



# **BILL NO. 107**

*Government Bill*

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*1st Session, 59th General Assembly  
Nova Scotia  
53 Elizabeth II, 2004*

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## **An Act to Monitor the Prescribing of Certain Drugs**

CHAPTER 32  
ACTS OF 2004

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR  
OCTOBER 18, 2004**

The Honourable Angus MacIsaac  
*Minister of Health*

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*Halifax, Nova Scotia  
Printed by Authority of the Speaker of the House of Assembly*

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## **An Act to Monitor the Prescribing of Certain Drugs**

Be it enacted by the Governor and Assembly as follows:

**1** This Act may be cited as the *Prescription Monitoring Act*.

**2** In this Act,

(a) “Administrator” means the agency or person designated by the Minister to administer the Program;

(b) “Board” means the Nova Scotia Prescription Monitoring Board established by this Act;

(c) “College of Pharmacists” means the Nova Scotia College of Pharmacists;

(d) “College of Physicians and Surgeons” means the College of Physicians and Surgeons of Nova Scotia;

(e) “director” means a director of the Board;

(f) “licensing authority” means the College of Physicians and Surgeons, the College of Pharmacists, the Provincial Dental Board or other professional licensing body designated as a licensing authority by the regulations;

(g) “member” means a person who is registered with a licensing authority and holds a licence;

(h) “Minister” means the Minister of Health;

(i) “monitored drugs” means those drugs designated by the regulations as being subject to the Program;

(j) “non-nominal data” means data that does not contain any personal identifiers;

(k) “personal information” means personal information as defined in the *Freedom of Information and Protection of Privacy Act*;

(l) “pharmacist” means a person licensed to practise pharmacy pursuant to the *Pharmacy Act*;

(m) “prescriber” means a person who is entitled under the laws of the Province to prescribe monitored drugs;

(n) “Program” means the prescription-monitoring program established and operated by the Board;

(o) “Provincial Dental Board” means the Provincial Dental Board of Nova Scotia;

(p) “registrar” means a person holding the office of the registrar, or its equivalent, for a licensing authority;

(q) “resident” means a resident as defined pursuant to the *Health Services and Insurance Act*.

**3** There is hereby constituted a body corporate to be known as the Nova Scotia Prescription Monitoring Board.

**4** The Board has the capacity, rights, powers and privileges of a natural person.

**5** **(1)** The Board shall establish and operate a prescription-monitoring program for the Province.

- (2)** The objects of the Program are to promote
- (a) the appropriate use of monitored drugs; and
  - (b) the reduction of the abuse or misuse of monitored drugs.

**6** The Board shall

- (a) recommend drugs for designation by the Governor in Council as monitored drugs to further the objects of the Program;
- (b) evaluate the effectiveness of the Program in furthering its objects;
- (c) provide policy direction to the Administrator regarding the Program;
- (d) make recommendations to the Governor in Council respecting regulations that the Board considers necessary or advisable to carry out the Program effectively;
- (e) provide advice and recommendations to the Minister; and
- (f) perform other duties and functions assigned to it by the Minister.

**7** **(1)** The Board consists of

- (a) three directors each of whom represents one of the licensing authorities and is nominated by the governing body of that licensing authority and appointed by the Governor in Council;
- (b) the Registrar of the College of Physicians and Surgeons or a designate of the Registrar;
- (c) the Registrar of the Provincial Dental Board or a designate of the Registrar;
- (d) the Registrar of the College of Pharmacists or a designate of the Registrar;
- (e) two directors appointed by the Governor in Council who are not members of a licensing authority and who are not in a position of real or perceived conflict of interest; and
- (f) two non-voting directors from the Department of Health appointed by the Governor in Council.

**(2)** Where a registrar or designate who holds office pursuant to clause (1)(b), (c) or (d) is not a member of the licensing authority with respect to which the registrar or designate holds office, the director appointed for that licensing authority pursuant to clause (1)(a) must be a member of that licensing authority.

**(3)** Each director holds office for a term of three years and may be re-appointed.

**(4)** Notwithstanding subsection (3),

(a) the terms of office for the directors appointed pursuant to clause (1)(a) upon the first appointment of directors to the Board shall be

(i) two years for two of those directors, and

(ii) three years for one of those directors,

as determined by the Governor in Council;

(b) the terms of office for the directors appointed pursuant to clause (1)(e) upon the first appointment of directors to the Board shall be

(i) two years for one of those directors, and

(ii) three years for one of those directors,

as determined by the Governor in Council;

(c) where a director appointed pursuant to clause (1)(b), (c) or (d) or 8(b) is a registrar, the director holds office until such time as the director ceases to be a registrar or appoints a designate to hold the office; and

(d) where a director appointed pursuant to clause (1)(b), (c) or (d) or 8(b) is a designate of a registrar, the director holds office for the term specified by the registrar that appointed the designate or until such time as the registrar ceases to be a registrar.

**(5)** Notwithstanding subsections (3) and (4), directors continue to hold office until their successors are appointed.

**(6)** Where a vacancy occurs during a director's term of office, a person shall be appointed in that director's place for the unexpired portion of the term.

**(7)** A vacancy does not impair the right of the remaining directors to act.

**8** In the event that an additional professional licensing body is designated by the regulations as a licensing authority, the number of directors of the Board shall be expanded by the regulations to include

(a) one director who is nominated by the governing body of the licensing authority and appointed by the Governor in Council; and

(b) the registrar of the licensing authority or a designate of the registrar.

**9 (1)** The Board shall appoint two of the directors appointed pursuant to clauses 7(1)(a), (b), (c) or (d) or Section 8 to be the Chair and the Vice-chair of the Board.

**(2)** The Chair and the Vice-chair of the Board hold office for terms not exceeding three years, as determined by the Board, and may be re-appointed.

**10** A director or a member of a committee or subcommittee of the Board shall be reimbursed as prescribed by the regulations for such reasonable expenses actually incurred in carrying out duties as a director or a member of a committee or a subcommittee of the Board.

**11** The Board shall meet at least two times each year.

**12 (1)** The Minister shall appoint an Administrator.

**(2)** The Administrator shall

(a) administer the Program to assist the Board in carrying out its duties under Section 6;

(b) monitor prescribing practices and dispensing practices respecting the monitored drugs;

(c) assist the Board in evaluating the effectiveness of the Program;

(d) provide information, professional consultation and assistance to licensing authorities about the prescribing and dispensing of monitored drugs as requested by the licensing authorities;

(e) monitor the use of monitored drugs by residents and report inappropriate use to

(i) an appropriate law enforcement authority pursuant to subsection 23(1),

(ii) an appropriate licensing authority pursuant to subsection 23(2), or

(iii) a pharmacist or prescriber,

if the Administrator is satisfied that the release of such information furthers the objects of the Program;

(f) provide reports to the Board respecting the results of the monitoring carried out pursuant to clauses (b) and (e);

(g) provide information and professional consultation and assistance to prescribers and pharmacists respecting the prescribing and dispensing of monitored drugs;

(h) educate prescribers and pharmacists about appropriate prescribing and dispensing of monitored drugs;

(i) respond to inquiries from the public with respect to the Program; and

(j) report to the Board, the Minister and licensing authorities on new and emerging prescribing patterns for monitored drugs in all or part of the Province and other jurisdictions as those patterns become known to the Administrator.

**(3)** For the purpose of

(a) monitoring

(i) prescribing practices,

(ii) dispensing practices, and

- (iii) the use of monitored drugs; and
- (b) evaluating the effectiveness of the Program,

the Administrator may collect, compile and disseminate information the Administrator considers necessary in accordance with this Act.

**(4)** The Administrator shall appoint a Manager of the Program and seek input from the Board when appointing the Manager.

**(5)** Any actions of the Manager of the Program made in respect of this Act are deemed to be the actions of the Administrator.

**13** The Administrator shall prepare a business plan for the Program in the form prescribed by the Minister for approval by the Board and, on a date fixed by the Minister, the Board shall submit the business plan to the Minister.

**14 (1)** The Board shall, in the form and with the content required by the Minister, provide to the Minister

- (a) through the Administrator, annual financial statements; and
- (b) such other reports as are required by the Minister.

**(2)** Subject to the approval of the Minister, the Board shall establish policies with respect to privacy and confidentiality regarding information held by the Program.

**(3)** The Board shall submit to the Minister an annual report on the activities of the Board and the Minister shall table the annual report of the Board before the Assembly if the Assembly is then sitting or, if the Assembly is not then sitting, during the next ensuing sitting.

**(4)** The annual report referred to in subsection (3) shall set out the reasons why a drug has been added to or removed from the Program.

**15 (1)** The Board is not an agent of Her Majesty in right of the Province.

**(2)** A person employed or engaged by the Board is not an officer, servant or agent of Her Majesty in right of the Province.

**16** The Board may make by-laws

- (a) providing for the management of the Board;
- (b) providing for the holding of meetings of the Board, quorum requirements and conduct of such meetings;
- (c) fixing the time and place for regular meetings of the Board, determining by whom meetings may be called, regulating the conduct of meetings, providing for emergency meetings and respecting the notice required in respect of meetings;
- (d) providing for the appointment of such committees or subcommittees of the Board as the Board considers necessary;

(e) respecting the composition, powers and duties of committees or subcommittees appointed by the Board and providing for the holding and conduct of meetings of such committees or subcommittees.

**17** Pharmacists and prescribers shall comply with this Act and the regulations in relation to the prescribing and dispensing of monitored drugs.

**18** Upon the request of the Administrator, prescribers, pharmacists or any other body or person shall provide to the Administrator any information, including medical records, the Administrator reasonably requires to achieve the objects of the Program.

**19** Information received by

- (a) the Administrator;
- (b) any person employed by the Administrator pursuant to this Act; or
- (c) the Board,

shall only be used in accordance with this Act and the regulations and not for any other purpose.

**20** Notwithstanding the *Freedom of Information and Protection of Privacy Act*, the Administrator may release

- (a) information with respect to monitored drugs; and
- (b) personal information with respect to a resident who has a prescription for monitored drugs,

to a prescriber, a pharmacist, a licensing authority or other body or person as is reasonable to achieve the objects of the Program.

**21** Information communicated to the Administrator or the Board by persons employed in the administration of the *Health Services and Insurance Act* is deemed to be information communicated pursuant to clause 34(a) of the *Health Services and Insurance Act*.

**22 (1)** Any data provided to the Minister, the Governor in Council or the public with respect to the Program pursuant to this Act shall be non-nominal data.

**(2)** Notwithstanding subsection (1), a resident may have access to the resident's own personal information with respect to the Program.

**23 (1)** Where the Administrator has reasonable grounds to believe that an offence has been committed contrary to the *Controlled Drugs and Substances Act* (Canada) or the *Criminal Code* (Canada) or successor legislation, information in the possession of the Administrator in respect of such offence may be communicated to the appropriate law enforcement authority by the Administrator or such person as may be designated by the Administrator.

**(2)** The Administrator may, at any time, file a complaint with a licensing authority regarding the activities of a member of that licensing authority if the Administrator has reason to

believe that the member may be practising in a manner that is inconsistent with the objects of the Program.

(3) Where the Administrator lays a complaint pursuant to subsection (2), the Administrator shall provide the licensing authority with all relevant information on which the complaint is based.

**24 (1)** No action for damages lies against

- (a) a licensing authority, the Administrator or the Board;
- (b) an officer, director or employee of a licensing authority, the Administrator or the Board;
- (c) a member of a committee or subcommittee of the Board; or
- (d) a prescriber or pharmacist,

for any proceeding initiated or taken in good faith under this Act, for any act or failure to act in good faith in carrying out their duties or obligations as an officer, director, employee or member under this Act, or for any decision, order or resolution made or enforced in good faith under this Act.

(2) No action lies against any person for the disclosure of any information or any document or anything therein pursuant to this Act if such disclosure is made in good faith.

(3) Without limiting the generality of subsection (2), no action for damages lies against a prescriber or pharmacist or other person for disclosing any information, books, records, papers, and other documents in their possession or control when disclosed in good faith pursuant to this Act.

**25 (1)** A person who violates this Act or the regulations is guilty of an offence and liable on summary conviction to the penalty provided for in the *Summary Proceedings Act*.

(2) All fines and penalties payable under this Section as a result of a prosecution by or on behalf of the Board belong to the Board.

(3) Any information to be laid pursuant to this Act may be laid by the Chair of the Board with the consent of the Minister of Health.

**26 (1)** In this Section, “data” includes all documents and information, both physical and electronic, relating to the work of the Board, the Program and the Administrator.

(2) In the event that the Board ceases to operate,

- (a) ownership of the data shall be transferred to the Minister; and
- (b) the Minister shall allow the licensing authorities access to the data for the purposes of promoting the appropriate use of monitored drugs and reducing the abuse and misuse of monitored drugs.

- 27 (1)** The Governor in Council may make regulations
- (a) providing for the implementation of the Program;
  - (b) respecting a computerized information system to support the Program;
  - (c) designating drugs that are subject to the Program as monitored drugs;
  - (d) incorporating by reference, in whole or in part, a written standard, rule, regulation, guideline, designation, code, document or list, including a list of designated drugs, as it reads on a prescribed day or as it is amended from time to time;
  - (e) respecting the requirements that must be met for the purposes of the Program before a prescriber may prescribe or a pharmacist may dispense monitored drugs;
  - (f) prescribing the types of forms and records to be used pursuant to this Act and the regulations;
  - (g) prescribing the duties, functions and responsibilities of the Administrator;
  - (h) respecting the types of records and accounts to be kept by the Administrator;
  - (i) respecting the types of reports to be made by the Administrator to the Minister and the Board;
  - (j) respecting when and in what form information must be provided by a pharmacist or a prescriber or other body or person to the Administrator with respect to the Program;
  - (k) respecting the release of information to a pharmacist, a prescriber and to a licensing authority or to any other body or person with respect to the Program;
  - (l) designating additional professional licensing bodies as licensing authorities;
  - (m) providing for the expansion of the number of the directors of the Board pursuant to Section 8;
  - (n) respecting the reimbursement of directors and committee and subcommittee members for expenses;
  - (o) defining any word or expression used but not defined in this Act;
  - (p) further defining any word or expression defined in this Act; and
  - (q) respecting any matter that the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

**(2)** The exercise by the Governor in Council of the authority in subsection (1) is regulations within the meaning of the *Regulations Act*.

**28** This Act comes into force on such day as the Governor in Council orders and declares by proclamation.

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