

A Guide to Private Legislation For Self-regulated Health Professions

Department of Health



Department Health

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Private Bills

General

Bills are divided into two categories: public and private. There are considerable differences in both theoretical and practical aspects. A public bill relates to a matter of public policy; it is introduced by a minister in cabinet (the executive branch of government). A private bill relates to a matter of special benefit to a particular person or group of persons; it is introduced by any Member of the Legislative Assembly (MLA) who is not a cabinet minister.

A private bill has the objective of establishing a privilege that could come as an exemption from general law or a provision for something that cannot be obtained under the general law. Where one or more individuals, an association, an organization, a company, municipality or another local authority seek any special privilege requiring legislative sanction, the legislation can only be obtained by means of a private bill on application by the interested party.

Application

The process for the passage of a private bill is commenced by filing an application with the Clerk of the Legislative Assembly of New Brunswick including a copy of the bill, proof of publication of advertisements, name of the MLA sponsoring the bill and the payment of fees. It is advisable to include a summary of background information with the submission to facilitate the process.

Once the Clerk receives a private bill it is forwarded to the Deputy Minister of Justice. The Department of Justice will examine the bill; to determine whether the subject matter is within the competency of the legislative assembly; to see that the bill does not amend a general statute; to revise the bill whenever necessary; and to ensure the bill is in the proper form.

For further information on applying for the enactment of a private bill, please refer to Part VIII of the Standing Rules of the Legislative Assembly or contact the Office of the Clerk of the Legislative Assembly of New Brunswick:

<http://www.gnb.ca/legis/publications/rules-reglement.pdf>

General information:

506-453-2506

Fax: 506-453-7154

Monday – Friday, 8:15 a.m. – 5 p.m.

Timing

An application for a private bill may start at any time of the year. Again, all fees and advertisement requirements must met as per the Standing Rules (Sec. VIII).

Standing committee on private bills

As part of the legislative process, when a private bill has received first reading, it is referred to the standing committee on private bills at the legislative assembly. This committee considers and reports to the assembly on applications for private bills. The committee hears representations for and against the bill. Any person whose interests or property may be affected may appear before the committee to express concerns. Private bills reported from the committee stand for second reading in the full assembly.

Self-regulation of health professions

General

Since the 1950s, New Brunswick governments have supported health professions to regulate themselves. New Brunswick is unique in this regard, as other provinces govern health professions through public legislation; often, “umbrella” legislation applies the same governance standards to all health professions. Health professions govern themselves for two main reasons: the authority to license; and the ability to discipline licensees.

In New Brunswick, private bills give health professions the authority to regulate their professions through licensing (entry to practice); standards of practice; disciplinary mechanisms; and continuing education requirements. A professional college is often incorporated through the self-regulating legislation. In this scenario, a professional college protects the public interest; in contrast, a professional association protects the interests of its members. In some health professions, where practitioner numbers are smaller, the association has a dual role of oversight and representation with regard to practicing members.

Proposal to the Minister of Health

The Minister of Health is responsible for the planning and delivery of health care in New Brunswick. His or her authority includes ensuring public safety and the sustainability of the health-care system through the review and support of draft private bills that regulate health professions, which may become law.

A group of health professionals seeking to organize themselves as a college or regulatory body must submit a written proposal to the Minister. The standing committee on private bills will not report a private health bill to the legislative assembly unless it has the support of the Minister.

The Department of Health reviews all proposed private health profession legislation (a new bill or amendments to existing legislation). The department’s main interests in the revision are:

- the impact on public safety;
- maintaining inter-provincial mobility requirements under the Agreement on Internal Trade, Chapter 7 http://www.ait-aci.ca/index_en/labour.htm;
- ensuring reasonable access to trained professionals; and
- the impact on the operation of the health system.

Checklists and flow charts have been created to help health professions prepare for the consultative process with the department. These can be found in the appendices.

Consultation

It is recommended that consultation with the department be coordinated at the beginning and throughout the process, even prior to a formal submission to the Minister. The department aims to collaborate with health professions to help them meet their objectives and ensure the Minister's concerns for protecting the public interest are addressed.

Other considerations that could be discussed during consultations include subsequent regulations and bylaws; implementation plan; and proclamation date and other factors to consider when filing a private health bill with the Clerk. For further information, please contact the Policy, Legislation and Intergovernmental Relations Branch at the Department of Health:

General information:

506-457-4800,
Monday – Friday,
8:30 a.m. – 5 p.m.

Reception:

506-457-4800,
Monday – Friday
8:30 a.m. – 5 p.m.

Fax: 506-444-5236
Email: Health.Sante@gnb.ca
Website: www.gnb.ca/0051/index-e.asp

Mailing address:

Department of Health
HSBC Place, Fifth Floor
P.O. Box 5100
Fredericton, NB E3B 5G8

Existing private health legislation

It may be helpful to refer to existing private health legislation as an example of what is best practice. Most legislation is on the website of the college or an association to which the legislation pertains. The acts and related regulations and bylaws should be available for download or can be requested by contacting the head office of the college or the association.

A paper copy is available through the Legislative Library, <http://www1.gnb.ca/leglibbib/>.

Some of the more comprehensive acts include the *Medical Act*, the *Nurses Act* and the *Pharmacy Act*. A full list of private health legislation in New Brunswick has been provided for your reference.

- Medical Act
- Pharmacy Act
- Physiotherapy Act
- Dental Hygienists Act
- Dental Technicians Act
- Paramedics Act
- College of Psychology Act
- Occupational Therapists Act
- Medical Radiation Technologists Act
- Respiratory Therapy Act
- Optometry Act
- Podiatrists Act
- Massage Therapists Act
- Nurses Act
- Licensed Practical Nurses Act
- Dental Act
- Denturists Act
- Cardiology Technologists Act
- Speech Language Pathology and Audiology Act
- Dieticians Act
- Social Workers Act
- Chiropractors Act
- Embalmers, Funeral Directors and Funeral Providers Act
- Opticians Act
- Medical Record Librarians Act
- Medical Laboratory Technologists Act

Process for consultation with the Department of Health

Phase 1

- Collect information suggested in the **Proposal Checklist** (Appendix A).
- Share the proposal with the Department of Health.
- Organize a meeting between the department policy adviser, the health professionals group and their legal counsel.
- At the meeting scope of legislation; feasibility and sustainability of the proposal; and legislative options will be discussed.

Phase 2

- Legal counsel for the health professionals group drafts appropriately complex private bill.
- The private bill should contain the elements suggested in the **Draft Bill Checklist** (Appendix B) unless otherwise discussed in the initial consultation.
- The draft bill is shared with the Department of Health.
- Subsequent meetings may be organized to discuss areas of concern as needed.

Phase 3

- The draft bill receives the Minister's support.
- The health professional's group make an application to the Clerk of the Legislative Assembly as outlined in Part VIII of the Standing Rules of the Legislative Assembly of New Brunswick.

Appendix A

Proposal Checklist

Any proposal to the Minister of Health must answer the following questions:

- What is the contact information for the group (address, telephone number, email, name of contact person, names and titles of executive officers of the group or association, date of incorporation, organization constitution or bylaws)?
- What length of time has the association or group represented New Brunswick health-care professionals?
- Does the group represent all or a strong majority of the practitioners in the province?
- What is the total number of practitioners in the province?
- How many of these practitioners support the self-regulation of the practice?
- Are there any other groups in the province that represent practitioners in the same health discipline?
- What are the names of national or international associations of the health discipline with which the group is affiliated?
- Are there other organizations that could provide information respecting the practice of the discipline?
- Why is it in the public interest to regulate the health discipline? Does the unregulated practice of the discipline pose a threat of physical, mental or emotional harm to the public? (The answer should include supporting data where possible.)

Appendix B

Draft Bill Checklist

Any private bill regulating a health profession should contain the following considerations:

- Statement of the purpose of the private bill.
- Description of proposed governance model (board of director, executive committee, council, etc.)
- Requirement for one or more lay persons to make up preferred governance model so as to represent the public.
- Definition of sexual abuse.
- Identify sexual abuse as a form of professional misconduct.
- Make failure to report sexual abuse by another member of the same regulated profession a form of professional misconduct.
- Indefinite public access to the results of any discipline hearing where a member's license is suspended or revoked.
- Provision for public access to member's information such as name, membership type and member's current status.
- Provision requiring all practicing members to maintain professional liability insurance.
- Protection of patient's privacy and records consistent with the *Personal Health Information Privacy and Access Act*.
- Authority of governing body to create regulations and bylaws to further implement its powers and attain its objectives.
- Provision requiring Minister's approval for any regulations and bylaws regarding:
 - » entry to practice;
 - » affecting inter-provincial or inter-territorial labour mobility; and
 - » professional codes or standards.
- A delayed date of proclamation from time of royal assent to give regulatory body time to execute the implementation plan.