examine existing statutes or amendments to such statutes and prospective statutes and make recommendations;
- c. Examine standards of admission to specific training programs and for licensing and make recommendations;
- d. Collect and disseminate information relating to professional and occupational activity, where it is determined to be advisable to do so;
- e. Monitor, advise and mediate in relationships between various professional and occupational groups;

- f. Provide assistance and advice to professional and occupational groups in administration and advancement of their aims;
- g. Develop suggested legislation relating to professions and occupations;
- h. Develop advisory guidelines and criteria for use by the Legislature in granting elements of self-government; and
- i. Examine specific cases and concerns and make recommendations for legislation where such seems advisable.

RECOMMENDATION 25: That there be developed for consideration by the Legislature umbrella Acts for clusters of professions and occupations or one umbrella Act to cover professions and occupations.

RECOMMENDATION 26: That the fee schedule adopted by professional and occupational groups be by way of guideline rather than minimum tariff and be filed with the Department of Consumer Affairs within thirty days of their adoption for information purposes and hence, to improve public awareness.

RECOMMENDATION 27: That legislation require approval of the Lieutenant-Governor-In-Council followed by filing and publication in the Alberta Gazette of all rules, by-laws and/or regulations enacted by the association.

RECOMMENDATION 28: That each of the self-governing professional and occupational groups should be required to table an annual report in the Legislature, applying as a guideline for its content such areas of information as are discussed in this report.

A BRIEF
TO BE CONSIDERED BY COUNCIL
PERTAINING TO THE REGISTRATION AND DISCIPLINING
OF REGISTERED NURSES

SUBMITTED BY
N.W.T. REGISTERED NURSES ASSOCIATION
JUNE 8, 1974

The three major roles of a professional organization are regulatory, professional promotional, and employment relations.

1. The regulatory role includes the licensing and the disciplining functions. The purpose of professional licensure is, on the one hand, to secure to society the benefits which come from the services of a highly skilled group, and, on the other hand, to protect society from those who are not highly skilled, are nevertheless so unprincipled as to misuse their superior knowledge to the disadvantage of the people. The public is protected by restricting the practice to those who have knowledge and ability to do so. Licensure laws must also permit the "authority" to withhold or withdraw the right to practice as a protection to the public. In nine out of the ten provinces, the responsibility for administering the legislation has been delegated to the Registered Nurses Association. In all provinces the registrar is a registered nurse. Standards of performance can be judged only by nurses because it involves nursing skills and knowledge as well as moral and ethical judgment.

Public safety is a shared responsibility of the government and the nursing association and both must answer to the people. We have looked long and carefully to find the best way to do this in the Northwest Territories. In the regulations which we have suggested to the Commissioner there are two committees. First a registration or licensing committee who will examine all applications of those who wish to work as registered nurses in the Northwest Territories. Second a professional conduct committee to investigate complaints made by our colleagues within the health professions, by employers, and by the public. We have asked the Commissioner to appoint persons who are not nurses to both of those committees. Each committee will report annually to the Commissioner and to our association.

2. The professional promotional role is profession centered. It defines values and attitudes that shape a professional conscience and influence the quality of practice. There are two main factors that are important in setting these values and attitudes:

- (a) formal continuing education and communication within the association.
- (b) Legislation recognition of the association.
Such recognition makes the group feel more responsible. Our association through its members provides the means:
 - (i) to shape attitudes by changing perceptions
 - (ii) to introduce new systems of through that will improve practice
 - (iii) to pass on knowledge and skills

Because of the high cost of travel to learning centres, the provision of information for nurses is of great importance in the Northwest Territories. Nurses working in isolated areas need the contact and support of their association. The most important reason for continuing nursing education is the improvement in the quality of health care. Recognizing this demand all licensing bodies promote refresher courses, upgrading programs, and opportunities for continuing education so that registered nurses can increase their nursing competence. The nursing profession is now considered ongoing education a mandatory requirement for renewal of practicing privileges. All provinces are considering ways and means of providing adequate continuing educational programs to meet the needs in every area of nursing. Only the profession can know the potentialities, not merely the current realities, of professional practice, we must try to anticipate the future and continually evaluate ourselves.

Nursing associations have a social function too, because they voice the opinions of their members to governments and other official agencies and are responsible for informing the public concerning the profession's thinking on specific issues. Nursing must be sensitive to the public's expectations of the profession. In fact improvement in the quality of nursing largely depends upon the kind of care that people want.

The government, which has the ultimate responsibility for the good of the people, must have something to say in our organizations. We have asked the Commissioner to appoint a non-nursing person to our board of directors. We have a nursing practice committee which is an important working group in our association. On this committee we have a person appointed by the Commissioner, a doctor appointed by the Northwest Territories medical association, a person appointed by the Department of Social Development, a specialist in continuing education appointed by the Director of Education, and a registered nurse who is a supervisor, and four staff nurses: one from a nursing station, two from hospitals and one from a health centre. The chairman is a registered nurse elected by our members. This committee includes people with the expertise and those most involved with health care. Working towards a common good of the profession and the public, without sacrificing the interest of its members, is the binding goal which unites the various groups. Our goal is to develop this organization giving the most service to the members as well as to the public with a minimum of inconvenience and expense of tax dollars. Public responsibility can not attend to one without involving the other. One body to look after the regulatory and professional development is much more economical as otherwise duplication would occur.

3. Employment relations is the third role of an association and is important to nurses employed in the territories. We recognize that basic to the provision of a high quality of nursing care is the adequacy of the nursing staff, conditions of work, and an environment conducive to efficiency and individual satisfaction.

Nurses across Canada have proven their ability to administer nursing legislation. The responsibility that registered nurses assume north of 60 needs no explanation to Council members. Nurses are the primary contact for the majority of people across the Northwest Territories. People come to the Health Centre to ask "Do I need to see the doctor?" and where there is no doctor there is a nurse in a nursing station who can contact a doctor in a larger centre.

The Northwest Territories Registered Nurses Association is very young, highly developed in some respects and very conscious of its responsibility. It has the resources of the provinces and our national associations from which to draw advice and guidance. It has an advisory committee chosen for expertise, interest in the Northwest Territories, and ease of communication. Our membership has nurses with their university degree in nursing; nurses with post-graduate diplomas in various specialties such as child care, midwifery, coronary care.

If registration, or licensing, is established as a separate entity, the disadvantages would outweigh the advantages for nursing and the people it serves.

IT IS ONE THING TO ISSUE PERMITS TO PRACTICE, IT IS QUITE ANOTHER MATTER TO COMPLIMENT SUCH REGISTRATION BY REINFORCING ATTITUDES AND VALUES THAT ENHANCE PERFORMANCE.

We respectfully ask your support to amend the Registered Nurses Ordinance and delegate its administration to the Northwest Territories Registered Nurses Association.