

Standing Committee on  
Social Development



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# Report on Bill 40: *An Act to Amend the Medical Profession Act*

19<sup>th</sup> Northwest Territories Legislative Assembly

Chair: Ms. Caitlin Cleveland

**MEMBERS OF THE STANDING COMMITTEE ON  
SOCIAL DEVELOPMENT**

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**STANDING COMMITTEE ON SOCIAL DEVELOPMENT**

**REPORT ON BILL 40: AN ACT TO AMEND THE  
MEDICAL PROFESSION ACT**

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**STANDING COMMITTEE ON SOCIAL DEVELOPMENT****REPORT ON BILL 40:  
*AN ACT TO AMEND THE MEDICAL PROFESSION ACT*****INTRODUCTION**

Bill 40: *An Act to Amend the Medical Profession Act* (Bill 40)<sup>1</sup> was first introduced by the Department of Health and Social Services on November 25, 2021, and then referred to the Standing Committee on Social Development (the Committee) for review. A Plain Language Summary for Bill 40 was tabled on November 26, 2021.<sup>2</sup>

Bill 40 proposes changes to the *Medical Profession Act* (the *Act*) to:

- Exempt physicians in other provinces and territories providing virtual care to NWT residents from needing an NWT licence when there is a referral from an NWT doctor or nurse practitioner;
- Clarifies a regulation-making power to adapt and adopt standards of practice for the practice of medicine;
- Allows the Minister of Health and Social Services to enter into agreements with other governments or organizations about physician licensing;
- Creates a new category of registration and licensing for physicians practicing virtual care without a referral; and
- Allows registers of physicians to be posted online.

The main changes made in Committee include:

1. Removal of the Virtual Care Register;
2. Requiring the Minister to consult with the Northwest Territories Medical Association before recommending regulations on standards for the practice of medicine.

The Committee thanks everyone who took the time to participate in the review and provided us with comments and concerns on Bill 40.

This bill provides a permanent arrangement for virtual health care services based on NWT referrals. During the COVID-19 Public Health Emergency and State of Emergency, the Minister of Health and Social Services authorized virtual care through a Ministerial Directive. In accordance with section 3.3 of the *Hospital Insurance and Health and Social Services Administration Act*, the Department of Health and Social Services made a temporary agreement with the College of Physicians and Surgeons of Alberta to exempt

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<sup>1</sup> [Bill 40: An Act to Amend the Medical Profession Act](#).

<sup>2</sup> Plain Language Summary for Bill 40: An Act to Amend the Medical Profession Act. [TD 488-19\(2\)](#) Tabled on November 26, 2021.

its members from having to licence in the NWT and to continue to provide services needed in the NWT. The agreement was renewed by one year and will expire by the end of 2022. This Bill provides a more permanent arrangement.

## **WHAT WE HEARD**

The Committee held a public engagement period from December 22, 2021, to April 31, 2022, and a public hearing on May 16, 2022. Near the end of the Committee's review period, the Government of the Northwest Territories Department of Health and Social Services identified issues with Bill 40 that could require substantial amendments. These issues addressed some of the points of contention identified by stakeholders.

At the suggestion of the Minister, the Committee sought and received an extension of the review period on March 28, 2022. The Committee indicated its willingness to work collaboratively with the Minister of Health and Social Services to improve Bill 40.

When a Bill is before a Standing Committee, it is unusual for the Government of the Northwest Territories to be involved in consultation with stakeholders. However, in this instance, Committee took the unusual step of requesting that the Minister of Health and Social Services again consult with key stakeholders on the bill during this extension.

The Committee received written submissions from the College of Family Physicians of Canada, the Northwest Territories Medical Association, the Royal College of Physicians and Surgeons of Canada and the Registered Nurses Association of the NWT and Nunavut, and also heard from the Northwest Territories Medical Association in a public presentation on May 16, 2022.

Submitters expressed two key concerns: the lack of integration of care providers into the NWT medical system if virtual care is permitted without a referral and the role of the government in establishing professional standards of practice. The Committee received additional recommendations on future virtual care access and standards of practice considerations beyond Bill 40.

### **Virtual Care and Exemption to be Licensed**

All submissions welcomed Bill 40 for continuing access to virtual care beyond the COVID-19 pandemic emergency measures. As part of clause 9, this change would add subsection 31.6 and create an exemption to the NWT registration and permit requirements for medical practitioners registered in another jurisdiction and referred to by an NWT medical practitioner or nurse practitioner.

The proposed addition of subsection 31.6 was not contentious. The exemption from licencing based on a referral from NWT practitioners has enabled physicians to practice virtual care during the COVID-19 pandemic. All submitters made it clear that this was a welcomed practice that should continue.

The Canadian Medical Association and the NWT Medical Association supported the proposed exemption to allow physicians licensed elsewhere to provide virtual consultation to NWT residents beyond the current public health emergency, given the care originates in a request from an NWT care provider with a referral.

The NWT Medical Association pointed out that the referral allows for integrated and coordinated service delivery. Medical practitioners providing virtual care based on a referral are integrated because they can work within an NWT-wide electronic medical record system. The fact that NWT-wide territorial staff are all employees of the NTHSSA allows coordination of virtual care within and outside of NWT. The NWT Medical Association considered those aspects of the Act that would enable referrals to physicians outside of the NWT an essential element of NWT health care and wants to continue this.

The Registered Nurses Association of the NWT and Nunavut, and the Royal College of Physicians and Surgeons of Canada, welcomed the exemption. Both submitters explain that the exemption would remove barriers to accessing safe and quality care for the NWT residents and leveraging virtual care as a complement to accessing in-person health care and services.

### **Virtual Care Register**

Most respondents expressed strong concerns about the proposed creation of a Virtual Care Register.

Bill 40 proposed creating a new 12-month registration and licensing requirement for physicians practicing in other jurisdictions and in good standing with the Canadian Medical Protective Association to provide virtual care in the NWT (sections 31, 81). The registry would allow out-of-territory health practitioners to practice virtual care to NWT residents without a referral from an NWT health practitioner. This scenario raised several concerns in the medical profession.

Submitters were concerned that allowing practitioners to see patients without a referral may create a parallel system and leave doctors unable to integrate into the NWT medical system by not having access to NWT pharmacies. The NWT Medical Association expressed that the Register would not be necessary and potentially harmful to patient care quality and cultural safety in the NWT.

The Canadian Medical Association saw concerns with continuity of care due to the fragmentation between in-person and virtual patient and physician relationships. Challenges with tests and diagnostics would potentially increase demand in hospital emergency departments. Equity concerns would arise, considering potential private pay options in virtual care services.

To address the lack of integration with NWT systems, the College of Family Physicians of Canada asked to include in the Virtual Register requirements for physicians. Physicians would need to have the ability to ensure informational continuity so that medical records

are available and complete, have established connections with an in-person point of care in the NWT, not be affiliated with for-profit paid-access solutions and have experience and appreciation for the uniqueness of the NWT's regions.

Concerned with continuity of care, the Registered Nurses Association for the NWT and Nunavut advocated for physicians practicing virtual care to understand the role nurses have in communities and health care in the North. This would recognize that the proposed amendments would affect the practice of registered nurses and nurse practitioners who work closely with the residents in the NWT.

### **Standards of Practice**

Bill 40 proposes adapting standards for the practice of medicine by adding a code of ethics and competency programming (paragraph 94(m.1)). The new paragraph would allow the Minister to recommend regulations on code of ethics, continuing competency programs and the nature of those programs, and scope of practice frameworks and guidelines.

The medical community responded with concerns that in most provinces, licensing Colleges set and enforce standards of practice within a framework of self-regulation of the medical profession physicians. The NWT Medical Association pointed out that the profession's priorities may not always align with the priorities of the government.

The College of Family Physicians of Canada recommended aligning the application of standards with comparable structures in neighbouring provinces and suggested Alberta as the best fit due to proximity and existing integration. The College recommended considering an affiliation with an existing licensing College for ease of operation.

The Royal College of Physicians and Surgeons of Canada encouraged the NWT government to collaborate with the Federation of Medical Regulatory Authorities of Canada and its regional authorities to ensure pan-Canadian alignment in professional standards of practice.

The Registered Nurses Association of NWT and Nunavut welcomed the new paragraph as it would lead to "increased patient safety and satisfaction by ensuring that virtual practice physicians clearly understand the context of virtual practice in the north."

### **Gaps to be Addressed in Legislation**

The College of Family Physicians of Canada noted that the amendments proposed in Bill 40 do not address issues the Physician Executive sees with the current *MPA*. These include the reliance on outdated certification requirements, the differential and discriminatory treatment of family physicians compared to other specialists, the inability to administer conditional licenses, etc. The College recommended consultation with the local physician leadership from the Territorial Physician Executive to understand these requirements.



## **Future Collaboration Toward Virtual Care Access**

The Royal College of Physicians and Surgeons of Canada encouraged the NWT government to ensure pan-Canadian alignment in professional standards of practice in Canada. It recommended actions toward virtual care access and standards of practice beyond Bill 40:

1. Leverage virtual care models in an ecosystem that promotes continuity of care (ensure availability of information in the NWT Electronic Medical Record);
2. Provide virtual care within NWT's publicly insured system, which meets the principles of the *Canada Health Act*;
3. Provide all people living in NWT, including those in rural and remote communities, access to reliable high-speed internet to ensure they reap the full benefits of virtual care;
4. Design virtual care services in genuine partnership with Indigenous communities of the NWT to ensure care is delivered in a culturally safe manner;
5. Collaborate with people with lived experience (including patients and care partners) to ensure that the virtual care model meets the needs of the people relying on it;
6. Pursue ongoing quality improvement to assure NWT's successful deployment of virtual care;
7. Integrate virtual care services with in-person care. Consider physician workforce, medical facilities, specialized equipment, clinical teams and other necessary resources to ensure a proper balance of in-person and virtual specialty care within the territory.

## **COMMITTEE CONSIDERATIONS**

The Committee considered several motions that would improve Bill 40, including removing the Virtual Care Register and adding a requirement to consult with the medical professional community before proposing regulations concerning standards of practice.

### **Virtual Care and Exemption to be Licensed in the NWT**

Committee members noted the strong endorsement of an exception to registration to continue virtual care with referral, and to allow the Minister to enter into agreements that would exempt care practitioners from licencing in the NWT and permit them to provide virtual care services to NWT residents. To this effect, subsections 31.6 and 31.7 of clause 9 were maintained.

### **Virtual Care Register**

The Committee took into consideration the risks and concerns expressed in the submissions. It was noted that the proposed Virtual Care Register would not apply to every situation to prevent unlicensed physicians from practicing in the NWT, not ensure

continuity of care or connection to the NWT system, not entirely remove the administrative burden and may create a sense of oversight not truly reflective of the situation.

Committee put forward Motions 2, 3, 4, 9, 12 to 19, and 23 to remove the Virtual Care Register from Bill 40.

### **Standards of Practice and Professional Self-Regulation**

Bill 40 proposed establishing or adopting standards of practice, codes of ethics, continuing competency programs and the nature of those programs, and scope of practice frameworks and guidelines (Clause 24(m.1)). The Committee observed that the *Health and Social Services Professions Act* uses the exact wording to give Cabinet the power to make regulations to establish standards of practice, codes of ethics, and competency programs and guidelines (S.67.(v)).

After hearing from various medical organizations about the potential for the Minister to infringe on the independence of the medical profession through this clause, the Committee deliberated whether the concern was the regulation-making power or the standards themselves.

The Committee recognizes the position of the professions that creating regulations on standards of practice may infringe on the independence of the medical profession. In connection with those concerns, Committee Members heard that the concern is not at the level of the standards themselves, but that should the Minister choose the standards, it could mean competing interests because the Minister's interest may not be in line with patients' interests.

In conversations with the Committee, the Department of Health and Social Services expressed the commitment to consult the medical profession on standards of practice adapted from the College of Physicians and Surgeons of Alberta to bring standards into force in late 2022. The Department plans to include consultations on adopting the Canadian Medical Association's *Code of Ethics and Professionalism*.

The current legislation allows the Minister to develop regulations respecting standards for the practice of medicine (para 94(m)). Therefore, Bill 40 does not contemplate removing or adding the power that the Minister already has. Therefore, removing this power would not be within the scope of Bill 40. The Committee considered all comments on self-regulation out of scope but looked to other ways to ensure collaboration as noted in the next section.

### **The Requirement to Consult before Proposing Regulations**

The Committee proposed that the Minister should consult with the NWT Medical Association before recommending making regulations regarding "establishing or adopting standards of practice, codes of ethics, continuing competency programs and the nature of those programs, and scope of practice frameworks and guidelines" under clause 24 (para 94(m)).

Committee pursued an amendment with Motion #10, allowing the Commissioner to make the stipulated regulations only after consultation with the Northwest Territories Medical Association.

## **RECOMMENDATIONS**

Several concerns from witnesses were about aspects of virtual care or professional regulation that the Committee did not consider in scope with Bill 40. However, the Committee found the recommendations relevant to creating a supportive environment for the legislative changes to be successful.

### **Standards of Practice**

The NWT Medical Association requested the NWT government consider an alternate process by contracting an organization such as a College of physicians to develop the standards of practice for physicians. The Committee recognizes the position of the professions and accordingly makes the following recommendation:

#### **Recommendation 1**

The Standing Committee on Social Development recommends that the Minister engage the services of an independent body, such as other Colleges of Physicians to develop standards of practice for physicians practicing in the NWT.

### **Ensuring Meaningful Participation**

The Committee noted that while meaningful participation by physicians in discussions of standards for physicians is desirable and necessary, the NWT reality is that physicians are often working at maximum levels of their capacities with little time left for extensive consultation. Accordingly, the Committee makes the following recommendation.

#### **Recommendation 2**

The Standing Committee on Social Development recommends that the GNWT work with the NWT Medical Association to ensure they have the ability to meaningfully participate when they are consulted on any proposed standards for physicians in the NWT.

## Understanding Certification Requirements

The Committee considered further comments by the College of Family Physicians of Canada on the *Medical Profession Act*. The College notes problems with the current legislation, the reliance on outdated certification requirements, differential and discriminatory treatment of family physicians compared to other specialists, and the inability to administer conditional licenses as current gaps not addressed by legislative improvements. The College states that "consultation with the local physician leadership from the Territorial Physician Executive would be beneficial in gaining further understanding" of these requirements.

Further, Committee makes the following recommendation.

### **Recommendation 3**

The Standing Committee on Social Development recommends the Department of Health and Social Services consult with the local physician leadership from the Territorial Physician Executive to understand certification requirements, differential treatment of family physicians compared to other specialists and the administration of conditional licenses.

### **Recommendation 4**

The Standing Committee on Social Development recommends that the GNWT provide a response to the recommendations contained in this report within 120 days.

## CLAUSE BY CLAUSE REVIEW

The clause-by-clause review of Bill 40 was held on March 19, 2022. At this review, Committee moved ten motions. The Minister concurred with all ten motions.

## CONCLUSION

This concludes the Standing Committee on Social Development's review of Bill 40. The Committee thanks the medical profession and the public for their participation in the review process, the Department of Health and Social Services for the collaborative effort

to improve the proposed changes, and everyone involved in reviewing this bill for their assistance and input.

Following the clause-by-clause review, a motion was carried to report Bill 40: *An Act to Amend the Medical Profession Act*, as amended and reprinted, as ready for consideration in the Committee of the Whole. This concludes the Standing Committee's review.

## **APPENDIX 1: WRITTEN SUBMISSIONS**

1. The College of Family Physicians of Canada (January 28, 2022)
2. Royal College of Physicians and Surgeons of Canada (February 04, 2022)
3. Northwest Territories Medical Association (February 10, 2022)
4. Registered Nurses Association of the Northwest Territories and Nunavut (February 10, 2022)
5. Dr. Katherine Breen, Secretary, Northwest Territories Medical Association (March 20, 2022)

January 28, 2022

**To: Standing Committee on Social Development Northwest Territories Legislative Assembly**

**Re: Northwest Territories Bill 40: An Act to Amend the Medical Profession Act**

Dear members of the Standing Committee on Social Development,

Thank you for approaching the College of Family Physicians of Canada (CFPC) with an opportunity to comment on the proposed changes to the Medical Profession Act (MPA). We had a chance to review the documents shared with us and consult NWT family physicians to compile our feedback.

Since the onset of the COVID-19 pandemic, appropriate adoption and implementation of virtual care has been a priority for the CFPC. Key components of successful use of virtual care include robust integration of it as a tool facilitating longitudinal provision of care based on familiarity between a patient and a dedicated provider of care, in most instances a family physician. These principles are outlined in our publication on the role of Virtual Care in the Patient's Medical Home.

In reviewing the proposed changes, we focused on the need to enhance the accessibility of care without compromising either continuity or equity.

We support the adjustment that allows NWT primary care physicians to offer referrals to out-of-province physicians in other specialties without a need to have them licensed in NWT. This shift is certain to expand the pool of available referral options and enhance access to care for NWT patients. It is important to ensure informational continuity of this approach so that results of out-of-province consultations would be readily available as part of NWT Electronic Medical Record. By the nature of the referral-consultation circle of care and information pathway, we understand that this informational continuity is likely to continue.

The creation of a virtual care registry must be approached carefully. Concerns around this change include:

- Increase in provision of care that is not based on principles of continuity
- This includes both relational continuity where provision of care by the same physician is not guaranteed over time and informational continuity where results of appointments are not relayed through NWT EMR.
- Provision of care that is virtual only in nature, unable to create connections and observations necessary for provision of truly comprehensive care.
- Possibility of introduction of for-profit paid-access solutions from other provinces. These solutions disrupt continuity of care and exacerbate inequities.
- Lack of awareness of Territorial realities affecting quality of care.
- Disconnect from the NWT system of accessing testing and laboratory services. Lack of access to this system would necessitate additional steps to have a virtual physician request these

services, whereas open access to it might overwhelm the limited resources that exist in NWT.

To address the concerns above we recommend that the requirements for joining the Virtual Registry be strictly spelled out and limited to family physicians who are:

- Not affiliated with for-profit paid-access solutions
- Able to provide continuous care over time as a dedicated most responsible provider to a patient
- Have experience working in the territories and appreciation for the unique the region represents.
- Have an established connection with an in-person point of care in NWT where needs requiring physical presence could be met.
- Able to support informational continuity by ensuring that medical records are transmitted or included in the NWT Electronic Medical Record

We have significant concerns regarding the proposal of granting the government power to set regulations governing the work of physicians in terms of standards of practice. In most provinces the regulation of physicians is done through licensing Colleges who set, maintain, and enforce standards of practice within the framework of self-regulation of the medical profession. Expertise and knowledge to create and deploy these standards in a manageable way that does not threaten the principle of self-regulation must be ensured. We recommend aligning the application of these standards with comparable structures that exist in neighbouring provinces – Alberta being the best fit due to proximity and existing integration. An affiliation with an existing licensing College for ease of operation should be considered as an option.

Additionally, it was noted that the proposed amendments do nothing to address the problems with the current MPA that concerned the Physician Executive. These include the reliance on outdated certification requirements, the differential and discriminatory treatment of family physicians compared to other specialists, the inability to administer conditional licenses, etc.

A robust consultation with the local physician leadership from the Territorial Physician Executive would be beneficial in gaining further understanding on these requirements.

Thank you for considering these suggestions – we hope these will be useful in your work on this important legislation.

Please do not hesitate to contact me should you require additional assistance from the CFPC.

Best regards,



Artem Safarov  
Director of Health Policy and Government Relations  
College of Family Physicians of Canada  
[asafarov@cfpc.ca](mailto:asafarov@cfpc.ca)



**From:** [Michael Ball](#)  
**To:** [Emily Sabourin](#)  
**Cc:** [Cathleen Knotsch](#); [Mahalia Yakeleva Newmark](#)  
**Subject:** FW: Submission from the NWTMA on Bill 40  
**Date:** February 10, 2022 1:31:30 PM

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**From:** NWT Medical Association [<mailto:nwtmda@gmail.com>]  
**Sent:** February 10, 2022 1:40 AM  
**To:** Jennifer Franki-Smith  
**Subject:** Submission from the NWTMA on Bill 40

**EXTERNAL:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender's **name and email address** and know the content is safe.

The Standing Committee on Social Development

Dear Chairperson,

The Northwest Territories Medical Association was pleased to be identified as a stakeholder and would like to thank you for inviting our organization to comment on Bill 40: An Act to Amend the Medical Profession Act.

We have reviewed the Bill and the Plain Language Summary. We would like to note that while the Northwest Territories Medical Association was identified as a stakeholder and invited to comment on the Bill on December 22, 2021, we were not consulted prior to that and contrary to the text of the Plain Language Summary of Bill 40, our organization did not have input on these changes.

We wholeheartedly support the submission to this committee from Dr. Katie Kessler and in particular would like to emphasize her summary, “We enthusiastically endorse the inclusion of provisions for virtual care arising from request for consultation, which we believe will improve both the patient experience and sustainability of our health system. We applaud the DHSS on their forward-thinking attitude in including this amendment; it is truly a leading practice in the country. We do however have concerns about the manner in which more widespread virtual care is being enabled, and request a more thoughtful and collaborative review of those sections with a broader perspective on potential future consequences and deeper understanding of NTHSSA operational needs. We request clarification and reconsideration of the proposed change to physician practice regulation, respecting the principle of professional self-regulation.”

The Northwest Medical Association would like to be involved in further review of several sections of Bill 40, and have particular concerns regarding the proposed change to physician practice regulation.

Sincerely,

Dr. Katherine Breen, Secretary  
*Northwest Territories Medical Association (NWTMA)*

Ms. Jennifer Franki-Smith  
Committee Clerk  
Standing Committee on Social Development

February 10, 2022

Re: Submission of comments on the proposed amendments to The Medical Act

Thank you for inviting the Registered Nurses Association of the Northwest Territories and Nunavut (RNANT/NU) to submit comments on the proposed amendments to The Medical Act. RNANT/NU represents over 1700 registered nurses (RN) and nurse practitioners (NP) who interact and work collaboratively with physicians across the two territories. During the pandemic and before, virtual practice was increasingly being used to supplement and support health care particularly in remote and rural areas, with mostly positive results. The Canadian Medical Association (CMA) recently reported a 91% satisfaction rate from patients using virtual care during the Covid-19 pandemic.

In discussion with our members about the amendments from the lens of patient safety, regulation, and working relationships with health care professionals two issues were raised repeatedly – northern context and continuity of care.

Continuity of Care

Our members are concerned about fragmentation of care related to staffing shortages, reliance on locums and the increased use of virtual care without managed coordination between health care providers. Perhaps the CMA Virtual Care Task Force said it best when they noted “that it is likely that the episodic use of virtual care outside an ongoing relationship with no connection to a home practice-based electronic health record will undermine the continuity of care.” We would advocate for a shared EMR, and northern based coordination roles in the clinics and communities to bridge the gap between virtual care physicians and the patients.

Context

Health care in the Northwest Territories is different, as you are aware. Virtual care practitioners from the south must know that not all patients in the north have immediate access to a hospital, lab, diagnostic services, and pharmacy. Nor do we all have reliable and cost-efficient internet and IT technologies. It will be necessary for physicians practicing virtual care to understand the role nurses have in communities and health care in the north, as these amendments will affect the practice of registered nurses and nurse practitioners who work closely with the residents in the NT.

We applaud the addition of Section 24 (m.1) which provides mechanisms for the establishments of: standards of practice; code of ethics; continuing competence programs and scope of practice. These regulatory practices will lead to increased patient safety and satisfaction by ensuring that virtual practice physicians have a clear understanding of the context of virtual practice in the north.

In summary, the amendments proposed remove barriers to access of safe and quality care for the residents of the Northwest Territories (NT), while remaining flexible by providing the three pathways to virtual care (virtual permit, referrals, and the use of a MOU.) Our members will be working with virtual care physicians, and it will be important for RN's and NPs to know that the physician has met the requirements set in The Medical Act such as the Virtual Care Register (Section 7 7.1) evidence of good standing and satisfactory registration in a Canadian jurisdiction. With these added regulatory responsibilities collaborative relationship between nurses, patients and physicians can enhance virtual health care in the north.



Thank you  
Executive Director  
RNANTNU

Caitlin Cleveland  
Member of the Legislative Assembly  
Government of the Northwest Territories

20<sup>th</sup> March 2022

Via Email [Caitlin\\_cleveland@ntassembly.ca](mailto:Caitlin_cleveland@ntassembly.ca)

Dear Ms. Cleveland,

As representatives of the medical community in the NWT, we are writing to express significant concerns about parts of Bill 40: An Act to Amend the Medical Profession Act (MPA). We are reaching out to you because despite expressing these concerns through conventional channels, we have found the response to be unsatisfactory. We believe the proposed amendments are problematic and could lead to changes which would negatively impact patient care in NWT.

Bill 40 proposes to modernize the MPA to include provisions for virtual care. Two main changes are proposed:

- 1) To provide an exemption to registration in the NWT for physicians licensed in provinces and to whom a request for consultation has been sent from an NWT health care practitioner.
- 2) Implement a “virtual register” of non-NWT physicians who can provide virtual care services to NWT residents separate from the NWT health care system.

During the COVID-19 pandemic, allowances were made under the Public Health Emergency for recognition of Alberta-based licenses for virtual consultation where a patient had been referred to an Alberta-based physician by an NWT-based practitioner for care not available in the NWT. This has been an extremely positive change, and the benefits extend beyond the COVID-19 pandemic. Allowing virtual care from Alberta eliminates unnecessary medical travel which is better for patients and families and far more financially sustainable for the NWT. We wholeheartedly endorse the proposition to enable this permanently and recognize that this must be accomplished by appropriate change to the MPA (proposed MPA s31.6) before the expiration of the Public Health Emergency.

Despite this positive change, the remainder of Bill 40 section 9, addition of a virtual care register, poses a significant risk to culturally safe and quality care for NWT patients. The virtual registry would allow for any physician, meeting very basic requirements, to provide virtual care to NWT patients.

Risks incurred by allowing this type of registration include:

- Care disconnected from the NWT's health system: The virtual provider would not have access to NWT medical records, nor ability to order labs or imaging. NWT care providers would not have access to documentation of care provided by the outside physician.
- Increased risk of culturally unsafe care: These physicians would have poor knowledge of the NWT's geography, communities, culture, or internal resources and care pathways.
- Increased cost to health care system: We know that the less familiar care providers are with the NWT context, the less efficient their care is, and the higher the cost to the system.
- Opens the door for private for-profit companies wishing to operate in the NWT: This would increase socioeconomic and systemic inequities in access to health services.
- Minimal oversight regarding quality of care: These physicians would be entirely outside of our jurisdiction, and not be subject to any of the processes under the NTHSSA's Quality Framework.

We would also like to bring your attention to the proposed MPA section 31.7 (Bill 40 s9, p6) which would seem to allow the Minister to unilaterally and without oversight make agreements with provincial

governments or regulatory bodies allowing any group of medical practitioners to provide virtual care to NWT patients *both* outside of our system of referral, informatics, and oversight, *and without any registration or oversight in the NWT whatsoever*. We believe this to be particularly risky.

Finally, we have concerns about the proposed expansion of Commissioner power related to standards of practice, code of ethics, etc (Bill 40 s24.3; proposed MPA s94.m). To be clear, we are in *complete favour* of such standards being put in place in the NWT, as they are elsewhere. What we cannot support is a system in which these standards/codes are authored or overseen directly by the GNWT, which has neither the expertise nor the capacity to do so appropriately. This approach fails to uphold the principle of professional self-regulation which is a privilege accorded by legislation to professional Colleges elsewhere and is completely out of step with the approach in the rest of the country. This is important because *the priorities of government (financial, etc) do not always align with what is best practice or in the best interests of patients*. Such standards need to be established by a regulatory body at arm's length from the government with a deep understanding of best practices, evaluation of medical evidence, and the medicolegal landscape. Failing that, there is high risk of conflict of interest or government agendas leading to standards which are not consistent with physicians' professional obligations or best patient care practices. This perceived conflict of interest in this area will *adversely affect our ability to recruit and retain physicians in the NWT beyond that currently*. Any changes to the MPA on this issue should come only after a full review of all available options, and we are not satisfied that this has been undertaken.

As noted above, we recognize the need to act quickly to amend the MPA in order to allow continuation of virtual care by consultants from whom we have requested care. We would like to see the proposed changes of section 31.6 reworded and incorporated into sections 10 and 14 of the MPA. This would enable appropriate recognition of provincial licensure for these consultants and exemption from the need for them to register in the NWT. This is the only part of the proposed changes which should be allowed to proceed without further consultation and consideration, and so we would additionally like to see all other proposed sections removed until further consultation has been undertaken.

Our concerns as outlined here are echoed in the written responses to these proposed changes by the College of Family Physicians of Canada as well as the Canadian Medical Association (see attached).

We understand there is some urgency to the situation. We are requesting your assistance in safeguarding patient care in the NWT from possible unforeseen consequences of these proposed changes. We are told there is an opportunity for MLAs to discuss this matter with the Minister on 24th March, and request to engage in conversation with you prior to that time or any time before the final vote of the Bill. We would like to arrange a meeting with you at your earliest convenience to answer any questions and discuss next steps. Please contact us at [NWTMDA@gmail.com](mailto:NWTMDA@gmail.com) to let us know how best to connect with you. Thank you very much for your time, and your work in support of health care excellence in the NWT.

Sincerely,

Dr. Katherine Breen, Secretary  
NWT Medical Association

**From:** [Jennifer Franki-Smith](#)  
**To:** [Michael Ball](#)  
**Subject:** Fw: Northwest Territories Bill 40: An Act to Amend the Medical Profession Act  
**Date:** February 4, 2022 4:13:47 PM

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**From:** Shrichand, Arun <ashrichand@royalcollege.ca>  
**Sent:** February 4, 2022 1:15:29 PM  
**To:** Jennifer Franki-Smith  
**Cc:** Glen Rutland  
**Subject:** Northwest Territories Bill 40: An Act to Amend the Medical Profession Act

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Ms. Jennifer Franki-Smith,

Thank you for approaching the Royal College of Physicians and Surgeons of Canada with an opportunity to comment on the proposed amendments to the Northwest Territories (NWT) Medical Profession Act, in Bill 40.

The Royal College strongly supports the amendments' intent to leverage virtual care as a complement to accessing in-person health care and services. During the COVID-19 pandemic, we've seen developments throughout the country highlighting how virtual care services can enhance patients access to quality specialty care. We commend Bill 40 for simplifying licensure and registration processes to provide virtual care across territorial and provincial boundaries. Such measures will help ensure virtual care is a sustained model of care during the pandemic and beyond.

If the Bill is enacted, we respectfully offer the following points for consideration to optimally deploy virtual care that enhances access to care across the NWT:

- Leverage virtual care models in an ecosystem that promotes continuity of care. This includes ensuring the availability of information on out-of-territory care in the NWT Electronic Medical Record and maintaining an ongoing relationship between a patient and out-of-territory providers whenever required.
- Provide virtual care within NWT's publicly insured system which meets the principles of the Canada Health Act.
- Provide all people living in NWT, including those in rural and remote communities, access to reliable high-speed internet to ensure they reap the full benefits of virtual care.
- Design virtual care services in genuine partnership with Indigenous communities of the NWT, to ensure care is being delivered in a culturally safe manner.
- Collaborate with people with lived experience (including patients and care partners) to ensure that the virtual care model meets the needs of the people relying on it.
- Pursue ongoing quality improvement to assure NWT's successful deployment of virtual care. The government can look to the NWT EMR and other tools to collect quality data to assess issues (e.g. access to care, health disparities) and to make ongoing improvements to the virtual care ecosystem.
- Integrate virtual care services with in-person care. There are various conditions and services that are not amenable to virtual care, where in-person encounters are necessary for high quality care. We encourage NWT to consider its physician workforce, medical facilities, specialized equipment, clinical teams and other necessary resources to ensure there is a right balance of in-person and virtual specialty care within the territory.
- Regarding the Bill's amendment to set standards of practice for the practice of medicine, we encourage the NWT government to continue collaborating with the Federation of Medical

Regulatory Authorities of Canada (FMRAC) and its member provincial and territorial medical regulatory authorities to ensure there is pan-Canadian alignment in professional standards of practice.

Thank you for providing the Royal College the opportunity to comment on this Bill. We would greatly appreciate being kept apprised on developments. We would be willing to provide information to our specialist physician members about process and conditions for participating through the NWT virtual care register and other means. The Royal College looks forward to continued participation and collaboration, to ensure that the needs of our members are considered alongside those of patients and other stakeholders involved in this important work.

Kind regards,

Arun (uh-roon) Shrichand, (he, him)  
Manager, **Health Policy and Advocacy** — Gestionnaire **Politiques de la santé et de la défense des intérêts**  
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**From:** Glen Rutland <[Glen\\_Rutland@ntassembly.ca](mailto:Glen_Rutland@ntassembly.ca)>  
**Sent:** Wednesday, December 22, 2021 12:12 PM  
**To:** Royal College - Collège royal Communications <[communications@royalcollege.ca](mailto:communications@royalcollege.ca)>  
**Cc:** Jennifer Franki-Smith <[Jennifer\\_Franki-Smith@ntassembly.ca](mailto:Jennifer_Franki-Smith@ntassembly.ca)>  
**Subject:** Northwest Territories Bill 40: An Act to Amend the Medical Profession Act

**To:** Royal College of Physicians and Surgeons of Canada

Bill 40: *An Act to Amend the Medical Profession Act* received second reading on November 26, 2021. A copy of Bill 40 and the plain language summary prepared by the Department of Health and Social Services is attached for your information.

The Standing Committee on Social Development has 120 days from November 26, 2021 to conduct and complete its review of Bill 40. As part of its review, the Committee is accepting comments from stakeholders on this Bill. Royal College has been identified as a potential stakeholder for this Bill. Submissions will be accepted until February 4, 2021. Please direct any comments or submissions to Committee Clerk, Ms. Jennifer Franki-Smith, by email at [Jennifer\\_Franki-Smith@ntassembly.ca](mailto:Jennifer_Franki-Smith@ntassembly.ca).

Please feel free to reach out if you have any questions.

Mársı | kinanāskomitin | Thank you | Merci | Haǰı̄ | Quana | Qujannamiik | Quyanainni | Máhsı | Máhsı | Masi

Glen Rutland

*Deputy Clerk, House Procedure and Committees | Greffier adjoint aux procédure et aux comités de la Chambre*

Pronouns: he/him/his | Pronoms: il / ils

Northwest Territories Legislative Assembly

L'Assemblée Législative des Territoires du Nord-Ouest

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## **APPENDIX 2: MOTIONS**

- Motion 1 - Clause 2 - amend definition virtual register
- Motion 2 - Clauses 3 and 4 - delete virtual register
- Motion 3 - Clause 9 - amend to delete virtual register
- Motion 4 - Clauses 12 to 19 - delete virtual register
- Motion 5 - Clause 20 - amend to delete virtual register
- Motion 6 - Clause 21 - amend
- Motion 7 - Clause 22 - amend to delete virtual register
- Motion 8 - Clause 23 - delete virtual register
- Motion 9 - Clause 24 - amend to delete virtual register
- Motion 10 - Clause 24.1 - add requirement to consult

MOTION

AN ACT TO AMEND THE MEDICAL  
PROFESSION ACT

**That clause 2 of Bill 40 be amended by deleting paragraphs (a) to (d) and substituting the following:**

- (a) by striking out the period at the end of the English version of the definition "undergraduate student" and substituting a semicolon; and
- (b) by repealing the definition "medical practitioner" and adding the following definitions in alphabetical order:

"medical practitioner" means a person who

- (a) holds a licence or temporary permit, or
- (b) is entitled to practice virtual care under section 31.1 or 31.2; (*médecin*)

"medical practitioner in a province or another territory" means a person who is entitled to practice medicine under the laws of a province or another territory; (*médecin dans une province ou un autre territoire*)

"nurse practitioner" means a nurse practitioner as defined in section 1 of the *Nursing Profession Act*; (*infirmière praticienne ou infirmier praticien*)

"virtual care" means practicing medicine through electronic communication where the medical practitioner and the patient are not in the same location. (*soins virtuels*)

MOTION

LOI MODIFIANT LA LOI  
SUR LES MÉDECINS

**Il est proposé que l'article 2 du projet de loi 40 soit modifié par abrogation des alinéas a) à d) et par substitution de ce qui suit :**

- a) suppression du point à la fin de la version anglaise de la définition d' «étudiant de premier cycle» et par substitution d'un point-virgule;
- b) abrogation de la définition de «médecin» et par remplacement de ce qui suit, selon l'ordre alphabétique :

«infirmière praticienne» ou «infirmier praticien»  
Infirmière praticienne ou infirmier praticien au sens de l'article 1 de la *Loi sur la profession infirmière*. (*nurse practitioner*)

«médecin» Personne qui, selon le cas :

- a) est titulaire d'une licence ou d'un permis temporaire;
- b) est habilitée à prodiguer des soins virtuels en application de l'article 31.1 ou 31.2. (*medical practitioner*)

«médecin dans une province ou un autre territoire»  
Personne qui est habilitée à exercer la médecine en vertu des lois d'une province ou d'un autre territoire. (*medical practitioner in a province or another territory*)

«soins virtuels» L'exercice de la médecine au moyen d'une communication électronique lorsque le médecin et le patient ne sont pas au même endroit. (*virtual care*)

MOTION

AN ACT TO AMEND THE MEDICAL  
PROFESSION ACT

**That clauses 3 and 4 of Bill 40 be deleted.**

MOTION

LOI MODIFIANT LA LOI  
SUR LES MÉDECINS

**Il est proposé que les articles 3 et 4 du projet de  
loi 40 soient abrogés.**

MOTION

AN ACT TO AMEND THE MEDICAL  
PROFESSION ACT

**That clause 9 of Bill 40 be amended**

- (a) by deleting proposed clauses 31.1, 31.2, 31.3, 31.4 and 31.5 and the heading preceding proposed clause 31.1;**
- (b) by deleting that portion of proposed clause 31.6 preceding paragraph (a) and substituting the following:**

Virtual Care

31.1. A person may, without being registered in the Medical Register or the Temporary Register and without a licence or temporary permit, practice virtual care from a province or another territory if the person

- (c) by deleting proposed clauses 31.7 and 31.8 and substituting the following:**

Minister may enter into agreement

31.2. (1) The Minister may enter into an agreement with the government of a province or another territory or with another body or entity responsible for the regulation of the medical profession in a province or another territory, authorizing a person or class of persons to practice virtual care from the province or other territory without being registered in the Medical Register or the Temporary Register.

Person may practice in accordance with agreement

(2) A person may, without being registered in the Medical Register or the Temporary Register and without a licence or temporary permit, practice virtual care in accordance with an agreement made under subsection (1).

Person not entitled to practice under 31.1 or 31.2

31.3. Except as may be otherwise permitted by the Committee, having regard for the nature of the offence or the circumstances under which it was committed, no person shall practice virtual care under section 31.1 or

MOTION

LOI MODIFIANT LA LOI  
SUR LES MÉDECINS

**Il est proposé que l'article 9 du projet de loi 40 soit modifié par :**

- a) suppression des articles 31.1, 31.2, 31.3, 31.4 et 31.5 proposés et de l'intertitre précédant l'article 31.1 proposé;**
- b) suppression du passage introductif de l'article 31.6 proposé et par substitution de ce qui suit :**

Soins virtuels

31.1. Une personne peut, sans être inscrite au registre des médecins ou au registre temporaire et sans détenir une licence ou un permis temporaire, prodiguer des soins virtuels d'une province ou d'un autre territoire si elle remplit les conditions suivantes :

- c) suppression des articles 31.7 et 31.8 proposés et par substitution de ce qui suit :**

31.2. (1) Le ministre peut conclure un accord avec le gouvernement d'une province ou d'un autre territoire ou avec un autre organisme ou une entité responsable de la réglementation de la profession médicale dans une province ou un autre territoire pour autoriser une personne ou une catégorie de personnes à prodiguer des soins virtuels d'une province ou d'un autre territoire sans être inscrite au registre des médecins ou au registre temporaire.

Accord conclu par le ministre

(2) Une personne peut, sans être inscrite au registre des médecins ou au registre temporaire et sans détenir une licence ou un permis temporaire, prodiguer des soins virtuels conformément à l'accord conclu en vertu du paragraphe (1).

Prestation de soins virtuels conformément à un accord

31.3. Sauf si le comité le permet, eu égard à la nature de l'infraction ou aux circonstances dans lesquelles elle a été commise, n'est pas habilitée à prodiguer des soins virtuels en application de l'article 31.1 ou 31.2 la

Aucun droit de pratique au titre de l'article 31.1 ou 31.2

31.2 if the person has been convicted of an offence under this Act or an indictable offence under the *Criminal Code*.

personne qui a été déclarée coupable d'une infraction en vertu de la présente loi ou d'un acte criminel en vertu du *Code criminel*.

MOTION

AN ACT TO AMEND THE MEDICAL  
PROFESSION ACT

**That clauses 12 to 19 of Bill 40 be deleted.**

MOTION

LOI MODIFIANT LA LOI  
SUR LES MÉDECINS

**Il est proposé que les articles 12 à 19 du projet  
de loi 40 soient abrogés.**

MOTION

AN ACT TO AMEND THE MEDICAL  
PROFESSION ACT

**That clause 20 of Bill 40 be amended by deleting proposed paragraphs 81(1)(b.1) and (b.2) and substituting the following:**

(b.1) is entitled to practice virtual care under section 31.1 or 31.2; or

MOTION

LOI MODIFIANT LA LOI  
SUR LES MÉDECINS

**Il est proposé que l'article 20 du projet de loi 40 soit modifié par suppression des alinéas 81(1)b.1) et b.2) proposés et par substitution de ce qui suit :**

b.1) d'être habilité à prodiguer des soins virtuels en application de l'article 31.1 ou 31.2;

MOTION

AN ACT TO AMEND THE MEDICAL  
PROFESSION ACT

**That Bill 40 be amended by deleting clause 21 and substituting the following:**

21. That portion of subsection 82(1) preceding paragraph (a) is repealed and the following is substituted:

82. (1) A person shall not, unless they hold a licence, temporary permit or are entitled to practice virtual care under section 31.1 or 31.2,

MOTION

LOI MODIFIANT LA LOI  
SUR LES MÉDECINS

**Il est proposé que le projet de loi 40 soit modifié par abrogation de l'article 21 et par substitution de ce qui suit :**

21. Le passage introductif du paragraphe 82(1) est abrogé et remplacé par ce qui suit :

82. (1) Nul ne peut, à moins d'être titulaire d'une licence, d'un permis temporaire ou d'être habilité à prodiguer des soins virtuels en application de l'article 31.6 ou 31.7, selon le cas :



MOTION

AN ACT TO AMEND THE MEDICAL  
PROFESSION ACT

**That clause 22 of Bill 40 be amended by deleting proposed paragraphs 83(b.1) and (b.2) and substituting the following:**

(b.1) is entitled to practice virtual care under section 31.1 or 31.2; or

MOTION

LOI MODIFIANT LA LOI  
SUR LES MÉDECINS

**Il est proposé que l'article 22 du projet de loi 40 soit modifié par suppression des alinéas 83b.1) et b.2) proposés et par substitution de ce qui suit :**

b.1) soit habilitée à prodiguer des soins virtuels en application de l'article 31.1 ou 31.2;

MOTION

AN ACT TO AMEND THE MEDICAL  
PROFESSION ACT

**That clause 23 of Bill 40 be deleted.**

MOTION

LOI MODIFIANT LA LOI  
SUR LES MÉDECINS

**Il est proposé que l'article 23 du projet de loi 40  
soit abrogé.**

MOTION

AN ACT TO AMEND THE MEDICAL  
PROFESSION ACT

**That clause 24 of Bill 40 be deleted and the following substituted:**

24. Section 94 is amended by adding the following after paragraph (m):

- (m.1) establishing or adopting standards of practice, codes of ethics, continuing competency programs and the nature of those programs, and scope of practice frameworks and guidelines;

MOTION

LOI MODIFIANT LA LOI  
SUR LES MÉDECINS

**Il est proposé que l'article 24 du projet de loi 40 soit abrogé et remplacé par ce qui suit :**

24. L'article 94 est modifié par insertion, après l'alinéa m), de ce qui suit :

- m.1) établir ou adopter des normes de pratique, des codes de déontologie, des programmes de maintien de la compétence et la nature de ces programmes, ainsi que des cadres et des lignes directrices concernant le champ d'exercice de la profession;

MOTION

AN ACT TO AMEND THE MEDICAL  
PROFESSION ACT

**That Bill 40 be amended by adding the following after clause 24:**

24.1. Section 94 is renumbered as subsection 94(1) and the following is added after that renumbered subsection:

Minister shall  
consult

(2) Before recommending that regulations be made under paragraph (1)(m.1), the Minister shall consult with the Northwest Territories Medical Association.

MOTION

LOI MODIFIANT LA LOI SUR LES  
MÉDECINS

**Il est proposé que le projet de loi 40 soit modifié par insertion, après l'article 24, de ce qui suit :**

24.1. L'article 94 et renuméroté pour devenir le paragraphe 94(1) et la même loi est modifiée par insertion, après ce paragraphe renuméroté, de ce qui suit :

(2) Avant de recommander qu'un règlement soit pris en vertu de l'alinéa (1)m.1), le ministre consulte l'Association des médecins des Territoires du Nord-Ouest.

Consultation  
par le ministre