

**LEGISLATIVE ASSEMBLY OF MANITOBA**  
**THE STANDING COMMITTEE ON STATUTORY REGULATIONS AND ORDERS**  
**Friday, 22 May, 1981**

**Time — 2:00 p.m.**

**CHAIRMAN — Mr. Albert Driedger (Emerson).**

**MR. CHAIRMAN:** I call the Committee to order. I'd like to refer the members of the Committee to Bill 20, The Registered Dietitians Act. In perusing the bill, I understand no section had been passed of that bill yesterday.

**BILL NO. 20**  
**THE REGISTERED DIETITIANS ACT**

**MR. CHAIRMAN:** The Member for St. Johns.

**MR. SAUL CHERNIACK:** Are we expecting the Minister of Health to be steering the bill?

**MR. CHAIRMAN:** It is my understanding that the Minister shall be showing up.

**MR. CHAIRMAN:** The Member for Portage.

**MR. LLOYD G. HYDE:** Mr. Chairman, I don't believe . . . is planning to be here this afternoon, but I expect that the Minister of Health will be.

**MR. CHAIRMAN:** The Minister of Health has arrived. Are we prepared to proceed then on Bill 20? Part 1 — pass; Section 2 — pass — the Member for St. Vital.

**MR. D. JAMES WALDING:** Mr. Chairman, I would like you to take these clause-by-clause.

**MR. CHAIRMAN:** I was referring to Clause 1. My apologies to the Member for St. Vital. Definitions. 1.

**MR. WALDING:** That's Section 1, Mr. Chairman. Clause-by-clause, if you please. Mr. Chairman, you do go clause-by-clause and give us enough time to review any marks or notes that we might have.

**MR. CHAIRMAN:** To the Member for St. Vital, it was not my intention to rush. We will take it definition-by-definition, is that the desire?

**MR. WALDING:** No, just give us enough time to . . .

**MR. CHAIRMAN:** Fine. The Member for St. Johns.

**MR. SAUL CHERNIACK:** I'd like to stop on "certificate" and try to get some clarification of the point to that. There is no certificate referred to under Section 18, but indeed I assume that somewhere there is reference.

**MR. CHAIRMAN:** The Minister of Health.

**HON. L.R. (Bud) SHERMAN (Fort Garry):** Mr. Chairman, that would be the certificate issued by the academic course at the University of Manitoba in this health profession.

**MR. CHERNIACK:** I don't read it that way, Mr. Chairman, I don't quite know where that is so. It says certificate apparently which is issued pursuant to 18 but I don't think it's issued by the university, I think it's issued by the board. That's the way I read it and I'm just wondering where it is referred to. (Interjection)— Well, no, I believe 19 refers to a certificate of membership of 17. That's my problem. What I mean, Mr. Chairman, I don't want to get confused as between the word "certificate" referred to 17 or what the Minister referred to. I don't think he's right.

**MR. SHERMAN:** Mr. Chairman, would you refer these questions to the sponsor of the bill please and where that information is not available the Minister will attempt to find it; but the sponsor of the bill is Mr. Hyde, the Member for Portage la Prairie. He is here and I would hope he could be included in the examination of this legislation.

**MR. CHAIRMAN:** The Member for Portage.

**MR. HYDE:** Mr. Chairman, I'm not as qualified as I should be on the . . . I have not the answers to the questions probably that have been put forward, but I believe that Mrs. Hamilton has indicated to us that the board is responsible for the certificate. This is from the board, am I . . . ?

**MR. CHAIRMAN:** Is it the desire of the committee to have the members come forward to answer questions?

**MR. CHERNIACK:** I think that any assistance we could get we should be happy to have and by all means if they can help they should be invited to do so. My present problem is to relate the word "certificate," the definition — "certificate" means certificate of registration. Now the Minister thought it had to do with something issued by a university; I don't think so. I want to make sure, is it the certificate of membership referred to in 17 or is it some other certification that I'm not aware of yet?

**MR. CHAIRMAN:** It would be my intention then, if there's no objection, to call Mrs. Hamilton to answer questions. Mrs. Hamilton would you proceed?

**MRS. HAMILTON:** I think it would read that it should be pursuant to Section 17 because it is issued by the association.

**MR. CHERNIACK:** Mrs. Hamilton, is that a correction you want?

**MRS. HAMILTON:** Yes.

**MR. CHAIRMAN:** Mrs. Hamilton, are you suggesting a correction under the item "certificate?"

**MRS. HAMILTON:** Yes, to read Section 17 rather than Section 18.

**MR. SHERMAN:** There is a typographical error, obviously, Mr. Chairman, and that subclause should

read: "certificate means certificate of registration to be issued pursuant to Section 17," not Section 18.

**MR. CHAIRMAN:** Is it agreed to have the correction made?

**MR. CHERNIACK:** Can we be assured that there is no other reference to any other kinds of certificates? For example, I just noticed in 15(2), there's a conditional certificate. Frankly, I'm wondering the need for having it in the definition section at all because I found it confusing to have it there. If it weren't there, I think I would understand it. So I am now concerned that we don't make any mistakes.

**MR. CHAIRMAN:** Mr. Balkaran.

**MR. ANDREW BALKARAN:** I wonder, Mr. Chairman, if we simply said "issued under this Act."

**MR. CHERNIACK:** Why do you need it at all?

**MR. BALKARAN:** I don't know.

**MR. CHAIRMAN:** Mrs. Hamilton, the question has been directed, why it is needed? Can you answer the question?

**MRS. HAMILTON:** There is definitions of a board, association and members and we do issue certificates. I should think it would remain in there. I don't feel terribly strongly about it, but it seems reasonable to have that definition in this particular section of the Act.

**MR. CHERNIACK:** As long as we know what you intend the word to mean and usually you put in a definition because it has a particular meaning other than just the dictionary meaning. What you told us was that you really think it ought to refer to the certificate in 17. Mr. Balkaran thinks unless there be any other mistake that it just be issued pursuant to this Act, which means any certificate and I just want your assurance, Mrs. Hamilton, that you don't have more than one kind of certificate, especially since I see you do have a conditional certificate. I'm afraid of confusion in your Act. In the end it doesn't matter, I guess, to anybody as long as it's clear. So I would be inclined, Mr. Chairman, to do whatever Mrs. Hamilton wants as long as she knows what she's doing.

**MRS. HAMILTON:** We have certificates and conditional certificates.

**MR. CHAIRMAN:** Is that section "certificate" acceptable then, as corrected?

**MR. CHERNIACK:** I doubt it, let Andy tell you.

**MR. CHAIRMAN:** Mr. Balkaran.

**MR. BALKARAN:** I still think, Mr. Chairman, if we said "pursuant to this Act", you've covered both the conditional and . . .

**MR. CHAIRMAN:** It's indicated we can treat it as a correction, is that acceptable? Agreed?

**MR. SHERMAN:** . . . that sub-clause would read "certificate" means certificate of registration to be

issued pursuant to this Act or means any certificate of registration to be issued pursuant to this Act?

**MR. CHAIRMAN:** Mr. Balkaran.

**MR. BALKARAN:** Mr. Chairman, on second thought, I wonder whether the verb "to be" ought to be in that definition rather than simply saying "certificate means a certificate of registration issued" and strike out the verb "to be" pursuant to this Act.

**MR. CHAIRMAN:** Legal counsel advises we can still treat that as a correction. Is that agreed? (Agreed) We'll proceed then. Are there any other definitions? Are the rest of the definitions acceptable?  
The Member for St. Johns.

**MR. CHERNIACK:** I'd ask Mrs. Hamilton under "registered dietician" the definition would appear to exclude the possibility of any grandmother clauses? In other words nobody may be a member of your organization other than a person who has a baccalaureate.

**MRS. HAMILTON:** That's right.

**MR. CHERNIACK:** Okay.

**MR. CHAIRMAN:** Proceed. Page 1 — pass; Page 2, further on definitions then, Page 2 — "president", is that acceptable? Register, Section 1 — pass; Section 2 — the Member for St. Vital.

**MR. WALDING:** I wonder if I might ask Mrs. Hamilton if under the matter of lay person, if it's important to you that lay person never have been a dietician in the past or a member of your association?

**MR. CHAIRMAN:** Mrs. Hamilton.

**MRS. HAMILTON:** I think if we want someone who is totally dispassionate, they should not have been a member of our association. They cannot help but be influenced by their previous experience.

**MR. WALDING:** I notice that you don't make mention of it, but it was in another Act where those people thought it important. Now is it important to you or would it not worry you too much if the Lieutenant-Governor-in-Council named someone who was an ex-dietician or retired dietician?

**MRS. HAMILTON:** I think it would be probably to the advantage of the association if he were to do so. I think it's to the public good if the person has not been a previous member.

**MR. WALDING:** You don't see it as an important matter or that you would want it put in here the words "or has never been a dietician"?

**MRS. HAMILTON:** No.

**MR. CHAIRMAN:** Agreed. Section 2 — pass; Part 3, Board of Directors; Clause 3(1) — pass — the Member for St. Johns.

**MR. CHERNIACK:** If I could ask Mrs. Hamilton, my note if it's clear to me, do you have 150 members?

**MRS. HAMILTON:** Yes.

**MR. CHERNIACK:** What proportion would be within Winnipeg and outside?

**MRS. HAMILTON:** 80 percent in Winnipeg, 20 percent in the province.

**MR. CHERNIACK:** Okay. Do you have any special interest in having representation on the Board from out of the City of Winnipeg or would you leave that to your electorate to decide?

**MRS. HAMILTON:** I would leave it to the electorate to decide. We have very few members. It makes it extremely difficult if they must travel to frequent board meetings, etc., but we certainly hope that as our membership grows in the rural areas that we will have some rural chapters.

**MR. CHERNIACK:** Do you have provision in the Act?

**MR. CHAIRMAN:** The Member for St. Johns.

**MR. CHERNIACK:** Do you want me to wait each time or . . .

**MR. CHAIRMAN:** Well it depends on . . . Proceed.

**MR. CHERNIACK:** Fine, thank you. You have roughly 30 members outside of Winnipeg. Does your Act contemplate regions in the event that you decide you should have them?

**MRS. HAMILTON:** This Act does not because we still . . .

**MR. CHERNIACK:** So that the votes of the 80 percent in Winnipeg could pretty well elect the council, handily elect the council, excluding people from outside of Winnipeg, and that's okay with you.

**MRS. HAMILTON:** We do get representation from outside of Winnipeg at our annual meeting which is when the elections take place.

**MR. CHERNIACK:** If they turn up they come but I'm saying that you're not recognizing the special rights of people from outside of Winnipeg to be represented on the board. You're relying on the majority who happen to be in Winnipeg to see to it that you have regional representation; right?

**MRS. HAMILTON:** We probably would.

**MR. CHERNIACK:** The roughly 30 people from outside of Winnipeg, are they all in hospitals or are they in hospitals and institutions or are they . . .?

**MRS. HAMILTON:** Hospitals, institutions and government.

**MR. CHERNIACK:** And government. What percentage of your membership is not salaried?

**MRS. HAMILTON:** Not salaried.

**MR. CHERNIACK:** Roughly.

**MRS. HAMILTON:** Maybe 5 percent.

**MR. CHERNIACK:** And are they in private practise?

**MRS. HAMILTON:** Oh, I misunderstood your question. I thought you meant if they were not salaried that they were unemployed.

**MR. CHERNIACK:** No, I mean that they're not employees. I really meant, how many are employed people, employed by hospitals, institutions, government and how many are independent practitioners? I know one is, that's why I'm asking how many.

**MRS. HAMILTON:** Well, we have independent practitioners who do nutrition counselling. We also have independent practitioners who are self-employed consultants to facilities. I should say perhaps 5 percent of the membership would fall into that category.

**MR. CHERNIACK:** May I clarify my reason for the question and that is that in most cases I think it's the employer who has the prime and maybe ultimate responsibility for the standards that are maintained within that institution. The hospital I think is more accountable for the work you do, that is, the person of your membership who is employed in the hospital. Do I make that clear?

**MRS. HAMILTON:** Yes, I don't know that I agree but I understand what you're saying.

**MR. CHERNIACK:** Do you feel that the hospital is bound to accept the decisions of the employee as to the role of the employee in the hospital or does the hospital itself determine the role to be played by the dietitian employed by the hospital?

**MRS. HAMILTON:** I would say that they reach a mutual agreement. The dietitian in consultation with, say, the hospital administrator reaches a decision as to what the role of the dietitian will ultimately be.

**MR. CHERNIACK:** Who has the final say?

**MRS. HAMILTON:** Well, the employer has the final say.

**MR. CHERNIACK:** Sure, that's what I meant and that's why I wanted to know what percentage of your membership consists of people who are so occupied that they have the final say. I'm assuming that's a very small percentage.

**MRS. HAMILTON:** Yes, it is.

**MR. CHERNIACK:** There too, you're not recognizing any special role that they would play on the Board. Finally, Mr. Chairman, on 3(1), I would feel more comfortable if you had a range for the size of the Board. You have a complete freedom under 3(2) and I don't know if you have get the Lieutenant-Governor approval of any of your by-laws. You have complete freedom to decide on the number of directors, as I read it. I want to be corrected if I'm wrong. The way I read it you're only bound to have four non members and other than that, there's nothing in the

Act that I see that provides what size executive or Board you have. You told us, I believe, that you have a Board of some 10 expected — six elected, four appointed. Would you see any objection to saying “a Board of not fewer than so many and not more than so many”, some sort of legislative control that you shall have a representative Board. I would feel very badly if 150 people had a three-person Board or a four-person Board running its affairs. Do you follow my reasoning?

**MRS. HAMILTON:** We would have no objection to a minimum number. Considering the difficulty involved in changing an Act such as this. I would want any upper limit to be quite loose.

**MR. CHERNIACK:** I'll make a deal with you, give the minimum number and that would satisfy my concern.

**MRS. HAMILTON:** The minimum number of the Board?

**MR. CHERNIACK:** Six elected?

**MR. HAMILTON:** Six elected and four appointed makes 10.

**MR. CHERNIACK:** Yes, is that fair for a minimum?

**MRS. HAMILTON:** I cannot foresee less than that. I think that's a reasonable number.

**MR. CHERNIACK:** Thank you.

**MR. CHAIRMAN:** I wonder, Mrs. Hamilton, for your comfort, this could be a lengthy question period. If you would want to sit down by the first mike, it might make it a little more comfortable for yourself.

**MRS. HAMILTON:** Thank you.

**MR. CHAIRMAN:** The Minister of Health.

**MR. SHERMAN:** Just on that point, Mrs. Hamilton is certainly welcome to sit down but it's not going to be a lengthy question period. The delegations and representations in the person of Mrs. Hamilton and others appeared before this Committee, made their representations on the bill two evenings ago. We are now dealing clause-by-clause with bills that are parallel to the nursing legislation bills that were passed. We were not able to move on this bill last night. We are going to move on it this afternoon and Mrs. Hamilton certainly is available to answer specific questions briefly, put briefly on matters that are contentious, but on matters that have been covered in the health legislation to this date, it will not be a lengthy question period, Mr. Chairman.

**MR. CHAIRMAN:** 3(1) — pass; 3(2) — the Member for St. Johns.

**MR. CHERNIACK:** I want to make an amendment to provide that the . . . Yes, I know it's no less than 10 and no less than 6 elected, whatever Mr. Balkaran would work out, that's what I would want to do.

**MR. CHAIRMAN:** Would the Member for St. Johns repeat please?

**MR. CHERNIACK:** That the elected people on the board shall be no fewer than 6 or that the entire board shall consist of not fewer than 10 people.

**MR. BALKARAN:** That's what I was suggesting.

**MR. CHERNIACK:** Yes, whatever you say.

**MR. BALKARAN:** By a board of not less than 10 directors.

**MR. CHERNIACK:** A board of directors.

**MR. BALKARAN:** After the word “board” . . .

**MR. CHERNIACK:** Would you say “board of directors?”

**MR. BALKARAN:** No, no, “by a board of not less than 10.”

**MR. CHERNIACK:** “10 directors.”

**MR. BALKARAN:** Yes.

**MOTION presented and carried.**

**MR. CHAIRMAN:** 3(1) as amended — pass; 3(2) — pass — the Member for St. Johns.

**MR. CHERNIACK:** Mr. Chairman, I wanted to ask, is there provisions for the Cabinet to have to approve certain special by-laws? It seems to me that manner of election is important enough to have review by the Lieutenant-Governor. I'm wondering if there's any such provision.

**MR. SHERMAN:** No, Mr. Chairman.

**MR. CHAIRMAN:** 3(2) — pass; 3(3) — pass; 3(4) — pass; 4(1) — pass; 4(2) — the Member for St. Vital.

**MR. WALDING:** Mr. Chairman, was it your intent to take those one at a time because I had a question under (k) under that list?

**MR. CHAIRMAN:** 4(1)(k)?

**MR. SHERMAN:** There's an amendment on 4(1)(k), Mr. Chairman, I believe.

**MR. CHAIRMAN:** To the Minister of Health, the amendments that I have before me; there's no inclusion of one under 4(1).

**MR. CHAIRMAN:** The Minister of Agriculture.

**HON. JAMES E. DOWNEY (Arthur):** I'm not particularly hung-up about it but I think in the presentations that were made in a lot of these bills that there was a request to remove (k) from them. Is that not correct?

**MRS. HAMILTON:** The words “and social”.

**MR. DOWNEY:** Oh, I see.

**MR. CHAIRMAN:** Order please. Mr. Balkaran.

**MR. BALKARAN:** Mr. Chairman, I think the problem arose and I don't know if it's in this bill but on one

or two of the other bills where the word "economic" was added and the word "economic" was the word that caused some mischief that economic is not here.

**MR. SHERMAN:** That's true, but either in the original form of this bill or a related bill the words "and economic" were in there and they were taken out. At that time there was some discussion as to whether the words "and social" would be taken out of this clause. If that speaks to the point that Mr. Walding was going to raise and I think there was a disposition at the time to take the words "and social" out. But if that is not the point to which he was going to speak then there's no imperative that they be taken out of this clause.

**MR. CHERNIACK:** Mr. Chairman, I guess we each have our own memories of it. As I recall it's the Manitoba Health Organization objected to the "and social" in all the bills on the basis that portion as part of (k) makes it appear as if they're involved in something beyond the regulatory body's function and more that of let's say the MMA or any group that's interested in the particular self-interest.

The "economic" I think comes up I think in the Respiratory Technicians and that's even worse. I mean now I'm lending my own editorial. I believe that all of (k) should go out because I think that is not something that the organization has to do — that is the professional welfare. It is involved in the professional standards; it is involved in controlling standards and making sure that ethics are maintained, standards are maintained, educational qualifications are maintained. But the professional welfare or any kind of welfare of the members may indeed be used in a fashion that is not in the public interest. That's why you find the MMA separate from the College of Physicians, the Bar Association separate from the Law Society; they're two different functions. The MHO suggested taking out the words "and social" but I'm suggesting that we ought to take out all of (k).

**MR. CHAIRMAN:** Is the Member for St. Johns moving that as an amendment? The Minister of Health.

**MR. SHERMAN:** Mr. Chairman, that may be and certainly it's my understanding that the association has no objection to eliminating the words "and social." But I would remind the committee that in the Nursing legislation on which this legislation is modelled that provision is precisely stipulated and virtually I think in identical words "promote the professional and social welfare of the members of the association." So obviously if there's now an objection it's a latent or it's one that's been latent in surfacing.

**MR. CHERNIACK:** Mr. Chairman, Mr. Sherman points out the very value of firstly uniformity and second flexibility to change the laws as we study them and live with them. That's the very value of a review and not a blanket just approval of. If it was done last year then automatically it should be in this year. I think that the MHO made a valuable contribution when they pointed out this drawback and if only Mr. Sherman and others had agreed with my original suggestion that these standard clauses

should be in one bit of legislation we could correct them in the Act to cover all Acts. So I don't think that we are married to words we used last year because they're not necessarily the best words although last year they were the best we produced. If we can improve on them now and if we eliminate "and social" then it means that eventually those words ought to come out of The Nursing Acts if they do meet with that. I'd suggest, Mr. Chairman, to speed things up — I made my argument — I'd suggest that somebody move the deletion of the words "and social" and we'll vote on it. Then I'll move the deletion of (k) and we'll vote on that.

**MR. CHAIRMAN:** 4(1)(k) as amended by deleting the words "and social". Is that agreed? (Agreed)

**MR. WALDING:** Are we voting on the amendment, Mr. Chairman?

**MR. CHERNIACK:** To delete the words "and social."

**MR. CHAIRMAN:** We're voting on the deletion of the words "and social" on (k).

**MR. WALDING:** That's agreed.

**MR. CHAIRMAN:** Agreed. (k) as amended — pass.

**MR. CHERNIACK:** At this stage if we have the vote that (k) pass, I'll vote against it. I don't want to discuss it anymore.

**MR. CHAIRMAN:** (k) — pass; —(Interjection)— (k) as amended — pass, on division; (l) — pass; (m) — the Member for St. Vital.

**MR. WALDING:** Mr. Chairman, can I ask of Mrs. Hamilton, how many classes of membership she sees and what would they be?

**MRS. HAMILTON:** We have active members, retired members, independent practioners and honorary members, but honorary members don't have voting rights.

**MR. WALDING:** If I can get those . . . You have a retired membership?

**MRS. HAMILTON:** Yes.

**MR. WALDING:** And a, what did you call it, private practice?

**MRS. HAMILTON:** Independent practioner.

**MR. WALDING:** And honorary members?

**MRS. HAMILTON:** And active member.

**MR. WALDING:** Why would there be a separate category for independent practioners and how would their rights and privileges and obligations be different from your normal active members?

**MRS. HAMILTON:** There are additional requirements of those members because they are not working under the direction of either another dietitian or a hospital administrator. They are

working completely independently. Therefore, we require that they have continuing education. Their requirements, they cannot become an independent practitioner without having had at least three years experience in the field. In other words, we do not feel that a new graduate has the background to go out completely on her own with nobody to turn to. Therefore we require that they have some experience before they can fit into this classification and in order to continue in this classification they must have continuing education.

**MR. WALDING:** It would then be a higher standard than your active members?

**MRS. HAMILTON:** No, I wouldn't say that they are higher standard. What we're trying to do it to ensure a high level of professional competency.

**MR. WALDING:** But as a minimum it would be a different level from your active members since you said that a new graduate would not be allowed, or should not, or could not go out in an independent practice.

**MRS. HAMILTON:** There is the experience required before they would be in this category.

**MR. WALDING:** So, the academic degree plus experience would indicate to me a higher standard than simply the minimum standards for registration.

**MRS. HAMILTON:** Well, I suppose you could interpret it that way, but in the eyes of the association they are no different from any other member who has three years experience, other than the fact that they wish to be independent practitioners.

**MR. WALDING:** In what ways would the rights be different for an independent practitioner? Only that they have the right to engage in private practice?

**MRS. HAMILTON:** As it stands now the only difference, let's say they wanted to be independent but did not meet the criteria, the only difference now is that they would not be a dietitian who could provide services that would be reimbursed by Manitoba Blue Cross. There is nothing to prevent the dietitian from practising independently if she so desires; but she would not be recognized as someone who could be reimbursable through Manitoba Blue Cross.

**MR. WALDING:** Recognizable by Blue Cross you mean?

**MRS. HAMILTON:** By Blue Cross.

**MR. WALDING:** What about privileges. How would that differ?

**MRS. HAMILTON:** They are a full member and the same as all the active members. There's no difference in their voting rights, their fees, or anything else, they're identical.

**MR. WALDING:** What about obligations?

**MRS. HAMILTON:** Well, they are obliged to have continuing education. That would be the only

difference; we recommend continuing education for all our members, but particularly for these members.

**MR. WALDING:** Is there a set number of hours or set number of seminars, or courses required for continuing education.

**MRS. HAMILTON:** Fifteen hours per year.

**MR. WALDING:** How are retired members treated differently as far as rights, privileges and obligations?

**MRS. HAMILTON:** They have all the same rights, privileges and obligations but they pay a reduced fee.

**MR. WALDING:** Is a retired member eligible to practise again?

**MRS. HAMILTON:** If they have not been out of the field for more than five years. Now, they could come back, like we won't stop them from coming back, but it's frowned upon to be out of practice for five years and to come back without attempting to either take university credits or some short course, a refresher course.

**MR. WALDING:** If during the time of a short retirement, like two or three years, do they remain on the register and are they then entitled to practice.

**MRS. HAMILTON:** Well, people cannot get a retired membership unless they have been an active member for 20 years. So, you're not looking at the dietitian who may choose to retire for a few years to raise a family. You're probably looking at the dietitian who wishes to discontinue her professional career. She's retired in the full sense of the word. She's not just retired from practice, she's retired from work period.

**MR. WALDING:** But in the event that someone took an early retirement at say 55 and after a couple of years got bored sitting at home watching television or something and wanted to practise again.

**MRS. HAMILTON:** We would not prevent the dietitian from doing that. If she had not been at all active during that time; in other words if she had not availed herself of any of the educational programs which our association provides, we would probably suggest to her that this might be a good thing to do; but there is no provision for enforcing this.

**MR. WALDING:** I see and in order to commence re practising again, would that entail paying a different fee only?

**MRS. HAMILTON:** Yes, but that's the only difference. Provided they had continued in a retired membership status. Now, if they had decided to retire completely, then they would come in and they would have to pay the full fee.

**MR. WALDING:** All right. What if a retired member after two years commences to practise again on the same licence, if you wish to call it that, as a retired member. She is still registered and entitled to practise, I assume?

**MRS. HAMILTON:** We would not prevent her from practising.

**MR. WALDING:** But she could do so at a reduced fee?

**MRS. HAMILTON:** Oh, no. No, no. If she went back to work she could no longer be classified as a retired member.

**MR. CHAIRMAN:** (l) — pass; (m) — pass; (n) — pass; (o) — pass; 4(1) — pass; 4(2) as amended, 4(2) — pass; 4(3) — pass; 4(4) — pass; 4(5) — pass; 4(6) — pass; 4(7) — pass — the Member for St. Johns.

**MR. CHERNIACK:** There's a change from The Nursing Act and this follows closely to The Nursing Act so one wants to know why? There's a change in 4(7) and in 4(8), which I think creates a contradiction. 4(7) says that a proposal to change the by-law — "a proposal may be made at any general meeting of the association"; 4(8) provides "that a proposed change should be sent to the president of the office who shall communicate it to the board." I believe I see a contradiction there; (7) says may make a proposal at any general meeting and then (8) says they shall send a copy to the president. Frankly, I don't know what was wrong with the original MARN bill which didn't create that contradiction or really, problem. I don't quite see why it was done. Then if you look at (9), there's a question "not sufficient time" because there's a 60-day requirement in (8) and if it has to go an annual meeting that could create a different problem. So I'd like an explanation why there is that change in (7) and (8) which I think affects (9). What's the advantage to the change?

**MR. SHERMAN:** I think Mrs. Hamilton can explain that to the satisfaction of the committee, Mr. Chairman.

**MRS. HAMILTON:** In Section 7, there are several general meetings held during the year and any member can propose a by-law change but the by-laws are only changed at the annual meeting.

**MR. CHERNIACK:** I can understand that but when shall the proposal be sent as notice? (7) says "at any general meeting"; (8) says "it shall be done 60 days before the annual meeting". You say both, or are you saying it shall be either at a general meeting and if so, why send it to the president? I accept the fact it should only be done at the annual meeting which is the provision in MARN. I'm asking you why you need the 4(7) "at any general meeting" if indeed you want it sent "60 days before the annual meeting, to the president who shall communicate it to members of the board?" I would suggest that you don't need "at any general meeting of the association" in (7); that it confuses the issue and doesn't assist you if you really require it 60 days ahead of time anyway.

**MRS. HAMILTON:** I think it gives the members an opportunity to make a proposal at any time.

**MR. CHERNIACK:** There's nothing to prevent that under (8). It's a drafting matter I'm raising, Mr. Chairman. Maybe we could discuss it with Mr. Balkaran.

**MR. CHAIRMAN:** Mr. Balkaran.

**MR. BALKARAN:** I'm sorry, Mr. Chairman, I wasn't following too closely. Is the suggestion to strike out in sub-section (7) "at an annual meeting?"

**MR. CHERNIACK:** "General meeting." It says "A member entitled to vote at an annual meeting may make a proposal at any general meeting." Now that doesn't mean they can deal with a proposal as I understand it; it's just make the proposal. At least that's what Mrs. Hamilton says; she doesn't want them to be able to have votes at a general meeting. Then (8) says that "A member intending to make a proposal pursuant to subsection (7) shall, at least 60 days before the next annual meeting, send a copy of the proposal to the president."

**MR. SHERMAN:** I would think, Mr. Chairman, that the provision is here simply to make it possible for people to present and air their ideas and proposals in a broader and fuller way and perhaps even generate some feedback and some response prior to the formal advancement of the proposal at the annual meeting. It seems to me it's simply a procedure which the association would like. It certainly doesn't throw into jeopardy the affairs of this province and if the association wants to give its members that double opportunity to explore response to ideas its members may have, I see no reason for eliminating it.

**MR. CHERNIACK:** I want to make sure that regardless of what's done under 4(7), that under 4(8) they still have to give that notice, 60 days. That's why I'm asking Mr. Balkaran that maybe 4(8) ought to read "in any event the member intending shall, at least 60 days before . . ." I want to make sure that (7) doesn't supercede (8).

**MR. BALKARAN:** Mr. Chairman, I think if the phrase in 4(7) "at any general meeting of the association" were to be removed, the member has the right to propose a change or indeed a new by-law in any event, then (8) will indicate the time within which that person must submit that proposal.

**MR. CHERNIACK:** Mr. Chairman, I take it Mr. Balkaran is supporting my suggestion that there appears to be a contradiction which would be resolved. There's nothing to prevent a proposal being discussed at any general meeting, I should think. But I think there could be an interpretation creating a contradiction.

**MR. BALKARAN:** That's right. There could also be, Mr. Chairman, a problem of time so that if a member makes a proposal at a general meeting, she may be unable to submit that within the 60-day requirement. So striking out that phrase I think to me makes sense.

**MR. CHAIRMAN:** The Minister of Agriculture.

**MR. DOWNEY:** I think probably it would be the desire of the association. I have no difficulty the way it is and I'd put the question on this in the best interests of moving it.

**MOTION presented and carried.**

**MR. CHAIRMAN:** 4(7) as amended — pass; 4(8) — pass — the Member for St. Johns.

**MR. CHERNIACK:** Mr. Chairman, . . . how we can get involved in creating a problem which I can see and Mr. Balkaran can see — just to clarify it — and the Minister of Agriculture cannot see, I would at least move at this stage since we passed 4(7) that the words "at least 60 days" remove the deletion from (8) so it would make it a little bit simpler. Otherwise I can see a problem, but nobody cares.

**MR. CHAIRMAN:** Did the Member for St. Johns move an amendment? The Minister of Health.

**MR. SHERMAN:** Well, no. Speaking of the amendment, Mr. Chairman, I would think that would destroy the imperative to give notice at all and there should be notice given. But that shouldn't preclude somebody for standing up at a general meeting and suggesting they have a better idea of how to run the association better and suggesting to her colleagues that she's going to, 60 days before the next annual meeting, serve formal notice of that and she's throwing the idea out now so people can think about it. I don't see any difficulty with the two sections. It's simply a democratic airing of the person's ideas. They may finally result in a formal notice to propose a by-law change or they may not, depending on the feedback.

**MR. CHAIRMAN:** 4(8) — pass; 4(9) — pass; 4 — pass; 5(1) — the Member for St. Johns.

**MR. CHERNIACK:** Looking at the MARN Bill, I want to know just why Subsection (e) was removed in drafting this bill and whether that ties in, in some way, with proposed 5(3) or No. 18. Is there a reason why it was taken out?

**MR. SHERMAN:** Yes, there is, Mr. Chairman, because in the MARN Bill there are no prescribed standards of education set by the university relative to the profession. In the case of the dietitians there are. The university defines and establishes those levels.

**MR. CHERNIACK:** Is that taken care of, where — under 18 or under 5(3), the proposed 5(3)?

**MR. SHERMAN:** Under 5(3). Where are we? Under 5(3); right.

**MR. CHAIRMAN:** 5(1) — pass.

**MR. CHERNIACK:** Mr. Chairman, I think Mr. Cowan has a very important contribution to make at this stage.

**MR. CHAIRMAN:** Mr. Cowan.

**MR. JAY COWAN (Churchill):** I think I have a very slight contribution to make at this stage but if you have omitted (e) then I cannot move it but I think it should be noted that (f) is out of order and as it reads now, it's 5(1)(a), (b), (c), (d), (f) and the (f) should most likely be changed to (e).

**MR. CHERNIACK:** Oh, that's a good completion.

**MR. CHAIRMAN:** 5(1), as corrected — the Member for St. Vital.

**MR. WALDING:** Mr. Chairman, just a small point but 5(1) does say that the board may make regulations. I was under the impression that only the Lieutenant-Governor-in-Council can make regulations. I understand that the board can recommend that the Cabinet make a regulation.

**MR. CHAIRMAN:** Mr. Balkaran.

**MR. BALKARAN:** No, Mr. Chairman, the board can make regulations. All that this says is that they're not valid until they are approved by the L.G. in C.

**MR. WALDING:** Does that not done by Order-in-Council?

**MR. BALKARAN:** It's done all the time, Mr. Chairman. We have various boards and commissions with similar powers to make regulations subject to the approval of the L.G. in C.

**MR. SHERMAN:** It's standardized wording in the other legislation.

**MR. WALDING:** Yes, I don't doubt that.

**MR. CHAIRMAN:** 5(1) as corrected — pass; 5(2) — pass — the Member for Portage.

**MR. HYDE:** Mr. Chairman, I move

THAT Section 5 of Bill 20 be amended by adding thereto immediately after subsection (2) thereof the following subsection:

University of Manitoba standards to be adopted.

5(3) The standards for the education of registered dietitians prescribed by a regulation made under clause (1)(d) shall be consistent with the standards of education for the students of dietetics adopted by the University of Manitoba.

**MR. CHAIRMAN:** 5(3) — pass — the Member for St. Vital.

**MR. WALDING:** Mr. Chairman, I don't think we've passed 5(2). I wanted to ask a question on 5(2), whether there could be any problem with that, any conflict with 4(8)? It goes back to the matter that Mr. Cherniack was speaking of.

**MR. CHAIRMAN:** Mr. Balkaran.

**MR. BALKARAN:** One's a regulation and the other one's a by-law.

**MR. CHAIRMAN:** 5(2) — pass.

**MR. WALDING:** Well, I wonder if the matter of a principle is involved here in giving the membership a say in rules and regulations, by-laws that will concern them. The intent here is obvious that the members at a general meeting shall hear and consider and debate a proposed regulation and it says it may by ordinary resolution confirm, reject or amend the regulation, amendments or repeal. It could well be

that a complete new proposal for that proposed regulation be raised by the membership at the time which would appear to conflict with the 60-day notice having to do with the by-laws. I address that to Mr. Sherman as much as anything else.

**MR. CHERNIACK:** May I add something, Mr. Chairman, Mr. Sherman?

**MR. SHERMAN:** You may add something, certainly.

**MR. CHERNIACK:** Thank you. As I read 5(2) both in The Nursing Act and this Act, I don't see that any notice is required at all; that is, if the membership unlike 4(8) that the membership doesn't have to receive notice in advance that this will be submitted at the next meeting; they just meet and then they're presented with a bunch of regulations without previous notice or an opportunity to review the regulations in advance. I think that might be, I don't know, the same.

**MR. SHERMAN:** On regulations?

**MR. CHERNIACK:** Yes.

**MR. SHERMAN:** Thirty days before submitting a regulation.

**MR. CHERNIACK:** That's right.

**MR. SHERMAN:** That's right and that's in The Nursing . . .

**MR. CHERNIACK:** There's no notice here; read it.

**MR. SHERMAN:** Thirty days before submitting a regulation, the board shall submit the regulation together with the recommendations with respect to the members at the next meeting of the members?

**MR. CHERNIACK:** That's right. Thirty days before it goes to the Cabinet, they have to hold a meeting of the membership but there is no provision that copies of the regulations should be sent to the membership in advance of the membership meeting. So unless it's somewhere else, I don't see there is any provision.

**MR. CHAIRMAN:** Mr. Balkaran.

**MR. BALKARAN:** Mr. Chairman, unless I'm misreading 5(2), before the board submits the regulation that it has drafted, shall we say, to Cabinet, the board shall submit the regulation so that the members now have copies in their possession.

**MR. CHERNIACK:** But they can get it right at the meeting. They don't get notice of that; they just get it at the meeting; they deal with it at the meeting and then it takes 30 days but I'm saying the membership does not have advance notice of the proposal. Frankly, I think it's an oversight on our part from last year, because we say a by-law change should be given 60 days notice and under (2) there is no notice required to begin. I think that it's healthy for an organization; I mean these are very important regulations, that these regulations should be

submitted to the membership in advance of a meeting, at least 30 days, so they have time to review them and come to the meeting already apprised of what is to be done and with proposals for changes. I'd like Bud to — maybe, Mr. Chairman, there is something else intended last year. Really, what's the difference whether it's 30 days before or one day before? Once the board has approved it, then why can't it go to the Cabinet immediately and maybe the 30 days was intended to be a submission to the membership 30 days before the board meeting? Then I don't see why it needs 30 days between the day of the board meeting and the day that it's sent to the Cabinet. If I'm making some sense, maybe we can just change it and say "the board shall submit the regulation together with the recommendations to the membership 30 days before the next meeting." I think to take the 30 days out of there and let it read and I'm just groping — I wish I had help, Mr. Chairman. It said "before submitting a regulation to the Lieutenant-Governor-in-Council, the board shall submit the regulation together with the recommendations to the members 30 days before the next meeting of the members and the members at that meeting shall." Do I make clear my suggestions?

**MR. CHAIRMAN:** The Member for St. Vital.

**MR. WALDING:** Further that, Mr. Chairman, to Mr. Sherman, I wonder if there should not be some consistency between the 30 days suggested and the 60 days suggested for a by-law. Could they both not be 30 days or both 60 days?

**MR. SHERMAN:** Mr. Chairman, I guess advice from legislative counsel would be helpful on this point. I am given to understand that in practice what the association is doing is submitting a proposed regulation that will be going forward to the Lieutenant-Governor-in-Council or submitting that type of proposed change or by-law or proposal relative to the affairs of the association to the membership. In practice they've been submitting it to the membership 30 days before the next general meeting. Is that correct; 30 days before the next general meeting? That has been the existing practice and this wording is based on the wording that was developed for the Nursing legislation. However I would concede that we have had I think some difficulty with the application of that section where the nurses are concerned.

**MR. CHERNIACK:** I have an amendment that I'd like to suggest. Mr. Chairman, may I read to you the section as if I had amended it to see if that makes sense and you can follow it? There's very few changes — to read: "Before submitting a regulation to the Lieutenant-Governor-in-Council the board shall submit the regulation together with the recommendations of the Advisory Council with respect to the regulation, to the members 30 days before the next meeting of the members, and the members at that meeting may by ordinary resolution confirm, reject or amend the regulation, amendments or repeal," and I think that . . .

**MR. SHERMAN:** Or the other way of doing it, Mr. Chairman, would be to leave the 30 days in at the

beginning of a section and take out the phrase "at the next meeting. 30 days before submitting it to the Lieutenant-Governor-in-Council the board shall submit it to the members and the members may by ordinary resolution, etc." I think one of the things that has caused this difficulty with the section where the nurses are concerned was the decision last year to put the phrase "at the next meeting" into that section, which is 5(2) — well interestingly enough it's 5(2) in the MARN bill too.

As I recall we originally considered that section last year in dealing with the MARN bill without the phrase "at the next meeting." As I recall the Member for St. Johns was the proposer of the insertion of that clause. It's that clause I think, Mr. Chairman, with respect, that has caused us considerable difficulty with the affairs of the nursing association.

**MR. CHERNIACK:** Yes, Mr. Chairman, exactly. I'm glad I'm getting credit for proposing something that makes sense and that is that the membership should approve of a regulation before it goes to the Lieutenant-Governor. But the wording is not correct. I don't care whether you blame me or blame the committee, I don't care.

**MR. SHERMAN:** Well, let's take the wording on it.

**MR. CHERNIACK:** Yes, but it's not what they did it's the wording that we did last year that makes it unclear. Last year's wording puts the 30 days in the wrong place. It puts the 30 days between the meeting and the Cabinet and it should be 30 days between notice of the meeting and the meeting. I think I proposed an understandable change but I'm completely flexible. I've got Mr. Downey now; I've got him on my side. You're in trouble.

**MR. DOWNEY:** I think you'd accomplish in the present form what you're trying to settle, if the membership did receive notice 30 days prior; it doesn't matter how many days prior to the Cabinet meeting. If the amendment that the Member for St. Johns introduced will accomplish that then I'll . . .

**MR. BALKARAN:** I wonder whichever way you change it, it's not material to me but there's a practical problem in dealing with this situation because it's a regulation that has to be submitted to Cabinet for approval. If there's going to be "submitted 30 days prior to the next meeting" and you need a regulation that needs to be passed very quickly, let's say within 35 days or 40 days, and the next meeting is not three months down the road. (Interjection)— Well, if it's possible for them to do that.

**MR. CHAIRMAN:** What does the rest of the committee . . . ?

**MR. SHERMAN:** Mr. Chairman, my advisors on whose advice I admittedly rely very heavily tell me that if we take out the term "at the next meeting" we will be able to accommodate the problem that has developed with the nurses and obviate any problem from occurring here.

**MR. CHERNIACK:** Your advisor is a good doctor but he's not a good lawyer, let me tell you, and I think highly of him in . . .

**MR. CHAIRMAN:** Is that a correction?

**MR. CHERNIACK:** If the proposal is only to take out the words "of the next meeting of the members" you still don't have any notice required to be given to the membership before the membership approves of the regulation. That's the point. The 30 days in this clause as it sits now are in the wrong place because they separate the approval of the membership 30 days away from the submission to Cabinet. What you want is 30 days notice given to the membership before the membership considers the regulation. Once they approve the regulation, you don't care — you really ought to send it to the Cabinet the very next day. Why wait 30 days, nothing will happen in those 30 days? As a matter if they're alert to it they would probably send the Minister advance notice of what they're submitting to their regulation if it's urgent so he knows about it. I really think with all my respect for Dr. Johnson — I have more respect for him than for most people — the suggestion I don't think is right. I don't want to force this. Shall I move it?

**MR. SHERMAN:** Mr. Chairman, I believe the problem could be solved by taking out the phrase "at the next meeting of" and by initiating the clause or the subsection with the term "at least" so that it would read "at least 30 days before submitting a regulation to the Lieutenant-Governor-in-Council the board shall submit it to the members and the members may by ordinary resolution, etc." That really is what is intended in the clause now; but I repeat that the phrase "at the next meeting" has caused enormous difficulty and I respect the point raised by Mr. Walding and Mr. Cherniack because we've had experience with that difficulty with the nurses; but this would provide what the subclause I'm sure was intended to provide when it was written last year that there are at least 30 days before submission of a regulation to the L.G. in C., in which that proposal has to go to the members for their evaluation and consideration.

**MR. WALDING:** Mr. Chairman, to Mr. Sherman and his proposal to remove reference to the next meeting, I would raise the question with him, how are the members to debate it and confirm or amend it if there is no reference to a meeting? Proposal can be submitted to them by mail but surely it's having a meeting that's important. Obviously the next meeting, unless they want to give notice at the two meetings hence.

**MR. SHERMAN:** It might be desirable to say at "a meeting." That's correct; that's a good point, Mr. Chairman. What happened with one of the nursing bodies was they had to hold two meetings because this phrase said "at the next meeting." They'd already had a meeting, but then because this clause stipulated that the proposed regulations had to go before them at the next meeting that they had to do it again because there was another meeting scheduled and the two meetings were a month apart and that's where much of the difficulty has arisen. (Interjection)— It does say at the next meeting. It does here, Mr. Chairman.

**MR. CHERNIACK:** Well, it does here but this is just what we're considering. But you're saying the

problem the nurses had was because of the words "at the next meeting" and there's no such statement in the Nurse's legislation.

**MR. SHERMAN:** But we had that, we discussed the difficulty at the time we were discussing the Nursing legislation and as it turned out in practice they applied it that way. That has been what the difficulty has been and I don't want to get into the same difficulty with the dietitians and we will if that clause is in there.

**MR. CHERNIACK:** You know, every so often I feel frustrated in —(Interjection)— Well, it's in the Statutes. In any event, Mr. Chairman, I feel somehow I didn't get across my concern. I also feel it's a very important concern, so I want, please, to try it again. Firstly we agree that this type of regulation is so important that it must go before the Cabinet for approval. In other words we deny this organization the right to make their own decisions under 5(1). It is that important that I think we feel that the proposed regulations should be reviewed or considered by the general body and not left to the board itself and if we want it reviewed by the body we want to make sure that the entire membership has been informed of the proposal so that they can, at their leisure, study the regulations which could be pages long and then come to a meeting and discuss it. There are no requirements in the Act and especially in 5(2) that they shall get copies of the regulations before the meeting. It just isn't there and the proposal being made by Mr. Sherman still won't require that they be given notice and copies in advance of the meeting. To say "at least 30 days," you're still talking about the interval in this legislation that we passed last year. The interval, the 30-day period, is not the time between notice to the membership and the holding of the meeting. It is the time between the approval by the membership and the submission to the Lieutenant-Governor.

What I think is really vital is that the members should receive copies of the proposed resolutions, a period of time like 30 days, before the meeting at which they review it and at that meeting, once they review it, then it could be sent to Cabinet the very next day. Mr. Balkaran suggested me some wording which would be correct, I believe, turning the whole thing around. I don't know why he wants to do it but you know, I usually defer it to Legislative counsel's drafting opinions as long as we're able to make sure that the membership gets copies of the regulations 30 days before they meet so that when they meet they can discuss them, pass them, and then they go to the Cabinet. As long as that's ensured then that's all my concern is.

**MR. SHERMAN:** I thank Mr. Cherniack for that suggestion. I wonder if Mrs. Hamilton might be permitted to make a comment.

**MRS. CHAIRMAN:** Mrs. Hamilton.

**MRS. HAMILTON:** Could the clause read, "before submitting a regulation to the Lieutenant-Governor-in-Council the board shall submit the regulation together with the recommendations of the Advisory Council with respect to the regulations to the members 30 days before a general meeting of the

members and the members may by ordinary resolution confirm, reject, or amend the regulation amendments at that meeting?"

**MR. CHAIRMAN:** Order please. Legal counsel would like, if that's a proposed amendment, could that be repeated so legal counsel can . . .

**MR. BALKARAN:** Was that at the general meeting or a meeting?

**MRS. HAMILTON:** At a meeting.

**MR. CHAIRMAN:** If that is agreeable to all members would somebody want to move the amendment? —(Interjection)— The Member for Portage moves the amendment. Agreed?

**MR. CHERNIACK:** Do we have it? Does Mr. Balkaran have it? If so then let's go.

**MR. HYDE:** Do you wish that amendment be read out in full?

**MR. SHERMAN:** Yes.

**MRS. HAMILTON:** We're submitting a regulation to the Lieutenant Governor-in . . .

**MR. CHAIRMAN:** Order, order please. The Member for Portage.

**MR. HYDE:** "Before submitting a regulation to the Lieutenant-Governor-in-Council the Board shall submit the regulation together with the regulations of an advisory council with respect to the regulation to the members 30 days before a meeting of the members, and the members, may by ordinary resolution, confirm or amend the regulations, amendments or appeal at that meeting."

**MR. CHAIRMAN:** Could we have a copy of the amendment, please?  
The Member for St. Johns.

**MR. CHERNIACK:** I just want some advice. I think that's fine. I'm just concerned about the legality, the interpretation. It says, "30 days before". Should it say "30 days", or "at least 30 days"? Surely there's nothing wrong with it being 31 days? —(Interjection)— If not then somebody would say it's got to be exactly, is that a silly thing? Yeah, it's so crazy.

**MR. CHAIRMAN:** Mr. Balkaran.

**MR. BALKARAN:** Mr. Chairman, while discussion was going on I had an amendment prepared. I wonder if this would satisfy the Committee. It reads as follows: "THAT sub-section 5(2) of Bill 20 be amended, (a) by striking out the figures and word "30 days" in the first line thereof and (b) by striking out the words "at the next meeting of the members and the members" in the third and fourth lines thereof and substituting therefor the words and figures "at least 30 days before a meeting of the members and the members at that meeting . . .". Then you go on.

**MR. CHERNIACK:** I believe that's really a correctly worded amendment.

**MR. CHAIRMAN:** We have a proposed amendment that has been brought forward by the Member for Portage. Does the member wish to withdraw the amendment and adopt this amendment? Mr. Hyde.

**MR. HYDE:** Yes.

**MR. CHAIRMAN:** Is that agreed? (Agreed). 5(2) as amended — pass; 5(3), the amendment — pass; 5 — pass; Part 3, Clause 6(1) — pass; 6(2) — pass — The Member for St. Vital.

**MR. WALDING:** One small point, Mrs. Hamilton mentioned to me earlier that they had classes of honorary active retired and independent practitioners; the list of the rosters is not quite the same as that. There would appear to be two more categories, the retired and independent practitioners. Are they not kept in a separate roster?

**MRS. HAMILTON:** It was the advice of our legal counsel that the clause "conditional certificates" could include this classification of members.

**MR. CHAIRMAN:** Mr. Balkaran has a correction.

**MR. BALKARAN:** Mr. Chairman, I'm sorry I have to go back to 5(2) and ask the members of the Committee if they would change the heading to 5(2) to read "prior submission of regulation to members" rather than "to Board".

**MR. CHAIRMAN:** Is that correction agreed? (Agreed). 6(2) — pass — the Member for St. Vital.

**MR. WALDING:** Mr. Chairman, as I read "conditional registration" in 12, it suggests a lower level or lower standard than ordinary active members; yet I understand independent practicing members to be of a higher standard.

**MRS. HAMILTON:** My answer is the same. It was our legal counsel's advice that we could include that condition.

**MR. WALDING:** Would the roster of conditional certificates indicate what the conditions were or is that listed somewhere else?

**MR. BALKARAN:** Yes, it says so in 12.

**MR. CHAIRMAN:** 6(2) — pass; 6(3) — pass; 6(4) — pass; 6(5) — pass; 6 — pass; 7(1) — pass — the Member for St. Johns.

**MR. CHERNIACK:** I just want to make sure I'm correct in assuming that this bill does not create any exclusivity of practice, but that anyone can do that which a registered dietitian does, but may not use the name "registered dietitian". That is the intention, is it not? Yes. Mrs. Hamilton confirmed that.

I'm wondering if Mr. Balkaran would clarify whether the words "shall practice or" might not be a little confusing under 7(1). It says, "In Manitoba no person shall practice or hold herself out as a registered dietitian". "Shall practice as a registered dietitian" means only to use the title, or does it mean to do that task?

**MR. BALKARAN:** Mr. Chairman, "registered dietitian" is a defined term and all it means is that

the person can do all those things that a "dietitian" can do but you cannot claim that you are a registered dietitian, that's all it does.

**MR. CHERNIACK:** I think also, Mr. Chairman, that nowhere yet have I seen what a registered dietitian does do. We know from the definition what the background is, what the educational and experience background is but there's nothing here that says that they do anything in the Act. Am I not right about that? —(Interjection)— I'm correct. Thank you. So the words "shall practice as" only means the use of that title as a registered dietitian.

**MR. CHAIRMAN:** Sections 7 through 13 were all read and passed.

14 — the Member for Portage.

**MR. HYDE:** Mr. Chairman, "THAT Clause 14(a) of Bill 20 be amended by adding thereto immediately after the word "dietitian" in the first line thereof the words "at the time of employment".

**MOTION presented and carried.**

**MR. CHAIRMAN:** 14(a) as amended — pass; (b) — pass — the Minister of Health.

**MR. SHERMAN:** On 14(b), I'd like to ask Mrs. Hamilton for her response to a point raised in the submission made the other evening by the Manitoba Health Organizations with respect to the wording of this section. It was suggested that the reference to a written reprimand is not necessary in 14(b). The MHO's argument was that it's inappropriate because it's not found in legislation of other health disciplines and it clearly infringes on the employee-employer relationship. I don't put that forward as a position necessarily held from this side of the table, but I put it forward for consideration as a suggestion from the Manitoba Health Organizations. In other words, the reference to a written reprimand would not be included in this clause. Could I ask Mrs. Hamilton for a comment on that, Mr. Chairman?

**MRS. HAMILTON:** Mr. Chairman, I wouldn't have any difficulty in having that removed. We have never had any such cases up to this point and I really think the important issue would be if it were so serious as to have the dietitian either suspended or terminated.

**MR. CHAIRMAN:** Mr. Sherman.

**MR. SHERMAN:** Mr. Chairman, I would therefore move the deletion from the first line of sub-clause (b) of Clause 14 — well, actually it would be from lines 1 and 2, all the words between "where" and the term "is suspended", or all the words between "dietitian" and "suspended", where the dietitian is suspended or terminated.

**MR. CHAIRMAN:** Clause 14(b), as amended — the Member for St. Johns.

**MR. CHERNIACK:** I want to make a suggestion to Mr. Sherman. The representative from the MHO was speaking on behalf of, I don't know how many institutions, over 100 institutions, I believe, all of whom are the likely employers of dietitians, nurses of

three kinds and others. It occurs to me that it would be helpful to them if they knew what the law was regarding all their employees and that the law was the same. I look at The Nurses Act and it seems to me that it's a pretty good definition in The Nurses Act. I don't know why the dietitians changed it, but would it not be helpful to an employer to know the obligation regardless of the profession it's employing and therefore, how about using the nursing section?

**MR. SHERMAN:** Where the person's employment is terminated — obviously the language has to be cleaned up by Legislative Counsel because the person can hardly be terminated, I would agree. It has to be the employment that is terminated. If that's a more acceptable wording, 17(b) from The MARN Act, that's perfectly satisfactory to me, Mr. Chairman. The point of the proposal is that it be made to come into closer conformity with other health disciplines legislation and that the reference to a written reprimand is not necessary.

**MR. CHERNIACK:** There's another thing I just noticed. This one says "suspended or terminated". The nursing one only speaks about termination. Maybe that should be known.

**MR. CHAIRMAN:** 14(b), as amended — pass. Order please. Legal counsel would like the wording please.

**MR. SHERMAN:** The association feels, Mr. Chairman, it is helpful and useful to leave the constraint in there relative to suspension. They would like to leave that terminology in unless the Committee sees any major difficulties with that. We would only remove the reference to the written reprimand.

**MR. CHERNIACK:** I agree with the dietitians rather than Mr. Sherman. I think suspension should be notified just the same as a termination. Now having said that, may I make a suggestion to Mr. Sherman in his own work process that something like this should be considered for a change in The Nursing Act, as well as an important correction of 5(2) which I think we found was an important correction. I think it should be noted — I'm sure it'll suffer another year — for statute law amendments at that time. That's really why I wanted you to form legislation.

**MR. SHERMAN:** That's acceptable, Mr. Chairman. I think that as we discover opportunities for improvements in this legislation they certainly can be built-in to existing legislation through statute law amendments measures in succeeding sessions.

**MR. CHAIRMAN:** Would somebody then move so that the legal counsel can get the correct wording of the amendment? Mr. Balkaran has a suggestion.

**MR. BALKARAN:** I wonder, Mr. Chairman, the intention is, as I see it, if we struck out all the words in the first line of clause (b) beginning with the word "where" down to "or", so that (b) would read: "where employment is suspended or terminated, etc."

**MR. SHERMAN:** It would be better, Mr. Chairman, if it read, "where the dietitians employment is suspended or terminated."

**MR. CHAIRMAN:** Is that agreeable? (Agreed)

**MR. CHAIRMAN:** 14(b) as amended — pass; 14 as amended — pass; 15(1) — pass; 15(2) — pass — the Member for St. Johns.

**MR. CHERNIACK:** I was in agreement with Ms. Seidel's suggestion to delete the words "or aids and abets." I really don't know that it's necessary. It knowingly permits, surely it includes aids and abets because you can't aid and abet unless you know what you're doing and I'm inclined to think that she made a good point.

**MR. SHERMAN:** That's acceptable to me, Mr. Chairman, unless the association sees any particular difficulty which should be considered. I think it's acceptable, Mr. Chairman.

**MR. CHAIRMAN:** 15(2) as amended, is that agreed? (Agreed) 15 as amended — pass; 16 — pass — the Member for St. Vital.

**MR. WALDING:** Mr. Chairman, this clause would appear to be new and gives the board power to review the qualifications of members. Can I ask why it's put in there and on what basis would the board review the qualifications amendments? Perhaps to Mr. Sherman or Mrs. Hamilton?

**MR. CHAIRMAN:** Mrs. Hamilton, were you going to answer that one?

**MRS. HAMILTON:** Our board reviews qualifications for membership.

**MR. CHERNIACK:** During, after the . . .

**MRS. HAMILTON:** Before they are admitted to membership.

**MR. WALDING:** This just says the qualifications of a member. So that would be after they are admitted?

**MRS. HAMILTON:** Well, yes, this would be a review of the member in regard to her competence.

**MR. WALDING:** How would it come about? Would you review all 150 members on an annual basis, or on a random basis, or some other basis?

**MRS. HAMILTON:** Because it's new we do not have this in place and I can't really answer as to whether we will do it annually or every five years or . . .

**MR. WALDING:** What is your intent for wanting it in there?

**MRS. HAMILTON:** To maintain a standard of competence.

**MR. CHERNIACK:** Mr. Chairman, we've talked about the medical profession which has certain standards to the extent where they actually go in and we discussed what we called "snooper" clause; but even that is done under the regulations. Under the By-laws I see clause (j) "develop, establish and maintain standards of professional ethics among its members." Under the regulations it's "to regulate

the admission, registration, renewal of registration, suspension, expulsion; (c) develop, establish and maintain standards and (d) is as to education." It seems to me that this is either covered in the regulations where it belongs or gives them some additional opportunity at whom to call in a certain member. You know, if it's valuable, then I think we ought to have it in all other legislations.

**MR. SHERMAN:** Mr. Chairman, my concern on this clause would be with the possibility of imposing requirements for continuing education, compulsory continuing education, which remains an issue of contention throughout the health professions field, as I'm sure Mrs. Hamilton is fully aware. I do see a potential for some danger and some difficulty in the way the clause is worded. I think if it had a preceding clause or phrase which pinned that review down to a specific point in time it would accommodate my concerns.

**MRS. HAMILTON:** It was our intention to have this in here to cover the independent practitioner. We don't intend for continuing education to be compulsory because it states in the Regulations 5(1)(e) that, "prescribe standards of voluntary continuing education."

**MR. CHERNIACK:** Mr. Chairman, I must ask Mrs. Hamilton if she can explain why 16 is necessary to do what they want to do in the light of the fact that I think they'll have ample powers under 5(1) and under the subsequent complaint powers to impose conditions. It's just that if this were good why isn't it in the other Acts and I think it's not in the other Acts because it is already covered and that this seems to give, as Mr. Sherman says, some additional clout that I don't think they need but may want to use. I didn't hear the conclusion of Mr. Sherman's statement. I heard him express his concern and doubts but then he said something which suits him and I'm not sure just what he said.

**MR. SHERMAN:** Well, I suggested and I'm not sure it's a very strong or valid proposal, Mr. Chairman, but I suggested that my concerns in this area might be relieved by a preceding, a preamble phrase which pinned that review down to a specific point in time, such as at the time of registration; but in doing that one makes the clause redundant really because presumably that's done at the time of registration anyway.

**MR. CHERNIACK:** I think they can also do it afterwards under the Regulations.

**MRS. HAMILTON:** Our independent practitioners come under a review prior to being qualified as independent practitioners. Is it the feeling of the committee that this would still be able to be done without the inclusion of this clause?

**MR. TALLIN:** Could you repeat the question please?

**MRS. HAMILTON:** Independent practitioners come under a specific review prior to being qualified or recognized as in this classification and would the association be permitted to do this under the Act if this clause 16 were not included?

**MR. SHERMAN:** Would the answer to Mrs. Hamilton's question not be, yes, under 5(1), although of course those regulations have to be approved by Lieutenant-Governor-in-Council, but except for the fact that they require that approval it seems to me that 5(1) would cover that concern.

**MRS. HAMILTON:** There's one word there that I think might not because the word "precedent" said "precedent to membership." This is a review that takes place after membership has been granted for a particular classification of member. We want this section 16 in order to provide the review mechanism for the independent practitioner. Now the independent practitioner would already be . . . well, we can spell it out except as time goes on things change within the profession and we don't want all these specifications right in the Act because it's too difficult to change and 5 appears to me to refer to the requirements for membership, not what we might require after they are members, or what they not only require what the members might be requesting for themselves.

**MR. TALLIN:** I was asked a question and I started to read through the bill because this is the first opportunity I've had to read the bill about whether or not without section 16 they would be able to make a review. In my opinion they would not be able to review it except on a complaint that they had received if they didn't have something like section 16 in it.

**MRS. HAMILTON:** That was the advice of our counsel.

**MR. CHAIRMAN:** 16 — pass — the Member for St. Vital.

**MR. WALDING:** Excuse me, Mr. Chairman. May I ask Mrs. Hamilton whether she expects this to apply just to complaints or will there be some other basis for reviewing the qualification?

**MRS. HAMILTON:** No, this particular clause, we weren't looking at it in view of complaints; that comes later in the Act. This is for the different classification of membership that I have suggested, the independent practitioner.

**MR. WALDING:** You will have in fact the power to do that to all of your members including the retired members.

**MRS. HAMILTON:** Well, I can't see any object in reviewing the qualifications of a retired member.

**MR. WALDING:** Well, I would expect that a retired member coming back in less than four years it might be a very good idea to review their qualifications.

**MRS. HAMILTON:** At that time they would have to meet entrance requirements.

**MR. WALDING:** In less than five years?

**MRS. HAMILTON:** Oh, no, not in less than five years, right.

**MR. WALDING:** Suppose someone wants to come back after four, would it . . .

**MRS. HAMILTON:** It would certainly be an excellent idea to review their qualifications at that time.

**MR. CHAIRMAN:** 16 — pass; 17 — pass; 18 — pass; 19 — pass — the Member for St. Vital, on which . . . ?

**MR. WALDING:** On 18, Mr. Chairman. This also is new I believe and not in The Nursing Act. I'm not sure I understand what it means or what programs of dietetics means. Could you . . . ?

**MRS. HAMILTON:** We put that in in order to show that we would not be trying to set standards either higher or lower than those of the University of Manitoba.

**MR. WALDING:** I take it that you're not talking about membership requirements here, or are you?

**MRS. HAMILTON:** “. . . shall approve only those programs of dietetics in which the standard required for graduation . . .” Within our association we review university courses in dietetics. The university is under no obligation to follow our suggestions, however, we have a very good working relationship and they usually do. A student who wishes to enrol in a program of dietetics may enrol in any program she desires. However she is told what programs would be acceptable to the association as a membership requirement. In other words if she were to graduate from a program that the association did not think suitable, that it had some deficiencies, then although that individual would have a degree in dietetics it would not be from a recognized university, therefore they would not be eligible for membership.

**MR. WALDING:** You used the words “not from a recognized university,” yet in order to become a registered dietitian there is a requirement under The Definitions Act of a degree program from the University of Manitoba.

**MRS. HAMILTON:** Right. However we have members applying from all across the country for membership in our provincial association. Therefore the program of the University of Manitoba is not the only one which we look at; we look at all programs. What we're saying here is that in order to be a member of our association the program that the student graduates from would be consistent with the program offered at the University of Manitoba. It's for clarification that we put this in — that we're not trying to set up either an inferior or a superior program. We want it just to be consistent with the University of Manitoba program.

**MR. WALDING:** Okay, to make sure I understand this, the words “programs of dietetics,” does that mean a course at the university leading to this degree or do those words mean separate courses at the university?

**MRS. HAMILTON:** No, the program is the whole course, the degree.

**MR. WALDING:** Okay, I understand that. Let me just ask you where there will be or could be continuing education required for the 15 hours — I assume that

it would be an approved 15 hours — would that come under the heading of programs of dietetics?

**MRS. HAMILTON:** No, because those programs are not programs which offer a graduation or a degree. They are merely a day's workshop or a week's study course or whatever. This program is the university program that we're referring to.

**MR. CHAIRMAN:** 18 — pass; 19 — pass; Part IV, Complaints Committee, Section 20(a) — pass; (b) — pass; (c) — pass; 20 — pass; 21(1) — pass.

**MR. WALDING:** Just a minute, Mr. Chairman, please. You're going a little bit too fast. I'm still looking at 20, the lay members. Are these different lay members from the ones that are on the Board of Directors, or is there any continuity between them, or can they be the same or must they be different?

**MRS. HAMILTON:** Again we have not in the past had a complaints committee. I would assume that these people would not be the same people who are on the board.

**MR. CHAIRMAN:** 20 — pass; 21(1) — pass; 21(2) — pass; 21 — pass; 22 — pass; Part V, 23 — pass; 24(a) — pass; (b) — pass; (c) — pass; 24 — pass.

**MR. WALDING:** Mr. Chairman, just a minute. Mr. Chairman, under 24(b) the words “or otherwise;” what do you see that as referring to, Mrs. Hamilton?

**MR. SHERMAN:** Mr. Chairman, that wording has confronted the committee in recent days. It means in a professional capacity or a non-professional capacity. It means as a professional dietitian or as a person acting in a manner or a capacity not related to her profession but a person nonetheless with the responsibility as a member of that profession to attempt to act at all times so as to maintain public confidence in the profession.

**MR. WALDING:** We've had the discussion before and I'm not sure whether it was resolved to everybody's satisfaction or whether it was even resolvable to everyone's satisfaction. But while we pause for a minute, Mr. Chairman, perhaps I can ask Mrs. Hamilton at what stage are frivolous or unjustifiable results dealt with in an informal manner?

**MRS. HAMILTON:** We have never dealt with any at this point.

**MR. WALDING:** Where do you foresee them being dealt with then?

**MRS. HAMILTON:** Quite frankly I don't foresee them but I think the provision should be there.

**MR. WALDING:** Would it be the investigation chairman that receives complaints or the complaints committee directly or the registrar or any member of the board? How do you see it working in practise?

**MRS. HAMILTON:** Well, it says the complaints committee is advised.

**MR. WALDING:** By whom? Oh, I see 21(1) might be the . . .

**MRS. HAMILTON:** "Receives and reviews complaints from any source either written or verbal."

**MR. CHAIRMAN:** (b) — pass; (c) . . .

**MR. WALDING:** Just a minute, Mr. Chairman, please. So you would see complaints coming in directly to the complaints committee who themselves would attempt to resolve them informally before them going to the investigation chairman?

**MRS. HAMILTON:** They would not be referred further unless necessary.

**MR. WALDING:** Yes, okay, as long as I understand it; that's fine.

**MR. CHAIRMAN:** Is the member finished now?

**MR. WALDING:** Go ahead, Mr. Chairman.

**MR. CHAIRMAN:** (Clauses 24 to 34(5) were each read and passed. 34(6) — the Member for St. Vital.

**MR. WALDING:** I've got a query against that. I'd ask the Minister if this is the same wording that's in the MARN bill.

**MR. CHAIRMAN:** The Honourable Minister.

**MR. SHERMAN:** Yes it is, Mr. Chairman.

**MR. CHAIRMAN:** 34(6) — pass; 34(7) — pass; 34(8). 34(8) we have an amendment.

**MR. WALDING:** Now, Mr. Chairman, the hearing in absentia — I recall we made small amendments to the two previous Acts having to do with a reasonable reason for being unable to attend. I forget the actual wording. In fact I think Mr. Balkaran looked for it last night and couldn't find it to put in one of them.

**MR. SHERMAN:** That's correct, Mr. Chairman. We put in a clause that said "unless the person who is a subject of the inquiry has supplied just and sufficient reason for his or her absence." I think the salient wording was "just and sufficient reason" or "just and sufficient cause" or "good and sufficient" I guess. Yes, "good and sufficient reason" not "just", "good and sufficient reason." That should be in I think, Mr. Chairman.

**MR. WALDING:** Mr. Tallin was the one who gave us the wording of it under The Veterinary Medical Act?

**MR. TALLIN:** Yes, I think the wording was "without sufficient reason communicated to the counsel before the time set for the inquiry," because otherwise they would never be able to proceed if they didn't have the notice before the inquiry. They would always have to have a further investigation to see if the person was absent for some good and sufficient reason.

**MR. WALDING:** Mr. Chairman, if we're agreed that's a reasonable amendment to put in I wonder if we can leave it to Mr. Balkaran to just check on the previous wording to seek some consistency.

**MR. BALKARAN:** We had something last night that I can possibly use. I've got it in the office.

**MR. CHAIRMAN:** Mr. Hyde moves that 34(7) as amended — pass; 34(8) — the Member for Portage.

**MR. HYDE:** I move

THAT subsection 34(8) be amended by striking out the word "new" in the 2nd line thereof and substituting therefor the word "the."

**MR. CHAIRMAN:** Is that agreed? (Agreed). 34(8) as amended — pass; 34 — pass; 34(9) — pass.

**MR. CHERNIACK:** If I may, having just heard that and it took a while to penetrate, are you sure you don't want to say "her counsel" instead of "the counsel?"

**MR. BALKARAN:** The previous reference, Mr. Chairman, to representation by counsel and to simply put the definitive "the" is sufficient.

**MR. SHERMAN:** The association says they're sure they don't, Mr. Chairman.

**MR. CHAIRMAN:** Clauses 34(9) to Clause 39(6) were each read and passed.

40(1) — pass; (2) — pass; (3) — pass; (4) — pass; (5) — pass; 40 — pass. Part VIII, 41 — pass; 42 — pass.

**MR. CHERNIACK:** Mr. Chairman, I'm sorry, I can't keep up with you.

**MR. CHAIRMAN:** 41, Part VIII.

**MR. CHERNIACK:** I'm still behind you, I'm trying to catch up. If you would just slow down, I would appreciate it.

**MR. CHAIRMAN:** Would the member indicate when he's ready?

**MR. CHERNIACK:** All right. (Interjection)— Well, that may be if you interrupt. Mr. Chairman, now I know why I slowed up. If I may go back to 40(1) and I'm looking at the 42(1) of The Registered Nurses Act and there's an omission or a deletion. I wanted to know the reason for that. If I can read The R.N.s Act, 42(1), it says "any person whose registration has been revoked or suspended or whose registration has been continued, any person who has been refused admission on a roster may appeal from the decision of the discipline committee or the board," and the words that are not in The Dietitians Act are "including any order as to costs." I'd like to know why those words were omitted and then it goes on to a judge. Why was that taken out? Do they not want the decision as to costs to be a matter for appeal?

**MR. SHERMAN:** I think that was merely an oversight, Mr. Chairman. I'm not sure whether legal counsel for the association is here, but I'm sure that just an oversight.

**MR. CHAIRMAN:** Is there an amendment under 40(1)?

**MR. SHERMAN:** Yes.

**MR. CHAIRMAN:** Would somebody move the amendment? —(Interjection)— What is the member moving?

**A MEMBER:** The amendment. What is it, Bud?

**MR. SHERMAN:** "THAT in 40(1), in the fifth line thereof, after the word "board" there be inserted the words "including any order as to costs."

**MR. CHAIRMAN:** 40(1), as amended. Is that agreed? Pass; 40(2) — the Member for St. Johns.

**MR. CHERNIACK:** In that case the oversight that Mr. Sherman assumed was repeated in 40(2), which makes it appear as if we are no longer into an oversight situation when a deliberate — (Interjection)— Yes, it's not the same wording but it has the same effect. In The Registered Nurses Act at the end, the last item, it says, "as to the costs of the appeal" there is a phrase which reads "including any award as to costs made under subsection" so-and-so, which in this case would be 40(1). I like here the way they say "as to her seems just", I approve of that highly, but I think if we've corrected the one, we should correct the other.

**MR. CHAIRMAN:** Is there an amendment under 40(2)?

**MR. SHERMAN:** That's agreeable, Mr. Chairman. I repeat, obviously it was an oversight and it was an extended oversight.

**MR. CHAIRMAN:** (2), amendment moved by the Member for Portage. (Interjection)— Order please, legal counsel would like to know what the amendment is?

**MR. SHERMAN:** Mr. Chairman, the amendment would be "THAT in 40(2) in the fourth line thereof, after the word "appeal" there should be inserted ", including any award as to costs made under Subsection 39(6),".

**MR. CHAIRMAN:** 40(2) as amended — pass; (3) — pass; (4) — pass; (5) — pass; 40 — pass. Part VIII, 41 — pass; 42 — pass; 43 — pass; 44(1) — pass.

**MR. CHERNIACK:** Mr. Chairman, I wonder if Mr. Sherman could clarify, is there the same element of requirement as to that kind of work that is being done as occurs in the nurses' or the doctors' work that would require the immediate urgent reporting by one member of another member that that member is not capable or no longer fit? You know, this is a very very serious requirement of somebody to squeal on another and I think in the nursing business, in the medical business, I understand and know and I don't know enough about the dietitians' field to assure me that it's the same kind of need. I ask Mr. Sherman if he's that familiar with it?

**MR. SHERMAN:** Mr. Chairman, I think it would be fair to allow the association, through Mrs. Hamilton, to respond to that. It's certainly a good question and in respect of all this health disciplines legislation, that section and the subsequent two sections or the principles involved in them have been very carefully discussed and examined; in fact, there is no total consistency as Mr. Cherniack knows. They do vary somewhat as between The Medical Act, for example, and The Nurses Acts. I think that Mrs. Hamilton

could enlighten the Committee as to the substance of Mr. Cherniack's question, which is whether this is indeed a professional field for all its merit that requires that kind of flexibility, that kind of authority for its members.

**MR. CHAIRMAN:** Mrs. Hamilton, please.

**MRS. HAMILTON:** Dietitians are involved in treating patients where life-threatening situations could occur; an example would be in intravenous feedings. If the dietitian did not follow the prescription properly or the intravenous were improperly administered, the patient could die. In severe kidney disease, if the wrong diet is given to the patient, the patient can die. So I do think that there are situations within our profession where it would be a danger to the public if a person were incompetent and allowed to continue to practise.

**MR. CHAIRMAN:** Clauses 44(1) to 44(3) were each read and passed; Part IX, Clauses 45(1) to 45 (9) were each read and passed; 46 — pass; 47(1) — pass; (2) — pass — the Member for St. Vital.

**MR. WALDING:** Give me a minute to read this over again then.

**MR. CHAIRMAN:** Which item is the member speaking on?

**MR. WALDING:** I'm just looking over 45(3).

**MR. CHAIRMAN:** Repeat?

**MR. WALDING:** I'm looking over 45(3). Just for clarification there, it says where there is no appointment made for three months. Would those positions then be filled by members of the association, even if it's the Minister of Health and the Minister of Education and the Department of Foods are supposed to be in there? Would you see them being replaced by members of your association after three months?

**MRS. HAMILTON:** I really can't answer. It could be lay persons or it could be members of the association. If those people had not been appointed within that period of time, it would make it extremely difficult for the council to function.

**MR. WALDING:** The word used is "member", which has a defined meaning under the Act.

**MRS. HAMILTON:** "Shall nominate or appoint the member", in the second line "to nominate or appoint a member to council" and then goes on and talks about failure to appoint. I believe they're just referring to a council member rather than a member of the association.

**MR. WALDING:** I wonder if that should not be clarified since the word "member" does have a very specific meaning under your Act.

**MRS. HAMILTON:** Well, it goes on, it talks of every member of council. There are several instances when the word "member" is used and I think in the context of the whole clause it's self explanatory.

**MR. WALDING:** I would think so, except that the word "member" is used with the Department of Foods, and with the two ministerial appointments, it mentions person, so you might read 45(3) to say that where a person, being the Minister, has an obligation to appoint a member. Now that could hardly refer to member in the way it's used in the Act.

**MRS. HAMILTON:** It's a member of the council that he's appointing.

**MR. WALDING:** Maybe I should direct it to Mr. Balkaran and ask him if he sees a problem there with the use of the word "member" having differing meanings from the Definition Section.

**MR. BALKARAN:** I think it's intended to have a different meaning in 45(3), referring to a member of council as opposed to a member who is a registered member of the association. This is a member who is to be appointed on that council.

**MR. WALDING:** Yes, but the last reference to it, it says that the members nominated already shall nominate or appoint the member to council.

**MR. BALKARAN:** Those are the members on council, remaining members, if you like.

**MR. WALDING:** But surely the use of the word "member" at the end doesn't make it clear whether it's to be a member of the association as defined.

**MR. BALKARAN:** It could be cleared up by using the word "person" in lieu of "member."

**MR. WALDING:** I asked Mrs. Hamilton what was intended there and she was a little vague as to whether it was to be a lay person or a member. Perhaps it could be clarified as to the intent and to the wording.

**MRS. HAMILTON:** Looking it over, the appointments are lay appointments so these would be lay members.

**MR. WALDING:** If we could perhaps have that clarified in the form of an amendment, Mr. Balkaran.

**MR. BALKARAN:** It would seem, Mr. Chairman, that it could be clarified by changing the word "member" in the second line and again in the last line to read "person."

**MR. CHAIRMAN:** Does that meet with the approval? (Agreed) Amendment so moved by the Member for Portage.

**MR. SHERMAN:** What was the amendment? I'm sorry, Mr. Chairman, I was in discussion and I didn't hear it.

**MR. WALDING:** The second and fifth lines.

**MR. BALKARAN:** Sorry, three changes, Mr. Chairman.

**MR. CHAIRMAN:** Is that agreed?

**MR. SHERMAN:** I don't think it's necessary, Mr. Chairman, if it's causing that much difficulty in

comprehension. We're talking about members of the Advisory Council where there are vacancies that haven't been filled and the specified time has elapsed those members of the council who are already there may nominate or appoint persons to the vacant memberships of the council. But if it causes difficulty in comprehension, I have no objection to the amendment.

**MR. CHAIRMAN:** (Clauses 45(3) to 51 were each read and passed.) 52 — the Member for St. Johns.

**MR. CHERNIACK:** Comparing this section with The RN's Act, something has been left out which I think is rather important. The provision in The RN's Act is like in this one, that the former by-laws, the by-laws under the previous Act shall remain in full force and effect until repealed or amended or until December 31st, 1981, whichever sooner occurs.

What The RN's Act contemplates is that there shall be a review made of the existing by-laws so that they can be updated, revised, revamped, made to conform to this new legislation or at least looked at again. That's why there is a sunset clause feature to the old by-laws giving sufficient time for review of the new by-laws and that was left out and I think that — well, my first thought was before looking at The MARN Act, was that we should at least make sure that the by-laws that have been passed under the previous Act are consistent with this Act because many of these, I mean the regulations here, have to go before the Lieutenant-Governor-in-Council. By-laws have to be presented to the general membership. So I was going to say not inconsistent with the provision of this Act but I must say I prefer the RN's provision. Let them review it; it can't be that big a job and it's worthwhile.

**MR. CHAIRMAN:** Mrs. Hamilton.

**MRS. HAMILTON:** Our by-laws have been reviewed and approved by the committee and just remain to go to the Lieutenant-Governor-in-Council.

**MR. CHERNIACK:** Then my suggestion becomes even more valid. What this says, is that the old by-laws shall continue and since you already have a set of new by-laws, then if we put in the same kind of provision as the nurses, then we know those new by-laws will be required to take care of the old. Therefore it seems to me it's right to add to this or until and this being May, until December 31, 1982, whichever sooner occurs means that you will have seven months to clear the new ones.

**MRS. HAMILTON:** Does it take 18 months to clear Lieutenant-Governor-in-Council?

**MR. CHERNIACK:** Oh, I think you should be able to do it in five days but you say 18, I'm suggesting . . . or 82, all right, 81. Well I guess they must have thought so because they put in 18 months. Is that acceptable, Mr. Chairman, to add at the end of the section, or until December 31, 1981, whichever sooner occurs.

**MR. CHAIRMAN:** Is that agreed? (Agreed) Section 52 moved by the Member for Portage. Section 52 as amended — pass; 54 — pass; I believe there's two

54's so the first one has to be renumbered 53 — pass; 54 — pass; 55 — pass; 56 — pass; 57 — pass; Preamble — pass; Title — pass; Bill be reported — pass.

**MR. CHAIRMAN:** I refer members to Bill — (Interjection)—

**MR. CHERNIACK:** . . . significance to saying the feminine gender rather than importing female persons, is there a standardized Legislative counsel's approach to it — number 54. It's different from the nurses. If you look at 54, I'll read you what the nurses have. In this Act words "importing female persons include male persons."

**MR. TALLIN:** I think that's the traditional, The Interpretation Act reading.

**MR. CHERNIACK:** Does it matter? I mean 54 is different and that's why . . .

**MR. TALLIN:** In 54 here it looks as though it was a biological statement.

**MR. CHERNIACK:** Well, Mr. Tallin, do you think we ought to change it the wording to the words "importing female persons include male persons?"

**MR. TALLIN:** I don't think it's very important.

**MR. CHERNIACK:** No. Leave it? All right.

**MR. CHAIRMAN:** Bill be reported — pass. Order please; the bill has been passed.

## **BILL 21 — THE PHYSIOTHERAPISTS ACT**

**MR. CHAIRMAN:** Bill No. 21, The Physiotherapists Act. Are members ready to proceed? We have some amendments to be distributed. Are the members ready to proceed? Proceed. Legal counsel has a statement.

**MR. BALKARAN:** Mr. Chairman, I wonder if I might make an opening remark. The amendments that were just distributed were not prepared in the Legislative Counsel's office because they were done as late as around midnight last night by Council for the Association so that there might be some departure from the format or the language that we normally use, but the substance is as far as I can tell, all there.

**MR. CHERNIACK:** Maybe from the standpoint of speed and since Mr. Balkaran probably works late at night, couldn't we set this down then for lower in the list to give him a change to look at it and save our time?

**MR. BALKARAN:** I've looked at them, Mr. Chairman.

**MR. CHERNIACK:** Oh, you have.

**MR. BALKARAN:** I say that there's some departure in the way in the phraseology but the substance of the amendments are correct and accurate.

**MR. CHAIRMAN:** Can we proceed? Bill 21, Part I, clause 1, Definitions — pass; 1 — pass; 2 — pass;

Part II — I wanted to, under the definitions, I wanted to understand if there's a difference between member and physiotherapist?

**MR. SHERMAN:** Just a minute, Mr. Chairman, please. I'm not even on Bill 21 yet. Mr. Cherniack's question, Mr. Chairman, was, is there a difference between member and physiotherapist? Well I would have to ask the association but I would think, Mr. Chairman, the difference is that there can be different categories of members. There are practising and nonpractising, members who hold conditional registration. I'm not sure that I understand Mr. Cherniack's question. Physiotherapist is a term that describes a particular health professional who practises physiotherapy. Duly qualified and registered members are persons whose names are entered in the register. Now, that can include different categories of membership.

**MR. CHERNIACK:** My reason for the question is not that I want just an explanation of the definitions. I said, what is the difference because I meant how is there a difference shown within the legislation, wherein a member is referred to and treated differently than a physiotherapist who is referred to in the legislation. I suppose we'll come to it but I thought that maybe there was a quick explanation as to why they found it advisable to have the two definitions; but if there's not an apparent answer, I guess we'll get it as we go along.

**MR. SHERMAN:** I think it would rest, Mr. Chairman, in the particular category of membership and the particular physiotherapeutic function of that member, but we certainly can ask the association if there's a finer point than that involved. Section 7(3) clearly spells out the parameters of membership.

**MR. CHERNIACK:** Could we ask, either now or later, 7(3) I believe that every person referred to there is a physiotherapist. If I'm wrong I want to be corrected. I'm getting a nod, so I still don't know the distinction. Maybe we'll come to it, Mr. Chairman.

**MR. CHAIRMAN:** Any further definitions under Section 1? The Member for St. Vital.

**MR. WALDING:** Mr. Chairman, I wonder if I can direct a question to the Minister of Health. Further to the discussion that we had, I believe at the time of the presentations and again with the doctors of those people such as trainers who might do some of the things that could be classified as being physiotherapy. Have we had any resolution to that problem or does it appear in these amendments which I haven't read.

**MR. CHAIRMAN:** Excuse me, would the member take the mike a little closer, I can't hear at this end, sorry?

**MR. SHERMAN:** I believe, Mr. Chairman, that we have an amendment coming to cover that point. I haven't looked through the list of amendments that have been circulated as yet.

**MR. CHAIRMAN:** Mr. Sherman, could I ask you to get the mike closer, we are not able to record.

**MR. SHERMAN:** I'm sorry, Mr. Chairman. No, I can't answer, Mr. Walding's question at this point, Mr. Chairman, until we start working through the bill and at the appropriate point where he wishes to raise the question, if it is not covered in changes that are being proposed in front of us, then we'll refer it to the association for explanation.

**MR. CHAIRMAN:** Proceed. The Member for St. Vital.

**MR. WALDING:** The question had to do with the discussion that the committee had under two associations as the persons such as sport trainers, who might perform some of these functions. Mr. Sherman, seems to think there is an amendment coming that would take care of the committee's concern on that item.

**MR. SHERMAN:** Mr. Chairman, perhaps, Mr. Walding could elaborate on his question. There was a discussion as to exclusivity at the time and it was relative to one or two of the other Acts we were looking at, and at that point in time I recall a discussion as to whether one was or necessarily had to be a qualified physiotherapist to perform some of the functions that one would generally associate with physiotherapy particularly in relation to the field of athletics, but I'm not sure what his question now is. Is he asking me, have we spelled out a definition of a specific category of "trainers" in this bill, or if not, I wish he'd clarify his question?

**MR. WALDING:** Mr. Chairman, the question has to do with whether there is an amendment coming that will take care of that problem that we foresaw, whether it should be under the definition section or somewhere else in the Act, I really don't know, but there was a perceived problem that people acting as trainers for a local community club might find themselves in court answering a charge that they are performing physiotherapy.

**MR. CHAIRMAN:** The Member for St. Johns.

**MR. CHERNIACK:** Mr. Chairman, I wonder if I could point to Mr. Walding that I think the Minister touched on it. They are not here saying that the work they do shall not be done by anybody else. What they are saying is that anybody who does any work, who is not a physiotherapist should not call himself a physiotherapist. In other words, I don't think they are asking for the exclusive right of practice — we are going to look at that — I think all they are asking for is what is known as reserve of title and in that case anybody can do what they are doing for money as long as they don't call themselves physiotherapists. Is that correct? I think that's a distinction.

**MR. CHAIRMAN:** The Member for St. Vital.

**MR. WALDING:** If that is in fact the case then, Mr. Chairman, it would seem to satisfy my concern in the matter.

**MR. CHAIRMAN:** Proceed then, Section 1 — pass; Section 2 — pass; Part 2, Clause 3(1) — pass.

**MR. CHERNIACK:** Mr. Chairman, I wonder if there we could insert a minimum size of board the way we did on the other.

**MR. CHAIRMAN:** Mr. Sherman.

**MR. SHERMAN:** Mr. Chairman, I wonder if their representative either executive or legal of the association can be asked for a comment on that point. The sponsor of the Bill, Mr. Steen, is not here, as the committee can appreciate.

**MR. CHAIRMAN:** Who is speaking on behalf of the Association.

**MRS. SHIRLEY LE PERS:** Shirley Le Pers, Chairman of the Board. We have no objections to having a minimum number. Our intention at this point in time is that we would have a board of eight members, six elected, two appointed, and if you want to put those numbers in as the minimum numbers, we have no objections.

**MR. CHERNIACK:** Could Mr. Balkaran do that?

**MR. CHAIRMAN:** Is that agreed? (Agreed) Clause 3(1) — pass.

**MR. CHERNIACK:** Has that change been made?

**MR. CHAIRMAN:** It was agreed, I believe.

**MR. BALKARAN:** It has been amended by adding after the word "of" where it appears for the second time in the first line of subsection 3(1) the words and figure, "at least 8".

**MR. CHERNIACK:** In the first line.

**MR. CHAIRMAN:** 3(1) — as amended — pass; (2) — pass; (3) — pass; (4) — pass; (5) — pass; 3 as amended pass; 4(1) — The Member for Radisson.

**MR. ABE KOVNATS:** Mr. Chairman, it's at the very end of 4(1), I move that subsection 4(1) of Bill 21 be amended by adding thereto immediately after Clause (i) thereof, the following: (j) establish the method of setting and fix the amount of annual and other fees and provide for their collection.

**MR. CHAIRMAN:** 4(1) — the Member for St. Vital.

**MR. WALDING:** Give us a minute, Mr. Chairman, just to run down the list again.

**MR. CHAIRMAN:** 4(1) as amended — pass; (2) — pass; (3) — the Member for St. Vital.

**MR. WALDING:** 4(2) — we have the same problem here that we had in the previous Act on the 30 days.

**MR. CHERNIACK:** No, no, that's 5(2).

**MR. WALDING:** 5(2) — okay.

**MR. CHAIRMAN:** 4(2) — pass; (3) — pass; (4) — pass; (5) — pass; (6) — pass; (7) — pass; (8) — pass; (9) — pass; 4 — pass. 5(1) — pass . . .

**MR. KOVNATS:** Excuse me, Mr. Chairman, 4 as amended pass?

**MR. CHAIRMAN:** 4 as amended pass. 5(1) — pass . . .

**MR. CHERNIACK:** 5(e), Mr. Chairman, there is a contradiction there, I think. "Prescribes standards of voluntary continuing education to be required of all persons." That voluntary seems to become kind of mandatory. Could we get an explanation?

**MR. CHAIRMAN:** The Minister of Health.

**MR. SHERMAN:** What's Mr. Cherniack's concern, Mr. Chairman?

**MR. CHERNIACK:** If you look at (e) at the top of the page.

**MR. SHERMAN:** Right.

**MR. CHERNIACK:** "Prescribe standards of voluntary continuing education to be required of all persons" which changes "voluntary" to "mandatory" as I read it. I think the prescribed standards of voluntary continuing education period would take care of what I believe is the intent.

**MR. SHERMAN:** The nursing legislation states that, "regulations may prescribe standards of voluntary continuing nursing education for all persons registered under this Act."

**MR. CHERNIACK:** If you take out the words "to be required" and substitute the word "for" — "to be required of" and substitute the word "for".

**MR. SHERMAN:** Agreed. That's right.

**MR. CHAIRMAN:** Is that an amendment? 5(1)(e) as amended — pass.

**MR. CHERNIACK:** That's a pretty difficult thing to do and if they're going to define professional misconduct I'd rather they did it in the Act than leave it for a regulation. But I'm not sure I know what other Act defines it. I'd like help from Legislative Counsel for the definition. I should think that's more of a common-law thing or something that is spelled out in the experience of examining. Do you have it in any regulation by-law now where you've defined professional misconduct? Do you have any idea of how you're going to do it?

**MRS. HAMILTON:** Yes, we have some ideas of how we are going to define professional misconduct.

**MR. CHERNIACK:** The Law Society has a big, fat — I think it's a pretty big book — where they talk about professional ethics and misconduct. I just don't know whether this is a advisable — nothing to prevent their doing it — but if they define it in advance then try to cut the cloth to fit the definition they may be in trouble. Having said that I don't have a particular concern. I don't know if the Minister should have.

**MR. CHAIRMAN:** (f) — pass; (g) — pass; 5(1) as amended — pass; 5(2) — the Minister of Health.

**MR. SHERMAN:** That has been changed, Mr. Chairman, to conform to the wording that we just approved for Bill 20. The heading is all right — Prior Submission to Membership.

**MR. CHAIRMAN:** 5(2) as moved by the Member for Radisson as amended — pass; 5 as amended — pass; 6 — pass.

Part III 7(1) — pass; 2 — pass.

**MR. CHERNIACK:** Mr. Chairman, is it really important to spell it out so specifically what the different rosters are? What's the particular advantage to the public to know there are these various rosters. I'm really looking at all those of the associates members. To whose advantage is it to spell it out, precisely?

**MRS. Le PERS:** To therapists who are wanting to work in this province, they should know and it's spelled out here.

**MR. CHERNIACK:** I haven't seen it in the Medical Bill.

**MRS. Le PERS:** I agree. Some rosters just give the titles and the spelling out is done in other places.

**MR. CHERNIACK:** Do you have such rosters now?

**MRS. Le PERS:** We do not have rosters now.

**MR. CHERNIACK:** You do not?

**MRS. Le PERS:** No.

**MR. CHERNIACK:** Okay.

**MR. CHAIRMAN:** 7(2) — pass — the Member for Radisson.

**MR. KOVNATS:** Mr. Chairman, I move that the 1st word in the 4th line of Section 7(2)(d)(iii) be struck out and the word "have" substituted therefor.

**MOTION on the amendment presented and carried.**

**MR. CHAIRMAN:** 7(2) — pass; 7(3) — the Member for Radisson.

**MR. KOVNATS:** Mr. Chairman, I move that the 1st line of Section 7(3)(b)(i) of Bill No. 21 be amended by striking out the words "of physiotherapy" after the word "program" and inserting the words "physiotherapy education" immediately before the word "program".

**MOTION on the amendment presented and carried.**

**MR. CHERNIACK:** Isn't all they're doing is adding the word "education"?

**MR. SHERMAN:** Well, Mr. Chairman, it formalizes it to a specific academically recognized physiotherapy education program, not some program that perhaps was taken at a workshop or a seminar.

**MR. CHERNIACK:** Regardless of the wording, the intent is to add the word "education" after physiotherapy, is that correct? I'm just trying to understand the amendment and I think all they say is you strike out "physiotherapy" and then you put back the word "physiotherapy" and you add the word "education". —(Interjection)— Before what?

**MR. SHERMAN:** Before the word "program".

**MR. CHERNIACK:** Thank you. In other words, "The graduate of a physiotherapy education program."

**MR. CHAIRMAN:** 7(3) as amended — pass; 7(4) — pass; 7(5) — pass; 7 as amended — pass; 8 — the Member for St. Johns.

**MR. CHERNIACK:** 8, was that not added somewhere else?

**MR. SHERMAN:** Yes. It went into 4(1), Mr. Chairman.

**MR. CHERNIACK:** Yes, (j), right. So do you want to repeat it?

**MR. SHERMAN:** No. There's an amendment coming.

**MR. CHERNIACK:** Oh, I'm sorry, I thought you already called it.

**MR. CHAIRMAN:** The Member for Radisson.

**MR. KOVNATS:** Mr. Chairman, I move that Section 8 of Bill No 21 be struck out and that sections numbered as 9, 10, 11, 12, subsections 13(1), 13(2), 13(3), and Sections 14, 15, 16, be renumbered as sections 8 to 17 respectively.

**MOTION presented and carried.**

**MR. SHERMAN:** Mr. Chairman, I further move that until we get to the end of that list, in other words down to Section 18, that we go by the existing numbers in the bill.

**MR. CHAIRMAN:** Is that agreed, if we continue using the existing numbers? 8 as amended — pass — the Member for St. Vital.

**MR. WALDING:** Mr. Chairman, I want to check back on something here. My question goes back to 7(2), various parts of 7. I understand from 7(1) that "there shall be a register" in addition to "there shall be rosters." I'm not quite sure whether everyone who is on a roster is also on the register and as such is entitled to practise as a physiotherapist. But in particular 7(2)(d)(v)" persons that the board considers fit for entry in a roster." That would seem to me to give complete control to the board to put anyone on there whether or not they have met certain conditions or not.

**MRS. Le PERS:** The only persons whose names can be entered on the roster must be in the register, so they must have met some basic requirements. Now in (v) persons that we consider fit for entry in the roster, the profession is changing, is evolving and we can see that there may be slightly different classes of therapists that should be separated out and we want to be able to make new rosters at a later time.

**MR. CHERNIACK:** But they are still members?

**MRS. Le PERS:** They are still members.

**MR. CHERNIACK:** And they can practise?

**MR. WALDING:** But in 7(3) you say everyone can be a member, under (c), who is engaged directly in physiotherapy as described in 7(2)(d). 7(2)(d) includes any persons that the board considers fit. Now isn't

that a wide-open power and why do you need all of these other things if you can say that anyone you think fit could be a member.

**MRS. Le PERS:** The only persons who can be on the roster are registered. They have to be therapists; it's not as if they can be anything else other than a physiotherapist.

**MR. WALDING:** No, it says under 7(2)(d)(b) "persons that the board considers fit" with no other qualification there. So if you thought I was fit you could put me on a roster 7(3)(c) says because I'm on the roster I can be a member, or am a member.

**MRS. Le PERS:** That's not what is intended.

**MR. WALDING:** I didn't think it was but that's the way it reads to me and I look to Mr. Balkaran or Mr. Tallin to see if that is what is written. (Interjection)— Mr. Tallin says anyone.

**MR. CHERNIACK:** Which section puts them into the registry? I'm just looking to see where does it say that a person with certain qualifications can become a physiotherapist? It's got to be somewhere.

**MRS. Le PERS:** The qualifications for membership are 7(3).

**MR. CHERNIACK:** Well then clearly Mr. Walding is right. You have all kinds of standards and the last standard is one that says anybody you wanted to take in is in.

**MRS. Le PERS:** That is not a standard for membership, a roster, that is a list of the type of . . .

**MR. CHERNIACK:** You're quite right, except that under 7(3), which is the standard, you say everybody who's in 7(2)(d) and 7(2)(d) includes anybody.

**MR. WALDING:** Mr. Chairman, to the Minister of Health, I've just been speaking to Mr. Tallin on this and he suggests to me that the last line (v) of 7(2) would permit the board to put on the roster any of the preceding four parts of that and that that is what it's intended to do.

**MR. SHERMAN:** As an associate member.

**MR. WALDING:** To put it in the opposite, to take that away, would prevent the board from including people in those four categories from being on a roster.

**MR. SHERMAN:** I think that's right.

**MR. CHERNIACK:** Mr. Chairman, some of this conversation with Mr. Tallin, I think didn't go on the record and may not even have been heard. I think we're reaching the stage of suggesting that (v) should be eliminated and frankly I think that there are conditional certificates available where probably (c) could take care of that (v) or — I'm not sure that (v) should be there in that way because it really says you can bring in a masseur and say okay, you're pretty good, we'll put you on, even though you have no other training but experience.

**MRS. Le PERS:** All I can say is that I know that that is not what is intended and if it needs to be reworded . . .

**MR. CHERNIACK:** You mean it's wider than intended.

**MRS. Le PERS:** Yes, it's much wider. What you are suggesting is much wider than we intended.

**MR. CHERNIACK:** You mean our interpretation is wider but I think that you have to agree that the interpretation is right.

Mr. Chairman, I don't think this is quibbling. It seems rather important. How do you set standards if the standard ends up with anybody that you think is fit can join, which is what it says.

**MRS. Le PERS:** Could I ask Mr. Balfour if he could help clarify it for us. He helped us draw it up.

**MR. CHAIRMAN:** Mr. Balfour.

**MR. DAVID BALFOUR:** Mr. Chairman, my name is David Balfour, legal counsel for the association. The purpose of (v) of 7(2)(d), and also 7(3)(c) was because there's such a wide divergency around the world in the method of training physiotherapists, the length of time they go to school, the clinical training, internship, the scope of the facilities that they use, and those two sections were there to enable the board to register a person who they deem to be a qualified physiotherapist but yet didn't fit any of the first four categories. But having said that, a person of that nature probably could become licensed under 7(2)(c).

**MR. CHERNIACK:** So, could we eliminate (v) and take away our concern?

**MR. CHAIRMAN:** We had passed Item 7, we'll go back to 7(2)(d)(v).

**MR. CHERNIACK:** We voted (v) down so that it's not accepted.

**MR. CHAIRMAN:** Is that agreed?

**MR. SHERMAN:** It's agreed that we are deleting 7(2)(v) from the bill.

**MR. CHAIRMAN:** 7(2)(d)(v) is deleted. Agreed? (Agreed)

**MR. SHERMAN:** That would, of course, require the deletion of the word "or" at the end of 7(2)(d)(iv).

**MR. CHAIRMAN:** 7(2) as amended — pass; 7(3) — pass; 7(4) — pass; 7(5) — pass; 7 as amended — pass; 8 — the amendment — shall we try that again . . .

**MR. SHERMAN:** 8 we simply vote against, Mr. Chairman.

**MR. CHERNIACK:** Did you bring that in already?

**MR. CHAIRMAN:** It was read into the record once.

**MR. CHERNIACK:** 8 is struck out and the numbers renumbered and then Mr. Sherman said, let's stick to the old numbers for the sake of dealing with it.

**MR. SHERMAN:** I think other amendments are phrased on the basis of the former numbering.

**MR. CHERNIACK:** Oh.

**MR. CHAIRMAN:** 9.

**MR. CHERNIACK:** Mr. Chairman, 9 is probably the most important section of the Act.

**MR. CHAIRMAN:** The Member for Radisson.

**MR. KOVNATS:** Mr. Chairman, I move

THAT the first line of Section 9 of Bill 21, as printed, be amended by striking out the words "no person shall practice or offer to practise" and substituting therefor the words "no person shall practise physiotherapy or offer to practice physiotherapy".

**MR. CHAIRMAN:** 9 as amended.

**MR. CHERNIACK:** Wait a minute. Mr. Chairman, I don't know what physiotherapy is. We know what practise of physiotherapy is and now I think the explanation I gave to Mr. Walding before that they're not asking for exclusivity of practice is no longer correct. Well, I thought that they were asking only for Reserve of Title. Now I think what they've shoved in by this amendment is that anybody who does these various things that are described under the definition suddenly become people who are in conflict with the Act and I want to be corrected because what I am saying is very important to the intent. I thought they wanted Reserve of Title that the word physiotherapy belongs to them alone, and that that's all they wanted.

But now I read into this change that they want to prevent anyone else from providing services in the identification, assessment, eventual alleviation of physical disfunction etc., etc. and that becomes a very serious matter. I guess the Minister of Health should be most concerned about this because he is responsible for the health services in the province.

**MR. CHAIRMAN:** The Minister of Health.  
Mr. Balkaran.

**MR. BALKARAN:** I wonder if I can offer a way out of that.

**MR. CHERNIACK:** I'm not sure that I now know what they're asking of us. I thought they agreed that all they wanted was Reserve of Title. And if that's all they want then I think we can solve it but this amendment doesn't indicate that.

I'm asking legislative counsel, is there a difference between practice physiotherapy and the definition which says practice of physiotherapy; is there a difference there? —(Interjection)— No, I don't think so.

**MR. SHERMAN:** I think we have to, Mr. Chairman, ask the association representative or legal counsel to the association whether there is a difference. I see the difficulty raised by Mr. Cherniack and earlier, on the same subject, by Mr. Walding but if there is a difference between physiotherapy and the practice of physiotherapy then there's no problem in my view

where trainers and persons of that type are concerned, but if there is no difference then we may well have a problem.

I wonder if either Mrs. Le Pers or Mr. Balfour could respond to that.

**MR. BALFOUR:** Thank you, Mr. Chairman. First of all, the wording of Section 9, as printed, really didn't accomplish the desired purpose because it indicates that people cannot hold themselves out as a physiotherapist, which is a defined term which means a registered physiotherapist, and we all know that nobody who is not registered is going to really endeavour to call himself a physiotherapist; he'd be abundantly stupid. So in changing it to read, "no person shall practise or offer to practise physiotherapy, or hold himself out as physiotherapists", we have the totality of the section, practice of physiotherapy in mind, not the specific individual components and certainly it wasn't the intent to prevent a physical therapist, or trainer, or other like people from applying their trade and no, it's not an exclusive reservation as to practice but as to name and that was the intent.

**MR. CHERNIACK:** I'm sorry, Mr. Chairman, I just want to catch that last sentence again. Everything Mr. Balfour said led me to believe they want exclusivity of practice until he said something about the name. So I thought I understood you really want to cut out anybody else who does any of the things described in the definition and then at the end you seem to say, you want to protect the name, so did I hear you wrongly?

**MR. BALFOUR:** No, we don't want to prevent others from doing those various component items being part of the definition practice of physiotherapy.

**MR. CHERNIACK:** Well then I think you're doing it by your amendment. I think you're doing that and I think really what you want is exactly what you have — maybe we can improve the wording — but what you have now in the printed form is that nobody can call themselves physiotherapists or say that I am practising physiotherapy. That's what you want to say, I now conclude.

**MR. BALFOUR:** Yes.

**MR. CHERNIACK:** What I think you are saying is no one shall practise physiotherapy and you're right back into definition which says that anything that is done there cannot be done by anybody else, say a chiropractor, or a physical therapist as you say, or anything like that.

Mr. Chairman, I would like to indicate I have tremendous faith in the physiotherapy training and education but I don't think they themselves are ready to say that only they should be doing these things. I would support their effort to do it, but I doubt if they've reached the recognition within the health field and in the community to be able to deny others that service.

**MR. BALFOUR:** Mr. Chairman, might I make a suggestion. Perhaps Mr. Balkaran and I could put our heads together and come up with some alternate wording.

**MR. CHAIRMAN:** Mr. Sherman.

**MR. SHERMAN:** Mr. Chairman, wording complementary to that in The Registered Nurses Act would run roughly like this: "In Manitoba no person shall practise as a registered physiotherapist, or hold himself out as a registered physiotherapist, or use the designation of registered physiotherapist", etc., etc., "unless he is registered under this Act."

**MR. CHAIRMAN:** Mr. Balkaran.

**MR. BALKARAN:** Mr. Chairman, since physiotherapist is already defined as a person who is registered, all we need to do in the first line of printed Section 9 is to say, "no person shall practise as a physiotherapist or offer to practise as a physiotherapist" which means a registered person. That's all you need to do.

**MR. SHERMAN:** It changes it from the function or from the activity to the classification or title, right.

**MR. CHERNIACK:** Could we go a little further in there and I can accept the use of designation of physiotherapist, which I think becomes redundant.

Now what about any word or words indicative of such designation, is that necessary? And later it goes on to say "or seek to convey the impression." Isn't it being repetitive and saying the same thing three, four different ways and is that helpful? I'm really asking Legislative Counsel about it.

**MR. BALKARAN:** Mr. Chairman, all I can is that that phraseology is fairly standard in a lot of these professional associations where we have similar language and go on to speak of using a designation.

**MR. CHERNIACK:** You mean there's no point in that.

**MR. BALKARAN:** I don't think there's a point but as I say, it's common to . . .

**MR. CHERNIACK:** . . . To repeat the different ways.

**MR. BALKARAN:** Yes.

**MR. CHERNIACK:** Is this or any word or words indicative of such designation? We heard physical therapist. I don't know that I know the difference but a physical therapist is not a physiotherapist I gather.

**MR. CHAIRMAN:** Mrs. LePers.

**MRS. Le PERS:** A physical therapist is of an American terminology used for a physiotherapist of equal qualifications to Canadians.

**MR. CHERNIACK:** Then you would say that no one could come into Manitoba and say, I'm a physical therapist and not be registered. You would say that's offensive, I didn't know that. I don't know if that's covered, but that's important then.

**MR. CHAIRMAN:** 9 as amended; is there agreement on the changing of the words — pass — the Member for St. Johns.

**MR. CHERNIACK:** I would like to know why the nurses have "in Manitoba", I don't know why it's there. Is there any point to it?

**MR. CHAIRMAN:** The Minister of Health.

**MR. SHERMAN:** Because it's there, Mr. Chairman. We're dealing with The Physiotherapists Act.

**MR. CHAIRMAN:** 9 as amended — pass; 10 — pass; 11 — pass; we're using the numbers I have here, that was agreed on, 12 — pass; 13(1) — pass; (2) — pass; (3) — pass; 13 — the Member for St. Johns.

**MR. CHERNIACK:** I'm just trying to catch up to you, Mr. Chairman. Just hold it a minute.

**MR. WALDING:** I have a question on 13(2).

**MR. CHAIRMAN:** The Member for St. Vital on 13(2).

**MR. WALDING:** Mr. Chairman, it goes back to the question that Mr. Cherniack raised right at the beginning, where it speaks of the name of a physiotherapist being struck from the register. I'm wondering why the word "physiotherapist" is used and not the word "member".

**MR. BALKARAN:** I would think that physiotherapist, by definition, is a person who is registered under the Act, so it's the name of the physiotherapist that you're striking out.

**MR. WALDING:** But a member is someone who is on the register.

**MR. BALKARAN:** I think both have a synonymous meaning by definition. A member means a person whose name is entered and physiotherapist means a person who's registered.

**MR. CHERNIACK:** That's what I heard in the first place. I asked a question as to why they have two definitions. Now it's showing up. It seems to be different, doesn't it? Mr. Walding pointed 13(1) speaks about removing a member's name from the register and 13(2) says you notify the physiotherapist. If they mean the same then surely they should stick to one or the other, not two different designations.

**MR. CHAIRMAN:** The Minister of Health.

**MR. SHERMAN:** That restates Mr. Cherniack's original question and I would ask the association whether they do mean the same. What is the differentiation or distinction between physiotherapist and member in this context?

**MR. CHAIRMAN:** Mrs. LePers.

**MRS. Le PERS:** They mean the same thing.

**MR. CHAIRMAN:** 13(2).

**MR. SHERMAN:** They mean the same thing.

**MR. CHERNIACK:** They mean the same thing. Shouldn't the definition be removed or changed and shouldn't this be changed on 13(2) to say "where the name of a member is struck from the register."

**MR. SHERMAN:** That's part of Mr. Cherniack's suggestion. I think that since 13(1) refers to

members, 13(2) should refer to members, but since they are relatively interchangeable and both used in different references throughout the Act, I see no harm in having them both in the definitions.

**MR. CHAIRMAN:** Mr. Balkaran.

**MR. BALKARAN:** Mr. Chairman, I wonder if we don't run into some problem if we try to eliminate one of the two definitions, that is member or physiotherapist whichever, because of what we've just done in Section 9. If we said "no person shall practise as a physiotherapist". See what we run into there.

**MR. CHERNIACK:** We have two things now. One is Mr. Sherman's suggestion of 13(2), we should change the word "physiotherapist" to "member", and I think that makes sense. But if we can go back to definitions, the reason I asked the question is that the definition, although I think it's the same, is worded differently and I would agree that we need both words there, but I would think that we should use Mrs. LePers' statement, they mean the same and therefore I would say "physiotherapist" and "member" should have the same description, it means a person whose name is entered in the register. I don't know if that makes sense but Mr. Balkaran will tell us.

**MR. BALKARAN:** Which definition are we dealing with now?

**MR. CHERNIACK:** Physiotherapist, page 1. Why not say "physiotherapist means a person whose name is entered in the register". The reason I raise the question is I thought there was a difference. Now that I learn there is no difference, then we should show that it's no different.

**MR. BALKARAN:** I don't particularly care. It's up to the association.

**MR. CHAIRMAN:** Mrs. LePers.

**MRS. Le PERS:** I can see no reason why it can't be reworded the way you're suggesting. They mean the same thing.

**MR. CHAIRMAN:** Is it agreed that we change the word "physiotherapist" to "member"? Mr. Balkaran would you raise a question?

**MR. BALKARAN:** Is it agreed that the definition of physiotherapist should read "physiotherapist means a person whose name is entered in the register."

**MR. SHERMAN:** We should withhold judgment on that suggestion for just a few seconds, Mr. Chairman. I'm not sure that legal counsel is . . .

**MRS. Le PERS:** Mr. Balfour suggested to me that we do need to have a physiotherapist defined as a health professional.

**MR. CHERNIACK:** . . .health professional whose name is entered in the register.

**MR. SHERMAN:** I think the definition of the physiotherapist has to be there as a health

professional duly qualified , etc., etc. Member could be defined as a physiotherapist.

**MR. CHERNIACK:** Is that okay? It's fine with me.

**MR. SHERMAN:** Member means a physiotherapist.

**MR. CHERNIACK:** Okay.

**MR. SHERMAN:** No. Just member means a physiotherapist. A physiotherapist means a health professional duly qualified and registered.

**MR. CHERNIACK:** Mr. Chairman, I have a sister-in-law who is a physiotherapist and is in California. If she comes here, is she not allowed to say "I'm a physiotherapist"? —(Interjection)— Yes, you would sooner say that, I know. She is a physiotherapist but she is not entitled to practise; that's the difference. But under 9, I would have to say there, hey, you'd better not say you're a physiotherapist.

**MR. CHAIRMAN:** Could the committee advise where we are right now?

**MR. WALDING:** Up in the air, Mr. Chairman.

**MR. SHERMAN:** Well, perhaps it would be better, Mr. Chairman, to change the definition of "physiotherapist" to something like this, "member means a health professional who engaged in the practice of physiotherapy. Member means a physiotherapist whose name is entered in the register."

**MR. CHAIRMAN:** Are we back to clause 1 under Definitions, and we have amendment? That is agreed?

**MR. SHERMAN:** I'm suggesting, Mr. Chairman, that we take the definition of physiotherapist first. I'm not suggesting we change the order but just for continuity that "physiotherapist" read "physiotherapist means a health professional engaged in the practise of physiotherapy." And then going back up to member, "member means a physiotherapist who is registered under this Act."

**MR. BALKARAN:** Mr. Chairman, I wonder in using that change in the definition of physiotherapist we don't run into a problem with printed 9 again, when we said "no person shall practise as a physiotherapist" and then you say "a physiotherapist is a person engaged in the practise of physiotherapy," you cut out the trainers and everybody else.

**MR. CHAIRMAN:** To the members of the committee, might I suggest we call it 5:30 and both sides can sort of discuss this and we reconvene at 8:00 to continue clause-by-clause?

**MR. CHERNIACK:** If we could settle it then, you know, it's behind us; another few minutes. I think we're wandering around but I think we're also getting somewhere. I think we have to get somewhere and I'm still thinking about the term "physiotherapist" in relation to my beloved sister-in-law and I'm wondering whether in 9 we aren't really anxious to

prevent anybody from holding out as practising physiotherapy as compared with a trained professional which she is. She is a physiotherapist and it's the practising of physiotherapy in Manitoba that we want to prevent. We don't want her to come here and say, "I'm practising." As a lawyer, I don't want to go into Saskatchewan and be told I can't say I'm a lawyer just because I'm not a member of the Saskatchewan Bar. That being the case then maybe we could see to it that physiotherapist is a person who is qualified as a physiotherapist. A member is a physiotherapist who has been registered.

It seems to me that when I said that it's accepted in principle, I wonder then if Mr. Balkaran couldn't work it out?

**MR. BALKARAN:** Of course I have to be certain of just what you said, Mr. Cherniack.

**MR. CHAIRMAN:** The Minister of Health.

**MR. SHERMAN:** Mr. Chairman, could we take it in stages and settle on a definition of physiotherapist and then settle on a definition of member and then do what we have to do to section 9 to make sure that . . . If we could define a physiotherapist as a health professional engaged in the practise of physiotherapy it would cover the situation that Mr. Cherniack refers to. If we could define a member as a physiotherapist registered under this Act, or whose name is entered in the register, whichever way you want to put it, it takes care of that problem. Then if we go over to No. 9 and simply say that "no person shall practise as a physiotherapist, or in any manner seek to convey the impression that he is practising as a physiotherapist under this Act, unless he is registered under this Act."

**MR. CHERNIACK:** That I think would satisfy my concern.

**MR. SHERMAN:** Mr. Cherniack's sister certainly can hold herself out both as Mr. Cherniack's sister and as a physiotherapist but she cannot practise as a physiotherapist under this Act unless she is registered under this Act.

**MR. CHERNIACK:** I think you're right.

**MR. CHAIRMAN:** We're back to clause 1 with suggested amendments; am I correct?

**MR. SHERMAN:** We're back to clause 1, Mr. Chairman; you're correct, just for those two changes in definition.

**MR. BALKARAN:** We've got the first one, Mr. Chairman. "Member" means a physiotherapist whose name is entered in the register. A "physiotherapist" means . . .

**MR. SHERMAN:** A health professional. A health professional who is engaged in the practise of physiotherapy.

**MR. BALKARAN:** Duly qualified and engaged.

**MR. SHERMAN:** No. The "registered" is for a member who is duly qualified and engaged . . .

**MR. BALKARAN:** And engaged in the practise of physiotherapy.

**MR. SHERMAN:** And engaged in the practise of physiotherapy, or who is duly qualified in the practise?

**MR. BALKARAN:** Or who is duly qualified to practise physiotherapy.

**MR. CHERNIACK:** But can't do so unless they are registered in Manitoba.

**MR. CHAIRMAN:** The Member for St. Vital.

**MR. WALDING:** Mr. Chairman, can I ask the Minister if I'm correct in deriving from the proposed amendment that the physiotherapist would then lose the protection of title which is what is intended I believe?

**MR. CHERNIACK:** There's a protection of the title in the practise that they would not lose; they would retain that.

**MR. SHERMAN:** Lose protection of title or lose title?

**MR. WALDING:** Reserve of title; that's the word.

**MR. SHERMAN:** They would not lose.

**MR. CHAIRMAN:** Order please. Can we get a clarification on that second part for legal counsel here, so we can proceed?

**MR. CHERNIACK:** I wrote "physiotherapist" means a health professional who is duly qualified to practise physiotherapy.

**MR. CHAIRMAN:** Is that agreed? (Agreed)

**MR. CHERNIACK:** Just delete all the words following "qualified."

**MR. SHERMAN:** Physiotherapy is defined further down.

**MR. CHAIRMAN:** Clause 1 as amended.

**MR. BALKARAN:** We don't need the registration . . .

**MR. CHERNIACK:** No, we don't want it then.

**MR. SHERMAN:** We probably do need it for member though.

**MR. CHERNIACK:** Yes.

**MR. CHAIRMAN:** Is everybody agreed? (Agreed) Clause 1 as amended — pass.

**MR. SHERMAN:** Mr. Balkaran hasn't read the definition of member yet.

**MR. BALKARAN:** Yes, I did. I'll read it again, Mr. Chairman. "Member" means a physiotherapist whose name is entered in the register.

**MR. CHAIRMAN:** Clause 1 as amended — pass. Can we pass clause 9 and then adjourn? — (Interjection)— Clause 9 is passed already? We will then adjourn committee and proceed at 8:00 with clause 10 on Page 7. Agreed? (Agreed) Committee rise.