

TABLED DOCUMENT NO. 134-88(1)  
TABLED ON  
APR 14 1988

LEGISLATIVE ASSEMBLY OF THE NORTHWEST TERRITORIES

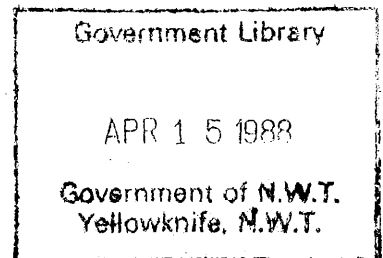
AN ACT TO AMEND THE EVIDENCE ACT

Statement of Purpose

The purpose of this Bill is to amend the Evidence Act to provide that witnesses in civil proceedings cannot be asked questions about proceedings before medical peer review committees and cannot be required to produce records of such proceedings.

Important

This Bill is tabled for public review. This proposed Act does not represent the final policy of the Government of the Northwest Territories and is subject to change after public review and comment.



AN ACT TO AMEND THE EVIDENCE ACT

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The Commissioner of the Northwest Territories, by and with the advice and consent of the Legislative Assembly, enacts as follows:

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1. This Act amends the Evidence Act.

2. The following heading and sections are added immediately after section 13:

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"ADMISSIBLE EVIDENCE

13.1. In sections 13.2, 13.3 and 13.4,

"board of management"

"board of management" means a board of management appointed under the Territorial Hospital Insurance Services Act;

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"committee"

"committee" means

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(a) a committee that

(i) is established or designated by the Minister responsible for the Medical Profession Act or a board of management, and

(ii) for the purpose of improving medical or hospital care or medical practice in a hospital,

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(A) carries out or is responsible for studying, investigating or evaluating the hospital practice or hospital care provided by health care professionals in the hospital, or

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(B) studies, investigates or carries on medical research or a program, or

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(b) a subcommittee of a committee referred to in paragraph (a);

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"health care professional"

"health care professional" means any person providing health care in the Territories and includes a person who

- (a) is entitled to practise medicine in the Territories under the Medical Profession Act, 5
- (b) is entitled to practise dentistry in the Territories under the Dental Profession Act,
- (c) is entitled to practise as a psychologist in the Territories under the Psychologists Act, 10
- (d) is practising nursing in the Territories and who is
  - (i) registered in the Nursing Register under the Nursing Profession Act, or 15
  - (ii) eligible for registration as a nurse in a province or the Yukon Territory, 20
- (e) is certified under the Certified Nursing Assistants Act,
- (f) is employed in the Territories as a physiotherapist and is an active member of the Canadian Physiotherapy Association, 25
- (g) is employed in the Territories as an occupational therapist and is an active member of the Canadian Occupational Therapists Association, 30
- (h) is employed in the Territories as a medical radiation technologist and is a member of the Canadian Association of Medical Radiation Technologists,
- (i) is employed in the Territories as a laboratory technologist and is certified by and registered with the Canadian Society of Laboratory Technologists, 35
- (j) has successfully completed a Community Health Representative course, or 40
- (k) is entitled to practise as a pharmaceutical chemist under the Pharmacy Act; 45

"hospital"

"hospital" includes a nursing station, health centre, nursing home or co-ordinated home care program;

"legal proceedings"	<p>"legal proceedings" means an inquiry, arbitration, inquest or civil proceedings in which evidence is or may be given and includes a proceeding before a tribunal, board or commission, but does not include</p> <ul style="list-style-type: none"> <li>(a) a proceeding before a board of management,</li> <li>(b) a hearing or appeal respecting the conduct or competence of a health care professional before <ul style="list-style-type: none"> <li>(i) a Board of Inquiry appointed under the <u>Medical Profession Act</u>, the <u>Dental Profession Act</u> or the <u>Pharmacy Act</u>, or</li> <li>(ii) a board or body connected with the professional association of the profession to which the health care professional belongs, or</li> </ul> </li> <li>(c) a proceeding before a court that is an appeal, review or trial <u>de novo</u> of any matters referred to in paragraph (a) or (b);</li> </ul>	5  10  15  20
"professional association"	<p>"professional association" means an association that represents members of a health care profession and includes</p> <ul style="list-style-type: none"> <li>(a) the Northwest Territories Medical Association,</li> <li>(b) the Northwest Territories Dental Association,</li> <li>(c) Association of Psychologists of the Northwest Territories,</li> <li>(d) the Northwest Territories Registered Nurses Association,</li> <li>(e) the Canadian Physiotherapy Association,</li> <li>(f) the Canadian Occupational Therapists Association,</li> <li>(g) the Canadian Association of Medical Radiation Technologists, and</li> <li>(h) the Canadian Society of Laboratory Technologists;</li> </ul>	25  30  35  40
"record of a committee"	<p>"record of a committee" means any record that is used in the course of or arises out of the study, investigation, evaluation, program or research carried on by a committee, where the record</p> <ul style="list-style-type: none"> <li>(a) was compiled or made by a witness for the purpose of producing or submitting it to a committee,</li> </ul>	45  50

	(b) was submitted to or compiled or made for the committee,	
	(c) consists of a transcript of proceedings before a committee, or	
	(d) consists of a report or summary, whether interim or final, of the findings of a committee;	5
"witness"	"witness" includes any person who, in the course of legal proceedings,	10
	(a) is examined orally for discovery,	
	(b) is cross examined on an affidavit made by that person,	
	(c) answers any interrogatories,	
	(d) makes a statement as to documents, or	15
	(e) is called on to answer any question or produce any document, whether under oath or not.	
Admissibility of evidence	13.2.(1) A witness in legal proceedings, whether a party to them or not,	20
	(a) shall not be asked nor be permitted to answer, in the course of legal proceedings, a question as to a proceeding before a committee; and	25
	(b) shall not be asked to produce nor be permitted to produce, in the course of legal proceedings, a record of a committee.	
Hospital records	(2) Subsection (1) does not apply to original or copies of original medical or hospital records pertaining to a patient.	30
Liability	13.3.(1) No action or other proceeding for damages lies against a person who, in good faith, discloses information or submits a record to a committee for the purpose of the information or record being used in the course of research or a study, investigation, evaluation or program carried out by the committee.	35
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Disclosure	(2) No committee and no person on a committee shall disclose or publish a record of the committee or information submitted to or compiled for the committee, except	45
	(a) in the case of a committee established or designated by the Minister responsible for the <u>Medical Profession Act</u> , to the Minister;	50

- (b) in the case of a committee established or designated by a board of management, to the board of management;
- (c) in the discretion of the committee, to a professional association; or
- (d) for the purpose of advancing medical research or medical education.

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Confidentiality

(3) Where a committee discloses or publishes a record of the committee or information submitted to or compiled for the committee, the committee shall ensure that the manner of disclosure or publication does not permit the identification, in any manner, of the person whose condition or treatment has been studied, evaluated or investigated.

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Idem

(4) No person who receives information from a committee or a record of a committee under subsection (2) shall publish or disclose the information or the record except

- (a) where the disclosure or publication is for the purpose of advancing medical research or medical education; and
- (b) in accordance with subsection (3)."

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