

For Report

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Seunghye Seo, Law Clerk

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MINISTER OF HEALTH

## **BILL 36 – 2022**

# **HEALTH PROFESSIONS AND OCCUPATIONS ACT**

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HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

**PART 1 – INTERPRETATION AND GUIDING PRINCIPLES**

**Division 1 – Interpretation**

**General definitions**

**1** In this Act:

“**accreditation standards**” means accreditation standards as defined in section 7 (2) [*types of standards*];

“**actionable conduct**” has the meaning given to it in section 11 (1) [*misconduct and actionable conduct*];

- “administrative matter”** means a matter referred to in section 107 [*what are administrative matters*];
- “anti-discrimination measures”** means measures taken, including implementing processes, for the purposes of conducting regulatory processes or providing health services in a manner that is consistent with one or more of the objectives referred to in section 15 [*anti-discrimination measures*];
- “aspect of practice”** means an activity, other than a restricted activity, that
- (a) is part of providing a health service that is within the scope of practice of a designated health profession, and
  - (b) requires professional knowledge, skills, ability and judgment;
- “assessment”**, in the context of an assessment by a regulated health practitioner of a patient or of a respondent undergoing a capacity evaluation, means to apply a clinical judgment for the purposes of evaluating the patient’s or respondent’s physical or mental condition to determine the following:
- (a) in the case of a patient, whether the condition can be improved or resolved by the provision of health services that the regulated health practitioner is authorized to provide;
  - (b) in the case of a respondent, the matters referred to in section 141 (1) (b) [*assessments and reports*];
- “authorization”**, in the context of a designated health occupation, means an authorization, in the form of a permit, letter or other type of written record, to practise the designated health occupation, issued or renewed by the health occupation director of the applicable regulatory program;
- “board”** means a board of a regulatory college;
- “bylaw”** means a bylaw of a regulatory college, made by the board;
- “capacity”**, except in section 343 (3) [*corporate matters*], means capacity to be fit to practise a designated health profession, as described in section 39 (3) [*fit to practise*];
- “capacity evaluation”** means an evaluation of a respondent’s capacity, conducted as part of an investigation and further to an order made under section 140 [*initiating capacity evaluation*];
- “capacity officer”** means a person retained or employed under section 363 [*officers*] to exercise the powers and perform the duties of a capacity officer;
- “capacity record”** has the meaning given to it in section 390 [*disciplinary and capacity records*];
- “capacity summary”** means the summary described in section 390 (2) (b);
- “citation”** means a citation for a discipline hearing, issued by the director of discipline;

- “**competence**” means competence to be fit to practise a designated health profession, as described in section 39 (2);
- “**competence assessment**” means an assessment of a respondent’s competence, conducted as part of an investigation and further to an order made under section 132 [*competence assessments*];
- “**conflict of interest**” includes actual, potential and perceived conflicts of interest;
- “**continuing practice order**” means an order made under section 146 [*continuing practice order*];
- “**continuing professional development**” means an activity or program undertaken for the purpose of ensuring that professional knowledge, skills and abilities remain current;
- “**corporation**” has the same meaning as in the *Business Corporations Act*;
- “**credential**” means a certificate or other record that is evidence of the holder’s education, training, experience or other qualifications;
- “**criminal record check**” has the same meaning as “criminal record check” or “criminal record check verification”, as applicable in the context, in the *Criminal Records Review Act*;
- “**criminal record check authorization**” has the same meaning as in the *Criminal Records Review Act*;
- “**designated health occupation**” means a health occupation that is designated under Part 2 [*Designation and Model of Regulation*] as a designated health occupation;
- “**designated health profession**” means a health profession that is designated under Part 2 as a designated health profession;
- “**designated profession or occupation**” means a designated health profession or designated health occupation;
- “**designation assessment**” means an assessment conducted under Division 1 [*Designation*] of Part 2;
- “**designation regulation**” means a regulation of the minister that designates a health profession or health occupation as a designated profession or occupation;
- “**diagnose**” means to identify a disease, disorder or condition as the cause of the signs expressed or symptoms exhibited by an individual;
- “**director of discipline**” means the person appointed under section 444 [*director of discipline*] as the person responsible for the management of the discipline tribunal;



**“disciplinary order”** means the following:

- (a) an order that
  - (i) is or may be made against a respondent for the purpose of disposing of an administrative matter, regulatory complaint or citation, and
  - (ii) is described in section 268 [*restorative processes*], 269 [*orders not affecting practice authority*], 270 [*orders affecting practice authority*] or 271 [*monetary penalties and refunds*];
- (b) an order made against a respondent by a discipline panel in the course of a discipline hearing;

**“disciplinary record”** has the meaning given to it in section 390;

**“discipline hearing”** means a hearing before a discipline panel of the discipline tribunal;

**“discipline panel”** means a discipline panel appointed under section 169 [*appointing discipline panels*] to conduct a discipline hearing;

**“discipline panel member”** means a person appointed under section 449 [*appointment of discipline panel members*];

**“discipline tribunal”** means the discipline tribunal established under section 443 [*establishment of discipline tribunal*];

**“disclose”** includes all of the following:

- (a) to give, under this Act, information or a record to a person;
- (b) to publish information, a record or a registry;
- (c) to include information in a registry, if the information will be publicly accessible;

**“discrimination”** means discrimination as defined in section 9 [*discrimination*];

**“eligibility standards”** means eligibility standards as defined in section 7 (2);

**“employee”** means the following:

- (a) an employee, agent or volunteer;
- (b) a person acting under contract;
- (c) a person holding hospital privileges;

**“ethics standards”** means ethics standards as defined in section 7 (2);

**“extrajurisdictional practitioner”** means a person who is or was authorized to practise a health profession or health occupation in a jurisdiction other than British Columbia;

**“extrajurisdictional regulator”** means a body that is responsible, under an enactment of a jurisdiction other than British Columbia, for governing the practice of a health profession or health occupation in that jurisdiction;

- “family member”** means a spouse, child, parent, sibling or a person within a prescribed class of persons;
- “fit to practise”** has the meaning given to it in section 39;
- “govern”**, in relation to a designated profession or occupation, includes
- (a) to regulate the designated profession or occupation, and
  - (b) to superintend the practice of the designated profession or occupation;
- “governance activity”** means an activity of a regulator with respect to the following:
- (a) the exercise of powers and performance of duties under this Act or another enactment;
  - (b) without limiting paragraph (a),
    - (i) the administration and operation of a regulatory college or regulatory program, or
    - (ii) the governing of a designated profession or occupation;
- “health care facility”** means a hospital, clinic, institution or other type of facility at or through which health services are provided;
- “health occupation”** has the meaning given to it in section 6 (2) [*health professions and occupations*];
- “health occupation director”** means a person responsible under this Act for administering one or more regulatory programs;
- “health profession”** has the meaning given to it in section 6 (1);
- “health profession corporation”** means a corporation that holds a health profession corporation permit;
- “health profession corporation permit”** means a permit issued or renewed in accordance with Divisions 2 [*Making Licence or Permit Applications*] and 4 [*Health Profession Corporation Permits*], as applicable, of Part 3;
- “Health Professions Review Board”** means the Health Professions Review Board continued under section 308 [*Health Professions Review Board continued*];
- “health service”** means anything that is done to a patient for a therapeutic, preventive, palliative, assessment, diagnostic, cosmetic or other purpose related to health;
- “hospital”** has the same meaning as “hospital” or “private hospital” in the *Hospital Act*;
- “hospital privileges”** means a permit to practise a designated health profession in a hospital;
- “identity protection order”** means an order made under section 239 [*identity protection orders*] to partially or fully protect a person’s identity;

**“Indigenous governing body”** has the same meaning as in the *Declaration on the Rights of Indigenous Peoples Act*;

**“Indigenous peoples”** has the same meaning as in the *Declaration on the Rights of Indigenous Peoples Act*;

**“Indigenous practices”** means the following:

- (a) Indigenous cultural practices, traditions, values and beliefs;
- (b) contemporary Indigenous practices that are based on, or originate in, traditional Indigenous practices;
- (c) a combination of traditional and contemporary Indigenous practices;

**“information and production order”** means an order described in section 257 [*information and production orders*];

**“investigation”** means an investigation of the following, as applicable in the context:

- (a) whether a licensee is fit to practise or has committed an act of misconduct;
- (b) whether a regulated health service provider has committed an act of actionable conduct;
- (c) whether a person other than a regulated health practitioner has contravened this Act or the regulations, bylaws or rules;

**“investigation committee”** means the committee established by a regulatory college for the purposes of directing the regulatory college’s investigation program;

**“investigator”** means a person retained or employed to exercise the powers and perform the duties of an investigator under

- (a) section 363, in the case of an investigation of a licensee, or
- (b) section 368 [*investigators and others*], in the case of an investigation of a regulated health service provider;

**“licence”** means a licence issued or renewed in accordance with Divisions 2 and 3 [*Licences*], as applicable, of Part 3;

**“licence committee”** means the committee established by a regulatory college for the purposes of directing the regulatory college’s licence program;

**“licensee”** means a person who holds a licence;

**“medical health officer”** has the same meaning as in the *Public Health Act*;

**“misconduct”** has the meaning given to it in section 11;

**“patient”** means a person to whom health services are provided;

**“performance standards”** means the performance standards referred to in section 456 [*performance standards*];

**“permit committee”** means the committee established by a regulatory college for the purposes of directing the regulatory college’s health profession corporation permit program;

**“personal information”** has the same meaning as in the *Freedom of Information and Protection of Privacy Act*;

**“practice authority”** means the following:

- (a) in the case of a licensee, the licensee’s licence;
- (b) in the case of a regulated health service provider,
  - (i) the regulated health service provider’s registration or authorization, or both, if required under a designation regulation, or
  - (ii) if registration or an authorization is not required, the regulated health service provider’s authority, according to the requirements, limits and conditions set under a designation regulation, to practise a designated health occupation;

**“practice directive”** means a rule of practice or procedure made by the director of discipline for the purposes of conducting discipline hearings;

**“practice standards”** means practice standards as defined in section 7 (2);

**“provincial health officer”** has the same meaning as in the *Public Health Act*;

**“quality assurance assessment”** means an assessment of a licensee conducted for a purpose referred to in section 98 (1) [*purposes of quality assurance program*];

**“quality assurance assessor”** means a person retained or employed under section 363 to exercise the powers and perform the duties of a quality assurance assessor;

**“quality assurance information”** has the meaning given to it in section 102 (1) [*protecting confidentiality*];

**“quality assurance officer”** means the following:

- (a) a quality assurance assessor;
- (b) another person within a class of persons who, under a bylaw, is authorized to obtain or disclose information with respect to a quality assurance program or a quality assurance assessment;

**“registrar”** means a person appointed under section 359 (1) (a) [*registrar and other persons*] as the registrar of a regulatory college;

**“registry”** means a registry of regulated health practitioners who practise a designated profession or occupation

- (a) established or continued under section 395 [*keeping a registry*] for a regulatory college, or
- (b) established as required under a designation regulation for a regulatory program;

**“regulated health practitioner”** means a person who is a licensee or regulated health service provider;

**“regulated health service provider”** means a person who is authorized in accordance with a designation regulation to practise a designated health occupation;

**“regulator”** means the following, as applicable in the context:

- (a) a regulatory college;
- (b) a health occupation director who is administering a regulatory program;

**“regulatory college”** has the meaning given to it in section 342 [*regulatory colleges*];

**“regulatory complaint”** means an allegation

- (a) that a licensee is not fit to practise or has committed an act of misconduct, made under section 119 [*regulatory complaints by registrar*] or 120 [*regulatory complaints by others*], or
- (b) that a regulated health service provider has committed an act of actionable conduct, made under section 222 [*regulatory complaints by health occupation director*] or 223 [*regulatory complaints by others*];

**“regulatory performance”** means the extent to which a regulator is conducting governance activities in accordance with the performance standards and best practices referred to in section 456;

**“regulatory process”** means the following:

- (a) a process conducted for a regulator as part of governance activities, including, without limitation,
  - (i) a process used to make a decision with respect to an application made under this Act, and
  - (ii) an investigation or disciplinary proceeding;
- (b) a process conducted by the minister, superintendent, director of discipline or a discipline panel in the performance of duties or the exercise of powers under this Act;

**“regulatory program”** means a program of regulation that applies under a designation regulation for the purposes of governing a designated health occupation;

**“regulatory report”** means a report made under Division 6 [*Duties to Report Licensees*] of Part 3;

**“relevant offence”** means an act that

- (a) is in the nature of sexual misconduct, sexual abuse or discrimination, or
- (b) includes violence, fraud, breach of trust or a prescribed type of conduct;

**“representative of the public”**, in relation to a regulator or a discipline panel, means a person

- (a) who, at the time of the person’s appointment as a board member or discipline panel member,
  - (i) did not exercise powers or perform duties for the regulator or the discipline tribunal, or
  - (ii) was not an employee of, and did not otherwise provide services to, the regulator or the discipline tribunal, and
- (b) who does not practise the designated profession or occupation that is governed by the regulator or that is the subject of the hearing before the discipline panel;

**“respondent”** means

- (a) a licensee who is the subject of an assessment under section 108 [*assessment and action*], or
- (b) a regulated health practitioner who is the subject of a regulatory complaint or an investigation began under section 124 [*initiating investigation without regulatory complaint*];

**“restricted activity”** means an activity that

- (a) is performed in the course of providing a health service, and
- (b) is prescribed by the minister as a restricted activity;

**“revocation order”** means an order made under section 147 [*revocation order*];

**“risk assessment”** means a risk assessment as described in section 21 [*risk assessment*];

**“risk under the *Criminal Records Review Act*”** means risk under the *Criminal Records Review Act* as defined in section 12 [*risk under Criminal Records Review Act*] of this Act;

**“rule”**, except in sections 335 (2) [*limits on authorizations, modifications and waivers*] and 533 [*incorporation by reference authorized*], means a rule for a regulatory program, made by a health occupation director;

**“sexual abuse”** has the meaning given to it in section 8 (3) [*sexual misconduct and sexual abuse*];

**“sexual misconduct”** has the meaning given to it in section 8 (1) and (2);

“**spouse**” means a person who

- (a) is married to another person, or
- (b) has lived with another person in a marriage-like relationship and has done so for a continuous period of at least 2 years;

“**summary dismissal order**” means an order described in section 258 [*summary dismissal orders*];

“**summary protection order**” means an order described in section 259 [*summary protection orders*];

“**superintendent**” means the person appointed under section 436 (2) [*members of superintendent’s office*] as the superintendent;

“**superintendent’s office**” means the Office of the Superintendent of Health Profession and Occupation Oversight established under section 435 (1) [*establishment of superintendent’s office*];

“**support program**” means a support program as defined in section 276 [*definitions*];

“**suspension order**” means an order described in section 263 (1) [*suspension and termination orders*];

“**termination order**” means an order described in section 263 (2);

“**title**” includes

- (a) an abbreviation of a title, and
- (b) an equivalent, in another language, of a title or an abbreviation of a title;

“**vary**” includes all of the following:

- (a) to vary the limits or conditions imposed on, or to change the class of, a licence, registration or authorization;
- (b) to vary the limits or conditions imposed on a health profession corporation permit;
- (c) to vary the limits or conditions imposed under an order.

**If Administrative Tribunals Act applies**

- 2 Part 1 [*Interpretation and Application*] of the *Administrative Tribunals Act* applies for the purposes of a provision of this Act that incorporates by reference a provision of that Act.

**Application of powers and duties**

- 3 (1) Subject to subsection (2), the exercise of powers and performance of duties under this Act are limited as follows:
  - (a) a regulator may conduct governance activities only with respect to the designated profession or occupation that the regulator is authorized, under a designation regulation, to govern;

- (b) a person may exercise powers and perform duties under this Act only for the regulator for which the person was appointed, retained or employed.
- (2) Subsection (1) does not apply to the extent
  - (a) that this Act or a regulation provides otherwise, or
  - (b) that is necessary to give effect to an agreement.

**Application if reference to health profession corporation**

- 4 (1) This section applies for the purposes of any provision of this Act, the regulations or the bylaws that applies to a health profession corporation, a health profession corporation permit or an application for a health profession corporation permit.
- (2) A provision referred to in subsection (1) applies to a designated health profession, a regulatory college or a licensee only if a designation regulation as described in section 25 (3) (b) [*designation regulation for designated health profession*] is made with respect to
  - (a) the designated health profession, or
  - (b) the designated health profession governed by the regulatory college or practised by the licensee.

**Application to former regulated health practitioners**

- 5 All powers that may be exercised under this Act against a regulated health practitioner may be exercised against any of the following:
  - (a) a former regulated health practitioner;
  - (b) a person whose practice of a health profession was governed under any of the following enactments:
    - (i) the *Chiropractors Act*, R.S.B.C. 1996, c. 48;
    - (ii) the *Dentists Act*, R.S.B.C. 1996, c. 94;
    - (iii) the *Health Professions Act*, R.S.B.C. 1996, c. 183;
    - (iv) the *Medical Practitioners Act*, R.S.B.C. 1996, c. 285;
    - (v) the *Nurses (Registered) Act*, R.S.B.C. 1996, c. 335;
    - (vi) the *Optometrists Act*, R.S.B.C. 1996, c. 342;
    - (vii) the *Pharmacists, Pharmacy Operations and Drug Scheduling Act*, R.S.B.C. 1996, c. 363;
    - (viii) the *Podiatrists Act*, R.S.B.C. 1996, c. 366.



**Health professions and occupations**

- 6 (1) For the purposes of this Act, a health profession has the following characteristics:
- (a) persons who practise the health profession
    - (i) have sufficient education, training, experience and other qualifications to have a professional level of knowledge, skills, ability and judgment,
    - (ii) are personally responsible for determining the appropriate course of care for patients, and
    - (iii) provide health services that may present a risk of harm to the public;
  - (b) regulation of the practice of the profession is necessary
    - (i) to protect the public from harm, or
    - (ii) to protect or promote the public interest.
- (2) For the purposes of this Act, a health occupation has the following characteristics:
- (a) persons who practise the health occupation
    - (i) do not determine the appropriate course of care for patients, and
    - (ii) provide health services that, in comparison to the types of health services that licensees are authorized to provide, present a lower risk of harm to the public;
  - (b) at least one of the following applies to persons who practise the health occupation:
    - (i) the persons have sufficient education, training, experience and other qualifications to have the level of knowledge, skills and ability necessary to protect the public from harm in providing health services;
    - (ii) the persons are supervised or directed by licensees in providing health services;
  - (c) regulation of the practice of the occupation is necessary or advisable
    - (i) to protect the public from harm, or
    - (ii) to protect or promote the public interest.

**Types of standards**

- 7 (1) In this section, “**standards**” means a set of prohibitions, requirements, limits and conditions that are authorized under this Act to be established or adopted by the minister, a board or a health occupation director.

(2) In this Act:

**“accreditation standards”** means standards respecting the following:

- (a) eligibility for a facility to be, or to continue to be, accredited as an accredited facility for the purposes of this Act;
- (b) the ownership of accredited facilities;
- (c) the administration and operation of accredited facilities, including with respect to staff, equipment, records, monitoring, reporting and other matters;

**“eligibility standards”** means standards respecting eligibility for the following, as applicable:

- (a) to hold, vary, renew or have reinstated a licence, health profession corporation permit or authorization;
- (b) to be registered as a regulated health service provider, or to vary, renew or reinstate registration;
- (c) to be a member of a class of regulated health practitioners;
- (d) to practise a designated health occupation, if neither paragraph (a) nor (b) applies to the designated health occupation;

**“ethics standards”** means standards respecting the practice of a designated health profession in a manner that is ethical;

**“practice standards”** means standards respecting the practice of a designated profession or occupation.

#### **Sexual misconduct and sexual abuse**

- 8** (1) Subject to subsections (2) and (3), a regulated health practitioner commits an act of sexual misconduct if the regulated health practitioner does any of the following with respect to a patient or a person within a prescribed class of persons:
- (a) engages with the patient or person in sexual intercourse or another physical act of a sexual nature;
  - (b) touches the patient or person, directly or indirectly, if the touching is of a sexual nature;
  - (c) attempts an act described in paragraph (a) or (b);
  - (d) engages in an act of a sexual nature in the patient’s or person’s presence;
  - (e) manipulates or exploits the patient or person for sexual purposes, including offering or accepting services in exchange for acts of a sexual nature, whether or not the services are health services;
  - (f) harasses the patient or person, if the harassment is of a sexual nature;
  - (g) engages in communication of a sexual nature with the patient or person, including requesting communication or sharing media containing sexual content;

- (h) builds a relationship of trust or emotional connection with the patient or person and uses or attempts to use that relationship to abuse, manipulate or exploit the patient or person for sexual purposes;
  - (i) engages in any other activity of a sexual nature with or in relation to the patient or person, whether or not the activity occurs within the health service environment or in the course of providing health services.
- (2) Subject to subsection (3), an act referred to in subsection (1) (a), (b), (c), (d), (g) or (i) is not sexual misconduct for the purposes of this Act if the patient or person is the regulated health practitioner’s spouse and that spouse consents to the act.
- (3) A regulated health practitioner commits an act of sexual abuse if the regulated health practitioner engages in an act referred to in
- (a) subsection (1) (a), (b), ~~or (c)~~ or (d) without the patient’s or person’s consent, whether or not that patient or person is the regulated health practitioner’s spouse, or
  - (b) subsection (1) (e) or (h).

**Discrimination**

- 9 (1) In this Act, “**discrimination**” means, subject to subsection (2), conduct that is prohibited under the *Human Rights Code* and that is undertaken in relation to one or more of the following:
- (a) the functions under this Act of the superintendent’s office or the Health Professions Review Board;
  - (b) the conduct of governance activities, including the employment of persons on behalf of a regulator;
  - (c) the practice of a designated profession or occupation by a regulated health practitioner, including with respect to
    - (i) the provision of health services or services related to the provision of health services,
    - (ii) the employment of persons in relation to the practice of the designated profession or occupation, and
    - (iii) the housing of persons in community care facilities or assisted living residences within the meaning of the *Community Care and Assisted Living Act*, or other types of facilities where health services are provided;
  - (d) interactions between a regulated health practitioner and any of the following, conducted in the course of practising a designated profession or occupation or in the carrying out of business, professional or other activities related to the practice of a designated profession or occupation:
    - (i) patients;
    - (ii) persons who exercise powers or perform duties for a regulator;

- (iii) persons within a prescribed class of persons;
  - (e) the use of the regulated health practitioner’s status as a regulated health practitioner in relation to an activity prohibited under section 7 [*discriminatory publication*] of the *Human Rights Code*.
- (2) Conduct is not discrimination if the conduct is undertaken for a prescribed purpose, in prescribed circumstances or in accordance with a prescribed process.

**Definitions respecting misconduct and actionable conduct**

- 10 In section 11 [*misconduct and actionable conduct*]:
- “**emotional abuse**” includes verbal harassment, yelling or any other act, or lack of action, that may diminish a person’s sense of dignity;
  - “**financial abuse**” includes misusing a person’s funds or assets or obtaining a person’s property or funds without the person’s knowledge and full consent;
  - “**neglect**” includes failing to meet a person’s needs with respect to health services and, if applicable, food, shelter, care or supervision;
  - “**physical abuse**” includes the use of physical force or confinement that is excessive for, or is inappropriate to, a person’s situation.

**Misconduct and actionable conduct**

- 11 (1) Subject to subsection (3), a licensee commits an act of misconduct or a regulated health service provider commits an act of actionable conduct if the regulated health practitioner does any of the following:
- (a) fails to comply with an order or contravenes a provision of
    - (i) this Act, the regulations, a bylaw or a rule, or
    - (ii) an enactment that is prescribed or identified in a bylaw or rule for the purposes of this section;
  - (b) commits an act of sexual abuse or sexual misconduct;
    - ~~(i) sexual abuse, or~~
    - ~~(ii) sexual misconduct against a patient or a person within a prescribed class of persons;~~
  - (c) commits an act of discrimination;
  - (d) commits an act of neglect of a patient or an act of physical abuse, emotional abuse or financial abuse of a patient or a person within a prescribed class of persons, in
    - (i) the practice of a designated profession or occupation, or
    - (ii) the carrying out of business, professional or other activities related to the practice of a designated profession or occupation;

- (e) engages in conduct that causes the regulated health practitioner to be
    - (i) determined to be a risk under the *Criminal Records Review Act*, or
    - (ii) convicted of a relevant offence;
  - (f) engages in conduct that causes the regulated health practitioner to be subjected to the imposition of a limit or condition on, or a suspension or revocation of,
    - (i) the person’s practice authority, or
    - (ii) the person’s authority, in any jurisdiction, to practise a health profession or health occupation, if the conduct is in the nature of misconduct or actionable conduct;
  - (g) engages in a prescribed type of conduct.
- (2) Without limiting subsection (1) and subject to subsection (3), a licensee commits an act of misconduct if the licensee engages in conduct that
- (a) may bring the practice of a designated health profession into disrepute, or
  - (b) is conduct unbecoming a licensee.
- (3) A licensee does not commit an act of misconduct solely because the licensee lacks capacity or is subject to a continuing practice order or a revocation order.

**Risk under *Criminal Records Review Act***

- 12 (1) In this Act, “**risk under the *Criminal Records Review Act*”** means, in relation to a person, that
- (a) the deputy registrar under the *Criminal Records Review Act* has determined that the person presents a risk of
    - (i) physical or sexual abuse to children, or
    - (ii) physical, sexual or financial abuse to vulnerable adults, and
  - (b) the determination described in paragraph (a) has not been overturned by the registrar under that Act.
- (2) For the purposes of subsection (1), a word or phrase used in that subsection has the same meaning as in the *Criminal Records Review Act*.

**Persons with interest in citation or discipline hearing**

- 13 For the purposes of this Act, a person has an interest in a citation or a discipline hearing if the person is one of the following:
- (a) the respondent;
  - (b) the regulatory college that is responsible for governing the designated health profession practised by the respondent;

- (c) the complainant whose regulatory complaint is the subject of the citation or hearing;
- (d) a person confirmed by the director of discipline, in writing and on recommendation of the discipline panel, to have an interest.

## **Division 2 – Guiding Principles**

### **Guiding principles for persons acting under this Act**

- 14** (1) This section does not apply to regulated health practitioners with respect to duties referred to in Division 5 [*Duties of Licensees*] of Part 3 or Division 2 [*Duties of Regulated Health Service Providers*] of Part 4.
- (2) In exercising powers and performing duties under this Act, a person must act in accordance with the following principles:
- (a) to protect the public from harm and discrimination;
  - (b) to support and promote awareness of all of the following, as they relate to the oversight and review of regulators, the governance of designated professions and occupations and the provision of health services:
    - (i) reconciliation with Indigenous peoples;
    - (ii) the United Nations Declaration on the Rights of Indigenous Peoples;
    - (iii) the need to address racism and anti-racism issues that are specific to Indigenous peoples, including acknowledging the rights, interests, priorities and concerns that are specific to First Nations peoples, Métis peoples and Inuit peoples, based on distinctions among them;
  - (c) without limiting paragraphs (a) and (b), to take and promote anti-discrimination measures;
  - (d) to act in a fair manner, including by demonstrating respect for the principles of procedural fairness;
  - (e) to act in a manner that is respectful of the privacy of persons who participate in regulatory processes.
- (3) Unless it would conflict with a principle under subsection (2), in exercising powers and performing duties under this Act, a person must act in accordance with the following principles:
- (a) to promote a holistic health care system that encourages collaboration between regulators and between persons who provide different types of health services;
  - (b) to identify and remove barriers to the practice of a designated profession or occupation, in British Columbia, by extrajurisdictional practitioners;

- (c) to act in a manner that is transparent, including by providing opportunities for meaningful public engagement.
- (4) If, in applying the principles under this section, a conflict arises or a balance must be struck between the interests of the public or an individual and the interests of a regulated health practitioner, the conflict must be resolved or the balance must be weighted, to the extent reasonable in the circumstances, in favour of the public or the individual.

**Anti-discrimination measures**

- 15**
- (1) The objectives of anti-discrimination measures in conducting regulatory processes and providing health services include both of the following:
    - (a) to foster physically, culturally, socially, emotionally and spiritually safe practices;
    - (b) to adopt anti-racism approaches and tools to support these approaches.
  - (2) Without limiting subsection (1), the objectives of anti-discrimination measures in conducting regulatory processes include all of the following:
    - (a) to treat regulatory participants respectfully;
    - (b) to foster meaningful communication between regulators and persons who participate in those processes, including by promoting respectful, open and effective dialogue that encourages participation;
    - (c) to engage regularly in processes to identify discriminatory practices, policies, programs, structures, values and attitudes that perpetuate discrimination or create conditions in which discrimination may occur;
    - (d) to meet prescribed objectives.
  - (3) Without limiting subsection (1), the objectives of anti-discrimination measures in providing health services include all of the following:
    - (a) to treat patients respectfully;
    - (b) to foster meaningful communication between patients and regulated health practitioners, including by promoting respectful, open and effective dialogue that encourages patients to participate in the decisions that affect them;
    - (c) to meet prescribed objectives.

**PART 2 – DESIGNATION AND MODEL OF REGULATION**

**Division 1 – Designation**

**Purposes of designation assessment**

- 16** The superintendent may conduct a designation assessment for the purposes of assisting the minister

- (a) in determining whether to designate a health profession or a health occupation as a designated profession or occupation, or
- (b) as part of a restructuring assessment under Division 6 [*Restructuring Assessments*] of Part 8.

**When designation assessment must or may be conducted**

- 17**
- (1) The superintendent must conduct a designation assessment if required by the minister.
  - (2) The superintendent may conduct a designation assessment on the superintendent's own initiative if the superintendent is of the opinion that to do so would be in the public interest.
  - (3) The superintendent must give written notice to the minister as soon as reasonably practicable after forming the opinion referred to in subsection (2).

**How to conduct designation assessment**

- 18**
- (1) The superintendent must conduct a designation assessment in accordance with this Division, the regulations and the directions, if any, of the minister.
  - (2) The minister may give directions respecting a designation assessment as follows:
    - (a) respecting the scope and conduct of the assessment;
    - (b) respecting the dates by which one or more steps must be completed;
    - (c) respecting interim reports to the minister;
    - (d) respecting information that must be made publicly available in the course of conducting the assessment;
    - (e) respecting any other matter that, in the opinion of the minister, is necessary for the minister to make a decision with respect to the matters that are the subject of the assessment.
  - (3) On beginning a designation assessment, the superintendent must publish a notice respecting
    - (a) the matters that are the subject of the assessment, and
    - (b) the manner in which persons may make submissions or otherwise participate.

**Consultation**

- 19**
- (1) In this section, “**similar types of health services**” means types of health services that, in the opinion of the superintendent, are substantially the same as, or similar to, the types of health services provided by persons who practise the health profession or health occupation that is the subject of a designation assessment.



- (2) As part of a designation assessment, the superintendent must consult with all of the following:
- (a) persons who practise the health profession or health occupation that is the subject of the assessment;
  - (b) regulators that are responsible for governing regulated health practitioners who, in practising a designated profession or occupation, provide similar types of health services;
  - (c) regulated health practitioners who provide similar types of health services;
  - (d) Indigenous persons who provide similar types of health services in accordance with Indigenous practices;
  - (e) persons who regularly employ persons who provide similar types of health services;
  - (f) post-secondary institutions in British Columbia that provide education and training programs with respect to the practice of the health profession or health occupation that is the subject of the assessment;
  - (g) the public.

**Obtaining additional information**

- 20** (1) As part of a designation assessment, the superintendent may obtain information from any source and, for this purpose, may do one or more of the following:
- (a) seek expert advice;
  - (b) conduct research, including through interviews and surveys;
  - (c) order persons who practise the health profession or health occupation that is the subject of the assessment to answer questions and produce records in their possession or control;
  - (d) hold hearings and, for this purpose, order persons to attend a hearing, in person or by electronic means, to give evidence and to produce records in their possession or control;
  - (e) set requirements, limits and conditions respecting consultations, submissions, the provision of information and records and the conduct of and participation in hearings;
  - (f) do other things that are authorized under the regulations or that are necessary to comply with a direction of the minister.

- (2) Hearings must be public unless the superintendent is of the opinion that, to protect the privacy of an individual or for any other reason, all or part of a hearing should be held privately.
- (3) On application by the superintendent to the Supreme Court, a person who fails to comply with an order under subsection (1) (c) or (d) is liable to be committed for contempt as if in breach of an order or judgment of the Supreme Court.

**Risk assessment**

- 21**
- (1) As part of a designation assessment, the superintendent must conduct a risk assessment.
  - (2) For the purposes of risk assessments, the superintendent must
    - (a) develop policies and procedures with respect to both of the following:
      - (i) how the risk of harm to the public from the practice of a health profession or occupation will be defined, identified and assessed;
      - (ii) how information obtained under this Division will be weighted and used, and
    - (b) ensure that the policies and procedures are evidence-based, conform to the regulations and are reviewed and updated regularly.
  - (3) The superintendent must publish a summary of the policies and procedures.

**Matters to consider to assess risk**

- 22**
- To assess risk when conducting a risk assessment, the superintendent must consider at least the following matters with respect to the practice of the health profession or health occupation that is the subject of the designation assessment:
- (a) the types of health services provided by persons who practise the health profession or health occupation;
  - (b) the setting in which health services are ordinarily provided, including
    - (i) the physical environment, and
    - (ii) the nature and level of supervision or direction, if any, given by persons who practise the same or other health professions or health occupations;
  - (c) the extent to which practitioners are personally responsible for
    - (i) determining the appropriate course of care for patients, and
    - (ii) requesting or directing the provision of health services to patients by other persons;
  - (d) the knowledge, skills, ability and judgment required to practise the health profession or health occupation in a manner that protects the public from harm;

- (e) the guidelines or codes, if any, that apply to the health profession or health occupation in relation to ethics and practice;
- (f) taking into consideration the matters referred to in paragraphs (a) to (d), the likelihood and nature of any direct or indirect harm that may occur if health services are provided
  - (i) in the usual course of health service delivery and, if applicable, according to the guidelines and codes referred to in paragraph (e), or
  - (ii) by a person who does not have the knowledge, skills, ability and judgment referred to in paragraph (d) or, if applicable, does not comply with the guidelines or codes referred to in paragraph (e);
- (g) the availability and quality of education and training programs in British Columbia or another jurisdiction with respect to the practice of the health profession or health occupation;
- (h) any prescribed matter and any other matter that the minister directs.

**Report and recommendations**

- 23**
- (1) On completing a designation assessment, the superintendent must make a report to the minister respecting
    - (a) the conduct of the assessment, and
    - (b) the superintendent's recommendations, and the reasons for the recommendations, as to whether the health profession or health occupation that was the subject of the assessment should be a designated profession or occupation.
  - (2) If the superintendent recommends designation, the superintendent must include recommendations with respect to at least the following:
    - (a) matters that must or may be addressed in a designation regulation;
    - (b) any prescribed matter and any other matter that the minister directs.
  - (3) After receiving the superintendent's report, the minister may require the superintendent to provide or consider additional information or records, reconsider a matter or give further recommendations.
  - (4) After the minister makes a decision under section 24 [*decision respecting designation*], the superintendent
    - (a) must publish the superintendent's report and any additional information or records that the minister requires to be published, and
    - (b) may publish any related information or records that, in the opinion of the superintendent, are of interest to the public.

**Decision respecting designation**

- 24** (1) The minister must decide if the minister is satisfied that the unregulated practice of a health profession or health occupation presents an unreasonable risk of harm to the public and, if so, whether to designate
- (a) the health profession as a designated health profession and, if so, which regulatory college should be the regulator, or
  - (b) the health occupation as a designated health occupation and, if so, which types of regulations are appropriate for the purposes of the regulatory program that will apply.
- (2) To make a decision under this section, the minister must consider the superintendent's report and all of the following factors:
- (a) the risk of harm to the public;
  - (b) prescribed factors;
  - (c) other factors that, in the opinion of the minister, are relevant to protecting or promoting the public interest.
- (3) For the purposes of subsection (1) (b), the minister must
- (a) consider the types of regulations that the minister may make, as authorized under
    - (i) Part 4 [*Practice of Designated Health Occupations*], or
    - (ii) regulations made by the Lieutenant Governor in Council,
  - (b) decide which types of regulations are necessary or desirable to prevent, detect and respond to actual and potential harm to the public, and
  - (c) impose, by regulation, prohibitions, requirements, limits and conditions that are proportionate to the risk of harm.

**Designation regulation for designated health profession**

- 25** (1) The minister may, by regulation, designate a health profession as a designated health profession.
- (2) A designation regulation made under this section must include regulations respecting all of the following:
- (a) the name of the regulatory college that is responsible for governing the designated health profession;
  - (b) the titles that licensees practising the designated health profession may use exclusively;
  - (c) the types of health services that constitute the scope of practice of the designated health profession.

- (3) A designation regulation made under this section may include regulations as follows:
- (a) requiring or authorizing a board of a regulatory college to make bylaws respecting diagnostic, surgical, treatment or other prescribed types of facilities in which one or more designated health professions are practised, including bylaws
    - (i) establishing or adopting accreditation standards, and
    - (ii) providing for the inspection of facilities to determine if facilities meet, and continue to meet, accreditation standards;
  - (b) prohibiting corporations from carrying on the business of providing health services to the public unless the corporation holds a health profession corporation permit, if the health services are provided by licensees who practise the designated health profession;
  - (c) if paragraph (b) applies, prescribing words or phrases that must be included in the name of the health profession corporation;
  - (d) setting prohibitions, requirements, limits and conditions for the purposes of ensuring that bylaws made under section 50 [*extrajurisdictional applicants*] conform to an agreement made between British Columbia and another jurisdiction;
  - (e) identifying aspects of practice to which section 29 [*unauthorized practice*] applies.

**Designation regulation for designated health occupation**

- 26** (1) The minister may, by regulation, designate a health occupation as a designated health occupation.
- (2) A designation regulation made under this section must include regulations respecting all of the following:
- (a) the regulatory program that applies for the purposes of governing the designated health occupation, including
    - (i) the name of the regulatory program,
    - (ii) the manner in which the health occupation director of the regulatory program is to be appointed, and
    - (iii) the types of regulations that make up the regulatory program, as decided under section 24 (3) [*decision respecting designation*];
  - (b) the types of health services that constitute the scope of practice of the designated health occupation.

- (3) A designation regulation made under this section may include regulations as follows:
- (a) respecting the titles that regulated health service providers practising the designated health occupation may use exclusively;
  - (b) respecting the supervision or direction of regulated health service providers by licensees.

**Designation regulations generally**

- 27 (1) Subject to any regulation of the Lieutenant Governor in Council, the minister may, in a designation regulation or in a regulation described in subsection (2), make regulations as follows:
- (a) establishing classes of regulated health practitioners and making different regulations for different classes;
  - (b) without limiting paragraph (a) or the authority under section 384 [*how bylaws and rules may be made*], authorizing a board or health occupation director to make bylaws or rules establishing restricted or provisional classes of regulated health practitioners;
  - (c) requiring or authorizing a board or health occupation director to make bylaws or rules with respect to additional matters;
  - (d) respecting prohibitions, requirements, limits and conditions on regulated health practitioners in the practice of a designated profession or occupation, including with respect to the provision of health services;
  - (e) conferring a discretion on a board or health occupation director to make bylaws or rules to impose prohibitions, requirements, limits or conditions on the authority of regulated health practitioners to provide health services;
  - (f) respecting the types of restricted activities that may be performed by regulated health practitioners in the course of providing health services;
  - (g) respecting the delegation of the performance of aspects of practice and restricted activities;
  - (h) providing for exemptions on the performance of aspects of practice or restricted activities by persons who are not regulated health practitioners;
  - (i) requiring regulators to enter into shared funding agreements within the meaning of section 276 [*definitions*].
- (2) For the purposes of any matter referred to in subsection (1), the minister may, instead of including the matter in a designation regulation, include the matter in a regulation that applies to multiple designated professions or occupations or multiple regulators.

**Amending or repealing designation regulations**

- 28** Before amending or repealing a designation regulation or a regulation made under section 27 (2) [*designation regulations generally*], the minister must carry out consultations that, in the opinion of the minister, are sufficient to permit meaningful participation by the persons referred to in section 19 (2) [*consultation*].

**Division 2 – Effect of Designation**

**Unauthorized practice**

- 29** Except as authorized under this Act, a person must not do any of the following:
- (a) perform an aspect of practice that is identified for the purposes of this section in a regulation of the minister;
  - (b) perform a restricted activity;
  - (c) recover a fee, benefit or other type of compensation for performing an aspect of practice or a restricted activity in contravention of paragraph (a) or (b);
  - (d) employ a person, or enter into a business or other type of relationship with a person, to perform an aspect of practice or a restricted activity in contravention of paragraph (a) or (b).

**Unauthorized use of titles**

- 30** (1) If, under one or more designation regulations, a title may be used exclusively by one or more classes of regulated health practitioners, a person must not use the title in association with the person's work unless
- (a) the person is within at least one of the classes and the person's practice authority is not suspended, or
  - (b) an exception applies to the person, made under the regulation or section 32 [*exception if meeting eligibility standards*] or 33 [*exception for persons from other jurisdictions*].
- (2) For the purposes of subsection (1), a person uses a title in association with the person's work if the person uses the title
- (a) to describe the person's work,
  - (b) in association with or as part of another title describing the person's work, or
  - (c) in association with a description of the person's work.

**General exceptions**

- 31** Despite section 29 [*unauthorized practice*], nothing in this Act or a regulation, bylaw, rule or order prohibits a person from doing any of the following:
- (a) practising a profession, occupation or discipline in accordance with an enactment;
  - (b) giving first aid or temporary assistance to another person in case of emergency, if the aid or assistance is given without gain or reward or the hope of gain or reward;
  - (c) performing an aspect of practice referred to in section 29 (a) [*unauthorized practice*] or a restricted activity in accordance with
    - (i) an exemption made under a regulation of the minister, or
    - (ii) a delegation made by a licensee, unless the person knows, or reasonably ought to know, that the delegation contravenes section 74 [*duty if delegating activities*] or a bylaw made under that section.

**Exception if meeting eligibility standards**

- 32** A person may do an activity described in section 29 [*unauthorized practice*] or use a title that may be used exclusively by a class of regulated health practitioners if
- (a) the person is in the process of meeting the requirements and conditions, set under an applicable eligibility standard, to be within the class,
  - (b) the person
    - (i) is under the supervision or direction of a licensee within a class of licensees described under the bylaws made for the regulatory college responsible for governing the designated health profession, or
    - (ii) is authorized to practise a designated health occupation by a health occupation director on whom discretion is conferred as described under section 201 (1) (c) [*director's discretion*], and
  - (c) the person complies with all limits and conditions under a bylaw or rule made for the purposes of this section.

**Exception for persons from other jurisdictions**

- 33** Section 30 [*unauthorized use of titles*] does not apply to an extrajurisdictional practitioner who
- (a) is authorized by an extrajurisdictional regulator to use the title,



- (b) uses the title only to indicate that the extrajurisdictional practitioner is authorized to practise a health profession or health occupation in another jurisdiction, and
- (c) does not use the title in a manner that may reasonably mislead a person to believe that the person is authorized to practise a designated profession or occupation in British Columbia.

**False or misleading information**

- 34** (1) A person must not provide false or misleading information to the public with respect to whether the person
- (a) is a regulated health practitioner, or
  - (b) is governed by or otherwise associated with a regulator.
- (2) Without limiting subsection (1), a person must not provide false or misleading information to the public with respect to the person's authority to do any of the following:
- (a) practise a designated profession or occupation;
  - (b) perform an aspect of practice or a restricted activity;
  - (c) provide a health service, or perform an aspect of practice or a restricted activity, that may be provided or performed only by or under the supervision or direction of a regulated health practitioner;
  - (d) use a title that may be used exclusively by one or more classes of regulated health practitioners.
- (3) A person who is not authorized under this Act to do a thing referred to in subsection (2) (a), (b) or (c) must not offer, including through advertising or other forms of marketing, to do the thing.

**Unauthorized acts of corporations**

- 35** (1) If a designation regulation as described in section 25 (3) (b) [*designation regulation for designated health profession*] is made with respect to a designated health profession, a corporation must not do either of the following unless it holds a health profession corporation permit:
- (a) carry on the business of providing health services to the public, if those health services are provided by licensees who practise the designated health profession;
  - (b) carry on any business, if the corporation has as part of its name a word or phrase prescribed under section 25 (3) (c).
- (2) An act of a corporation, including a transfer of property to or by the corporation, is not invalid merely because the corporation contravenes subsection (1) (b).

## **PART 3 – PRACTICE OF DESIGNATED HEALTH PROFESSIONS**

### **Division 1 – Authority to Practise**

#### **Definitions**

**36** In Divisions 1 to 4 of this Part:

**“adverse application decision”**, with respect to an application, means a decision to do one of the following:

- (a) refuse to issue, vary, renew or reinstate a licence or health profession corporation permit;
- (b) impose or vary limits or conditions on a licence or health profession corporation permit, other than as requested under the application;
- (c) issue a provisional licence, unless a provisional licence is requested under the application;

**“applicable eligibility standards”** means the eligibility standards that apply to the class of licence that an applicant has applied for;

**“applicant”** means a person who makes an application;

**“application”** means a licence application or permit application;

**“licence application”** means an application to issue, vary, renew or reinstate a licence;

**“permit application”** means an application to issue, vary, renew or reinstate a health profession corporation permit.

#### **Authority to practise designated health profession**

- 37** (1) A person must not practise a designated health profession unless the person holds a licence issued by the regulatory college that is responsible for governing the designated health profession.
- (2) A licensee must not practise a designated health profession if the licensee’s licence is suspended.

#### **Requirements for licence**

- 38** A person is not eligible to be issued a licence, or to have a licence varied, renewed or reinstated, unless the person
- (a) is fit to practise, having regard to the person’s
    - (i) education, training, experience and other qualifications, and
    - (ii) competence, capacity and other relevant factors, and
  - (b) will practise the designated health profession in an ethical manner, having regard to the person’s entire disciplinary record, character, past conduct and other relevant factors.

**Fit to practise**

- 39** (1) A person is fit to practise a designated health profession if the person has the competence and capacity to practise the designated health profession.
- (2) A person has the competence to practise a designated health profession if the person has the knowledge, skills, ability and judgment necessary to practise the designated health profession ethically, safely and in accordance with all applicable ethics standards and practice standards.
- (3) A person has the capacity to practise a designated health profession if the person's competence to practise the designated health profession is not unduly impaired by a health condition.

**Division 2 – Making Licence or Permit Applications**

**Procedural matters**

- 40** A registrar must publish all of the following:
- (a) the policies and procedures that apply to determinations of whether applicants meet eligibility standards;
  - (b) the typical application processing periods and any known factors likely to delay processing.

**Making applications**

- 41** (1) A person may make an application by submitting the application to the registrar in accordance with all applicable orders made under section 386 *[administrative powers]*.
- (2) An application must include the following:
- (a) the information, records and fees required under the bylaws;
  - (b) the applicant's criminal record check authorization, in the case of a licence application.

**Receiving applications**

- 42** (1) After receiving an application, a registrar must do both of the following unless section 44 *[administrative refusal]* applies:
- (a) obtain the applicant's disciplinary record, capacity summary and record of past applications, if any;
  - (b) assess the application in accordance with the bylaws.
- (2) A registrar may, by order, require an applicant to do one or more of the following:
- (a) comply with an order made under section 386 *[administrative powers]*;

- (b) provide additional information or records, including
  - (i) personal information or other types of confidential information, and
  - (ii) proof, in a form satisfactory to the registrar, of a matter referred to in the application;
- (c) comply with the order on or before a specified date.

**Administrative acceptance**

- 43**
- (1) A registrar may act under this section if authorized under the bylaws.
  - (2) A registrar must not act under this section if
    - (a) section 44 [*administrative refusal*] applies, or
    - (b) the registrar has reasonable grounds to believe that an applicant may not meet the requirements of section 38 [*requirements for licence*].
  - (3) A registrar may issue, with or without limits or conditions, a licence or health profession corporation permit to an applicant who meets the applicable eligibility standards and the conditions, if any, set under the bylaws.
  - (4) Subject to subsection (5), a registrar may vary, renew or reinstate a licence or health profession corporation permit as requested in the application if all of the following conditions are met:
    - (a) the applicant meets all applicable eligibility standards;
    - (b) the applicant is not the subject of a current investigation or disciplinary proceeding;
    - (c) in the case of an applicant who is a licensee and is applying to vary or renew a licence, there has been no change to the applicant's disciplinary record or capacity summary since the applicant was last issued a licence;
    - (d) in the case of an applicant who is a health profession corporation and is applying to vary or renew a health profession corporation permit,
      - (i) the requirements under section 58 [*requirements for permit*] are met, and
      - (ii) no order has been made against the applicant under section 115 [*disposition*] since the applicant was last issued a permit;
    - (e) in the case of an applicant who requests a licence or health profession corporation permit to be reinstated, the conditions of reinstatement set under the bylaws and the order that revoked the licence or permit are met;
    - (f) the conditions, if any, under the bylaws.

- (5) A registrar who varies, renews or reinstates a licence or health profession corporation permit under this section must not change the limits, conditions or class that applies to the licence or permit, except as required or authorized under the bylaws or a disciplinary order.

**Administrative refusal**

- 44** (1) A registrar may make an adverse application decision without notice or a hearing if any of the following circumstances apply:
- (a) the applicant fails to submit with the application any information, records, fees or proof of a thing required under the bylaws, a disciplinary order or an order made under section 115 [*disposition*];
  - (b) the applicant fails to comply with an order made under section 42 [*receiving applications*];
  - (c) in the case of a licence application,
    - (i) the applicant is prohibited under a disciplinary order from making the application or has failed to meet the conditions of a disciplinary order, or
    - (ii) the registrar under the *Criminal Records Review Act* has determined that the applicant does not have a portable criminal record check within the meaning of that Act;
  - (d) in the case of a permit application,
    - (i) the applicant has applied for variance or reinstatement but the bylaws do not provide for this, or
    - (ii) the applicant is prohibited under an order made under section 115 from making the application or has failed to meet the conditions of an order made under that section.
- (2) A registrar must give to the applicant written notice of an adverse application decision made under this section and the reasons for the decision.

**Reconsideration**

- 45** An applicant may apply in accordance with section 381 [*application for reconsideration or review*] for a reconsideration by the registrar of an adverse application decision made by the registrar.

**Information to licence or permit committee**

- 46** The registrar must give to the licence committee or permit committee, as applicable, all of the following with respect to an application:
- (a) a copy of the application;

- (b) written notice of a decision, if any, made under this Division or Division 4 [*Hearings, Reconsiderations and Reviews*] of Part 8 with respect to the application, and the reasons for the decision;
- (c) the information or records required under the bylaws.

**Other matters**

- 47
- (1) Except as required for the purposes of a reconsideration, a registrar is not required to give to an applicant notice or an opportunity to be heard before the registrar exercises a power or performs a duty under this Division.
  - (2) An applicant is not entitled to an appeal of an adverse application decision made by the registrar under this Division or Division 4 [*Hearings, Reconsiderations and Reviews*] of Part 8.
  - (3) Except as authorized under the bylaws, application fees are not refundable, including with respect to applications that are withdrawn or refused.

**Division 3 – Licences**

**Definitions**

48 In this Division:

“**equivalency determination**” means a determination of whether an applicant has knowledge, skills, ability and judgment that are substantially equivalent to that required under the applicable eligibility standards;

“**extrajurisdictional credentials**” means credentials held by an extrajurisdictional practitioner that

- (a) were issued by a person or body outside British Columbia, and
- (b) are evidence of qualifications with respect to one or more of the matters referred to in the applicable eligibility standards.

**General licensing bylaws**

- 49
- (1) A board must make bylaws respecting the following:
    - (a) licence applications and the issuance, variation, expiry, renewal, revocation and reinstatement of licences;
    - (b) eligibility standards, including standards respecting all of the following:
      - (i) education, training, experience and other qualifications, including continuing professional development;
      - (ii) examinations and assessments;
      - (iii) evidence of good character, including character references and other types of checks and references;

- (iv) liability insurance or professional liability protection, or both;
  - (v) mandatory vaccinations, required under an enactment other than the bylaws, against transmissible illnesses;
  - (c) the types of proof of eligibility that may be required;
  - (d) the limits and conditions that may be imposed on licences, including with respect to supervision or direction.
- (2) A board may make bylaws respecting the recognition of specialties in one or more aspects of practice.
- (3) A board may make bylaws respecting the following:
- (a) the delivery of programs;
  - (b) the setting of examinations;
  - (c) the setting of assessments;
  - (d) the recognition of credentials issued, and programs offered, by specific education and training institutions, or a class of any of those institutions;
  - (e) the process for recognizing and ceasing to recognize credentials and programs referred to in paragraph (d);
  - (f) mandatory vaccinations, required under the bylaws, against transmissible illnesses.

**Extrajurisdictional applicants**

- 50** Without limiting section 49 [*general licensing bylaws*], a board must make bylaws respecting all of the following:
- (a) extrajurisdictional credentials that are recognized, without further evaluation, as being substantially equivalent to those required under the applicable eligibility standards;
  - (b) the process for making equivalency determinations if an extrajurisdictional practitioner's extrajurisdictional credentials are not recognized under bylaws made under paragraph (a) of this section;
  - (c) the issuance of provisional licences to extrajurisdictional practitioners while an equivalency determination is being made or if additional education, training or experience is required to meet the eligibility standards;
  - (d) the issuance of licences to extrajurisdictional practitioners who, under the *Labour Mobility Act* or a prescribed trade agreement, are required to be issued a licence;
  - (e) the process for reviewing licensing programs to identify and remove prohibitions, requirements, limits and conditions imposed on extrajurisdictional practitioners that do not substantially lower the risk of harm to the public.

**Before making decision**

- 51** (1) Before making a decision with respect to a licence application, a licence committee may direct the registrar to make an order under section 42 [*receiving applications*].
- (2) Before making a decision with respect to a licence application, a licence committee may
- (a) direct the registrar to give written notice to the applicant of
    - (i) the decision being considered and the reasons for the decision being considered, and
    - (ii) the processes that apply for the purposes of paragraph (b) and any other information set out in the bylaws,
  - (b) give to the applicant the choice of either
    - (i) requesting a hearing, or
    - (ii) accepting, if the committee is of the opinion that it would be appropriate in the circumstances, a provisional licence or a licence that is subject to different limits or conditions or that is of a class that is different from the limits, conditions or class requested under the licence application, and
  - (c) if the applicant requests a hearing in accordance with the notice given under paragraph (a) (ii), hold the hearing.

**Acceptance of application**

- 52** (1) Subject to section 53 [*adverse application decision*], a licence committee must direct the registrar to issue, vary, renew or reinstate an applicant's licence, as applicable, if the committee is satisfied, with or without a hearing, that the applicant
- (a) meets the requirements of section 38 [*requirements for licence*] and
    - (i) meets the eligibility standards, or
    - (ii) has substantially equivalent extrajurisdictional credentials, or
  - (b) must be issued a licence under the bylaws referred to in section 50 (d) [*extrajurisdictional applicants*].
- (2) A licence committee may attach limits or conditions to a licence, including as follows:
- (a) for the purposes of being satisfied of the matters referred to in section 38;



- (b) in the case of a provisional licence,
  - (i) despite a designation regulation that would permit otherwise, restricting the title that may be used by the licensee, restricting the health services that may be provided by the licensee or requiring the licensee to be supervised or under the direction of another licensee when practising the designated health profession,
  - (ii) imposing requirements that must be met for the licensee to become eligible for a licence that is not a provisional licence, and
  - (iii) providing that the provisional licence expires at the end of a period that is shorter than a general period provided for under the bylaws.

**Adverse application decision**

- 53**
- (1) Subject to subsection (2), a licence committee must not make an adverse application decision with respect to a licence application unless the committee first gives notice and an opportunity to be heard as described in section 51 (2) [*before making decision*].
  - (2) A licence committee may make an adverse application decision with respect to a licence application with or without notice or a hearing if any of the following circumstances apply:
    - (a) a circumstance referred to in section 44 [*administrative refusal*];
    - (b) the applicant has been determined to be a risk under the *Criminal Records Review Act*;
    - (c) an adverse application decision is made under section 54 [*adverse application decision based on proceeding*].
  - (3) Nothing in subsection (2) limits the grounds on which a licence committee may make an adverse application decision if the committee gives notice and an opportunity to be heard under subsection (1).
  - (4) If a licence committee makes an adverse application decision, the committee must direct the registrar to give to the applicant written notice of
    - (a) the decision and the reasons for the decision, and
    - (b) the review process of the Health Professions Review Board, if the decision
      - (i) was made after a hearing, and
      - (ii) was other than to issue a provisional licence.

**Adverse application decision based on proceeding**

- 54**
- (1) In this section, “**proceeding**” means a proceeding, conducted in any jurisdiction, that resulted or could result in the suspension or revocation of a person’s authority to practise a health profession in the jurisdiction.

- (2) A licence committee may make an adverse application decision with or without notice or a hearing if both of the following conditions are met:
  - (a) the applicant is a person described in subsection (3);
  - (b) the licence committee holds the opinion referred to in subsection (4).
- (3) For the purposes of subsection (2) (a), one of the following must apply to the applicant:
  - (a) the applicant is the subject of a current proceeding;
  - (b) a proceeding was not commenced or completed because the applicant voluntarily relinquished the applicant's authority to practise a health profession;
  - (c) the applicant's authority to practise a health profession was suspended or revoked, whether after or in the course of a proceeding;
  - (d) the applicant has been convicted, in Canada or another jurisdiction, of a relevant offence.
- (4) For the purposes of subsection (2) (b), a licence committee must be of the opinion that
  - (a) the nature of the conduct underlying the proceeding or offence referred to in subsection (3), or the circumstances under which that conduct took place, gives rise to concerns about whether the applicant
    - (i) is fit to practise, or
    - (ii) will practise the designated health profession ethically, safely and in accordance with all applicable ethics standards and practice standards, and
  - (b) the concerns referred to in paragraph (a) are not mitigated by the information and records included with the application or on consideration of other relevant circumstances.

**Information in registry**

- 55**
- (1) If a licence is issued to an applicant, or if an applicant's licence is varied, renewed or reinstated, a registrar must include in the registry, under the licensee's name, all of the following:
    - (a) the licensee's business contact information;
    - (b) the class, limits and conditions, if any, that apply to the licensee's licence;
    - (c) any additional information as prescribed or directed by the licence committee.
  - (2) If prescribed circumstances apply, a registrar must update the registry to replace the information referred to in subsection (1) with a notation that the licensee is a former licensee.

## Division 4 – Health Profession Corporation Permits

### Definitions

56 In this Division:

“**collaboration agreement**” means an agreement referred to in section 60 [collaboration agreements];

“**company**” has the same meaning as in the *Business Corporations Act*;

“**eligible licensee**” means a licensee who practises a designated health profession governed by

- (a) a regulatory college for which a permit committee is acting, or
- (b) a regulatory college that is a party to a collaboration agreement with the regulatory college referred to in paragraph (a);

“**shares**” means the shares of a corporation that is the subject of a permit application.

### Bylaws

57 (1) A board must make bylaws respecting the following:

- (a) permit applications and the issuance, renewal and revocation of health profession corporation permits;
- (b) eligibility standards and the types of proof of eligibility that may be required;
- (c) the limits and conditions that may be imposed on health profession corporation permits;
- (d) the liability insurance or professional liability protection, or both, that health profession corporations must carry or must provide to each of their employees;
- (e) the names and the process for the approval of names by which a health profession corporation may be known.

(2) A board may make bylaws respecting the following:

- (a) the variation and reinstatement of health profession corporation permits;
- (b) the practice of a designated health profession through a health profession corporation;
- (c) the making and implementation of collaboration agreements;
- (d) the disposition of shares held in health profession corporations;
- (e) the posting of health profession corporation permits, or providing for other means of making permits publicly accessible.

**Requirements for permit**

- 58** A corporation is not eligible to be issued a health profession corporation permit, or to have a health profession corporation permit varied, renewed or reinstated, unless all of the following requirements are met:
- (a) the corporation is a company in good standing under the *Business Corporations Act*;
  - (b) all directors of the corporation are eligible licensees;
  - (c) the name of the corporation includes the words or phrases, if any, prescribed under section 25 (3) (c) [*designation regulation for designated health profession*];
  - (d) all shares of the corporation are owned or held by, or are vested in, a person as required under section 59 [*requirements respecting shares*];
  - (e) if a collaboration agreement applies, the permit is issued, varied, renewed or reinstated in accordance with the agreement;
  - (f) all employees who will be providing health services through the corporation are, or are under the supervision of, eligible licensees;
  - (g) the eligibility standards are met.

**Requirements respecting shares**

- 59** (1) For the purposes of section 58 (d) [*requirements for permit*], all voting shares must be legally and beneficially owned by
- (a) eligible licensees, or
  - (b) companies that meet both of the following conditions:
    - (i) all voting shares must be legally and beneficially owned by eligible licensees;
    - (ii) all non-voting shares must be legally and beneficially owned by eligible licensees or family members of eligible licensees.
- (2) For the purposes of section 58 (d), all non-voting shares must be
- (a) legally and beneficially owned by
    - (i) eligible licensees or family members of eligible licensees, or
    - (ii) companies, all the non-voting shares of which are legally and beneficially owned by eligible licensees or family members of eligible licensees, or
  - (b) held in trust by a trustee who is resident in Canada and approved by the board, on behalf of a trust
    - (i) that is subject to the laws of a Canadian jurisdiction, and
    - (ii) all the beneficiaries of which are eligible licensees or family members of eligible licensees.

- (3) Despite subsections (1) and (2), voting and non-voting shares may be vested in
  - (a) an executor or administrator of the estate of an eligible licensee who has died, to allow the discharge of duties in relation to the estate, or
  - (b) a trustee in bankruptcy to allow the discharge of duties in relation to the bankruptcy of an eligible licensee or a corporation.

**Collaboration agreements**

- 60**
- (1) A collaboration agreement must address at least the following:
    - (a) the recognition, by regulatory colleges that are parties to the agreement, of health profession corporation permits issued by the permit committees of other regulatory colleges that are parties to the agreement;
    - (b) the process for addressing relevant differences, if any, in ethics standards and practice standards between regulatory colleges;
    - (c) the process for conducting investigations and taking disciplinary actions;
    - (d) prescribed matters.
  - (2) If a collaboration agreement that applies to a health profession corporation permit is amended or expires during the term of the permit, the amendment or expiry has no effect on the permit during the permit's remaining term.
  - (3) On request of a person, a regulatory college must make a copy of a collaboration agreement accessible to the person, free of charge.

**Before making decision**

- 61**
- (1) Before making a decision with respect to a permit application, a permit committee may direct the registrar to make an order under section 42 [*receiving applications*].
  - (2) Before making a decision with respect to a permit application, a permit committee may
    - (a) direct the registrar to give written notice to the applicant of
      - (i) the decision being considered and the reasons for the decision being considered, and
      - (ii) the processes that apply for the purposes of paragraph (b) and any other information set out in the bylaws,
    - (b) give to the applicant the choice of either
      - (i) requesting a hearing, or

- (ii) accepting, if the committee is of the opinion that it would be appropriate in the circumstances, a health profession corporation permit that is subject to limits or conditions that are different from the limits or conditions requested under the permit application, and
- (c) if the applicant requests a hearing in accordance with the notice given under paragraph (a) (ii), hold the hearing.

**Acceptance of application**

- 62** (1) Subject to section 63 [*adverse application decision*], a permit committee must direct the registrar to issue a health profession corporation permit to an applicant, or to vary, renew or reinstate an applicant’s health profession corporation permit, if the committee is satisfied, with or without a hearing, that the requirements under section 58 [*requirements for permit*] are met.
- (2) A permit committee may attach limits or conditions to a health profession corporation permit, including for the purposes of being satisfied of the matters referred to in section 58.

**Adverse application decision**

- 63** (1) Subject to subsection (2), a permit committee must not make an adverse application decision with respect to a permit application unless the committee first gives notice and an opportunity to be heard as described in section 61 (2) [*before making decision*].
- (2) A permit committee may make an adverse application decision with respect to a permit application with or without notice or a hearing if any of the following circumstances apply:
- (a) a circumstance referred to in section 44 [*administrative refusal*];
  - (b) the health profession corporation has previously had its health profession corporation permit revoked;
  - (c) a shareholder, director or officer of the health profession corporation was a shareholder, director or officer of a health profession corporation that previously had its health profession corporation permit revoked.
- (3) Nothing in subsection (2) limits the grounds on which a permit committee may make an adverse application decision if the committee gives notice and an opportunity to be heard under subsection (1).

**Notice of adverse application decision**

- 64** (1) If a permit committee makes an adverse application decision, the committee must direct the registrar to give to the applicant written notice of the decision and the reasons for the decision.

- (2) As soon as reasonably practicable after a decision is made under this Division or Division 2 [*Making Licence or Permit Applications*] of this Part to refuse to renew or reinstate a health profession corporation permit, the registrar
  - (a) must publish a copy of the decision and the reasons for the decision, and
  - (b) must, in the case of a refusal to renew the permit, give notice of the refusal to the Registrar of Companies for the purposes of section 29 (5) of the *Business Corporations Act*.
- (3) If a permit committee is of the opinion that it would be in the public interest to do so, the committee may direct the registrar to give notice to the public, by any means, of information that must be published under subsection (2) (a).

**No review or appeal**

- 65** An applicant is not entitled to a review by the Health Professions Review Board, or to an appeal to any person or body, of an adverse application decision.

**If permit issued**

- 66** (1) In this section, “**issuer**” means a regulatory college
  - (a) that issued a health profession corporation permit, or
  - (b) that is a party to a collaboration agreement with the regulatory college that issued a health profession corporation permit.
- (2) A health profession corporation must not do any of the following:
  - (a) carry on business providing health services through licensees governed by the issuer except in accordance with this Act, the regulations, the bylaws and the health profession corporation permit;
  - (b) provide health services governed by the issuer except through persons who are
    - (i) eligible licensees governed by the issuer, or
    - (ii) if authorized under the bylaws, employees of the health profession corporation under the supervision of eligible licensees governed by the issuer;
  - (c) carry on any activities that would, for the purposes of the *Income Tax Act* (Canada), give rise to income from business, except to provide health services governed by the issuer and services directly associated with the provision of those health services.
- (3) An act of a health profession corporation, including a transfer of property to or by the corporation, is not invalid merely because the corporation contravenes subsection (2) (c).

- (4) A person must not enter into a voting rights vesting agreement as defined in subsection (5) if the effect of the agreement is that
  - (a) a person may exercise voting rights with respect to shares in a health profession corporation, and
  - (b) the person is not
    - (i) an eligible licensee, or
    - (ii) a company referred to in section 59 (1) (b) [*requirements respecting shares*].
- (5) In subsection (4), “**voting rights vesting agreement**” means an agreement of any type, including a voting trust agreement and a proxy, that vests or has the effect of vesting, in a person who is not the shareholder, the authority to exercise voting rights attached to any or all of a shareholder’s shares in a company.

### **Division 5 – Duties of Licensees**

#### **Bylaws**

- 67** A board may make bylaws respecting the provision of health services by licensees in collaboration with other persons.

#### **General duty to comply**

- 68** (1) In practising a designated health profession, a licensee must comply with all of the following that apply:
  - (a) this Act and the regulations and bylaws;
  - (b) orders made under this Act;
  - (c) any limits or conditions on the licensee’s licence.
- (2) A licensee who provides health services in collaboration with another person or through a corporation remains personally responsible for compliance as described under subsection (1).

#### **Duty to be fit to practise**

- 69** (1) A licensee must not practise a designated health profession unless the licensee is fit to practise.
- (2) A board must make bylaws respecting programs or methods for assessing whether a person is fit to practise.

#### **Duty to practise ethically**

- 70** (1) A licensee must practise a designated health profession in an ethical manner and in accordance with all ethics standards.



- (2) A board must make bylaws respecting ethics standards, including respecting all of the following:
  - (a) anti-discrimination measures;
  - (b) preventing and responding to sexual misconduct and sexual abuse;
  - (c) prohibitions, limits and conditions on sexual relationships between licensees or former licensees and patients or former patients;
  - (d) the provision of health services by licensees to their family members;
  - (e) identifying and addressing conflicts of interest;
  - (f) advertising or otherwise marketing the practice of a designated health profession;
  - (g) providing false or misleading information to patients or the public respecting health and matters relating to health, including, without limitation, health services, drugs, devices and other health products.

**Duty respecting misconduct**

- 71 A licensee must not commit an act of misconduct.

**Duties respecting practice**

- 72
- (1) In practising a designated health profession and in performing duties under this Act, a licensee must act in accordance with the following principles:
    - (a) to protect the public from harm and discrimination;
    - (b) to take anti-discrimination measures;
    - (c) to act in a manner that is respectful of the privacy of patients.
  - (2) A licensee must practise a designated health profession in accordance with all practice standards.
  - (3) A board must make bylaws respecting practice standards, including bylaws respecting all of the following:
    - (a) the types of health services provided by licensees;
    - (b) informed consent;
    - (c) maintaining patient confidentiality;
    - (d) record-keeping and reporting.
  - (4) A board may make bylaws respecting the settings in which health services are provided.

**Misrepresentation of drugs and devices**

- 73 (1) A licensee must not dispense or sell, or allow the dispensing or selling of,
- (a) a thing represented to be a drug or device if it is not the drug or device represented, or
  - (b) a particular drug or device if it is not the particular drug or device represented.
- (2) If a licensee is alleged to have contravened subsection (1), the onus is on the licensee to prove that the thing, drug or device dispensed or sold was the particular drug or device that the thing, drug or device was represented to be.
- (3) Nothing in this section prevents the dispensing or use of placebos by licensees in drug research or medical treatment, if done in accordance with protocols established or adopted in the bylaws made under this Act or under the *Pharmacy Operations and Drug Scheduling Act*.

**Duty if delegating activities**

- 74 (1) In this section, “**delegate**” means to delegate the performance of an aspect of practice or a restricted activity, if the delegation is made by a licensee in the course of practising a designated health profession to a person who is not authorized to practise the designated health profession.
- (2) A licensee must not delegate the performance of an aspect of practice or a restricted activity to a person unless all of the following conditions are met:
- (a) the bylaws authorize the aspect of practice or restricted activity to be delegated;
  - (b) the licensee is satisfied that the person
    - (i) is able to perform the delegated aspect of practice or restricted activity without causing harm, having regard to the person’s knowledge, skills, ability and judgment, and
    - (ii) will perform the delegated aspect of practice or restricted activity in a manner that does not cause harm, having regard to the person’s character, past conduct and other relevant factors.
- (3) A board may make bylaws to authorize the delegation of an aspect of practice or a restricted activity if all of the following conditions are met:
- (a) the bylaw sets prohibitions, requirements, limits and conditions with respect to all of the following:
    - (i) the circumstances and types of settings in which delegation is authorized;
    - (ii) the education, training, experience and other qualifications that persons must have to perform the delegated activity;
    - (iii) the performance of the delegated activity, including with respect to supervision or direction, if appropriate;

- (b) the board is satisfied that the delegated activity may, if the bylaw is complied with, be performed without causing harm.
- (4) As soon as reasonably practicable after making or amending a bylaw under this section, the registrar must give written notice of the bylaw or amendment to the minister and the superintendent.
- (5) For certainty, this section applies to an aspect of practice whether or not the minister has identified the aspect of practice for the purposes of section 29 [*unauthorized practice*].

**Duty to cooperate**

- 75 A licensee must cooperate with a person who is exercising powers or performing duties under this Act, including by doing all of the following:
- (a) responding promptly to communications and to requests for information or records;
  - (b) appearing and answering questions on request;
  - (c) participating in quality assurance assessments conducted under a quality assurance program;
  - (d) complying with an order of the registrar or an investigator.

**Duty to give notice**

- 76 (1) A licensee must give written notice to the registrar within 7 days after the date that any of the following circumstances first arises:
- (a) there are reasonable grounds to believe that the licensee is no longer eligible to hold a licence, or to hold a licence of the class that applies to the licensee's licence;
  - (b) a circumstance referred to in section 44 (1) (c) (ii) [*administrative refusal*], 53 (2) (b) [*adverse application decision*] or 54 (3) [*adverse application decision based on proceeding*];
  - (c) the licensee is not in compliance with section 77 (b) [*continuing duties*];
  - (d) the licensee is practising a designated health profession as an employee, shareholder, officer or director of a corporation and has reasonable grounds to believe that
    - (i) the corporation is required under this Act to hold a health profession corporation permit, and
    - (ii) the corporation does not hold a health profession corporation permit.
- (2) A licensee must give written notice to the registrar, within the period required under the bylaws, of the following:
- (a) a change to the licensee's business contact information;
  - (b) a circumstance described in the bylaws.

**Continuing duties**

- 77 A licensee must do all of the following:
- (a) provide a criminal record check authorization on request of the registrar;
  - (b) hold, in accordance with the bylaws, liability insurance or professional liability protection, or both;
  - (c) on request of the registrar, provide proof satisfactory to the registrar of
    - (i) continued eligibility to hold a licence or to hold a licence of the class that applies to the licensee’s licence, or
    - (ii) holding liability insurance or professional liability protection, or both;
  - (d) pay fees as required under the bylaws.

**Duty to provide information**

- 78 (1) A registrar may, by order, require a licensee to give to the registrar information, including personal information, for the purposes of section 493 *[if information collection order made]*.
- (2) A licensee must give to the registrar the information required under subsection (1) in the form and manner, and on or before the date, required by the registrar.

**Duties if practising in facility**

- 79 If the practice of a designated health profession through a diagnostic, surgical, treatment or other type of facility is subject to bylaws made with respect to accreditation standards, a licensee
- (a) must not, unless authorized under the bylaws, practise the designated health profession in a facility that is not accredited, and
  - (b) must cooperate with inspections of the facility.

**Duties if practising through corporation**

- 80 (1) The liability of a licensee for professional negligence in practising a designated health profession is not affected by the fact that the licensee is carrying on that practice
- (a) as an employee, shareholder, officer or director of a corporation, or
  - (b) as a partner or employee of a limited liability partnership.
- (2) The application of this Act, the regulations and the bylaws to a licensee is not affected by the licensee’s relationship to a corporation or limited liability partnership as described in subsection (1).

- (3) Nothing in this Act affects, modifies or limits any law applicable to the fiduciary, confidential or ethical relationships that exist between a licensee and a patient.
- (4) The relationship between a corporation and a patient who is receiving health services provided through the corporation is subject to all applicable laws relating to the fiduciary, confidential and ethical relationships that exist between a licensee and a patient.

**Duty if practice in another jurisdiction**

- 81** (1) In this section, “**certificate of professional conduct**” means
- (a) a certificate, in the form required by the registrar and issued by an extrajurisdictional regulator or another person or body specified for this purpose in the bylaws, certifying
    - (i) that the holder of the certificate practised a health profession in the jurisdiction in which the certificate was issued,
    - (ii) that the holder was not subject to an order that is in the nature of a disciplinary order in relation to the practice of the health profession in that jurisdiction, and
    - (iii) any other matter with respect to the holder as required under the bylaws, or
  - (b) a record that, in the opinion of the registrar, is equivalent to the certificate referred to in paragraph (a).
- (2) A licensee who practised a health profession in another jurisdiction while absent from British Columbia must, before practising again in British Columbia, give to the registrar a certificate of professional conduct from every jurisdiction in which the licensee practised during the absence.
- (3) If authorized under the bylaws, the registrar may waive the requirement under subsection (2) with respect to a licensee or a class of licensees.

**Duties if not practising or restricted**

- 82** (1) Subject to the bylaws, a registrar may order a licensee to transfer patient records to another licensee if
- (a) the first licensee is no longer practising a designated health profession, or the first licensee’s licence has been suspended or restricted, and
  - (b) the registrar is of the opinion that one or both of the following apply:
    - (i) the continuity of patient care may be adversely affected if the transfer is not made;
    - (ii) no or inadequate provision has been made for the transfer or other disposal of confidential patient records.

- (2) If an order is made under subsection (1), the licensee must do both of the following:
  - (a) transfer the records in accordance with the order;
  - (b) give written notice of the transfer to affected patients.
- (3) If a licensee is no longer practising a designated health profession or the licensee's licence has been suspended, the duty to cooperate under section 75 [*duty to cooperate*] continues to apply with respect to any matter that arose while the former licensee was practising or before the licensee's licence was suspended.

### **Division 6 – Duties to Report Licensees**

#### **Making reports under this Division**

- 83**
- (1) A person who must make a report under this Division must make the report
    - (a) in writing,
    - (b) to the registrar of the regulatory college that is responsible for governing the designated health profession practised by the person who is the subject of the report, and
    - (c) as required under section 84 (2) [*duty to report if health facility admission*] or, if that section does not apply, as soon as reasonably practicable after coming to the belief that is the basis of the report.
  - (2) A regulatory report may not be made anonymously, but an application for an identity protection order may be made in accordance with section 235 [*applications under this Division*].
  - (3) Despite any other provision of this Division, a person is not required to make a regulatory report with respect to a licensee if the person has reasonable grounds to believe that another person has already made a regulatory report with respect to the same matter.

#### **Duty to report if health facility admission**

- 84**
- (1) A licensee who is an employee of a health care facility must make a regulatory report with respect to another licensee if
    - (a) the other licensee receives health services through the facility, and
    - (b) the first licensee has reasonable grounds to believe that the other licensee is not fit to practise due to a health condition, whether or not the health condition is the cause of the other licensee's receipt of health services.
  - (2) A regulatory report must be made as follows:
    - (a) subject to paragraph (b), as soon as reasonably practicable after the other licensee begins to receive health services through the health care facility;

- (b) if the health care facility is a hospital, on or before the date that the other licensee is discharged from the hospital.
- (3) A regulatory report must include all of the following:
  - (a) a description of the health condition referred to in subsection (1) (b);
  - (b) the opinion of the first licensee as to whether the other licensee is fit to practise.

**Duty to report if suspected significant risk to public**

- 85** A licensee must make a regulatory report with respect to another licensee if the first licensee has reasonable grounds to believe that
- (a) the other licensee is not fit to practise, and
  - (b) the continued practice of a designated health profession by the other licensee presents a significant risk of harm to the public.

**Duty to report sexual misconduct, sexual abuse and discrimination**

- 86** A licensee must make a regulatory report respecting another licensee if the first licensee has reasonable grounds to believe that the other licensee has committed an act of sexual misconduct, sexual abuse or discrimination.

**Other persons have duty to report**

- 87** A person who is not a licensee but holds a belief described in section 85 [*duty to report if suspected significant risk to public*] or 86 [*duty to report sexual misconduct, sexual abuse and discrimination*] with respect to a licensee must make a regulatory report if either of the following apply:
- (a) based on this belief, the person does any of the following:
    - (i) terminates the licensee’s employment, including by revoking, suspending or restricting the licensee’s hospital privileges;
    - (ii) dissolves a partnership or association with the licensee;
  - (b) based on this belief, the person intended to take an action described in paragraph (a), but, before the person acted, the licensee resigned, relinquished hospital privileges or dissolved the partnership or association.

**After receiving regulatory report**

- 88** (1) After receiving a regulatory report, the registrar must
- (a) give written notice to the person who made the report that the report was received, and
  - (b) review the report to determine whether a regulatory complaint should be made under section 119 [*regulatory complaints by registrar*].

- (2) The registrar may request a person who made a regulatory report to provide additional relevant information or records for the purposes of determining whether to make a regulatory complaint under section 119.

**Immunity for persons required to report**

- 89** (1) Subject to subsection (2), no legal proceeding for damages lies or may be commenced or maintained against any of the following:
- (a) a person who, under this Act,
    - (i) makes a regulatory report that the person is required to make, or
    - (ii) takes another action that the person is required to take with respect to the making of a regulatory report;
  - (b) an employer of a person described in paragraph (a), including, if the person described in paragraph (a) holds hospital privileges, the owner or operator of the hospital.
- (2) Subsection (1) does not apply to a person referred to in that subsection in relation to anything done or omitted in bad faith.

**Division 7 – Prohibition Against Adverse Actions**

**Definitions**

- 90** In this Division, “**adverse action**” means an action described in any of the following sections:
- (a) section 92 [*adverse actions against patients*];
  - (b) section 93 [*adverse actions against employees*];
  - (c) section 94 [*adverse actions against regulated health practitioners*];
  - (d) section 95 [*other types of adverse actions*].

**Adverse actions prohibited**

- 91** (1) A licensee must not take an adverse action against any of the following persons for a reason referred to in subsection (2):
- (a) a person who makes a regulatory report or a regulatory complaint;
  - (b) a person who assists or gives information or records to a person who is exercising a power or performing a duty under this Act;
  - (c) a person who seeks information or advice with respect to a matter referred to in paragraph (a) or (b);
  - (d) a person who attempts or indicates an intention to take an action referred to in paragraph (a), (b) or (c), or who indicates that the person is considering taking an action referred to in any of those paragraphs;



- (e) whether or not a regulatory report or a regulatory complaint is made, a person who
    - (i) received, or may have received, health services from a licensee who is not, or may not have been, fit to practise, or
    - (ii) experienced conduct of a licensee that may be an act of misconduct;
  - (f) a person who is a family member or a business associate of a person referred to in any of paragraphs (a) to (e).
- (2) A licensee must not take an adverse action against a person referred to in subsection (1) because
- (a) the person or any other person, acting in good faith, has taken an action referred to in subsection (1) (a) to (d), or
  - (b) the licensee believes that the person or any other person has taken an action referred to in subsection (1) (a) to (d).
- (3) For the purposes of an investigation or disciplinary proceeding under this Act with respect to whether a respondent committed an act of misconduct by contravening this section, it is not necessary to prove that a person actually took an action referred to in subsection (1) (a) to (d).

**Adverse actions against patients**

- 92** The following are adverse actions if the person against whom the action is taken is the licensee's patient and the action is taken for a reason described in section 91 (2) [*adverse actions prohibited*]:
- (a) refusing to refer the patient to another regulated health practitioner;
  - (b) interfering with or obstructing the transfer of the patient's care to another regulated health practitioner;
  - (c) counselling another regulated health practitioner against providing health services to the patient.

**Adverse actions against employees**

- 93** (1) The following are adverse actions if the person against whom the action is taken is the licensee's employee and the action is taken for a reason described in section 91 (2) [*adverse actions prohibited*]:
- (a) an action that terminates an employment relationship or substantially changes the terms and conditions of employment or the working conditions;
  - (b) an action that contravenes the terms or conditions of employment.

- (2) Nothing in subsection (1) prevents a person from doing any of the following:
  - (a) if an employee is the subject of an investigation, taking an action against the employee that, in the opinion of the employer, is necessary to protect persons from harm or discrimination;
  - (b) taking an action against an employee for the purposes of managing or terminating an employment relationship for reasons unconnected to an action referred to in section 91 (1).

**Adverse actions against regulated health practitioners**

**94** The following are adverse actions if the person against whom the action is taken is another regulated health practitioner and the action is taken for a reason described in section 91 (2) [*adverse actions prohibited*]:

- (a) making a regulatory report or regulatory complaint against the regulated health practitioner, if
  - (i) the maker knows, or reasonably ought to know, that the report or complaint is trivial, frivolous or vexatious, or
  - (ii) the report or complaint is made in bad faith;
- (b) refusing to refer a patient to the regulated health practitioner;
- (c) interfering with or obstructing the transfer of a patient's care to the regulated health practitioner;
- (d) counselling a person against receiving health services from the regulated health practitioner.

**Other types of adverse actions**

**95** (1) The following are adverse actions if the action is taken for a reason described in section 91 (2) [*adverse actions prohibited*]:

- (a) counselling or directing a person to take an action referred to in this section or another section of this Division;
- (b) taking an action that is likely to adversely affect, or that threatens to adversely affect, the personal, financial or other interests of the person against whom the action is taken;
- (c) threatening, directly or indirectly, to take an action referred to in this section or another section of this Division;
- (d) taking a prescribed action.

(2) Nothing in this section is intended to limit the scope of any other provision of this Division.

**Discipline and enforcement are not adverse actions**

- 96** Nothing in this Division prevents a person from
- (a) investigating or taking disciplinary action with respect to whether a licensee is fit to practise or has committed an act of misconduct,
  - (b) investigating or taking enforcement action with respect to a violation of this Act, the regulations, the bylaws or an order, or
  - (c) exercising a power or performing a duty under this Act.

**Division 8 – Quality Assurance Program**

**Bylaws**

- 97** A board must make bylaws respecting the establishment and administration of a quality assurance program, including respecting all of the following:
- (a) the qualifications of quality assurance assessors;
  - (b) the conduct of quality assurance assessments;
  - (c) the policies and procedures to be used to ensure minimal disruption to the ordinary course of providing health services when quality assurance assessments are conducted;
  - (d) the means used to improve individual performance and to remedy issues of professional performance found across multiple licensees or within a class of licensees.

**Purposes of quality assurance program**

- 98** (1) A regulatory college must establish and administer a quality assurance program for the following purposes:
- (a) to assist individual licensees to improve their own professional performance;
  - (b) to identify issues of professional performance found across multiple licensees or within a class of licensees and recommend measures that may be taken to remedy those issues.
- (2) A regulatory college must not conduct a quality assurance program
- (a) for the purposes of an investigation or disciplinary proceeding, or
  - (b) solely as a type of continuing professional development or a similar type of program.

**Conduct of quality assurance assessment**

- 99** (1) A quality assurance assessment of a licensee may be conducted by a quality assurance assessor
- (a) on request of the licensee,
  - (b) by random selection of the licensee,

- (c) based on an assessment of the risk presented by a class of licensees, by types of health services provided by licensees or by a class established on any other basis, or
  - (d) in any circumstance provided for under the bylaws.
- (2) For the purposes of conducting a quality assurance assessment of a licensee, a quality assurance assessor may do one or more of the following:
- (a) require the licensee to complete a self-assessment;
  - (b) observe the licensee practising the licensee's designated health profession, and give directions for this purpose;
  - (c) inspect relevant records of the licensee, including records containing the personal information or other types of confidential information of patients;
  - (d) take other actions as authorized under the regulations or bylaws.

**If individual performance matter identified**

- 100** (1) If, based on a quality assurance assessment, a quality assurance assessor is of the opinion that a licensee's professional performance could be improved, the assessor may give notice to the licensee, in writing, and do one or more of the following in the notice:
- (a) give advice to the licensee;
  - (b) recommend that the licensee
    - (i) undergo clinical or other evaluations,
    - (ii) undertake further education, training or other remedial activities, or
    - (iii) take one or more anti-discrimination measures;
  - (c) recommend actions to prevent potential harm or discrimination while the deficiency is being remedied.
- (2) A licensee's failure to comply with advice or a recommendation given under this section is not misconduct or sufficient cause to begin an investigation or disciplinary proceeding.

**If general issue of professional performance identified**

- 101** (1) If, based on one or more quality assurance assessments, a quality assurance assessor is of the opinion that there are issues of professional performance across multiple licensees or within a class of licensees, the assessor may make a report that includes recommendations respecting one or more of the following:
- (a) further education, training or other remedial activities that licensees should undertake;
  - (b) types of anti-discrimination measures that licensees should take;

- (c) actions to prevent potential harm or discrimination while the issues are being remedied;
  - (d) prescribed matters.
- (2) A report under subsection (1) must be made in writing to the board or to a person or body identified for this purpose under the bylaws.

**Protecting confidentiality**

- 102** (1) All of the following is quality assurance information for the purposes of this Act:
- (a) the personal information of a patient or a person who sought health services from a licensee;
  - (b) information or records prepared or obtained by any person or body for the purposes of a quality assurance assessment;
  - (c) information or records that identify or may identify, directly or indirectly, a person or body who gave information or records to a quality assurance assessor for the purposes of a quality assurance assessment.
- (2) A quality assurance officer must not disclose quality assurance information except as follows:
- (a) to other quality assurance officers for the purposes of a quality assurance program;
  - (b) as provided for under this Division.
- (3) Subsection (2) applies despite
- (a) section 490 (2) and (3) [*compellability of information*] of this Act, and
  - (b) the *Freedom of Information and Protection of Privacy Act*, other than section 44 (2) or (3) of that Act.

**Failure to cooperate**

- 103** (1) A quality assurance officer may give written notice to the registrar that a licensee has contravened section 75 [*duty to cooperate*] if the officer is of the opinion that the licensee is interfering with the conduct of a quality assurance assessment, which may include the opinion that the licensee
- (a) is not participating adequately, or
  - (b) has lied or given false information to, or is refusing to comply with a direction given by, a quality assurance assessor for the purposes of the assessment.
- (2) A quality assurance officer may disclose quality assurance information to the registrar as necessary for the purposes of taking an action under Division 9 [*Discipline for Administrative Matters*] of this Part with respect to the matters referred to in the notice given under subsection (1) of this section.

- (3) Quality assurance information that a licensee provides under a quality assurance program, including a self-assessment prepared by a licensee, must not be received as evidence in a proceeding under this Act or in a civil proceeding, or used against the licensee, except for the purpose referred to in subsection (2) of this section.

**Protecting the public**

- 104**
- (1) A quality assurance officer may give written notice to the registrar if the officer has reasonable grounds to believe that
    - (a) the licensee is not fit to practise, or
    - (b) the licensee has committed an act of misconduct and giving the notice is necessary to protect the public from harm.
  - (2) A registrar who receives a notice under subsection (1) of this section may, based on the notice, make a regulatory complaint under section 119 [*regulatory complaints by registrar*].
  - (3) A quality assurance officer may disclose quality assurance information in a notice given under this section as necessary for the purposes of an investigation, disciplinary action or disciplinary proceeding conducted as a result of the notice.

**Notice of health hazard**

- 105**
- (1) A quality assurance officer may give written notice to the provincial health officer or a medical health officer if the quality assurance officer has reasonable grounds to believe that
    - (a) a health hazard within the meaning of the *Public Health Act* exists or may exist, and
    - (b) there is a risk of significant harm to the public or a group of people.
  - (2) A quality assurance officer who gives a notice under subsection (1)
    - (a) must provide the information referred to in section 11 of the *Public Health Act* as if the notice were a report made under that section, and
    - (b) may disclose quality assurance information, if necessary to comply with a request made under section 11 (e) of that Act.

**Division 9 – Discipline for Administrative Matters**

**Bylaws**

- 106** A board may make bylaws as follows:
- (a) respecting circumstances in which the registrar must not proceed under this Division, despite a breach or contravention being classed as an administrative matter;

- (b) without limiting paragraph (a), imposing limits or conditions on the registrar's exercise of a power under this Division.

**What are administrative matters**

- 107** A licensee's breach or contravention, or alleged breach or contravention, of any of the following is an administrative matter with respect to which a registrar may act under this Division:
- (a) an undertaking given under this Act;
  - (b) section 75 [*duty to cooperate*];
  - (c) section 76 (1) or (2) (a) [*duty to give notice*];
  - (d) section 77 [*continuing duties*];
  - (e) section 78 [*duty to provide information*];
  - (f) section 79 [*duties if practising in facility*];
  - (g) section 81 [*duty if practice in another jurisdiction*];
  - (h) a disciplinary order.

**Assessment and action**

- 108** (1) If a registrar has reasonable grounds to believe that a licensee has breached an undertaking or contravened a provision or order referred to in section 107 [*what are administrative matters*], the registrar must do all of the following:
- (a) obtain the licensee's disciplinary record and capacity summary;
  - (b) assess the disciplinary record and capacity summary and the nature, scope and gravity of the breach or contravention;
  - (c) subject to the bylaws,
    - (i) dispose of the administrative matter by making an order under section 109 [*disposition*], or
    - (ii) make, based on the administrative matter, a regulatory complaint under section 119 [*regulatory complaints by registrar*].
- (2) For the purposes of an assessment, the registrar may, by order, require the licensee to do one or more of the following:
- (a) provide information or records;
  - (b) provide proof, in a form satisfactory to the registrar, of a matter referred to in the information, records or bylaws;
  - (c) comply with the order on or before a specified date.

**Disposition**

- 109** (1) A registrar may dispose of an administrative matter by making one or more orders as follows:
- (a) an order to dismiss the administrative matter, if the registrar is satisfied that
    - (i) there was no breach or contravention, or
    - (ii) the breach or contravention was remedied adequately and that no further action is appropriate in the circumstances;
  - (b) disciplinary orders described in section 269 (b), (c) or (d) (i) or (iii) [*orders not affecting practice authority*];
  - (c) if authorized under the bylaws, disciplinary orders described in section 270 (1) (a) or (b) and (2) [*orders affecting practice authority*];
  - (d) if authorized under the bylaws, a disciplinary order described in section 271 (1) (a) [*monetary penalties and refunds*] for an amount that does not exceed the lesser of the following:
    - (i) an amount authorized under the bylaws;
    - (ii) a prescribed amount.
- (2) If a disciplinary order is made as described in section 270 (1) (b), the period of the suspension may be for one of the following periods, or for both periods consecutively:
- (a) the period that
    - (i) begins on the date that the order is made, and
    - (ii) ends on the date that the registrar gives notice to the respondent confirming that the respondent has complied with another order made under this section or with the original order, or both;
  - (b) a period that does not exceed the prescribed period.

**Information to respondents and review**

- 110** (1) A registrar must give to a respondent written notice of all of the following with respect to an order made under section 109 [*disposition*]:
- (a) the undertaking, provision or order that is the subject of the order made under section 109;
  - (b) the reason for believing the undertaking was breached or the provision or order was contravened;
  - (c) the order made under section 109 and the reasons for the order;
  - (d) the investigation committee's review process;
  - (e) any further information and records required under the bylaws.



- (2) A respondent who is subject to a disciplinary order made under section 109 may apply in accordance with section 381 [*application for reconsideration or review*] for a review by the investigation committee.

**Information to investigation committee**

- 111** (1) A registrar who disposes of an administrative matter must give to the investigation committee all relevant information and records, including
- (a) the respondent’s disciplinary record and capacity summary, and
  - (b) a copy of the information given to the respondent under section 110 [*information to respondents and review*].
- (2) A registrar must give to the investigation committee written notice of a respondent’s compliance or failure to comply with any of the following:
- (a) a disciplinary order that was made under section 109 (1) (b) [*disposition*];
  - (b) a disciplinary order that is described in section 269 (b) or (d) (i) or (iii) [*orders not affecting practice authority*].

**No further review or appeal**

- 112** A respondent is not entitled to a review by the Health Professions Review Board, or an appeal to any person or body, of an order or decision made under this Division.

**Division 10 – Discipline of Health Profession Corporations**

**Grounds for disciplinary action**

- 113** A permit committee may take an action under this Division against a health profession corporation if any of the following apply:
- (a) in the course of providing health services or related services, the corporation or its officers, employees or agents have done anything that, if done by a licensee, would be considered an act of misconduct;
  - (b) the committee is no longer satisfied of one or more matters referred to in section 58 [*requirements for permit*];
  - (c) there is a contravention of section 66 [*if permit issued*];
  - (d) the health profession corporation is being managed or operated in a manner that, in the opinion of the committee, presents an unreasonable risk of harm to the public.

**If reason for disciplinary action suspected**

- 114** (1) If a permit committee has reasonable grounds to believe that an action may be taken under this Division against a health profession corporation, the committee must do all of the following:
- (a) direct the registrar to give written notice to the corporation of
    - (i) the belief and the reason for the belief,
    - (ii) the action the committee is considering taking, and
    - (iii) the process for a hearing under paragraph (b);
  - (b) give to the corporation an opportunity to be heard and, if a hearing is requested, hold the hearing.
- (2) After a hearing, or if no hearing is requested in accordance with the notice given under subsection (1) (a) (iii), the permit committee must give to the registrar a copy of the committee's decision respecting the disposition of the matter and the reasons for the decision.
- (3) The registrar must give to the health profession corporation written notice of the permit committee's decision and the reasons for the decision.

**Disposition**

- 115** (1) A permit committee may dispose of a matter under this Division by directing the registrar to make an order as follows:
- (a) to dismiss the matter, if the committee is satisfied that
    - (i) there are no reasonable grounds as described in section 113 [*grounds for disciplinary action*], or
    - (ii) the matter has been remedied adequately and no further action is appropriate in the circumstances;
  - (b) to revoke the health profession corporation permit held by the health profession corporation;
  - (c) to do one or both of the following:
    - (i) reprimand one or more directors or shareholders of the corporation who are licensees;
    - (ii) impose a monetary penalty on the health profession corporation, in accordance with section 274 [*making order for penalty, costs, expenses or refund*], in an amount that does not exceed \$10 000.
- (2) If an order is made for a monetary penalty, the amount payable is a debt due to the regulatory college and may be recovered from the health profession corporation in accordance with Division 2 [*Recovering Debts Due*] of Part 10.

**If revocation or penalty**

- 116** (1) As soon as reasonably practicable after an order is made under this Division, the registrar
- (a) must publish a copy of the order and the reasons for the order, and
  - (b) must, in the case of a revocation of a health profession corporation permit, give notice of the revocation to the Registrar of Companies for the purposes of section 29 (5) of the *Business Corporations Act*.
- (2) If a permit committee is of the opinion that it would be in the public interest to do so, the committee may direct the registrar to give notice to the public, by any means, of any information that must be published under subsection (1) (a).

**Enforcement of Act**

- 117** For the purposes of enforcing this Act, the regulations and the bylaws,
- (a) a registrar, permit officer and investigator may exercise all powers under this Act against a health profession corporation as if the corporation were a licensee, and
  - (b) a director or officer of a health profession corporation may be compelled in a proceeding under this Act, other than a proceeding under section 514 [offences] in which the director or officer is a defendant,
    - (i) to give evidence, and
    - (ii) to produce all records and information in the possession or control of the director or officer that may be relevant to a matter raised in the proceeding.

**Division 11 – Complaints and Initiating Investigations**

**Bylaws**

- 118** A board must make bylaws respecting all of the following:
- (a) the establishment and implementation of a program to monitor, generally, for contraventions by licensees of this Act, the regulations or the bylaws;
  - (b) the procedures for making regulatory complaints, including
    - (i) the information and records that must be submitted, and
    - (ii) providing for the variation of procedures as appropriate to accommodate individual circumstances of complainants;
  - (c) the registrar’s exercise of powers under section 122 [summary actions by registrar];
  - (d) the circumstances in which summary protection orders may be made;

- (e) the limits and conditions that may be imposed on a respondent's licence under a summary protection order;
- (f) the management, by another licensee, of a suspended licensee's practice;
- (g) the determination of investigation expenses.

**Regulatory complaints by registrar**

- 119** A registrar may make a regulatory complaint based on information from any source, including, without limitation, any of the following:
- (a) information obtained from or prepared by a person exercising a power or performing a duty under this Act;
  - (b) information from another regulator or an extrajurisdictional regulator;
  - (c) information that gives the registrar reasonable grounds to believe that the respondent has been determined to be a risk under the *Criminal Records Review Act*;
  - (d) information from the media or another public source.

**Regulatory complaints by others**

- 120** (1) A person may do one or both of the following:
- (a) make a regulatory complaint by submitting to the registrar the complaint and all information and records required under the bylaws;
  - (b) apply for an identity protection order in accordance with section 235 [*applications under this Division*].
- (2) If a person makes a regulatory complaint but does not provide contact information or information that is sufficient to identify the person, the registrar may do one or both of the following:
- (a) make an order to dismiss the complaint;
  - (b) make, based on the complaint, a new regulatory complaint under section 119 [*regulatory complaints by registrar*].

**Gathering information and records**

- 121** (1) On making or receiving a regulatory complaint, the registrar must retrieve the respondent's disciplinary record and capacity summary, if any, and assess the complaint in accordance with the bylaws.
- (2) A registrar may order one or more of the following to provide, by the date stated in the order, information and records that, in the opinion of the registrar, may be relevant to the investigation of a regulatory complaint:
- (a) the complainant;
  - (b) a person who made a regulatory report;
  - (c) the respondent, if the respondent was given notice of the complaint.

- (3) An order under subsection (2) may include an order to provide personal information or other types of confidential information.
- (4) A registrar may request a quality assurance officer to provide information and records that are relevant to a notice given by the officer under section 104 [*protecting the public*].

**Summary actions by registrar**

- 122**
- (1) A registrar may, before referring a regulatory complaint to the investigation committee, request direction from the committee to make a summary protection order if the registrar is of the opinion that the allegations made against the respondent, if admitted or proven, are such that there may be a significant risk of harm to any person.
  - (2) A direction requested under subsection (1) may be given by one or more members of the committee if a quorum of the members are not scheduled to meet within a reasonable time.
  - (3) A registrar may, without referring a regulatory complaint to the investigation committee, dispose of the complaint by making a summary dismissal order or an order under section 158 (2) [*disposition with respondent's consent*] unless one of the following applies:
    - (a) the complaint alleges that the respondent lacks capacity or has committed an act of sexual abuse;
    - (b) the bylaws provide that this subsection does not apply.
  - (4) A registrar may transfer a regulatory complaint to another regulator if
    - (a) the complaint is with respect to the practice of a designated profession or occupation governed by the other regulator, and
    - (b) the complainant consents to the transfer.

**Information to investigation committee and board**

- 123**
- (1) Subject to subsection (2), a registrar must, as soon as reasonably practicable, give to the investigation committee all of the following with respect to a regulatory complaint:
    - (a) a copy of the complaint and all information and records received or obtained with respect to the complaint;
    - (b) the registrar's assessment of the complaint;
    - (c) the recommendations of the registrar, if any, with respect to the complaint.

- (2) If a registrar makes an order under section 122 (3) [*summary actions by registrar*], the registrar must, within the period established under the bylaws, give to the investigation committee all of the following:
  - (a) a summary of the regulatory complaint and of all information and records received or obtained with respect to the complaint;
  - (b) a copy of the order and the reasons for the order.
- (3) If a board member is the subject of a regulatory complaint and the complaint has not been disposed of by an order to dismiss the complaint, the registrar must give written notice of the complaint to the board as soon as reasonably practicable after giving notice to the respondent.
- (4) A notice given to the board under subsection (3) must not identify the complainant.

#### **Initiating investigation without regulatory complaint**

- 124**
- (1) An investigation committee may begin an investigation without a regulatory complaint first being made.
  - (2) An investigation committee that begins an investigation under subsection (1) must, as soon as reasonably practicable, give written notice to the registrar of the respondent's name and the reasons for the investigation.
  - (3) After receiving a notice under subsection (2), the registrar must give to the respondent written notice of the investigation unless the registrar has reasonable grounds to believe that giving notice before the investigation is complete risks
    - (a) harm to any person, or
    - (b) a significant loss of evidence.
  - (4) All powers and duties under this Act apply with respect to an investigation begun under this section and any disciplinary action or proceeding resulting from the investigation, as if a regulatory complaint had been made against the respondent under section 119 [*regulatory complaints by registrar*].

### **Division 12 – Investigations of Fitness and Misconduct**

#### **Review of regulatory complaint**

- 125**
- An investigation committee must review information and records received under section 123 [*information to investigation committee and board*], including the respondent's disciplinary record and capacity summary.

**General directions to registrar**

- 126** (1) At any time during an investigation, an investigation committee may direct the registrar to do one or more of the following:
- (a) appoint one or more investigators to conduct all or part of the investigation;
  - (b) make an order or request under section 121 [*gathering information and records*];
  - (c) make, vary or terminate a summary protection order;
  - (d) make an order under Division 14 [*Summary Action or Disposition During Investigation*] of this Part to dispose of a regulatory complaint;
  - (e) make a new regulatory complaint under section 119 [*regulatory complaints by registrar*] with respect to a matter found in the course of an investigation, whether or not the matter is related to the complaint that is the subject of the investigation.
- (2) Nothing in subsection (1) (e) limits the power of the investigation committee to act under section 124 [*initiating investigation without regulatory complaint*].

**Control of investigation**

- 127** At any time during an investigation, an investigation committee may do one or more of the following:
- (a) give directions for the purposes of the investigation, including limiting or putting conditions on the exercise of a power or performance of a duty by an investigator;
  - (b) direct an investigator to give to the registrar information or records obtained during the investigation that, in the opinion of the committee, may be relevant to whether a respondent lacks capacity;
  - (c) direct an investigator to merge all or part of an investigation with another investigation, to divide an investigation into parts or to suspend or terminate all or part of an investigation;
  - (d) direct an investigator to collaborate with other investigators who are investigating the same, similar or related matters, including investigators employed or retained for other regulators;
  - (e) require an investigator to make reports to the registrar and the committee, including imposing a reporting schedule;
  - (f) do other things as authorized under the bylaws.

**If capacity in question**

- 128** (1) If the investigation committee has reasonable grounds to believe that a respondent's capacity is in question, the committee must direct the registrar to do the following:
- (a) order the respondent to undergo a capacity evaluation;
  - (b) divide the investigation for the purposes of the evaluation;
  - (c) give to a capacity officer the respondent's disciplinary record, capacity record, if any, and all of the investigation records that may be relevant to an evaluation of the respondent's capacity.
- (2) If an investigator has reasonable grounds to believe that a respondent lacks capacity, the investigator must, as soon as reasonably practicable,
- (a) give notice of the belief to the investigation committee, and
  - (b) give to the registrar the records referred to in subsection (1) (c).
- (3) An investigator who acts under subsection (2) must give to the registrar any relevant records that are subsequently obtained during the course of the investigation, and the registrar must give those records to a capacity officer.

**Duty to proceed in timely manner**

- 129** (1) Subject to subsection (2), an investigator must do both of the following:
- (a) conduct an investigation in a timely manner;
  - (b) without limiting section 127 (e) [*control of investigation*], report regularly to the registrar respecting the progress of an investigation.
- (2) An investigation committee may direct an investigator to delay all or part of an investigation
- (a) until a report has been received with respect to a competence assessment or a capacity evaluation, or
  - (b) for the purposes of carrying out a direction referred to in section 127 (c) or (d).

**Limits on investigation powers**

- 130** An investigator must not exercise a power under this Division except for the purposes of an investigation and in accordance with
- (a) the limits and conditions that apply under section 363 [*officers*], and
  - (b) the bylaws and the directions, if any, of the investigation committee.

**General investigation powers**

- 131** (1) An investigator may make an information and production order.



- (2) During regular business hours, an investigator may do one or more of the following without a court order:
  - (a) enter premises used by a respondent to practise a designated health profession;
  - (b) inspect, analyze or take a similar action with respect to any equipment or materials found on the premises or produced under an information and production order;
  - (c) inspect and copy any records found on the premises or produced under an information and production order, including records containing personal information or other types of confidential information;
  - (d) observe and record the practice of a designated health profession performed by or under the supervision of the respondent, whether or not as part of a competence assessment.
- (3) A patient must not be observed or recorded under subsection (2) (d) unless the patient consents.

**Competence assessments**

- 132**
- (1) An investigator may order a respondent to undergo a competence assessment.
  - (2) A competence assessment may include one or both of the following:
    - (a) a clinical evaluation of the respondent's performance of a designated health profession;
    - (b) another type of evaluation authorized under the bylaws.

**Non-compliance with investigator's orders**

- 133**
- (1) The failure of a person to comply with an investigator's order does not prevent the investigator from continuing the investigation.
  - (2) If a respondent fails to comply with an investigator's order, the investigator may give written notice to the respondent that, if the order is not complied with by the date stated in the notice, the investigator will take action under subsection (3).
  - (3) If notice is given under subsection (2) and the respondent does not comply with the order by the date stated in the notice, an investigator may give to the registrar
    - (a) written notice of the failure, and
    - (b) the information and records the registrar requires for the purposes of taking an action under Division 9 [*Discipline for Administrative Matters*] of this Part with respect to the respondent's failure to comply.

**Investigation committee's assessment**

- 134**
- (1) Unless a regulatory complaint has been dismissed, an investigator must give to the investigation committee a final report respecting the investigation of the complaint.
  - (2) After receiving all final reports, an investigation committee must
    - (a) review all information and records obtained during the course of the investigation, including the respondent's disciplinary record and capacity summary but not including any other records given to a capacity officer under section 128 *[if capacity in question]*, and
    - (b) assess, subject to subsection (3), whether the committee has reasonable grounds to believe that the respondent lacks competence or has committed an act of misconduct.
  - (3) If the investigation was divided into parts to include a capacity evaluation, the investigation committee
    - (a) must delay an assessment under subsection (2) until receiving the final report of a capacity officer, and
    - (b) may make an assessment under subsection (2) only with respect to the conduct of the respondent that was not likely attributable to a lack of capacity.

**Matters affecting assessment**

- 135**
- (1) For the purposes of an assessment under section 134 (2) (b) *[investigation committee's assessment]*, an investigation committee must
    - (a) consider the context in which the respondent's conduct occurred, and
    - (b) consider, with respect to allegations of discrimination,
      - (i) the perspective of the respondent and of the persons, if any, who experienced the respondent's alleged conduct, and
      - (ii) the influence of those perspectives on the respondent's actions and how those actions were perceived by the persons, if any, who experienced the respondent's alleged conduct.
  - (2) For the purposes of an assessment under section 134 (2) (b), a respondent does not lack competence or commit an act of misconduct solely on any of the following bases:
    - (a) the respondent was convicted of an offence that is not a relevant offence, although the facts that gave rise to the conviction may be evidence of a lack of competence or evidence of misconduct;

- (b) the respondent provided health services that are based on Indigenous practices or are a departure from prevailing practice, or provided health services in a manner that is based on Indigenous practices or is a departure from prevailing practice, unless one of the following exceptions applies:
  - (i) the respondent contravened the bylaws in providing the health service or in the manner by which the health service was provided;
  - (ii) a patient has or has likely been misled with respect to the benefits and consequences, relative to prevailing practice, of providing the health service or of providing the health service in that manner;
  - (iii) providing the health service or providing the health service in that manner poses a demonstrably greater risk of harm than does prevailing practice.

**On completing assessment**

- 136**
- (1) An investigation committee must give to the registrar written notice of the committee's assessment as described in subsection (2) or (3) and the reasons for the assessment.
  - (2) If an investigation committee has reasonable grounds to believe that a respondent lacks competence or has committed an act of misconduct, the registrar must do one of the following, as directed by the committee:
    - (a) dispose of the complaint by making one or more orders under section 157 [*restorative processes*], 158 [*disposition with respondent's consent*] or 159 [*disposition without respondent's consent*];
    - (b) request the director of discipline to issue a citation and propose to the director the content of the citation with respect to the allegations made against the respondent.
  - (3) If an investigation committee does not have reasonable grounds to believe that a respondent lacks competence or has committed an act of misconduct, the registrar must dispose of the regulatory complaint by making an order as follows:
    - (a) if the respondent was not subject to a capacity evaluation, an order to dismiss the complaint;
    - (b) if the respondent was subject to a capacity evaluation, an order
      - (i) to dismiss the complaint if the capacity officer did not make a continuing practice order or a revocation order, or
      - (ii) to confirm a continuing practice order or revocation order.
  - (4) An order under subsection (3) must include an order to rescind any summary protection orders that apply.

**Information to director of discipline**

- 137** (1) If a registrar requests the director of discipline to issue a citation, the registrar must give to the director copies of all of the following:
- (a) the regulatory complaint;
  - (b) all investigation records, including the respondent's disciplinary record and final reports made by investigators but not including any other records given to a capacity officer under section 128 *[if capacity in question]*;
  - (c) any notices given under section 133 *[non-compliance with investigator's orders]*;
  - (d) all orders made against the respondent in the course of the investigation and the reasons for the orders;
  - (e) the notice given under section 136 (1) *[on completing assessment]*;
  - (f) a notice, if any, as described in section 267 (4) *[additional factors if respondent is licensee]*.
- (2) The registrar must give to the director of discipline a copy of an identity protection order and the reasons for the order if
- (a) the identity of a person protected under the order might be an issue in a discipline hearing, or
  - (b) the person protected under the order might be identified, directly or indirectly, in a discipline hearing.

**If new information**

- 138** (1) If a summary protection order is made after a registrar requests the director of discipline to issue a citation, the registrar must give to the director of discipline a copy of the order and the reasons for the order.
- (2) If new evidence becomes available after a registrar requests the director of discipline to issue a citation, the registrar
- (a) must give all information and records related to the new evidence to the director as soon as reasonably practicable, and
  - (b) may request the director to cancel the citation, if directed by the investigation committee on the basis of the new evidence.

**If proposal for disciplinary order**

- 139** (1) If an investigation committee and a respondent agree to one or more disciplinary orders after a registrar requests the director of discipline to issue a citation but before the date referred to in section 164 (1) (c) *[issuing citation]* has passed, the registrar must

- (a) give to the director a copy of the proposed orders and the reasons for the orders, and
  - (b) request the director to approve the proposed orders and cancel the citation.
- (2) For the purposes of subsection (1),
- (a) Division 14 [*Summary Action or Disposition During Investigation*] of this Part does not apply, and
  - (b) the disciplinary orders that may be agreed to and approved include any disciplinary order that a discipline panel could make.
- (3) If the director of discipline approves, in writing, the proposed disciplinary orders,
- (a) the registrar must dispose of the regulatory complaint by making the orders,
  - (b) the registrar may, if directed to do so by the investigation committee, make an order described in section 273 [*orders for investigation expenses*], and
  - (c) the director must cancel the citation.
- (4) If the director of discipline refuses to cancel the citation, the proposed disciplinary orders must not be made.

### **Division 13 – Capacity Evaluations**

#### **Initiating capacity evaluation**

- 140** (1) If directed by an investigation committee, a registrar must
- (a) order a respondent to undergo a capacity evaluation, and
  - (b) appoint one or more licensees to conduct one or more assessments for the purposes of the evaluation.
- (2) For the purposes of subsection (1) (b), a registrar may appoint licensees who practise any designated health profession that is appropriate for the purposes of the assessments.

#### **Assessments and reports**

- 141** (1) A licensee who conducts an assessment for the purposes of a capacity evaluation must report to the capacity officer identified by the registrar
- (a) any failure by the respondent to cooperate with all or part of the assessment, and

- (b) the licensee’s professional opinions and recommendations, together with any other information or records required under the bylaws, respecting
  - (i) whether the respondent’s capacity is impaired by a health condition, and
  - (ii) if so, whether the nature or extent of the impairment is such that the respondent’s continued practice of a designated health profession may present a significant risk of harm.
- (2) A licensee who conducts an assessment for the purposes of a capacity evaluation must not disclose information and records prepared or obtained by the licensee for the purposes of the assessment, except to make a report under subsection (1).

**Failure to cooperate**

- 142**
- (1) A capacity officer may give written notice to the registrar that a respondent has contravened section 75 [*duty to cooperate*] if the officer is of the opinion that the respondent is interfering with the conduct of a capacity evaluation, which may include the opinion that the respondent
    - (a) is not participating adequately, or
    - (b) has lied or given false information to, or is refusing to comply with a direction given by, a licensee who is conducting an assessment for the purposes of the evaluation.
  - (2) A capacity officer may disclose to the registrar information or records obtained for the purposes of a capacity evaluation, except personal health information of the respondent, as necessary for the purposes of taking an action under Division 9 [*Discipline for Administrative Matters*] of this Part with respect to the matters referred to in a notice given under subsection (1).

**Protecting the public**

- 143**
- (1) A capacity officer may give written notice to the investigation committee if the officer is of the opinion that giving the notice is necessary to protect the public from harm.
  - (2) A capacity officer may disclose in a notice given under subsection (1) information or records obtained for the purposes of a capacity evaluation, including personal health information of the respondent, if the information or records are necessary for the purposes of
    - (a) making a summary protection order, or
    - (b) an investigation, disciplinary action or disciplinary proceeding conducted as a result of the notice.

**Capacity officer's assessment**

- 144** (1) On receiving all reports under section 141 (1) [*assessments and reports*], a capacity officer must
- (a) review the reports, the respondent's disciplinary record and capacity record and any other information and records received under section 128 [*if capacity in question*], and
  - (b) assess whether the capacity officer has reasonable grounds to believe that the respondent lacks capacity.
- (2) For the purposes of an assessment under subsection (1) (b), a respondent does not lack capacity solely on the basis that the respondent was convicted of an offence, although the facts that gave rise to the conviction may be evidence of a lack of capacity.

**On completing assessment**

- 145** (1) If, after completing an assessment under section 144 (1) (b) [*capacity officer's assessment*], a capacity officer has reasonable grounds to believe that a respondent lacks capacity, the officer must give to the respondent written notice of all of the following:
- (a) the officer's belief and the reasons for the officer's belief;
  - (b) if the capacity officer is considering making a continuing practice order or a revocation order, a copy of the order being considered;
  - (c) the processes for providing additional information and records and for requesting changes to the order being considered.
- (2) A capacity officer may make a continuing practice order or revocation order
- (a) if no additional information or records were provided or no request was made in accordance with the notice given under subsection (1) (c), or
  - (b) after considering any information, records or request for changes to the order provided under subsection (1) (c).
- (3) If a capacity officer does not have reasonable grounds to believe a respondent lacks capacity, the officer must give to the respondent written notice of the officer's belief.
- (4) For certainty, a capacity officer may make a continuing practice order or revocation order whether or not an investigation, if any, into whether the respondent lacks competence or has committed an act of misconduct is complete.

**Continuing practice order**

- 146** (1) A capacity officer may make an order under this section if the officer
- (a) has reasonable grounds to believe that a respondent lacks capacity, and
  - (b) is satisfied that any risk of harm from the respondent's continued practice of a designated health profession can be reasonably ameliorated if the respondent complies with the order.
- (2) A capacity officer may, by order, do one or more of the following:
- (a) require a respondent to undertake specified education, training or other remedial activities on or before a specified date;
  - (b) require a respondent to undergo a course of therapy or clinical treatment;
  - (c) require a respondent to undergo examinations, evaluations or further assessments, or to submit samples for diagnostic examination, to determine if the respondent has sufficient capacity to be fit to practise;
  - (d) impose limits or conditions on, or suspend, a respondent's licence during the period for which an order under paragraph (a), (b) or (c) applies.
- (3) In making an order under subsection (2) (b), a capacity officer must consider the respondent's beliefs and cultural traditions in determining an appropriate course of therapy or treatment.

**Revocation order**

- 147** A capacity officer may, by order, revoke a respondent's licence if the officer has reasonable grounds to believe that the respondent lacks capacity and the officer
- (a) is not satisfied that a continuing practice order is appropriate to address the risk of harm from the respondent's continued practice of a designated health profession, or
  - (b) has reasonable grounds to believe that the respondent has failed to comply with a continuing practice order.

**Reconsideration**

- 148** (1) A respondent who is subject to a continuing practice order or revocation order may apply in accordance with section 381 [*application for reconsideration or review*] for a reconsideration by the capacity officer.
- (2) Despite section 381, an application for reconsideration of a continuing practice order may be made more than once, in accordance with the directions of or a schedule set by, or as otherwise authorized by, the capacity officer.

**Variation or termination of continuing practice order**

- 149** (1) A capacity officer may, by order, vary or terminate a continuing practice order on the officer's own initiative or, if an application for reconsideration was made, after the reconsideration.



- (2) A capacity officer must not vary or terminate a continuing practice order unless the capacity officer is satisfied that the variation or termination does not present an unreasonable risk of harm.

**Copies of orders and notices**

- 150**
- (1) A capacity officer must give to a respondent
    - (a) a copy of any orders made, varied or terminated under this Division, and
    - (b) the reasons for the orders and for any variation or termination.
  - (2) A capacity officer must give to the registrar the information and records that must be kept as part of the licensee’s capacity record.
  - (3) If a capacity officer gave notice to a respondent under section 145 (3) [*on completing assessment*], the capacity officer must give a copy of the notice to the registrar for keeping as part of the licensee’s capacity record.
  - (4) A capacity officer may disclose under subsection (2) or (3) information or records obtained for the purposes of a capacity evaluation, including personal health information of the respondent, if the information or records are necessary for the purposes of the exercise of powers or performance of duties by the registrar or investigation committee.

**If registrar is capacity officer**

- 151**
- If a registrar is authorized to exercise the powers and perform the duties of a capacity officer,
- (a) the power of a capacity officer under this Act to authorize or direct a registrar to take an action must be read as a power of the registrar to act on the registrar’s own initiative, and
  - (b) the power of a capacity officer under this Act to disclose information to a registrar for one or more purposes must be read as a power of the registrar to use information obtained in the course of a capacity evaluation for those purposes.

**Division 14 – Summary Action or Disposition During Investigation**

**Period for acting under this Division**

- 152**
- (1) Subject to subsection (2), an order may be made under this Division at any time during the period that
    - (a) begins on the date that a regulatory complaint is made, and
    - (b) ends on the date that the registrar
      - (i) makes an order under this Part to dispose of the complaint, or
      - (ii) requests the director of discipline to issue a citation.

- (2) A summary protection order may be made, and an order made under this Division may be varied, after the applicable date under subsection (1) (b) but before a discipline panel makes an order under section 191 [*if decision of lack of competence or misconduct*] if
  - (a) new evidence that is material and relevant to the regulatory complaint that relates to the order becomes available, and
  - (b) the reason for making or varying the order is based on the new evidence.

#### **Summary protection orders**

- 153**
- (1) A registrar may make a summary protection order only on the direction of the investigation committee.
  - (2) A summary protection order must not be made solely because a respondent has acted as described in section 135 (2) (b) [*matters affecting assessment*], unless an exception described in that provision applies.
  - (3) A respondent may employ another licensee to manage the respondent's practice while a summary protection order is in effect, if the registrar approves, in writing, the licensee to be employed.

#### **Authority to dispose of regulatory complaint**

- 154**
- (1) If a regulatory complaint includes allegations that a respondent has committed an act of sexual abuse, the complaint must not be disposed of by an order made under this Division unless the registrar first
    - (a) gives to the director of discipline
      - (i) the information and records referred to in section 137 [*information to director of discipline*], and
      - (ii) a copy of the proposed order and the reasons for the proposed order, and
    - (b) receives written approval from the director of discipline to proceed with the proposed order.
  - (2) The authority to dispose of a regulatory complaint under this Division is subject to any prohibitions, requirements, limits or conditions under the bylaws.
  - (3) Sections 265 [*factors that must be considered*], 266 [*factors that may be considered*] and 267 [*additional factors if respondent is licensee*] apply for the purposes of making a disciplinary order under this Division.
  - (4) Except as provided under the bylaws with respect to getting consent for the purposes of section 268 (2) [*restorative processes*], a regulatory complaint may be disposed of under this Division without first giving to a complainant notice or an opportunity to be heard.

- (5) For certainty, more than one order may be made under this Division for the purposes of disposing of a regulatory complaint.

**If investigation is divided**

- 155**
- (1) If an investigation of a regulatory complaint has been divided into more than one investigation and part of the complaint is disposed of under this Division, the part that was not disposed of may continue to be investigated.
  - (2) If part of an investigation includes a capacity evaluation, an order must not be made under this Division to dispose of that part of the regulatory complaint that is relevant to the evaluation.

**Dismissal, suspension or termination**

- 156**
- (1) A registrar may dispose of a regulatory complaint by making a summary dismissal order.
  - (2) If directed by the investigation committee, a registrar may
    - (a) make a suspension order, or
    - (b) dispose of a regulatory complaint by making a termination order.

**Restorative processes**

- 157**
- (1) If directed by the investigation committee, a registrar may make a disciplinary order described in section 268 [*restorative processes*].
  - (2) If satisfied that a respondent has complied in good faith with an order made under subsection (1), the investigation committee may direct the registrar to dispose of all or part of the regulatory complaint by doing one or both of the following:
    - (a) making an order to dismiss all or part of the regulatory complaint without taking further action;
    - (b) making one or more other orders under this Division.

**Disposition with respondent's consent**

- 158**
- (1) A registrar may make an order under this section if the respondent consents to the making of the order.
  - (2) A registrar may make an order to dispose of all or part of a regulatory complaint by making one or more orders as follows:
    - (a) an order to dismiss the complaint, along with giving to the respondent, in writing, a warning or advice;
    - (b) disciplinary orders described in section 269 (b), (c) or (d) (i) or (iii) [*orders not affecting practice authority*] or 270 (1) (a) or (b) and (2) [*orders affecting practice authority*].

- (3) If an order is made under subsection (2), a registrar may do one or both of the following:
  - (a) make an order described in section 273 [*orders for investigation expenses*];
  - (b) make an order described in section 302 [*orders for recovery*] or an agreement described in section 303 [*recovery from respondents*].

**Disposition without respondent’s consent**

- 159**
- (1) A registrar may make an order under this section if
    - (a) the respondent is first given written notice of the regulatory complaint to which the order relates and an opportunity to respond, in writing, and
    - (b) the investigation committee, on considering a response, if any, provided under paragraph (a), directs the order to be made.
  - (2) A registrar may dispose of all or part of a regulatory complaint by
    - (a) giving to the respondent, in writing, a warning or advice and making an order to dismiss the complaint, or
    - (b) making one or more disciplinary orders described in section 269 (d) (iii) [*orders not affecting practice authority*].
  - (3) If a respondent fails to respond to a notice given under subsection (1) before the date stated in the notice and an order is made under subsection (2), a registrar may do one or both of the following:
    - (a) make an order described in section 273 [*orders for investigation expenses*];
    - (b) make an order described in section 302 [*orders for recovery*] or an agreement described in section 303 [*recovery from respondents*].

**Division 15 – Citations for Discipline Hearings**

**Interpretation**

- 160**
- (1) In this Division and Division 16 [*Discipline Hearings*] of this Part:
    - “**protection order**” means an order made under section 185 [*general protection orders*], 186 [*protection orders respecting attendance*] or 187 [*protection orders respecting cross-examination*];
    - “**sensitive record**” means a record
      - (a) that contains information about a person who is not the respondent, and
      - (b) that, in the opinion of a discipline panel,

- (i) is a type of record with respect to which a person has a reasonable expectation of privacy, whether or not the person is in vulnerable circumstances, or
  - (ii) contains personal information or other types of confidential information, or information that is otherwise of a sensitive nature.
- (2) In this Division and Division 16 of this Part, a person is in vulnerable circumstances if the person attends a discipline hearing, or gives evidence or is required to produce a record or other thing for the purposes of a discipline hearing, with respect to allegations of
  - (a) sexual misconduct, sexual abuse or discrimination, or
  - (b) another type of conduct that, in the opinion of the discipline panel, may have caused or contributed to the person’s psychological distress.

**Receiving request for citation**

- 161** After receiving a request under section 136 (2) (b) [*on completing assessment*] to issue a citation, the director of discipline
- (a) must review the information and records received with the request, including the respondent’s disciplinary record,
  - (b) may require changes to the proposed citation with respect to the allegations against the respondent,
  - (c) may request an identity protection order to be varied, and
  - (d) may delay making a decision as to whether to issue the citation if
    - (i) the substance of the matter to be heard is the subject of another proceeding, or
    - (ii) the director is of the opinion that a delay is necessary for the purposes of paragraph (b) or (c) of this section.

**Whether to issue citation**

- 162** (1) The director of discipline must issue a citation requested under section 136 (2) (b) [*on completing assessment*] unless the director is satisfied that one of the following circumstances applies:
- (a) there is insufficient evidence on which to proceed with a discipline hearing;
  - (b) there would be significant and unmitigable unfairness to the respondent if a hearing proceeds because
    - (i) a complainant’s anonymity or the protection of a person’s identity under an identity protection order unduly prevents the respondent from making a reasonable defence,

- (ii) there are circumstances that gave rise to an order made by the Health Professions Review Board under section 320 (5) [*after timeliness review*], or
  - (iii) there are significant issues of procedural fairness;
  - (c) the substance of the matter to be heard has been or will be dealt with appropriately in another proceeding;
  - (d) the nature, scope or gravity of the allegations is such that it would be in the public interest for the regulatory complaint to be resolved by the investigation committee under Division 14 [*Summary Action or Disposition During Investigation*] of this Part;
  - (e) it would not be in the public interest to proceed.
- (2) To mitigate any potential unfairness identified under subsection (1) (b) such that a citation may be issued, the director of discipline may do one or more of the following:
- (a) give directions with respect to any matter;
  - (b) seek authorization as described in section 250 (1) (b) [*if identity protection order made*] to disclose information;
  - (c) waive or modify a requirement respecting practice or procedure.

**Former or absent licensees**

- 163** The director of discipline must not refuse to issue a citation or cancel a citation solely because
- (a) the respondent's licence has expired or has been revoked or surrendered, or
  - (b) the respondent is no longer a resident of British Columbia.

**Issuing citation**

- 164** (1) If the director of discipline issues a citation, the director must prepare the citation in writing and include all of the following:
- (a) the respondent's name;
  - (b) the allegations made against the respondent;
  - (c) the date after which proposals may no longer be made under section 139 [*if proposal for disciplinary order*];
  - (d) the date, time and, if applicable, location of the discipline hearing and information respecting the hearing process;
  - (e) the advice that the hearing is authorized to proceed despite the respondent's absence, if
    - (i) the respondent does not attend the hearing, and
    - (ii) there is proof that the citation was served in accordance with the regulations.

- (2) For certainty, the director of discipline is not bound by the proposed citation provided under section 136 (2) (b) *[on completing assessment]*.
- (3) The director of discipline must serve the citation on the respondent
  - (a) in the prescribed manner, and
  - (b) as soon as reasonably practicable after giving a copy of the citation to the regulatory college.

**Notice to interested person**

- 165** The director of discipline must give written notice to a person who has an interest in a discipline hearing, other than the respondent and the regulatory college,
- (a) of the date, time and, if applicable, location of the discipline hearing, and
  - (b) after serving the respondent with a citation, but no fewer than 14 days before the date of the hearing.

**Effect of citation**

- 166** The issuance of a citation does not
- (a) operate as a stay of any order made in the course of an investigation, or
  - (b) prevent a summary protection order from being made, or an order from being varied, if section 152 (2) *[period for acting under this Division]* applies.

**Cancelling citation**

- 167** (1) The director of discipline may cancel a citation at any time if the director
- (a) receives a recommendation to cancel the citation under section 173 *[recommendation to cancel citation]*, or
  - (b) is satisfied that it would not be in the public interest to proceed.
- (2) The director of discipline must not cancel a citation unless the director has first considered the respondent's disciplinary record.

**If citation refused or cancelled**

- 168** (1) If the director of discipline refuses to issue a citation or cancels a citation for a reason other than as described under section 139 (3) *[if proposal for disciplinary order]* or 162 (1) (d) *[whether to issue citation]*,
- (a) any order made in the course of the investigation ceases to apply on the date of the decision to refuse to issue a citation or to cancel the citation,

- (b) no further summary protection orders may be made based on the regulatory complaint, despite section 152 (2) [*period for acting under this Division*], and
  - (c) the regulatory complaint that is the basis of the citation is deemed to be dismissed.
- (2) If the director of discipline refuses to issue a citation under section 162 (1) (d) [*whether to issue citation*],
- (a) the director must remit the regulatory complaint back to the investigation committee, and
  - (b) the investigation committee must dispose of the complaint by making an order under Division 14 [*Summary Action or Disposition During Investigation*] of this Part.
- (3) Section 152 (1) (b) (ii) does not apply for the purposes of subsection (2) (b) of this section.

### **Division 16 – Discipline Hearings**

#### **Appointing discipline panels**

- 169** (1) On issuing a citation, the director of discipline must appoint a discipline panel to conduct a discipline hearing.
- (2) A discipline panel must consist of 3 discipline panel members, including at least
- (a) one licensee who is licensed to practise the same designated health profession as the respondent, and
  - (b) one representative of the public.

#### **Choosing discipline panel members**

- 170** The director of discipline must consider at least the following factors when choosing which discipline panel members will sit on a discipline panel:
- (a) the education, training, experience and other qualifications needed to assess the allegations made against the respondent;
  - (b) if the respondent is alleged to have committed an act of sexual misconduct or sexual abuse, the expertise needed to conduct the discipline hearing in a manner that mitigates any potential trauma that may arise from an adversarial process;



- (c) if the respondent is alleged to have committed an act of discrimination, the experience needed to
  - (i) be aware of the perspective of the respondent and the perspective of the persons, if any, who experienced the respondent's alleged conduct, and
  - (ii) assess the influence of those perspectives on the respondent's actions and how those actions were perceived by the persons, if any, who experienced the respondent's alleged conduct.

**If member absent or appointment ends**

- 171** (1) Sections 5, 7, 7.1 and 26 (7) of the *Administrative Tribunals Act* apply to discipline panel members.
- (2) For the purposes of subsection (1), a reference in a provision of the *Administrative Tribunals Act* to the appointing authority or to the chair must be read as a reference to the director of discipline.

**No jurisdiction over constitutional matters**

- 172** (1) Sections 44 and 46.3 of the *Administrative Tribunals Act* apply to a discipline hearing.
- (2) Nothing in this section prevents a discipline panel from considering a matter or making an order with respect to allegations that a respondent has committed an act of discrimination.

**Recommendation to cancel citation**

- 173** (1) A discipline panel may, at any time during a discipline hearing, recommend to the director of discipline that a citation be cancelled for any of the following reasons:
- (a) a regulatory college has not participated diligently in the hearing;
  - (b) a circumstance described in section 162 (1) [*whether to issue citation*] applies;
  - (c) a person who has an interest in the hearing, other than the respondent or the regulatory college, has failed to comply with an order of the discipline panel and the discipline panel is of the opinion
    - (i) that the failure is interfering with the conduct of the hearing to the extent that the hearing cannot reasonably proceed, will cause the respondent to suffer undue prejudice or significant procedural unfairness or will cause the respondent to be unduly prevented from making a reasonable defence, and
    - (ii) no other reasonable remedy is available.

- (2) In the circumstances described in subsection (1) (c), if the person who failed to comply with the order is a complainant, the discipline panel may, if requested by the registrar,
  - (a) deem the registrar to be the complainant for the purposes of continuing the proceeding and give directions for this purpose, and
  - (b) limit or prohibit the original complainant from continued participation in or attendance during the proceeding.

**Legal representation**

- 174**
- (1) Regulatory colleges and respondents may
    - (a) be represented at a discipline hearing by lawyers, and
    - (b) make submissions as to facts, law and jurisdiction.
  - (2) Persons who have an interest in a discipline hearing may be represented by lawyers when giving evidence in the hearing.
  - (3) Subject to an order made under section 272 [*orders for hearing costs*], persons are responsible for their own legal costs.

**Public may attend**

- 175** Subject to an identity protection order and any other order that may be made under this Part, section 41 of the *Administrative Tribunals Act* applies to a discipline hearing.

**Control of proceedings**

- 176**
- (1) Subject to the regulations and subsection (2), a discipline panel has the power to control its own processes with respect to a discipline hearing.
  - (2) A discipline panel is bound by the practice directives issued by the director of discipline, unless a practice directive provides otherwise.
  - (3) Without limiting subsections (1) and (2), a discipline panel may do one or more of the following for the purposes of a discipline hearing:
    - (a) adjourn the hearing, and, for this purpose, section 39 of the *Administrative Tribunals Act* applies;
    - (b) make orders to facilitate the timely, just and orderly conduct of the hearing;
    - (c) make orders or give directions as referred to in section 48 (1) and (3) of the *Administrative Tribunals Act*, and, for this purpose, section 48 (2) of that Act applies.
  - (4) A discipline panel may act under subsection (3) on the panel's own initiative or on request of a person who has an interest in the discipline hearing.

**Recording proceedings**

- 177** (1) Section 35 of the *Administrative Tribunals Act* applies to a discipline hearing, except that a recording may be made by any means.
- (2) Regulatory colleges and respondents may, with the prior approval of the discipline panel and at their own expense, record a discipline hearing.
- (3) A discipline panel must grant approval to record a discipline hearing unless the panel is of the opinion that compelling circumstances exist which cannot reasonably be remedied with an order made under subsection (4).
- (4) A discipline panel may, by order, impose limits or conditions on the recording of all or part of a hearing.

**Respondent must cooperate**

- 178** A discipline panel may, by order, require a respondent to do one or more of the following:
- (a) attend a discipline hearing;
  - (b) give evidence on oath or by affirmation;
  - (c) produce information or records in the respondent's possession or control.

**Failure to comply with orders**

- 179** (1) Subject to subsection (2), if a person fails to comply with a practice directive or an order of a discipline panel, the panel may do one or more of the following:
- (a) schedule or continue with a discipline hearing, or take an action under section 173 [*recommendation to cancel citation*];
  - (b) make a decision based on the information and records available to the panel, with or without the person's presence or giving the person an opportunity to give evidence or make submissions;
  - (c) without limiting paragraphs (a) and (b), if a respondent fails to comply with an order made under section 178 [*respondent must cooperate*],
    - (i) draw an adverse inference from the failure to comply,
    - (ii) make a finding that the respondent lacks competence or has committed an act of misconduct, and
    - (iii) make any order that the panel may make under section 191 [*if decision of lack of competence or misconduct*] with respect to the finding under subparagraph (ii) of this subsection;
  - (d) make an application as described in section 49 of the *Administrative Tribunals Act*, and, for this purpose, that section applies to the panel and the respondent.

- (2) Subsection (1) does not apply if the person can show to the discipline panel's satisfaction that
  - (a) the person did not have reasonable notice of the practice directive or order, or
  - (b) the failure was because of circumstances beyond the person's control.

**Admissibility of evidence generally**

- 180** (1) Section 40 of the *Administrative Tribunals Act* applies to a discipline hearing.
- (2) For the purposes of allegations of misconduct as described in section 11 (1) (f) (ii) [*misconduct and actionable conduct*],
  - (a) a certified copy of a record of decision is proof, in the absence of evidence to the contrary, of findings made or an action taken against the respondent, and
  - (b) proof of the signature of the person purporting to have made the finding or taken the action is not required.

**Admissibility of settlement information**

- 181** (1) In this section, “**settlement information**” means information or a record exchanged between a regulatory college and a respondent with respect to an order that was proposed to be made under section 139 [*if proposal for disciplinary order*], 157 [*restorative processes*] or 158 [*disposition with respondent's consent*].
- (2) Subject to subsection (3), a person must not disclose or be compelled to disclose settlement information for the purposes of a discipline hearing unless the regulatory college and the respondent consent.
- (3) If the director of discipline receives a notice under section 137 (1) (f) [*information to director of discipline*], the director may disclose the notice to the discipline panel for the purposes of section 267 (3) [*additional factors if respondent is licensee*].

**Witnesses**

- 182** (1) Sections 34 (3) and (4) and 38 of the *Administrative Tribunals Act* apply to a discipline hearing.
- (2) Except as authorized under an order of a discipline panel, evidence must be given on oath or affirmation.

**Protection of persons in vulnerable circumstances**

- 183** (1) A discipline panel that is conducting a discipline hearing must consider whether any persons affected by the hearing are in vulnerable circumstances, and, if so, must consider all of the following:
- (a) the nature of those circumstances and the needs of those persons;
  - (b) whether it is necessary or advisable to make a protection order;
  - (c) the matters referred to in section 184 [*considerations for protection order*];
  - (d) if requested by one or more of those persons or by a person who has an interest in the hearing, submissions made with respect to the proposed protection order.
- (2) A discipline panel may make a protection order on its own initiative or on application by the regulatory college or by a person who is in vulnerable circumstances.
- (3) A discipline panel may give directions, for the purposes of protecting a person who is in vulnerable circumstances from potential trauma, respecting the making of submissions under subsection (1) (d).

**Considerations for protection order**

- 184** (1) For the purposes of section 183 (1) (c) [*protection of persons in vulnerable circumstances*], a discipline panel must consider all of the following with respect to a person who is in vulnerable circumstances:
- (a) whether the person directly experienced the respondent's alleged conduct;
  - (b) if paragraph (a) of this subsection does not apply, the relationship between the person and a person who directly experienced the respondent's alleged conduct;
  - (c) the degree of trauma that the person
    - (i) has suffered if the allegations against the respondent are true, and
    - (ii) may suffer if a protection order is not made;
  - (d) the extent to which a protection order will mitigate any potential trauma to the person.
- (2) For the purposes of section 183 (1) (c), a discipline panel must consider all of the following:
- (a) the extent to which a protection order may cause the respondent
    - (i) to suffer undue prejudice or significant procedural unfairness, or
    - (ii) to be unduly prevented from making a reasonable defence;
  - (b) any other matter that, in the opinion of the panel, is relevant to whether a protection order should be made.

**General protection orders**

- 185** Without limiting any other protection order that may be made, a discipline panel may make any order that, in the opinion of the panel, will mitigate potential trauma to a person who is in vulnerable circumstances, if trauma may arise from an adversarial process carried out for the purposes of the discipline hearing.

**Protection orders respecting attendance**

- 186** (1) A discipline panel may, by order, require one or more of the following:
- (a) without limiting section 41 of the *Administrative Tribunals Act* as it is incorporated under section 175 [*public may attend*] of this Act, that the respondent or another person
    - (i) be excluded from attending all or part of a discipline hearing, or
    - (ii) attend all or part of a hearing by electronic means;
  - (b) that a barrier be placed between a person who is in vulnerable circumstances and a respondent or other person, or that another means be used to obscure or prevent visual or auditory perception;
  - (c) that a patient support worker within the meaning of Division 5 [*Support Programs*] of Part 5, a family member, a friend or a companion animal be present to assist a person who is in vulnerable circumstances.
- (2) An order must not be made under subsection (1) (a) to exclude a respondent unless
- (a) the respondent is represented by a lawyer or, if the respondent has no lawyer, a person appointed by the discipline panel for this purpose, and
  - (b) the panel is satisfied that the respondent is not unduly prevented from making a reasonable defence.

**Protection orders respecting cross-examination**

- 187** A discipline panel may, by order, require one or more of the following:
- (a) that all or part of a cross-examination be conducted in writing only;
  - (b) that all or part of a cross-examination be conducted on the respondent's behalf
    - (i) by the respondent's lawyer or, if the respondent has no lawyer, a person appointed by the panel for this purpose, and
    - (ii) with or without the respondent being present;
  - (c) that all or part of a cross-examination be terminated if, in the opinion of the panel, the cross-examination is repetitive, abusive or otherwise inappropriate;

- (d) that all or part of a person’s written and sworn statement or affidavit be admitted as evidence for the truth of its contents without cross-examination, including with respect to the physical, mental or emotional impact of the respondent’s alleged conduct.

**Orders respecting sensitive records**

- 188**
- (1) A discipline panel that is conducting a discipline hearing must consider whether records that may be produced for the purposes of the hearing are sensitive records and, if so, whether an order should be made under subsection (4).
  - (2) If requested by a person, other than the respondent, whose information is contained in a record, a discipline panel must consider submissions made by the person with respect to the matters referred to in subsection (1).
  - (3) A sensitive record must not be produced unless, in the opinion of the discipline panel, the record or the part to be produced
    - (a) is likely relevant to an issue in the discipline hearing or with respect to the competence of a witness to testify, and
    - (b) must be produced in the interests of fairness, considering
      - (i) the person’s privacy interest in the record, and
      - (ii) the nature and purpose for which a party seeks to have the record produced.
  - (4) If subsection (3) applies, a discipline panel may, by order, authorize one or both of the following:
    - (a) that a sensitive record be produced or be produced only in part;
    - (b) that a sensitive record be produced only on conditions specified by the panel, including production only as follows:
      - (i) to the respondent’s lawyer;
      - (ii) if the respondent has no lawyer, to a person appointed by the panel for this purpose.

**Relevance of sensitive records**

- 189**
- For the purposes of section 188 (3) (a) [*orders respecting sensitive records*], the following assertions made by a respondent or any other person are not sufficient to establish that a sensitive record is likely relevant:
- (a) that the record exists;
  - (b) that the record relates to the presence or absence of a recent regulatory complaint;
  - (c) that the record relates to the act that is the subject of the allegations made against the respondent;

- (d) that the record was made close in time to a regulatory complaint, to a regulatory report or to the act that is the subject of the allegations made against the respondent;
- (e) that the record relates to a person's credibility, including that the record
  - (i) may disclose a person's prior inconsistent statement, or
  - (ii) may relate to the reliability of a person's testimony solely because the person has received or is receiving psychiatric or mental health treatment, therapy or counselling;
- (f) that the record relates to medical or psychiatric or mental health treatment, therapy or counselling that a person has received or is receiving;
- (g) that the record may reveal allegations that the person experienced an act of sexual misconduct or sexual abuse committed by someone other than the respondent;
- (h) that the record relates to a person's sexual reputation or sexual activity with any person, including with the respondent.

### **Division 17 – Orders After Discipline Hearings**

#### **If decision of competence or no misconduct**

- 190** If, after a discipline hearing, a discipline panel decides that a respondent does not lack competence or has not committed an act of misconduct,
- (a) the discipline panel must make an order to dismiss the citation, and
  - (b) any order made during the course of the investigation ceases to apply on the date of the decision.

#### **If decision of lack of competence or misconduct**

- 191** (1) If, after a discipline hearing, a discipline panel decides that a respondent lacks competence or has committed an act of misconduct, the panel must
- (a) make an order to dismiss the citation, if a disciplinary order is not appropriate in the circumstances, or
  - (b) make one or more disciplinary orders described in Division 4 [*Disciplinary and Other Orders*] of Part 5.
- (2) Sections 265 [*factors that must be considered*], 266 [*factors that may be considered*] and 267 [*additional factors if respondent is licensee*] apply for the purposes of making a disciplinary order.



- (3) An order made in the course of an investigation ceases to apply on the date that a discipline panel makes an order under this section, unless the panel orders otherwise.
- (4) After a discipline hearing, a discipline panel may make an order described in section 272 [*orders for hearing costs*].

#### **Orders for investigation expenses**

- 192** A registrar may make an order described in section 273 [*orders for investigation expenses*] if
- (a) a discipline panel makes a disciplinary order, and
  - (b) the investigation committee directs the registrar to make the order for investigation expenses.

#### **Corrections and clarifications**

- 193** Section 53 of the *Administrative Tribunals Act* applies to a discipline panel's decision and any orders made under this Division.

#### **Application for review**

- 194** (1) A respondent, a regulatory college or a complainant may make an application for a review of an order made by a discipline panel under section 191 [*if decision of lack of competence or misconduct*] by submitting to the director of discipline all of the following:
- (a) the application;
  - (b) all information, records and fees required under the practice directives.
- (2) An application for a review may be made with respect to more than one order, but
- (a) the respondent, regulatory college and complainant may each apply once only, and
  - (b) an application may be made only within 30 days after the date that notice of the order is received by the applicant.
- (3) Section 381 (3) [*application for reconsideration or review*] applies to an application for a review under this section as if the application for a review were made under that section.

#### **Conduct of review**

- 195** (1) After receiving an application for a review under section 194 [*application for review*], the director of discipline must conduct the review in accordance with the practice directives.
- (2) Section 382 (2) to (5) [*conduct of reconsideration or review*] applies to a review by the director of discipline as if the director were a decision maker under that section.

- (3) If more than one application for a review is made with respect to the same discipline hearing, the director of discipline may consider the applications together.
- (4) The director of discipline may conduct a review by any of the following means that, in the opinion of the director, are appropriate in the circumstances:
  - (a) inviting the respondent, the regulatory college and, if appropriate, the complainant to submit written submissions;
  - (b) conducting a hearing in accordance with, or using a process authorized under, the regulations or the practice directives.
- (5) The director of discipline must, for the purposes of a review, consider the respondent's disciplinary record, if any, and all information and records that
  - (a) were provided or introduced as evidence for the purposes of the discipline hearing, or
  - (b) were provided with the application for a review.

**After review**

- 196**
- (1) Unless an application for a review is dismissed, the director of discipline must do one of the following after a review under section 195 [*conduct of review*] is complete:
    - (a) confirm, vary, rescind or terminate the order that is under review;
    - (b) rescind the order that is under review and substitute a new order;
    - (c) refer the matter back to the discipline panel for reconsideration, with or without directions.
  - (2) The director of discipline must refund to the person who applied for the review the fee paid with the application if the director
    - (a) directs the discipline panel to rescind or terminate an order on the basis that it was not appropriate to make the order, or
    - (b) is of the opinion that a refund is appropriate in the circumstances.

**Enforcement of disciplinary orders**

- 197**
- (1) The regulatory college that is a party to a discipline hearing is responsible for the enforcement of disciplinary orders made against the respondent by the discipline panel or the director of discipline.
  - (2) If a respondent fails to comply with a disciplinary order, a regulatory college may enforce the order by one or both of the following means:
    - (a) by proceeding under Division 9 [*Discipline for Administrative Matters*] of this Part;

- (b) unless an application for judicial review is made with respect to the order within 30 days after the order is made, by
  - (i) filing a certified copy of the order with the Supreme Court, and
  - (ii) applying for an injunction under section 504 [*injunction or compliance order*].
- (3) For the purposes of an application for an injunction, a disciplinary order filed under subsection (2) (b) has the same force and effect, and proceedings may be taken on it, as if it were a judgment of the court.
- (4) A board must make bylaws respecting the enforcement of disciplinary orders.

## **PART 4 – PRACTICE OF DESIGNATED HEALTH OCCUPATIONS**

### **Division 1 – Authority to Practise**

#### **Definitions**

**198** In this Division:

“**adverse application decision**”, with respect to an application, means a decision to do one of the following:

- (a) refuse to register the applicant or refuse to vary, renew or reinstate a registration;
- (b) refuse to issue, vary, renew or reinstate an authorization;
- (c) impose or vary limits or conditions on a registration or authorization, other than as requested under the application;

“**applicant**” means a person who makes an application;

“**application**” means a registration application or an authorization application;

“**authorization application**” means an application to issue, vary, renew or reinstate an authorization;

“**permit**” means a permit or other record that is issued under an enactment as evidence that the holder is authorized to do a thing stated in the permit;

“**registration application**” means an application to be registered, or to vary, renew or reinstate registration.

#### **Authority to practise designated health occupation**

- 199** (1) A person must not practise a designated health occupation unless the person
- (a) meets the eligibility standards that apply to the designated health occupation, and

- (b) meets all of the following conditions that apply, if any, under the designation regulation:
  - (i) if holding a credential or permit is required, the person holds the credential or permit;
  - (ii) if registration is required, the person is registered;
  - (iii) if an authorization is required, the person holds the authorization.
- (2) A regulated health service provider must not practise a designated health occupation if the regulated health service provider's practice authority, including any credential or permit required under a designation regulation, is suspended.

**Eligibility to practise**

- 200**
- (1) The minister may, in a designation regulation, make regulations respecting eligibility standards and determinations of eligibility.
  - (2) For the purposes of subsection (1), the minister may make regulations requiring applicants and regulated health service providers to do one or more of the following:
    - (a) have specified types of qualifications, including with respect to one or more of the following:
      - (i) education, training, programs, examinations and assessments;
      - (ii) continuing education undertaken for the purpose of ensuring that knowledge, skills and abilities remain current;
      - (iii) credentials or permits, or both, including credentials or permits issued by specified persons or by persons meeting specified criteria;
      - (iv) experience in providing one or more types of health services, including experience gained under the supervision or direction of other regulated health practitioners;
      - (v) evidence of good character, including character references and other types of checks and references;
    - (b) successfully complete a program, examination or assessment set or recognized by the health occupation director;
    - (c) be vaccinated against specified transmissible illnesses;
    - (d) give to the health occupation director proof of eligibility or of continued eligibility.

**Director's discretion**

- 201** (1) The minister may, in a designation regulation, confer a discretion on the health occupation director to do one or more of the following:
- (a) make rules respecting one or more of the matters referred to in section 200 [*eligibility to practise*];
  - (b) determine if a person has qualifications that are substantially equivalent to those required under the eligibility standards;
  - (c) allow an ineligible person to practise a designated health occupation if the director is satisfied that the person will
    - (i) meet the eligibility standards within a period set by the minister under the designation regulation, and
    - (ii) be adequately supervised or directed by another regulated health practitioner until the person meets the eligibility standards.
- (2) The minister may, in a designation regulation, impose limits and conditions, or confer a discretion on the health occupation director to impose limits and conditions, on the practice of a designated health occupation by a person referred to in subsection (1) (c).

**Registration or authorization may be required**

- 202** (1) The minister may, in a designation regulation, do one or both of the following:
- (a) prohibit a person from practising a designated health occupation unless the person is registered;
  - (b) prohibit a person from practising a designated health occupation unless the person holds an authorization.
- (2) If the minister acts under subsection (1) (a), the health occupation director must establish and maintain a registry.

**Rules**

- 203** (1) A health occupation director must make rules respecting the factors to be considered for the purposes of determining whether persons meet eligibility standards.
- (2) If registration or authorization is required under a designation regulation, the health occupation director must make rules respecting all of the following that apply:
- (a) applications;
  - (b) the granting of registrations, the issuance of authorizations, and the variation, renewal and reinstatement of registrations and authorizations;
  - (c) the limits and conditions that may be imposed on registrations and authorizations;

- (d) the expiry of registrations and authorizations;
- (e) suspensions and revocations of registrations and authorizations.

**Procedural matters**

- 204** A health occupation director must publish all of the following:
- (a) the policies and procedures that apply to determinations of whether persons meet eligibility standards;
  - (b) typical processing periods for applications and any known factors likely to delay the processing of applications.

**Making applications**

- 205** (1) If a person must be registered or hold an authorization, or both, to practise a designated health occupation, the person may make an application by submitting the application to the health occupation director in accordance with all applicable orders made under section 386 *[administrative powers]*.
- (2) An application must include the following:
- (a) the information and records required under the designation regulation and the rules;
  - (b) the fees required under the designation regulation;
  - (c) the applicant's criminal record check authorization, if required under the designation regulation.

**Receiving applications**

- 206** (1) After receiving an application, a health occupation director must do both of the following unless section 210 *[administrative refusal]* applies:
- (a) obtain the applicant's disciplinary record and record of past applications, if any;
  - (b) assess the application in accordance with the designation regulation and the rules.
- (2) A health occupation director may, by order, require an applicant to do one or more of the following:
- (a) comply with an order made under section 386 *[administrative powers]*;
  - (b) provide additional information or records, including
    - (i) personal information or other types of confidential information, and
    - (ii) proof in a form satisfactory to the director of a matter referred to in the application;
  - (c) comply with the order on or before a specified date.

**Before making decision**

- 207** Before making a decision with respect to an application, a health occupation director may
- (a) give written notice to the applicant of
    - (i) the decision being considered and the reasons for the decision being considered, and
    - (ii) the processes that apply for the purposes of paragraph (b) and any other information set out in the rules,
  - (b) give to the applicant the choice of either
    - (i) requesting a hearing, or
    - (ii) accepting, if the director is of the opinion that it would be appropriate in the circumstances, registration or an authorization, or both, that is subject to different limits or conditions or that is of a class that is different from the limits, conditions or class requested under the application, and
  - (c) if the applicant requests a hearing in accordance with the notice given under paragraph (a) (ii), hold the hearing.

**If application accepted**

- 208** (1) Subject to section 209 [*adverse application decision*], if a health occupation director is satisfied, with or without a hearing, that an applicant meets the eligibility standards that apply with respect to the applicant's application, the director must, as applicable,
- (a) register or issue an authorization to the applicant, or both, or
  - (b) vary, renew or reinstate the applicant's registration or authorization, or both, as requested in the application.
- (2) If authorized to do so under the designation regulation, a health occupation director may attach limits or conditions to a registration or authorization, including for the purposes of being satisfied that the applicant meets the eligibility standards.

**Adverse application decision**

- 209** (1) Subject to subsection (2), a health occupation director must not make an adverse application decision with respect to an application unless the health occupation director first gives notice and an opportunity to be heard as described in section 207 [*before making decision*].

- (2) A health occupation director may make an adverse application decision with respect to an application with or without notice or a hearing if either of the following circumstances apply:
  - (a) a circumstance referred to in section 210 [*administrative refusal*];
  - (b) the applicant has been determined to be a risk under the *Criminal Records Review Act*.
- (3) Nothing in subsection (2) limits the grounds on which a health occupation director may make an adverse application decision if the director gives notice and an opportunity to be heard under subsection (1).
- (4) If a health occupation director makes an adverse application decision, the director must give to the applicant written notice of the decision and the reasons for the decision.

#### **Administrative refusal**

- 210** A health occupation director may make an adverse application decision with respect to an application if any of the following circumstances apply:
- (a) the applicant fails to submit with the application any information, records, fees or proof of a thing required under the designation regulation, the rules or a disciplinary order;
  - (b) the applicant fails to comply with an order made under section 206 [*receiving applications*];
  - (c) the applicant is prohibited under a disciplinary order from making the application or has failed to meet the conditions of a disciplinary order;
  - (d) the designation regulation requires applicants to have portable criminal record checks and the registrar under the *Criminal Records Review Act* has determined that the applicant does not have a portable criminal record check within the meaning of that Act.

#### **Information in registry**

- 211** (1) This section applies if
- (a) a health occupation director is required to keep a registry, and
  - (b) an applicant is registered or has been issued an authorization, or an applicant's registration or authorization is varied, renewed or reinstated.
- (2) A health occupation director must include in the registry, under a regulated health service provider's name, all of the following:
- (a) the regulated health service provider's business contact information;
  - (b) if applicable, the class, limits and conditions, if any, that apply to the regulated health service provider's registration or authorization, or both;
  - (c) any additional information as prescribed.



- (3) If prescribed circumstances apply, a health occupation director must update the registry to replace the information referred to in subsection (2) with a notation that the regulated health service provider is a former regulated health service provider.

**Other matters**

- 212**
- (1) Except as required under section 209 [*adverse application decision*], a health occupation director is not required to give to an applicant notice or an opportunity to be heard before the director exercises a power or performs a duty under this Division.
  - (2) An applicant is not entitled to a review by the Health Professions Review Board, or to an appeal to any person or body, of a decision made under this Division.
  - (3) Except as authorized under a designation regulation, application fees are not refundable, including with respect to applications that are withdrawn or refused.

**Division 2 – Duties of Regulated Health Service Providers**

**May set practice requirements**

- 213**
- (1) The minister may, in a designation regulation, make regulations respecting the following:
    - (a) the display of a credential, a permit within the meaning of section 198 [*definitions*] or an authorization;
    - (b) the types of information that must, or must not, be provided by regulated health service providers to patients or the public;
    - (c) practice standards for the purposes of protecting the public from harm.
  - (2) The minister may, in a designation regulation, confer a discretion on the health occupation director to make rules respecting one or more of the matters referred to in subsection (1).

**General duty to comply**

- 214**
- (1) In practising a designated health occupation, a regulated health service provider must comply with all of the following that apply:
    - (a) this Act and the regulations and rules;
    - (b) orders made under this Act;
    - (c) if the regulated health service provider is registered or holds an authorization, any limits or conditions on the registration or authorization.

- (2) A regulated health service provider who provides health services in collaboration with another person remains personally responsible for compliance as described under subsection (1).

**Duty respecting actionable conduct**

- 215** A regulated health service provider must not commit an act of actionable conduct.

**Duties respecting practice**

- 216** In practising a designated health occupation and in performing duties under this Act, a regulated health service provider must act in accordance with the following principles:
- (a) to protect the public from harm and discrimination;
  - (b) to take anti-discrimination measures;
  - (c) to act in a manner that is respectful of the privacy of patients.

**Duty to cooperate**

- 217** A regulated health service provider must cooperate with a person who is exercising powers or performing duties under this Act, including by doing all of the following:
- (a) responding promptly to communications and to requests for information or records;
  - (b) appearing and answering questions on request;
  - (c) complying with an order of the health occupation director or an investigator.

**Duty to give notice**

- 218** (1) A regulated health service provider must give written notice to the health occupation director within 7 days after the date that any of the following circumstances first arises:
- (a) if regulated health service providers are required under the designation regulation to hold a credential or a permit within the meaning of section 198 [*definitions*], the expiry or suspension of the regulated health service provider's credential or permit;
  - (b) if regulated health service providers are required under the designation regulation to be registered or hold an authorization, there are reasonable grounds to believe that the regulated health service provider is no longer eligible
    - (i) to be registered or hold an authorization, or
    - (ii) to be registered in a class that applies to the registration or to hold an authorization of the class that applies to the authorization;
  - (c) a circumstance referred to in section 210 (d) [*administrative refusal*].

- (2) A regulated health service provider must give written notice to the health occupation director, within the period required under the rules, of the following:
- (a) a change to the regulated health service provider’s business contact information;
  - (b) a circumstance described in the rules.

**Continuing duties**

- 219** A regulated health service provider must do the following on request of the health occupation director:
- (a) provide a criminal record check authorization;
  - (b) provide proof satisfactory to the director of the regulated health service provider’s continued eligibility to practise a designated health occupation.

**Duty to provide information**

- 220** (1) A health occupation director may, by order, require a regulated health service provider to give to the director information, including personal information, for the purposes of section 493 [*if information collection order made*].
- (2) A regulated health service provider must give to the health occupation director the information required under subsection (1) in the form and manner, and on or before the date, required by the director.

**Division 3 – Complaints**

**Rules**

- 221** (1) A health occupation director must make rules respecting procedures for making regulatory complaints, including
- (a) the information and records that must be submitted, and
  - (b) providing for the variation of procedures as appropriate to accommodate individual circumstances of complainants.
- (2) The minister may, in a designation regulation, make regulations respecting one or more of the following:
- (a) the circumstances in which summary protection orders may be made;
  - (b) the limits and conditions that may be imposed on a respondent’s practice of a designated health occupation if the respondent is subject to a summary protection order;
  - (c) the determination of investigation expenses.
- (3) The minister may, in a designation regulation, confer a discretion on the health occupation director to make rules respecting one or more of the matters referred to in subsection (2).

**Regulatory complaints by health occupation director**

- 222** A health occupation director may make a regulatory complaint based on information from any source, including, without limitation, any of the following:
- (a) information obtained from or prepared by a person exercising a power or performing a duty under this Act;
  - (b) information from another regulator or an extrajurisdictional regulator;
  - (c) information that gives the director reasonable grounds to believe that the respondent has been determined to be a risk under the *Criminal Records Review Act*;
  - (d) information from the media or another public source.

**Regulatory complaints by others**

- 223** (1) A person may do one or both of the following:
- (a) make a regulatory complaint by submitting to the health occupation director the complaint and all information and records required under the rules;
  - (b) apply for an identity protection order in accordance with section 235 [*applications under this Division*].
- (2) If a person makes a regulatory complaint but does not provide contact information or information that is sufficient to identify the person, the health occupation director may do one or both of the following:
- (a) make an order to dismiss the complaint;
  - (b) make, based on the complaint, a new regulatory complaint under section 222 [*regulatory complaints by health occupation director*].

**Gathering information and records**

- 224** (1) On making or receiving a regulatory complaint, the health occupation director must retrieve the respondent's disciplinary record, if any, and assess the complaint in accordance with the rules.
- (2) To obtain information or records that may be relevant to the investigation of a regulatory complaint, a health occupation director may order the complainant or the respondent, or both, to provide additional information and records, including personal information or other types of confidential information, by the date stated in the order.

**Summary actions**

- 225** (1) After receiving a regulatory complaint, a health occupation director may make a summary dismissal order or a summary protection order.

- (2) A health occupation director may transfer a regulatory complaint to another regulator if
  - (a) the complaint is with respect to the practice of a designated profession or occupation governed by the other regulator, and
  - (b) the complainant consents to the transfer.
- (3) If a regulatory complaint is not dismissed or transferred, the director must investigate the complaint.

### **Division 4 – Investigations**

#### **General powers**

- 226** (1) At any time during an investigation, a health occupation director may do one or more of the following:
- (a) make, vary or terminate a summary protection order;
  - (b) make a suspension order or a termination order;
  - (c) make an order to dispose of the regulatory complaint by making
    - (i) a summary dismissal order, or
    - (ii) one or more disciplinary orders under section 269 (a), (b), (c) or (d) (i), (ii) or (iii) [*orders not affecting practice authority*], if the respondent consents to the making of the order;
  - (d) merge all or part of an investigation with another investigation or divide an investigation into parts;
  - (e) collaborate with investigators employed or retained by other regulators who are investigating the same, similar or related matters;
  - (f) make a new regulatory complaint with respect to a matter found in the course of an investigation, whether or not the matter is related to the complaint that is the subject of the investigation;
  - (g) do other things as authorized under the designation regulation.
- (2) If an investigation of a regulatory complaint has been divided into more than one investigation and part of the complaint is disposed of under this Part, the part that was not disposed of may continue to be investigated.

#### **Appointment of investigator**

- 227** If a health occupation director is of the opinion that particular knowledge, skills or abilities are needed to assess allegations made against a respondent, the director
- (a) may appoint an investigator to conduct all or part of the investigation, and

- (b) may, at any time during the investigation,
  - (i) give directions for the purposes of the investigation, including limiting or putting conditions on the exercise of a power or performance of a duty by the investigator, and
  - (ii) require the investigator to make reports to the director, including imposing a reporting schedule.

**Duty to proceed in timely manner**

- 228** A health occupation director and an investigator must conduct an investigation in a timely manner.

**Limits on investigation powers**

- 229** (1) A health occupation director and an investigator must not exercise a power under this Division except for the purposes of an investigation.
- (2) An investigator must not exercise a power under this Division except in accordance with the directions, if any, of the health occupation director.

**Investigation powers**

- 230** (1) A health occupation director and an investigator may make an information and production order.
- (2) The failure of a person to comply with an information and production order does not prevent the health occupation director or investigator from continuing the investigation.
- (3) If a respondent fails to comply with an information and production order, the health occupation director or investigator may give written notice to the respondent that, if the order is not complied with by the date stated in the notice, the health occupation director may
- (a) draw an adverse inference from the failure to comply,
  - (b) make a finding that the respondent has committed an act of actionable conduct, and
  - (c) make any order that the director may make under section 232 [*decision*] with respect to the finding under paragraph (b) of this subsection.

**Division 5 – Decision After Investigation**

**What health occupation director must decide**

- 231** (1) Unless a regulatory complaint has been dismissed, a health occupation director must, on completion of the investigation and on receiving the investigator's final report, if any, do both of the following:

- (a) review all information and records obtained during the course of the investigation, including the respondent's disciplinary record;
  - (b) decide if the director has reasonable grounds to believe that the respondent has committed an act of actionable conduct.
- (2) For the purposes of subsection (1) (b), a health occupation director must
- (a) consider the context in which the respondent's conduct occurred, and
  - (b) consider, with respect to allegations of discrimination,
    - (i) the perspective of the respondent and of the persons, if any, who experienced the respondent's alleged conduct, and
    - (ii) the influence of those perspectives on the respondent's actions and how those actions were perceived by the persons, if any, who experienced the respondent's alleged conduct.

**Decision**

- 232** (1) If a health occupation director decides that a respondent has committed an act of actionable conduct, the director must dispose of the regulatory complaint by
- (a) making an order to dismiss the complaint, if a disciplinary order is not appropriate in the circumstances, or
  - (b) making one or more disciplinary orders described in section 269 (a), (b), (c) or (d) (i), (ii) or (iii) [*orders not affecting practice authority*] or 270 [*orders affecting practice authority*].
- (2) Sections 265 [*factors that must be considered*] and 266 [*factors that may be considered*] apply for the purposes of making a disciplinary order.
- (3) A health occupation director may make an order described in section 273 [*orders for investigation expenses*] if the director disposes of a regulatory complaint by an order other than an order to dismiss the complaint.
- (4) If subsection (1) does not apply, a health occupation director must do both of the following:
- (a) rescind any summary protection orders that apply;
  - (b) dispose of the regulatory complaint by making an order to dismiss the complaint.

**Reconsideration**

- 233** A respondent who is subject to an order made under section 232 [*decision*] may apply in accordance with section 381 [*application for reconsideration or review*] for a reconsideration by the health occupation director.

## PART 5 – INVESTIGATIONS AND DISCIPLINE GENERALLY

### Division 1 – Identity Protection

#### Definitions

**234** In this Division:

“**decision maker**” means the following, as applicable:

- (a) if a matter is with respect to a licensee, the decision maker is the following for the regulatory college that is responsible for governing the designated health profession practised by the licensee:
  - (i) the registrar, with respect to any part of the matter that is an administrative matter;
  - (ii) the investigation committee, with respect to any part of the matter that is not an administrative matter;
- (b) if a matter is with respect to a regulated health service provider, the decision maker is the health occupation director of the regulatory program that applies to the designated health occupation practised by the regulated health service provider;

“**notice of intent**” means a notice given under section 238 [*notice before decision is made*].

#### Applications under this Division

- 235** (1) A person may make an application for an identity protection order or a termination order by submitting the application and the reasons for the application in the form and manner required by
- (a) a registrar, if the registrar or an investigation committee is the decision maker, or
  - (b) a health occupation director, if the director is the decision maker.
- (2) A registrar who receives an application must refer to the investigation committee any part of the application that relates to a matter that is not an administrative matter.

#### Who may apply for identity protection order

- 236** A person may apply for an identity protection order if the person is one of the following:
- (a) a person who makes a regulatory report or a regulatory complaint;
  - (b) a person who assists or gives information or records to a person who is exercising a power or performing a duty under this Act;



- (c) whether or not a regulatory report or a regulatory complaint is made, a person who
  - (i) received, or may have received, health services from a licensee who is not, or may not have been, fit to practise, or
  - (ii) experienced a regulated health practitioner's conduct, if that conduct may be an act of misconduct or actionable conduct.

**Considerations for identity protection order**

- 237** (1) After receiving an application for an identity protection order, a decision maker must consider all of the following:
- (a) the nature, scope and gravity of the allegations made against the respondent;
  - (b) whether the person who applied for the order is at risk of suffering an adverse consequence if that person is identified;
  - (c) whether the investigation can be conducted in a reasonably efficient and effective manner if an identity protection order is made;
  - (d) if an identity protection order is made and the respondent is subsequently subject to disciplinary action or disciplinary proceedings, whether the respondent may
    - (i) suffer undue prejudice or significant procedural unfairness, or
    - (ii) be unduly prevented from making a reasonable defence.
- (2) For certainty, any risk to a person who applies for an identity protection order may be inferred from the circumstances, and no evidence is required.

**Notice before decision is made**

- 238** Before taking an action under section 239 [*identity protection orders*], the decision maker, or the registrar if the decision maker is an investigation committee, must give to the person who applied for an identity protection order written notice of all of the following that apply:
- (a) the actions and order, if any, the decision maker is considering making and the decision maker's reasons;
  - (b) the processes that apply for the purposes of the following:
    - (i) section 240 [*termination orders and reconsideration*], if applicable;
    - (ii) section 381 [*application for reconsideration or review*].

**Identity protection orders**

- 239** (1) A decision maker may make or refuse to make an identity protection order as described in this section.
- (2) If a decision maker makes an identity protection order that partially protects a person's identity, the decision maker may include in the order directions with respect to one or more of the following:
- (a) the information that may be disclosed, including information that may indirectly identify the person;
  - (b) the persons to whom the information may be disclosed;
  - (c) the limits and conditions that apply to the disclosure or to the persons to whom the information is disclosed;
  - (d) the conduct of the investigation.
- (3) If a decision maker makes an identity protection order that fully protects a person's identity, the decision maker may include in the order
- (a) a requirement for the investigation to continue, with directions respecting the conduct of the investigation, or
  - (b) a termination order.
- (4) Without limiting subsection (2) (d) or (3) (a), a decision maker may give directions for one or both of the following purposes:
- (a) to facilitate the efficient and effective conduct of the investigation;
  - (b) to prevent or lessen any risks or potential adverse consequences to the person whose identity is partially or fully protected or the respondent, or both.
- (5) A decision or order made under this section must not take effect until notice is given under section 241 [*notice of final decision*].

**Termination orders and reconsideration**

- 240** (1) A person may apply for a termination order if both of the following apply:
- (a) the person is, with respect to the investigation that is the subject of the order, the complainant or a person who is alleged to have experienced the respondent's conduct;
  - (b) the decision maker gives a notice of intent to
    - (i) refuse to make an identity protection order that would protect the identity of a person referred to in paragraph (a), or
    - (ii) make an order that only partially protects the identity of a person referred to in paragraph (a).
- (2) An application for a termination order may be made once only and only within 30 days after the notice of intent is received.

- (3) A decision maker who receives an application for a termination order must make the order.
- (4) The making of a termination order does not affect any other regulatory complaint made with respect to the same or similar facts alleged against the respondent.
- (5) A person referred to in subsection (1) (a) may apply in accordance with section 381 [*application for reconsideration or review*] for reconsideration by the decision maker if the decision maker
  - (a) gives a notice of intent to take an action referred to in subsection (1) (b) of this section, or
  - (b) makes a termination order.

**Notice of final decision**

- 241**
- (1) A decision maker must give notice, in accordance with this section, of the decision maker’s final decision with respect to an application for an identity protection order.
  - (2) The notice must be in writing and include all of the following that apply:
    - (a) if no application was made for a termination order or reconsideration, confirmation that the decision maker will proceed as described in the notice of intent;
    - (b) if an application was made for a termination order or reconsideration,
      - (i) the decision maker’s decision respecting the application for a termination order or after reconsideration and the reasons for the decision, and
      - (ii) the decision maker’s final decision with respect to the application for an identity protection order;
    - (c) if an identity protection order or termination order was made, a copy of the order.
  - (3) The decision maker, or the registrar if the decision maker is an investigation committee, must give notice of the decision maker’s final decision to
    - (a) the person who applied for an identity protection order, and
    - (b) the persons, if any, who made an application for a termination order or reconsideration.

**Division 2 – Disclosure of Information**

**Protected information**

- 242**
- (1) In this Division and subject to subsection (2), “**protected information**” means the following:

- (a) the personal information of a patient or a person who sought health services from a regulated health practitioner;
  - (b) information or records that must be protected under an identity protection order;
  - (c) the personal health information of a regulated health practitioner, including
    - (i) information or records from which personal health information may be inferred, or
    - (ii) information or records respecting the conduct of, or an assessment or report made with respect to, a capacity evaluation;
  - (d) information or records prepared or obtained by any person in the course of or for the purposes of an investigation, including a competence assessment and a capacity evaluation;
  - (e) information or records that identify or may identify, directly or indirectly, a person who
    - (i) gave information or records to an investigator, a capacity officer or a licensee who conducts an assessment, and
    - (ii) gave the information or records for the purposes of an investigation, including for the purposes of a competence assessment or a capacity evaluation;
  - (f) information or records withheld from a respondent under a direction or order of a discipline panel;
  - (g) information or records specified by the director of discipline that in the opinion of the director would, if disclosed, cause hardship to a person who was harmed, abused, exploited or discriminated against by a respondent to such a degree that the person's privacy interests outweigh the public's interest in transparent decision-making;
  - (h) quality assurance information.
- (2) Subsection (1) (d) and (e) does not apply with respect to an investigation conducted under Division 3 [*Unauthorized Practice*] of Part 8 with respect to a person who is not a regulated health practitioner.

**Disclosure of protected information**

- 243** (1) A person who exercises a power or performs a duty under Part 3, 4 or 5 must not disclose protected information except as follows:
- (a) the person may disclose to another person the other person's own personal information;

- (b) the person may disclose protected information as necessary to exercise a power or perform a duty under this Act;
  - (c) the person may disclose protected information if authorized under this Division.
- (2) Nothing in this Division is intended to limit the power to disclose protected information under subsection (1) (a) or (b).

**Disclosure may be refused**

- 244**
- (1) This section applies despite
    - (a) a requirement under this Division to disclose information or records to a person, and
    - (b) the *Freedom of Information and Protection of Privacy Act*, other than section 44 (2) or (3) of that Act.
  - (2) A registrar or health occupation director may refuse to disclose information with respect to a summary protection order if the registrar or director has reasonable grounds to believe that disclosure of the information
    - (a) may present a risk of harm to any person, or
    - (b) may cause a significant loss of evidence, if disclosure occurs before an investigation is complete.
  - (3) A registrar or health occupation director may refuse to disclose information with respect to a regulatory complaint or investigation if the registrar or director has reasonable grounds to believe that the information must be kept confidential to protect the interests of the complainant or another person affected by the investigation.
  - (4) An investigation committee may direct a registrar not to disclose information referred to in subsection (2) or (3) if the committee has the belief referred to in the applicable provision.

**Investigation information to complainants**

- 245**
- (1) This section applies with respect to complainants for whom a registrar or health occupation director has contact information.
  - (2) A registrar and a health occupation director must give to a complainant all of the following with respect to the complainant's regulatory complaint:
    - (a) written notice that the complaint was received;
    - (b) if a summary protection order is made, varied or terminated, written notice of the order, variation or termination and the reasons for the order, variation or termination;
    - (c) if the complaint was disposed of by the registrar or director, a summary of the disposition of the complaint and the reasons for the disposition.

- (3) A registrar must give to a complainant all of the following with respect to the complainant's regulatory complaint:
  - (a) summaries of progress reports made under section 129 (1) (b) [*duty to proceed in timely manner*];
  - (b) written notice of any of the following that apply:
    - (i) the division of an investigation into parts;
    - (ii) the delay or suspension, or the continuance after suspension, of an investigation;
  - (c) written notice of the Health Professions Review Board's review process with respect to complaint disposition reviews and timeliness reviews within the meaning of section 307 [*definitions*];
  - (d) if a request for citation was made, written notice of the request and the reasons for making the request.
- (4) A registrar and a health occupation director must give to a complainant prescribed information and records with respect to the investigation of regulatory complaints.
- (5) A registrar and a health occupation director may disclose protected information respecting an investigation for the purposes of complying with a duty under this section.

**Investigation information to respondents**

- 246**
- (1) This section applies with respect to respondents for whom a registrar or health occupation director has contact information.
  - (2) A registrar and a health occupation director must give to a respondent all of the following with respect to a regulatory complaint made against the respondent:
    - (a) written notice of the complaint, unless, in the case of a licensee, the registrar has reasonable grounds to believe that giving notice before the investigation is complete risks
      - (i) harm to any person, or
      - (ii) a significant loss of evidence;
    - (b) unless the respondent was not given notice of the complaint, a copy of the records given to a complainant;
    - (c) if an order is made, varied or terminated by the registrar or director,
      - (i) written notice of the order as made, varied or terminated, and the reasons for the order, variation or termination, and
      - (ii) the reconsideration or review process, if applicable;

- (d) copies of
  - (i) the assessment and the reasons for the assessment, given to the registrar under section 136 (1) [*on completing assessment*], or
  - (ii) the decision made by the director under section 232 [*decision*] and the reasons for the decision.
- (3) A registrar and a health occupation director must give to a respondent prescribed information and records with respect to the investigation of regulatory complaints.
- (4) A registrar and health occupation director may disclose protected information respecting a regulatory complaint or investigation for the purposes of complying with a duty under this section.

**Information for purposes of hearing**

- 247**
- (1) In this section, “**hearing records**” means the information and records given to the director of discipline under section 137 [*information to director of discipline*].
  - (2) The registrar must give to the following persons a copy of all hearing records that, in the opinion of the registrar, are necessary to the persons’ participation in a discipline hearing:
    - (a) a respondent;
    - (b) a complainant or other person who has an interest in a citation or a discipline hearing, if requested by the complainant or person.
  - (3) The registrar must not disclose protected information under subsection (2) except
    - (a) investigation information for the purposes of
      - (i) section 245 (3) (a) or (b) [*information to complainants*], and
      - (ii) section 246 (2) (b) [*information to respondents*], as that provision relates to the information given under section 245 (3) (a) or (b), or
    - (b) as authorized under subsection (4) of this section.
  - (4) If the director of discipline is satisfied that disclosure of protected information to a person who received hearing records under subsection (2) is necessary for procedural fairness, the director may
    - (a) authorize the registrar to disclose the information to the person or a lawyer who is representing the person, and
    - (b) make an order respecting the use and further disclosure of the information for the purposes of a discipline hearing.

**Information respecting citations and orders**

- 248** (1) The director of discipline must give to all persons who have an interest in a citation or a discipline hearing all of the following:
- (a) if the director decides not to issue a citation or to cancel a citation, a copy of the decision and the reasons for the decision;
  - (b) as soon as reasonably practicable after the date that a discipline panel makes an order under section 191 [*if decision of lack of competence or misconduct*],
    - (i) a copy of the panel’s decision, the orders made under that section and the reasons for the decision and orders, and
    - (ii) written notice of the director’s review process;
  - (c) if an application for a review is made under section 194 [*application for review*], a copy of the director’s decision and the reasons for the decision.
- (2) The director of discipline may disclose protected information to a person who has an interest in a citation or a discipline hearing if the director is of the opinion that disclosure is necessary for procedural fairness.

**Update of registry**

- 249** (1) A registrar or a health occupation director who is required to keep a registry must update the registry under a respondent’s name as required under this section and in accordance with the regulations.
- (2) Subject to subsection (3), a registrar must update the registry to include all of the following:
- (a) if a disciplinary order is made with respect to an administrative matter, a summary of the matter and of the order and the reasons for the order;
  - (b) if a summary protection order is made, a summary of the order and of the regulatory complaint on which the order is based and the reasons for the order;
  - (c) if a disciplinary order is made with respect to a matter that is not an administrative matter, a summary of
    - (i) the regulatory complaint on which the order is based or, if a citation is issued, a summary of the citation, and
    - (ii) the order made and the reasons for the order;
  - (d) any additional information, including protected information,
    - (i) as prescribed or as required under the bylaws, and
    - (ii) as directed by the investigation committee, a capacity officer or the director of discipline, for the purposes of protecting the public from harm.



- (3) No information is to be entered into the registry with respect to any of the following:
  - (a) an administrative matter to which prescribed circumstances apply;
  - (b) a continuing practice order or a revocation order, unless a capacity officer directs otherwise.
- (4) A health occupation director must update the registry to include all of the following:
  - (a) the information referred to in subsection (2) (b) and (c);
  - (b) any additional information, including protected information, as prescribed or that, in the opinion of the director, should be disclosed for the purposes of protecting the public from harm.

**If identity protection order made**

- 250** (1) A person who exercises a power or performs a duty under Part 3, 4 or 5 may disclose information protected under an identity protection order as follows:
  - (a) as authorized under the order;
  - (b) to a person authorized, in writing, by the person whose identity is protected under the order.
- (2) For certainty, a complainant, respondent or other person who may have an interest in a disciplinary proceeding is not entitled to information protected under an identity protection order.

**Personal health information**

- 251** A person who discloses protected information under this Division must not disclose a respondent's personal health information unless the person is satisfied that disclosing the personal health information is necessary to protect the public from harm.

**Notice of health hazard**

- 252** (1) A registrar, capacity officer or health occupation director may give written notice to the provincial health officer or a medical health officer if the registrar, officer or director has reasonable grounds to believe that a health hazard within the meaning of the *Public Health Act* exists or may exist.
- (2) A person who gives a notice under subsection (1)
  - (a) must provide the information referred to in section 11 of the *Public Health Act* as if the notice were a report made under that section, and
  - (b) may disclose protected information, if necessary to comply with a request made under section 11 (e) of that Act.

**Notice to employers**

- 253** (1) This section applies if
- (a) a summary protection order is made against a respondent, or
  - (b) a disciplinary order is made against a respondent and the order limits, suspends or revokes the respondent's practice authority.
- (2) As soon as reasonably practicable after an order referred to in subsection (1) is made, a registrar or health occupation director must give written notice of the order as follows:
- (a) to a person who employs the respondent to provide health services, other than on contract or as a volunteer;
  - (b) if the registrar or director is of the opinion that it would be appropriate to do so, to one or both of the following:
    - (i) a person who employs the respondent to provide health services on contract or as a volunteer;
    - (ii) a person who employs or formerly employed the respondent for any purpose.
- (3) A registrar or health occupation director must, as soon as reasonably practicable, give to a person who received a notice under subsection (2) notice of any subsequent variation, rescindment or termination of the order described in the first notice.

**Content of notice to employers**

- 254** (1) A registrar or health occupation director must include with a notice given under section 253 [*notice to employers*] any protected information that is authorized to be disclosed under subsection (2), (3) or (4) of this section.
- (2) A capacity officer may authorize the registrar to disclose protected information to the recipient of a notice if
- (a) the order referred to in the notice is a continuing practice order or a revocation order, and
  - (b) the officer is satisfied that the information is necessary for the recipient to
    - (i) take steps to prevent or reduce the risk of harm,
    - (ii) effectively monitor the respondent's practice of a designated health profession for indications of harm, or
    - (iii) identify and respond appropriately to any harm that may have occurred already.

- (3) The director of discipline may authorize the registrar to disclose protected information to the recipient of a notice if
  - (a) the order referred to in the notice is a disciplinary order made by a discipline panel, and
  - (b) the director is satisfied that disclosing the information is necessary for the recipient to take an action referred to in subsection (2) (b).
- (4) A health occupation director may disclose protected information to the recipient of a notice if the director is satisfied that disclosing the information is necessary for the recipient to
  - (a) take steps to prevent or reduce the risk of harm,
  - (b) effectively monitor the respondent's practice of a designated health occupation for indications of harm, or
  - (c) identify and respond appropriately to any harm that may have occurred already.

**Public notice of certain matters**

- 255**
- (1) A registrar, investigation committee or health occupation director may disclose that a regulatory complaint has been received.
  - (2) The director of discipline may disclose that a citation has been issued with respect to a regulatory complaint if
    - (a) a person has requested the disclosure, and
    - (b) the respondent has been served with the citation.
  - (3) A registrar, an investigation committee, a health occupation director or the director of discipline may, in response to a request made by any person, disclose that a regulatory complaint or citation has been dismissed.
  - (4) A registrar, an investigation committee, a health occupation director or the director of discipline
    - (a) may disclose protected information under this section if, in the opinion of the person making the disclosure, disclosing the information is necessary to protect the public from harm, and
    - (b) must not disclose the respondent's name unless the respondent's name has already been made public or paragraph (a) applies.

**Publication of certain matters**

- 256**
- (1) A registrar or health occupation director must publish a copy of each summary protection order, disciplinary order and, if applicable, request for citation, and the reasons for the orders and the request.

- (2) Publication under subsection (1) must occur as soon as reasonably practicable after
  - (a) the order or request is made, or
  - (b) the registrar receives notice of the order, in the case of a disciplinary order made by a discipline panel.
- (3) A registrar must include, with a summary protection order published under this section, any information that the investigation committee directs to be published.
- (4) A registrar must include, with a disciplinary order or request for citation published under this section, any information that the director of discipline directs to be published.
- (5) A registrar or health occupation director may include protected information with an order or request published under this section if, in the opinion of the registrar or director, the information is necessary to protect the public from harm.

### **Division 3 – Orders During Investigation Stage**

#### **Information and production orders**

- 257** (1) Subject to subsection (2), a person who may make an information and production order may order a respondent, complainant or any other person who may have relevant information to do one or more of the following:
- (a) provide, by the date stated in the order, information or records in the person's possession or control;
  - (b) answer questions, including by attending at a specified place and time to answer questions;
  - (c) produce, by the date stated in the order, equipment or materials in the person's possession or control.
- (2) An order under subsection (1) must not be made against
- (a) a quality assurance officer with respect to the conduct or results of a quality assurance assessment, or
  - (b) a capacity officer, or a licensee who conducts an assessment for the purposes of a capacity evaluation, with respect to the conduct of, or a report made with respect to, a capacity evaluation.

#### **Summary dismissal orders**

- 258** (1) A person who may make a summary dismissal order may, by order, dispose of a regulatory complaint without an investigation or before an investigation is complete.

- (2) A summary dismissal order may be made only if one of the following circumstances applies:
  - (a) the respondent does not practise, and has never practised, a designated profession or occupation governed by the regulator;
  - (b) the complainant has failed to provide information or records as required under an order made under this Act;
  - (c) in the opinion of the registrar, investigation committee or health occupation director,
    - (i) the complaint is trivial, frivolous, vexatious, an abuse of process or made in bad faith, or
    - (ii) the allegations made in the complaint, if admitted or proven, do not indicate that the respondent is not fit to practise or has committed an act of misconduct or actionable conduct.
- (3) A summary dismissal order may be made without first giving to a complainant notice or an opportunity to be heard.
- (4) If a summary dismissal order is made for a reason referred to in subsection (2) (b) or (c) (ii), the person who makes the order may, if the person is of the opinion that it is appropriate in the circumstances, give to the respondent, in writing,
  - (a) notice that allegations made in a regulatory complaint may indicate an issue with the respondent's practice of a designated profession or occupation, and
  - (b) a warning, advice or information.

**Summary protection orders**

- 259**
- (1) Subject to the bylaws or a designation regulation, a person who may make a summary protection order may, by order, do one or more of the following:
    - (a) impose or vary limits or conditions on a respondent's practice authority;
    - (b) suspend a respondent's practice authority.
  - (2) A summary protection order may be made only if the investigation committee or health occupation director has reasonable grounds to believe that
    - (a) a respondent's practice of a designated profession or occupation may present a significant risk of harm to any person, or
    - (b) a respondent is providing false or misleading information to patients or the public and one of the following applies:
      - (i) a person who acts on the information is at significant risk of harm;
      - (ii) providing the information is an activity that is a health hazard within the meaning of the *Public Health Act*.

**Making summary protection orders**

- 260** (1) A summary protection order may be made without giving to the respondent notice or an opportunity to be heard.
- (2) A person who makes a summary protection order must give to the respondent, in writing, the reasons for making the order, if written reasons were not already given.

**Reconsideration**

- 261** (1) A respondent who is subject to a summary protection order may apply in accordance with section 381 [*application for reconsideration or review*] for a reconsideration by the investigation committee or health occupation director.
- (2) Despite section 381, an application for reconsideration of a summary protection order may be made more than once, in accordance with the directions of or a schedule set by, or as otherwise authorized by, the investigation committee or health occupation director.

**Variation or termination of summary protection order**

- 262** (1) A summary protection order may, by order, be varied or terminated
- (a) on the investigation committee's or health occupation director's own initiative, or
  - (b) after a reconsideration, if an application for a reconsideration is made.
- (2) A summary protection order must not be varied or terminated unless the investigation committee or health occupation director is satisfied that the variation or termination does not present an unreasonable risk of harm.

**Suspension and termination orders**

- 263** (1) A person who may make a suspension order
- (a) may, by order, suspend an investigation, if the person has reasonable grounds to believe that an investigation cannot reasonably proceed, and
  - (b) may rescind an order made under paragraph (a) and continue an investigation, if the person subsequently has reasonable grounds to believe that the suspended investigation can reasonably proceed.
- (2) A person who may make a termination order may, by order, dispose of a regulatory complaint by terminating the investigation if
- (a) the person has reasonable grounds to believe that an investigation cannot reasonably proceed, or
  - (b) section 240 (3) [*termination orders and reconsideration*] applies.

- (3) An investigation must not be suspended or terminated solely because
  - (a) the respondent’s practice authority has expired or has been revoked or surrendered, or
  - (b) the respondent is no longer a resident of British Columbia.

#### **Division 4 – Disciplinary and Other Orders**

##### **Definition**

**264** In this Division, “**decision maker**” means a person who is deciding on the disciplinary orders to be made against a respondent.

##### **Factors that must be considered**

- 265**
- (1) For the purposes of deciding on the disciplinary orders to be made against a respondent, a decision maker must consider all of the factors listed in this section.
  - (2) A decision maker must consider the nature, scope and gravity of the respondent’s conduct, including
    - (a) the extent to which the respondent’s conduct fails to conform to the principles described in section 72 (1) [*duties respecting practice*] or 216 [*duties respecting practice*], and
    - (b) whether the respondent
      - (i) caused harm or other adverse effects to any person,
      - (ii) deliberately or recklessly caused harm or a significant risk of harm, or was wilfully blind to actual or potential harm or an unreasonable risk of harm,
      - (iii) gained an advantage, financial or otherwise, from the conduct, or
      - (iv) repeated the conduct.
  - (3) A decision maker must consider all of the following factors:
    - (a) the respondent’s disciplinary record, including past allegations, patterns of conduct and discipline for similar conduct;
    - (b) the need to ensure the public’s confidence in the integrity of the designated profession or occupation;
    - (c) prescribed factors.

**Factors that may be considered**

- 266** For the purposes of deciding on the disciplinary orders to be made against a respondent, a decision maker may consider one or more of the following factors:
- (a) the possibility of rehabilitating the respondent or remediating any harm caused, including considering whether the respondent
    - (i) has acknowledged that the respondent lacks competence or has committed an act of misconduct or actionable conduct, or
    - (ii) has voluntarily taken rehabilitative or remedial steps;
  - (b) whether there are other aggravating or mitigating circumstances.

**Additional factors if respondent is licensee**

- 267**
- (1) If the respondent against whom a disciplinary order is to be made is a licensee, this section applies in addition to sections 265 [*factors that must be considered*] and 266 [*factors that may be considered*].
  - (2) For the purposes of deciding on the disciplinary orders to be made against a respondent, a decision maker must consider both of the following factors:
    - (a) the types of disciplinary action taken in similar cases;
    - (b) whether those types of actions are adequate for specific and general deterrence.
  - (3) For the purposes of deciding on the disciplinary orders to be made against a respondent, a decision maker may consider one or more of the following factors:
    - (a) subject to subsection (4) of this section,
      - (i) the respondent's failure, in the opinion of the investigation committee, to comply in good faith with an order made under section 157 [*restorative processes*], or
      - (ii) the respondent's refusal to consent to the making of an order under section 158 [*disposition with respondent's consent*];
    - (b) the respondent's compliance with, or attempts in good faith to comply with, an order made under section 157;
    - (c) a refund the respondent made or offered to the complainant, if any, or a patient, except under an order described in section 271 (1) (b) [*monetary penalties and refunds*];
    - (d) how long the respondent has been practising the designated health profession.
  - (4) A failure or refusal as described in subsection (3) (a) must not be considered unless
    - (a) the registrar has given written notice to the respondent that the failure or refusal may be considered an aggravating factor for the purposes of this section,



- (b) the registrar has, in the case of a failure, included in the notice
  - (i) the reasons that the investigation committee holds the opinion that the respondent has not complied in good faith, and
  - (ii) the actions that the respondent may take to come into compliance, unless a consent given under section 268 (2) [*restorative processes*] was withdrawn, and
- (c) the respondent was given a reasonable opportunity after receiving the notice to come into compliance or to consent to the order.

**Restorative processes**

- 268** (1) An order that requires a respondent to do one or more of the following is a disciplinary order for the purposes of this Act:
- (a) engage in a process that reflects or is influenced by Indigenous practices or is consistent with prescribed principles;
  - (b) engage in mediation or another type of process as provided for under the regulations;
  - (c) take another type of action that, in the opinion of the investigation committee or discipline panel, is appropriate to resolve a matter between the respondent and a person who experienced the respondent's conduct.
- (2) An order described in subsection (1) must not be made without the written consent of the respondent and
- (a) the other participants, if subsection (1) (a) or (b) applies, or
  - (b) the person who experienced the respondent's conduct, if subsection (1) (c) applies.
- (3) A registrar may, at any time, request information from the respondent and persons referred to in subsection (2) (a) or (b) for the purposes of determining if the respondent is complying or has complied in good faith with an order made under this section.

**Orders not affecting practice authority**

- 269** The following orders are disciplinary orders for the purposes of this Act:
- (a) an order that gives to a respondent, in writing, a warning or advice;
  - (b) an order that accepts from a respondent an undertaking not to repeat the conduct that is the subject of a regulatory complaint or administrative matter;
  - (c) an order that reprimands a respondent;

- (d) an order that requires a respondent, on or before a specified date, to do one or more of the following:
  - (i) take specified actions to remedy a breach or contravention, including actions to bring the respondent into compliance with another order made under this Act;
  - (ii) take anti-discrimination measures as set out in the bylaws or rules or as specified in the order;
  - (iii) undertake specified education, training or other remedial activities;
  - (iv) undergo one or more clinical or other assessments of competency.

**Orders affecting practice authority**

- 270** (1) The following orders are disciplinary orders for the purposes of this Act:
- (a) an order that imposes or varies limits or conditions on a respondent’s practice authority;
  - (b) an order that suspends a respondent’s practice authority for a specified period or until a respondent complies with specified conditions;
  - (c) an order that imposes limits or conditions on a respondent’s practice authority that will apply after a suspension is lifted;
  - (d) an order that revokes a respondent’s practice authority;
  - (e) an order that imposes limits or conditions on a respondent’s eligibility to apply for reinstatement of the respondent’s practice authority, including directing that the respondent will not be eligible
    - (i) for a specified period, or
    - (ii) until the respondent complies with specified conditions.
- (2) If an order described in subsection (1) (b) is made against a respondent who is a licensee, the person who makes the order may include in the order limits or conditions on the management of the respondent’s practice during the suspension.

**Monetary penalties and refunds**

- 271** (1) An order that requires a respondent to do one or more of the following is a disciplinary order for the purposes of this Act:
- (a) subject to the regulations, pay a monetary penalty;
  - (b) refund all or part of an amount paid by a patient or another person with respect to a service provided by the respondent, the respondent’s delegate or a person under the respondent’s supervision or direction.

- (2) For certainty, an order or agreement made under this Act that requires the respondent to pay hearing costs, investigation expenses or money for the purposes of recovering amounts paid as support under a support program
  - (a) does not prevent the making of an order referred to in subsection (1) of this section, and
  - (b) must not be considered for the purposes of section 266 (b) [*factors that may be considered*].

**Orders for hearing costs**

- 272**
- (1) In this section, “**costs**” means costs incurred with respect to a discipline hearing.
  - (2) Subject to the regulations, a discipline panel may, by order, require a respondent to pay all or part of the costs of one or both of the following:
    - (a) the regulatory college;
    - (b) a person who has an interest in the discipline hearing, if the panel is of the opinion that the respondent’s conduct has been improper, frivolous, vexatious or abusive.
  - (3) If a disciplinary panel is of the opinion that a regulatory college’s conduct has been improper, frivolous, vexatious or abusive, the panel may, by order and subject to the regulations, require the regulatory college to pay all or part of the costs of one or both of the following:
    - (a) the respondent;
    - (b) a person who has an interest in the discipline hearing.

**Orders for investigation expenses**

- 273**
- (1) A person who may make an order under this section may, by order, require the respondent to pay reasonable expenses incurred with respect to the conduct of an investigation.
  - (2) Investigation expenses may be recovered only
    - (a) as authorized under the regulations and the bylaws or rules, and
    - (b) up to the maximum prescribed amount.
  - (3) A person who may make an order under this section must, in determining the amount of the investigation expenses, subtract from the amount any expenses incurred in relation to the following:
    - (a) any part of a regulatory complaint that was dismissed by order of the registrar or health occupation director;
    - (b) the remuneration, fees and expenses of a licensee who conducts an assessment for the purposes of a capacity evaluation;

- (c) the exercise of powers or performance of duties by a capacity officer;
- (d) any part of an investigation that was conducted solely in relation to a respondent's capacity.

**Making order for penalty, costs, expenses or refund**

**274** An order for a monetary penalty, hearing costs, investigation expenses or a refund must set out all of the following:

- (a) the amount of the penalty, costs, expenses or refund and the date by which the amount must be paid;
- (b) in the case of an order for a refund, the amount of any interest accrued up to the date that the order is made;
- (c) the rate of interest payable under the regulations, bylaws or rules, if the penalty, costs, expenses or refund is not paid on or before the required date.

**Recovery of penalty, costs, expenses or refund**

- 275** (1) In this section, “**amount payable**” means the total amount
- (a) payable under an order for a monetary penalty, hearing costs, investigation expenses or a refund, and
  - (b) payable as interest under an order referred to in paragraph (a).
- (2) If an order is made for a monetary penalty, or for hearing costs or investigation expenses payable to a regulatory college, the amount payable is a debt due to the regulatory college and may be recovered
- (a) from the respondent, or
  - (b) from the respondent and a health profession corporation through which the respondent provided health services, in which case, the respondent and the health profession corporation are jointly and severally liable for the debt.
- (3) If an order is made by a health occupation director for investigation expenses, the amount payable is a debt due
- (a) to the regulatory college, if the director was appointed by the regulatory college's board, or
  - (b) to the government, if the director was appointed in accordance with section 365 (1) (b) [*appointment of health occupation director*].
- (4) A debt described in subsection (2) or (3) may be recovered in accordance with Division 2 [*Recovering Debts Due*] of Part 10.
- (5) If an order is made for costs or a refund payable to a person other than a regulatory college or the government, the amount payable is a debt due to the person to whom the costs are owing.

## Division 5 – Support Programs

### Definitions

276 In this Division:

- “**administrator**” means a person who administers a support program on behalf of one or more regulators;
- “**determination**” means a determination under section 285 [*determinations respecting information services*], 286 [*determinations respecting support services*] or 287 [*determinations respecting support workers*];
- “**funding amount**” means the amount determined in accordance with section 301 [*amounts that can be recovered*];
- “**information services**” means communications with a person for the purposes of receiving one or more types of information as described in section 285 (2);
- “**information services program**” means a program to provide information services;
- “**notice of decision**” means a notice given under section 289 [*notice of decision and determination*];
- “**program parameters**” means the terms, prohibitions, requirements, limits and conditions that apply to a support program under any of the following:
- (a) this Act, the regulations, the bylaws or the rules;
  - (b) a shared funding agreement;
- “**recipient**” means a person who receives one or more forms of support;
- “**service provider**” means a person who provides, directly or indirectly, support services to a recipient;
- “**shared funding agreement**” means an agreement
- (a) made for the purposes of sharing obligations under this Act with respect to funding or administering all or part of one or more support programs, and
  - (b) made between 2 or more regulatory colleges or between the minister and one or more regulatory colleges;
- “**support**” means information services, funding for support services or the assistance of a support worker, or a combination of these;
- “**support application**” means an application made under section 279 [*application for support*];
- “**support officer**” means a person who
- (a) is designated in accordance with the program parameters as a support officer for the purposes of one or more support programs, and
  - (b) is not an administrator;

“**support program**” means an information services program, support services program or support worker program;

“**support services**” means counselling services and, subject to the regulations, services that

(a) are intended to support a person to recover from or seek redress for sexual misconduct, sexual abuse or discrimination, and

(b) are required under the regulations or authorized under program parameters to be funded under this Division;

“**support services program**” means a program to provide funding for support services;

“**support worker**” means a person assigned under section 287 to assist a recipient;

“**support worker program**” means a program to provide the assistance of support workers.

#### **Bylaws or rules**

277 (1) A board or health occupation director must make bylaws or rules respecting the following:

(a) establishing or participating in, and administering, each type of support program;

(b) the circumstances, if any, in which an administrator may exercise a power of a support officer under section 282 [*eligibility for information services*] and the limits and conditions on the exercise of that power;

(c) the making of support applications and applications to change support, including

(i) the information and records that must be included with an application, and

(ii) the limits and conditions that apply to making applications;

(d) eligibility requirements for recipients;

(e) policies and procedures for making determinations, including establishing conditions based on need or other criteria;

(f) factors that must or may be considered in making eligibility decisions or determinations;

(g) the provision of support, including

(i) limits and conditions on providing support, and

(ii) with respect to the circumstances in which support may be provided for support services received before a determination is made;

(h) ensuring that the education, training, experience and other qualifications of support workers meet the individual needs of recipients;

- (i) the policies and procedures that apply to
    - (i) establishing and maintaining the list of support workers referred to in section 288 [*list of support workers*], and
    - (ii) assigning, reassigning and suspending or terminating the assignment of support workers to recipients;
  - (j) the expenses for which a support worker will be reimbursed for assisting recipients;
  - (k) the circumstances and processes for changing, suspending and terminating support;
  - (l) providing for reconsiderations or reviews, or both, of eligibility decisions and determinations;
  - (m) if required under a designation regulation, collaborating with other regulators to provide support programs under shared funding agreements;
  - (n) prescribed matters.
- (2) If subsection (1) (m) does not apply, a board or health occupation director may make bylaws or rules for the purpose referred to in that provision.

**Administration**

- 278** (1) An administrator may, by order, establish forms for the purposes of this Division.
- (2) An administrator must publish all of the following that apply to the support program that the administrator is administering:
- (a) the program parameters, except this Act and the regulations;
  - (b) the orders the administrator made under subsection (1).

**Application for support**

- 279** (1) A person may make an application for support by submitting to an administrator all of the following:
- (a) the application;
  - (b) all information and records required under the program parameters.
- (2) A support application may be made by a person on the person's behalf or on behalf of another person.

**After receiving application**

- 280** (1) After receiving a support application, an administrator must
- (a) give to the person who made the application written notice that the application was received, and

- (b) give to a support officer the application and all information and records received with the application, unless section 282 (2) [*eligibility for information services*] or subsection (2) of this section applies.
- (2) An administrator may transfer a support application to another administrator if
  - (a) the regulated health practitioner referred to in the application does not practise a designated profession or occupation to which the support program administered by the administrator applies, and
  - (b) the person who made the application consents to the transfer.

**Decision respecting support**

- 281** (1) As soon as reasonably practicable after receiving a support application, a support officer must do all of the following:
- (a) decide if the proposed recipient is eligible for support;
  - (b) if the proposed recipient is eligible for support, decide the form of support the recipient will receive and any limits and conditions that will apply;
  - (c) give to the administrator a copy of the decision and the reasons for the decision.
- (2) As soon as reasonably practicable after receiving a support officer's decision that a person is eligible for support, an administrator must make a determination with respect to that support in accordance with the program parameters and the limits and conditions set by the support officer.

**Eligibility for information services**

- 282** (1) A person is eligible to receive information services if, based on the criteria set under the program parameters, the support officer is of the opinion that providing the services would be appropriate in the circumstances.
- (2) If authorized under the program parameters, an administrator may exercise a power of a support officer under subsection (1).
- (3) An administrator who exercises a power under subsection (1) must give written notice to a support officer of the exercise of the power and the reasons for exercising the power.

**Eligibility for support services and workers**

- 283** A person is eligible to receive support services or the assistance of a support worker, or both, if all of the following apply:
- (a) the support application is made within the period provided for under the program parameters;



- (b) a regulatory complaint has been made, by any person, alleging that a regulated health practitioner has committed an act of sexual misconduct, sexual abuse or discrimination;
- (c) the person is described in the complaint as the person who experienced the respondent's alleged conduct;
- (d) the person is the complainant or, if not, has substantially affirmed, in writing, the allegations contained in the complaint;
- (e) subject to the program parameters, the complaint has not been disposed of by being dismissed;
- (f) the support officer is satisfied that the person meets all other eligibility criteria that apply under the program parameters;
- (g) the support officer is of the opinion, based on the criteria set under the program parameters, that support services or the assistance of a support worker, or both, are appropriate in the circumstances.

**Decision is not a finding**

**284** A decision to provide support to a recipient

- (a) does not constitute a finding against a regulated health practitioner with respect to a regulatory complaint referred to in the support application, and
- (b) must not be considered for the purposes of making any decision or disposition with respect to the complaint.

**Determinations respecting information services**

- 285**
- (1) After receiving a decision that a person is eligible for information services, an administrator must determine the scope of the services to be provided.
  - (2) Information services may be provided with respect to any of the following:
    - (a) the making of regulatory complaints;
    - (b) the rights and obligations of complainants under this Act;
    - (c) processes under this Act with respect to investigations and disciplinary proceedings;
    - (d) other processes under this Act or processes under other enactments that may be appropriate for addressing complaints or concerns;
    - (e) any other matter that is authorized under the program parameters or that, in the opinion of the administrator, is appropriate.
  - (3) Information services may be provided by the administrator, a support worker or any other person who meets the criteria set under the program parameters.

**Determinations respecting support services**

- 286** After receiving a decision that a person is eligible for support services, an administrator must determine all of the following:
- (a) the types of support services to be funded;
  - (b) the amount of funding to be provided for each service and for all services together;
  - (c) any requirements, limits or conditions on funding, including when, to whom and the manner in which funding will be provided;
  - (d) whether funding should be refused or reduced because
    - (i) the recipient is eligible to have all or part of the expenses related to a support service paid under a program of insurance, an agreement, an arbitral award or a court order, or
    - (ii) prescribed circumstances apply;
  - (e) any other matter provided for under the program parameters.

**Determinations respecting support workers**

- 287** (1) After receiving a decision that a person is eligible for the assistance of a support worker, an administrator must do all of the following:
- (a) determine who will provide support by
    - (i) consulting the list referred to in section 288 [*list of support workers*], and
    - (ii) considering the factors described in subsection (2) of this section;
  - (b) assign to the recipient the support worker who, in the opinion of the administrator, is most appropriate to assist that recipient.
- (2) An administrator must consider at least the following:
- (a) the education, training, experience and other qualifications needed to assist the recipient, taking into account
    - (i) the particular circumstances and needs of the recipient, and
    - (ii) the nature, scope and gravity of the allegations described in the regulatory complaint;
  - (b) without limiting paragraph (a), the expertise needed to assist the recipient in a manner that mitigates any potential trauma that may arise from an adversarial process;
  - (c) the extent of assistance required and who, from the list referred to in section 288, is available to provide that much assistance.

**List of support workers**

- 288** (1) An administrator must, in accordance with the program parameters, establish and maintain a list of support workers who, collectively,
- (a) represent diverse groups of people,
  - (b) have expertise in assisting persons who have experienced conduct that is in the nature of sexual misconduct, sexual abuse or discrimination,
  - (c) have expertise in mitigating any potential trauma that may arise from an adversarial process, and
  - (d) have other relevant experience or qualifications.
- (2) Without limiting subsection (1), an administrator must include on the list of support workers persons nominated in accordance with a process established under the program parameters by one or more Indigenous governing bodies or other entities representing Indigenous peoples.

**Notice of decision and determination**

- 289** (1) An administrator must give notice as described in subsection (2) or (3) to a person who made a support application and, if an application was made on a recipient's behalf, the recipient.
- (2) An administrator may give notice, by any means, of a decision made with respect to information services.
- (3) An administrator must give notice, in writing, of a decision made with respect to support services or the assistance of a support worker and must include in the notice all of the following:
- (a) the decision made by a support officer with respect to the support application and the reasons for the decision;
  - (b) if the decision is that a person is eligible for support, a summary of the determinations made by the administrator;
  - (c) information respecting the matters that can be the subject of a reconsideration or review, and respecting reconsideration and review processes;
  - (d) other matters provided for under the program parameters.

**Receiving support services**

- 290** (1) Before funding is provided for support services and subsequently on request of an administrator,
- (a) a recipient must advise the administrator of the identity of the recipient's service provider, and
  - (b) the service provider must provide a criminal record check authorization.

- (2) At any time before or after providing funding for support services, an administrator may require a recipient or service provider, or both, to give to the administrator information or records, including proof in a form satisfactory to the administrator, respecting one or more of the following:
  - (a) the recipient's registration with a service provider or acceptance as a client or patient of a service provider;
  - (b) a service provider's identity, education, training, experience and other qualifications or regulatory or criminal history;
  - (c) the date, duration and nature of a support service that is to be provided to the recipient or that was received by the recipient;
  - (d) a matter described in the program parameters.

**Service providers**

- 291**
- (1) A person must not act as a service provider if the person is ineligible as described in section 292 [*eligibility of service providers*] or under the program parameters.
  - (2) An administrator must not provide funding for a support service provided by a person who the administrator has reasonable grounds to believe
    - (a) was ineligible to be a service provider at the time the person provided the service, or
    - (b) does not have the appropriate education, training, experience and other qualifications to deliver the service.
  - (3) On request of a recipient, an administrator may waive the prohibition that applies under section 292 (1) (b) if the administrator is satisfied that, unless a waiver is given, the recipient will face undue hardship in receiving effective support services.

**Eligibility of service providers**

- 292**
- (1) A person is ineligible to be a service provider if the person
    - (a) is the recipient's spouse or former spouse,
    - (b) is another family member of the recipient, or
    - (c) is a friend or business associate or other close associate of the recipient.
  - (2) A person is ineligible to be a service provider if the person
    - (a) is the subject of a summary protection order,
    - (b) has been the subject of a disciplinary order with respect to an act of sexual misconduct, sexual abuse or discrimination,

- (c) has been found, by a body that regulates the practice of a profession or occupation in any jurisdiction, whether or not practitioners of the profession or occupation deliver health services, to have committed an act that is in the nature of sexual misconduct, sexual abuse or discrimination, or
- (d) has been convicted of a relevant offence.

**Information to support worker**

- 293**
- (1) In this section, “**relevant regulatory complaint**” means the regulatory complaint referred to in a support application that applies to a recipient.
  - (2) A support worker who is assisting a recipient may request a registrar, a health occupation director, the director of discipline and the chair of the Health Professions Review Board to give to the support worker any of the following:
    - (a) a copy of a notice, information or record that must be given to a complainant with respect to the relevant regulatory complaint;
    - (b) information respecting any of the following that are conducted further to the relevant regulatory complaint:
      - (i) an investigation;
      - (ii) a disciplinary proceeding;
      - (iii) a proceeding before the Health Professions Review Board;
    - (c) information respecting the recipient’s rights and obligations with respect to an investigation or proceeding referred to in paragraph (b).
  - (3) A person who receives a request under subsection (2) must comply with the request unless one of the following applies:
    - (a) the recipient has requested the information or records not be disclosed;
    - (b) the person is, under this Act, required not to disclose or authorized to refuse to disclose the information or record to a complainant or the public;
    - (c) in the opinion of the person who received the request, disclosure is not reasonably practicable in the circumstances.

**Assistance support workers must give**

- 294**
- A support worker must give to a recipient all of the following:
    - (a) information respecting the matters referred to in section 293 (2) [*information to support worker*] and assistance to participate in the investigation or proceeding;
    - (b) if applicable, information respecting processes and the recipient’s rights and obligations under the *Ombudsperson Act*, the *Patient Care Quality Review Board Act* and the *Judicial Review Procedure Act*.

**Assistance support workers may give**

- 295** (1) A support worker may give to a recipient a copy of notices and records received under section 293 [*information to support worker*].
- (2) A support worker may, on request of a recipient, do one or more of the following:
- (a) give information respecting any matter if, in the opinion of the support worker, it is appropriate in the circumstances;
  - (b) to the extent that it is relevant to a matter referred to in a support application,
    - (i) accompany the recipient, if the recipient is required by an order made under this Act to attend and answer questions, and
    - (ii) attend any part of a proceeding under this Act that the recipient is entitled to attend, whether or not the recipient attends.
- (3) A person who issues an order referred to in subsection (2) (b) (i) or is responsible for a proceeding referred to in subsection (2) (b) (ii) must not prohibit or unduly limit the accompaniment or attendance of a support worker under that provision.

**Recommendations to persons with powers and duties**

- 296** (1) A support worker who is assisting a recipient may give recommendations, to a person who receives regulatory complaints or conducts investigations, disciplinary proceedings or proceedings before the Health Professions Review Board, with respect to one or more of the following:
- (a) how to exercise powers in a manner that
    - (i) mitigates any potential trauma to the recipient that may arise from an adversarial process,
    - (ii) removes barriers to the exercise, by the recipient, of that recipient's rights under this Act, or
    - (iii) fosters meaningful participation by the recipient in a process conducted under this Act;
  - (b) the taking of anti-discrimination measures in the exercise of a power that affects the recipient.
- (2) If a support worker is of the opinion that a recommendation given under subsection (1) was not followed adequately, the support worker may take one or both of the following actions:
- (a) make a report to a board, a health occupation director, the director of discipline or the Health Professions Review Board;
  - (b) make an oversight complaint under section 462 [*making oversight complaints*].

**Application to change determination**

- 297** (1) A recipient may make an application to change a determination by submitting to an administrator all of the following:
- (a) the application;
  - (b) all information and records required under the program parameters.
- (2) As soon as reasonably practicable after receiving an application, the administrator
- (a) must, unless the program parameters provide otherwise, review the determination in accordance with the program parameters and the limits and conditions set by the support officer under section 281 (1) (b) [*decision respecting support*], and
  - (b) give written notice to the recipient of the changes to the determination or the refusal to make changes as requested in the application, and the reasons for the changes or refusal.

**When support must be changed, suspended or terminated**

- 298** (1) An administrator must change a determination or suspend or terminate support if any of the following apply:
- (a) the administrator is directed to do so by a support officer, based on new information received during an investigation, a disciplinary proceeding or a proceeding before the Health Professions Review Board;
  - (b) the administrator has reasonable grounds to believe that the recipient is not eligible for support or is receiving support services from a person who is not eligible to be a service provider;
  - (c) the recipient has received the maximum prescribed amount of funding for a type of support service or for all support services together;
  - (d) a prescribed circumstance exists.
- (2) As soon as reasonably practicable after taking an action under this section, the administrator must give to the recipient notice of the action and the reasons for taking the action, and an opportunity to be heard.

**When support may be changed, suspended or terminated**

- 299** (1) An administrator may change a determination without an application from a recipient, or suspend or terminate support, if any of the following apply:
- (a) the administrator has reasonable grounds to believe that the recipient, a person who made a support application on the recipient's behalf or a service provider
    - (i) gave false or misleading information to the administrator or to a person exercising a power or performing a duty with respect to a regulatory complaint referred to in the support application, or

- (ii) contravened a requirement, limit or condition stated in the notice of decision;
  - (b) the recipient is eligible to have all or part of the expenses associated with a support service paid under a program of insurance, an agreement, an arbitral award or a court order;
  - (c) the recipient's support worker is unable or unwilling to continue providing assistance;
  - (d) a prescribed circumstance.
- (2) At least 30 days before taking an action under this section, the administrator must give to the recipient notice of the intended action and the reasons for the intended action, and an opportunity to be heard.

### **Recovering funding**

- 300**
- (1) In this section, “**third-party payor**” means a person who pays for a service on behalf of a recipient.
  - (2) An administrator may recover a funding amount from a recipient or a service provider if the recipient or the service provider, as applicable,
    - (a) gave false or misleading information to the administrator and that information was relied on, in whole or in part, to make a decision or determination under this Division,
    - (b) contravened a requirement, limit or condition stated in the notice of decision, or
    - (c) received funding for a service that was not, or was only partially, received or provided.
  - (3) Without limiting subsection (2), an administrator may recover a funding amount from
    - (a) a recipient, if the complaint on which the support application was based is dismissed on the grounds that it is trivial, frivolous, vexatious, an abuse of process or made in bad faith,
    - (b) a service provider who gave false or misleading information to a recipient or a third-party payor, if that information was relied on by the recipient or payor, in whole or in part, to receive a funding amount,
    - (c) a third-party payor, if the administrator is of the opinion that the payor knew or reasonably ought to have known of a circumstance referred to in subsection (2) or in paragraph (a) of this subsection, or
    - (d) a recipient, service provider or third-party payor, if prescribed circumstances apply.



**Amounts that can be recovered**

- 301** (1) To determine the funding amount for the purpose of section 300 [*recovering funding*], the administrator may recover an amount that does not exceed the total amount paid by the administrator
- (a) as funding with respect to a support service received or intended to be received by the recipient, and
  - (b) to a support worker as reimbursement for the worker’s expenses in assisting the recipient.
- (2) If an administrator intends to recover a funding amount from multiple persons with respect to the same matter, the administrator must apportion the funding amount among those persons in accordance with the program parameters.

**Orders for recovery**

- 302** (1) An administrator may recover a funding amount by making an order that sets out all of the following:
- (a) the funding amount and the date by which the amount must be paid;
  - (b) the rate of interest payable under the regulations or the program parameters if the funding amount is not paid on or before the required date.
- (2) If an order to recover a funding amount is made, the amount and interest are a debt due to the regulator and may be recovered from the person against whom the order is made in accordance with Division 2 [*Recovering Debts Due*] of Part 10.
- (3) If the regulator is a health occupation director, the amounts referred to in subsection (1) are a debt due
- (a) to the regulatory college, if the director was appointed by the regulatory college’s board, or
  - (b) to the government, if the director was appointed in accordance with section 365 (1) (b) [*appointment of health occupation director*].

**Recovery from respondents**

- 303** (1) Subject to subsection (2), an administrator may recover a funding amount from the person who is the respondent with respect to the regulatory complaint referred to in the support application that gave rise to the funding amount.
- (2) Subsection (1) does not apply if the regulatory complaint referred to in that subsection was disposed of by an order other than to dismiss the complaint or a citation based on the complaint.
- (3) An administrator may recover a funding amount under this section by making an order under section 302 [*orders for recovery*] against, or entering into an agreement with, the respondent for the payment of the amount.

**If order made for other amounts**

- 304** (1) In this section, “**penalty, costs or expenses order**” means an order made under Part 3 [*Practice of Designated Health Professions*] or 4 [*Practice of Designated Health Occupations*] to impose a monetary penalty, award hearing costs or recover investigation expenses.
- (2) A recipient must not be compelled to appear or testify, or to provide information or records to be used as evidence, in a proceeding to determine the amount to be imposed, or to recover an amount imposed,
- (a) under a penalty, costs or expenses order, or
  - (b) under section 303 [*recovery from respondents*].
- (3) The making of a penalty, costs or expenses order does not
- (a) prevent the making of an order under section 302 [*orders for recovery*] or an agreement under section 303, or
  - (b) affect the recoverable funding amount.

**Responsibility for funding support programs**

- 305** (1) Subject to the regulations, each regulator that participates in a support program is responsible for funding all amounts paid or payable by an administrator with respect to the support program.
- (2) If a regulator is a health occupation director, the amounts referred to in subsection (1) must be paid as follows:
- (a) by the regulatory college, if the director was appointed by the regulatory college’s board;
  - (b) out of the consolidated revenue fund, if the director was appointed in accordance with section 365 (1) (b) [*appointment of health occupation director*].
- (3) If a support program is administered under a shared funding agreement, regulators are responsible for funding the support program in accordance with the agreement.

**Shared funding agreements**

- 306** If a regulator is required under a designation regulation to collaborate with other regulators to provide support programs, the regulator must comply with prescribed requirements respecting the making and content of shared funding agreements.

## PART 6 – HEALTH PROFESSIONS REVIEW BOARD

### Definitions

**307** In this Part:

“**application**” means an application for a complaint disposition review, licensing decision review or timeliness review;

“**chair**” means the chair of the Health Professions Review Board;

“**complaint disposition review**” means a review of

- (a) an order of a registrar, with or without the direction of the investigation committee, to dismiss a regulatory complaint, or
- (b) an order made under section 158 [*disposition with respondent’s consent*] or 159 [*disposition without respondent’s consent*];

“**investigation committee**” includes a registrar;

“**licensing decision**” means an adverse application decision, except a decision to issue a provisional licence, made by a licence committee under section 53 [*adverse application decision*] after holding a hearing;

“**licensing decision review**” means a review of a licensing decision;

“**timeliness review**” means a review of the timeliness with which any of the following processes were conducted:

- (a) giving to a complainant a record referred to in section 245 (2) (a) or (3) (a) [*investigation information to complainants*];
- (b) unless the respondent was not given notice of a regulatory complaint for the reason referred to in section 246 (2) (a) [*investigation information to respondents*], giving to a respondent a record referred to in
  - (i) section 246 (2) (a), or
  - (ii) section 246 (2) (b), as that provision relates to the information given under section 245 (3) (a);
- (c) an investigation, including making a decision with respect to the disposition of a regulatory complaint or a request to issue a citation.

### Health Professions Review Board continued

- 308**
- (1) The Health Professions Review Board is continued.
  - (2) Part 3 [*Clustering*] of the *Administrative Tribunals Act* applies to the Health Professions Review Board.

### Chair and members

- 309**
- (1) The Health Professions Review Board consists of the following:
    - (a) the member appointed as chair by the Lieutenant Governor in Council;
    - (b) other members as appointed by the Lieutenant Governor in Council.

- (2) Subject to subsections (3) and (4), Part 2 [*Appointments*] of the *Administrative Tribunals Act* applies to members.
- (3) The chair must be a member or former member of the Law Society of British Columbia or of a law society of another province.
- (4) A person is not eligible to be a member if the person is any of the following:
  - (a) a regulated health practitioner;
  - (b) an extrajurisdictional practitioner;
  - (c) an employee or agent of the government of British Columbia or of another jurisdiction.

#### **Review powers**

- 310** The Health Professions Review Board may, on application made in accordance with section 311 [*making applications*], conduct a review.

#### **Making applications**

- 311** (1) A person referred to in this section may apply for a review by submitting an application to the Health Professions Review Board in the form and manner the Health Professions Review Board requires.
- (2) An application must include the following:
  - (a) the information and records required by the Health Professions Review Board;
  - (b) the prescribed fee.
- (3) A person who applied for a licence may apply for a licensing decision review within the prescribed period.
- (4) A complainant may apply for a complaint disposition review within the prescribed period.
- (5) A respondent or a complainant may apply for a timeliness review within the prescribed period or otherwise in accordance with the regulations.

#### **Variations of application requirements**

- 312** (1) This section applies despite section 311 [*making applications*].
- (2) The chair or the chair's delegate may extend the period for filing an application for a review, even if the period has expired,
  - (a) to allow an applicant to correct a deficient application or pay an outstanding fee, or
  - (b) if the applicant
    - (i) applies for an extension in the form and manner required by the Health Professions Review Board, and

- (ii) satisfies the chair or the chair’s delegate that the application for a review could not be filed within the filing period due to special circumstances.
- (3) If waivers are authorized under the regulations, the chair or the chair’s delegate may waive the application fee.

**Serving applications**

- 313**
- (1) A person who applies for a licensing decision review must serve a copy of the application on the regulatory college.
  - (2) A complainant who applies for a complaint disposition review must serve a copy of the application on the regulatory college and the respondent.
  - (3) A complainant who applies for a timeliness review must serve a copy of the application on
    - (a) the regulatory college, and
    - (b) the respondent, if the respondent received notice of the regulatory complaint or investigation that is relevant to the review.
  - (4) A respondent who applies for a timeliness review must serve a copy of the application on the regulatory college and the complainant, if any.

**Identity protection**

- 314**
- (1) A registrar who receives an application under section 313 [*serving applications*] on behalf of a regulatory college must, as soon as reasonably practicable, give to the Health Professions Review Board a copy of an identity protection order and the reasons for the order if
    - (a) the identity of a person protected under the order might be an issue in a review, or
    - (b) the person protected under the order might be identified, directly or indirectly, in a review.
  - (2) If the Health Professions Review Board receives a copy of an identity protection order, the Health Professions Review Board must proceed with the review unless the Health Professions Review Board is satisfied that there would be significant and unmitigable unfairness to a respondent because a complainant’s anonymity or the protection of a person’s identity under an identity protection order
    - (a) unduly prevents the respondent from making reasonable submissions with respect to a matter under review, or
    - (b) causes significant issues of procedural fairness.

- (3) To mitigate any potential unfairness identified under subsection (2) of this section such that a review may proceed, the Health Professions Review Board may do one or more of the following:
  - (a) give directions with respect to any matter;
  - (b) seek authorization as described in section 250 (1) (b) [*if identity protection order made*] to disclose information;
  - (c) waive or modify a requirement respecting practice or procedure.

**Conduct of review**

- 315** (1) Subject to any power of the Health Professions Review Board to dismiss an application, the Health Professions Review Board must conduct a review after receiving an application.
- (2) The parties to a review are the applicant and the persons who must, under section 313 [*serving applications*], be served with a copy of the application.
- (3) Subject to subsection (4), a review is a review on the record.
- (4) The Health Professions Review Board may hear evidence that is not part of the record if, in the opinion of the Health Professions Review Board, the evidence is required for a full and fair disclosure of all matters that are the subject of the review.
- (5) The standard of review to be applied to a decision or order under review is reasonableness.

**Review does not operate as stay**

- 316** Except as otherwise provided for under this Part or unless the Health Professions Review Board orders otherwise, a review does not operate as a stay or suspend the operation of a matter that is the subject of a review.

**Application of *Administrative Tribunals Act* to reviews**

- 317** Sections 14 to 17, 28 to 30, 33, 34 (3) and (4), 35 to 42, 44, 46.3, 47, 48 to 54 and 61 of the *Administrative Tribunals Act* apply to the Health Professions Review Board for the purposes of a review.

**After licensing decision review**

- 318** (1) After a licensing decision review, the Health Professions Review Board may, by order, do one of the following:
- (a) confirm the licensing decision;
  - (b) refer the matter back to the licence committee, with or without directions, if satisfied that one of the following applies:
    - (i) the licensing decision or the making of the licensing decision was contrary to this Act or the regulations, bylaws or rules;

- (ii) the licensing decision was not made in accordance with the principles of procedural fairness;
  - (iii) the applicant's knowledge, skills, ability and judgment are substantially equivalent to the eligibility standards relevant to the class applied for;
  - (iv) the applicant is a person to whom the licence committee is obliged, under the *Labour Mobility Act*, to issue a licence.
- (2) Nothing in this section prevents a decision of a licence committee or of the Health Professions Review Board from being referred to the Supreme Court under section 4 of the *Labour Mobility Act*.

**After complaint disposition review**

- 319** (1) After a complaint disposition review, the Health Professions Review Board
- (a) must consider the adequacy of the investigation conducted respecting the complaint and the reasonableness of the disposition, and
  - (b) may, by order, do one of the following:
    - (i) confirm the complaint disposition;
    - (ii) refer the matter back to the investigation committee, with or without directions.
- (2) For the purposes of subsection (1) (a), the Health Professions Review Board must consider, at the least, whether an action was taken or a decision was made that
- (a) was contrary to this Act or the regulations or bylaws, or
  - (b) was not in accordance with the principles of procedural fairness.

**After timeliness review**

- 320** (1) After a timeliness review, the Health Professions Review Board must consider all prescribed factors and the matters referred to in subsections (2) and (3), and make an order under subsection (4) or (5).
- (2) In considering whether a process has been conducted in a timely manner, the Health Professions Review Board must consider whether steps in the process are being completed within a period that is reasonably practicable in all of the circumstances.
- (3) The Health Professions Review Board must not determine that a process was conducted in an untimely manner solely because of a delay that occurred
- (a) in relation to a direction given under section 129 (2) [*duty to proceed in timely manner*],

- (b) in relation to a public health emergency that is the subject of a notice provided by the provincial health officer under section 52 (2) of the *Public Health Act*, whether or not an emergency order was made under Part 7 [*Public Health Emergencies*] of this Act, or
  - (c) in prescribed circumstances.
- (4) If the Health Professions Review Board is satisfied that processes subject to the review have been conducted in a timely matter, the Health Professions Review Board may, by order, confirm that no further action is required.
- (5) If subsection (4) does not apply, the Health Professions Review Board may, by order, do one or more of the following:
- (a) direct the registrar to give to a person, within the period directed,
    - (i) a notice that a regulatory complaint was received, or
    - (ii) an investigation progress report;
  - (b) refer the matter back to the investigation committee, with directions to begin or complete one or more processes within the period directed.

#### **Giving copies of order**

- 321** As soon as reasonably practicable after making an order under section 318 [*after licensing decision review*], 319 [*after complaint disposition review*] or 320 [*after timeliness review*], the Health Professions Review Board must give a copy of the order to each of the parties to the review and to the superintendent.

#### **Recommendations to superintendent**

- 322** The Health Professions Review Board may, for the purposes of assisting the superintendent in establishing or adopting policies and guidance under section 456 [*performance standards*], make recommendations to the superintendent respecting transparent and fair licensing, investigation and discipline processes, including reasonable timelines for completing one or more steps.

#### **Annual report**

- 323** (1) The chair must submit to the minister, with a copy to the superintendent, an annual report respecting the activities of the Health Professions Review Board in the immediately preceding calendar year.
- (2) A report under subsection (1) must
- (a) be submitted on or before July 31, in the form and manner required by the minister,
  - (b) contain prescribed information and any additional information required by the minister, and
  - (c) be published.



- (3) The chair may, at any time, submit to the minister or the superintendent, or both, a report respecting one or more activities of the Health Professions Review Board or matters arising from those activities.
- (4) Without limiting subsection (1) or (2) of this section, sections 59.2 and 60 (1) (g) and (h) of the *Administrative Tribunals Act* apply to the Health Professions Review Board.

**Other administrative matters**

- 324** Sections 11 to 13, 18 to 21, 26, 27, 31, 32, Part 8 and sections 59.1 and 60 (1) (b) to (f) and (i) and (2) of the *Administrative Tribunals Act* apply to the Health Professions Review Board.

## **PART 7 – PUBLIC HEALTH EMERGENCIES**

### **Division 1 – Emergency Orders Generally**

**Definitions**

- 325** In this Part:

“**administrative order**” means an order made under Division 2 [*Administrative Orders*] of this Part;

“**affected regulator**” means a regulator that is responsible for governing regulated health practitioners who

(a) are authorized under a designation regulation to take a regulated action, or

(b) are, or are intended to be, authorized under a scope of practice order to take a regulated action;

“**authorized person**” means a person who is authorized under a scope of practice order to take a regulated action;

“**emergency order**” means an administrative order or a scope of practice order;

“**health regulation**” means the following:

(a) a designation regulation or another regulation of the minister made under this Act;

(b) a bylaw or rule made with respect to practice standards;

“**notice of public health emergency**” means a notice provided by the provincial health officer under section 52 (2) of the *Public Health Act*;

“**public health emergency**” means the emergency that is the subject of a notice of public health emergency;

**“regulated action”** means any of the following that are governed under a health regulation:

- (a) the provision of a health service;
- (b) the performance of an aspect of practice or a restricted activity;

**“scope of practice order”** means an order made under Division 3 [*Scope of Practice Orders*] of this Part.

#### **Application of Part**

**326** This Part applies despite any provision to the contrary in this Act, a health regulation or another regulation made under this Act.

#### **Application of emergency orders**

- 327**
- (1) An emergency order may apply for the purposes of more than one public health emergency, but each public health emergency to which the order applies must be identified in the order.
  - (2) The application of an emergency order may be restricted to one or more persons, classes of persons or geographic areas.

#### **Duration of emergency orders**

- 328**
- (1) An emergency order may be made or amended only during the period that
    - (a) begins on the date that the provincial health officer provides a notice of public health emergency, and
    - (b) ends on the date on which the provincial health officer provides notice under section 59 (b) of the *Public Health Act* that the public health emergency to which the order relates has passed.
  - (2) Subject to subsections (3) and (4), an emergency order has effect during the period that begins on the date the order comes into effect and ends on the earliest of the following dates:
    - (a) the date stated in the order;
    - (b) the date on which an event specified in the order occurs;
    - (c) the date on which the order is rescinded;
    - (d) the date referred to in subsection (1) (b);
    - (e) the date that is one year after the date the order is made.
  - (3) A suspension or extension made under an administrative order continues to have effect for 90 days after the date referred to in subsection (1) (b) except as follows:
    - (a) the minister may provide for a shorter period, either on making the order or, despite subsection (1), by amending the order within the 90-day period;

- (b) a board or health occupation director that is authorized under the order to suspend or extend a period may lift the suspension or terminate the extension at any time within the 90-day period.
- (4) A requirement or authorization made in a scope of practice order under section 338 [*records and reports*] continues to have effect for 90 days after the date that the order ceases to have effect.

**Notice and consultations**

- 329** Before making an emergency order,
- (a) the minister and the provincial health officer must first give notice to, and make reasonable efforts to consult with, the superintendent, the chair of the Health Professions Review Board and affected regulators, and
  - (b) the provincial health officer must first give notice to the minister and advise the minister of
    - (i) any objections made by persons referred to in paragraph (a), and
    - (ii) how the proposed order addresses those objections or why those objections cannot be accommodated.

**Division 2 – Administrative Orders**

**When administrative orders may be made**

- 330** The minister may make an administrative order if the minister is of the opinion that the order is necessary because a public health emergency is adversely affecting the exercise of powers or performance of duties under this Act.

**Suspending or extending periods**

- 331** (1) In this section, “**period**” means a period set under this Act, including under a bylaw, rule or order, for taking an action or a type of action.
- (2) The minister may, by order,
- (a) direct that a period is suspended or extended, or
  - (b) authorize a board or health occupation director to suspend or extend a period set under
    - (i) a bylaw or rule, or
    - (ii) an order made by a person or class of persons acting for the regulator.

**On making administrative order**

- 332** As soon as reasonably practicable after the minister makes an administrative order, the superintendent must publish the order and give a copy of the order to the affected regulators.

### **Division 3 – Scope of Practice Orders**

#### **When scope of practice orders may be made**

- 333** (1) The provincial health officer may make a scope of practice order if the provincial health officer is of the opinion
- (a) that the order is necessary, for a reason referred to in subsection (2), because of circumstances related to a public health emergency, and
  - (b) that authorized persons may take the regulated actions specified in the order without undue risk of harm.
- (2) For the purposes of subsection (1) (a), a scope of practice order must be necessary for at least one of the following reasons:
- (a) the operation of a health regulation adversely affects, in one or more areas of British Columbia,
    - (i) the timely provision of health services,
    - (ii) the scope of health services that can be provided, or
    - (iii) the efficient and effective use of health human resources;
  - (b) health human resources in one or more areas of British Columbia are insufficient to meet patient needs;
  - (c) another reason in the public interest.

#### **Scope of practice orders**

- 334** (1) The provincial health officer may, by order, do one or more of the following:
- (a) authorize a regulated health practitioner to take a regulated action that, under a health regulation, the regulated health practitioner is not otherwise authorized to take;
  - (b) modify or waive a prohibition, requirement, limit or condition set under a health regulation, and authorize a regulated health practitioner to take a regulated action in accordance with the modification or waiver;
  - (c) authorize a person to take a regulated action that, under a health regulation,
    - (i) only a regulated health practitioner may take, or
    - (ii) may be taken only under the supervision or direction of a regulated health practitioner.
- (2) The provincial health officer must not, under a scope of practice order, require a person to take a regulated action.

**Limits on authorizations, modifications and waivers**

- 335** (1) The provincial health officer may do one or more of the following in a scope of practice order:
- (a) set prohibitions, requirements, limits or conditions on an authorization, modification or waiver made under the order, including with respect to
    - (i) the eligibility of persons to act as authorized persons, and
    - (ii) the taking of regulated actions, including the circumstances in which regulated actions may be taken and requiring supervision or direction;
  - (b) set different prohibitions, requirements, limits or conditions for different classes of authorized persons or different types of circumstances, including with respect to
    - (i) the employer or types of employers of authorized persons, and
    - (ii) the types of settings in which regulated actions may be taken.
- (2) For the purposes of subsection (1),
- (a) the provincial health officer may adopt by reference, in whole or in part and with any changes that, in the opinion of the provincial health officer, are appropriate, a regulation, code, standard or rule
    - (i) enacted as or under a law of British Columbia or another jurisdiction, including a foreign jurisdiction,
    - (ii) set by a provincial, national or international body or any other body that may make codes, standards or rules, or
    - (iii) published by a laboratory within the meaning of the *Public Health Act*, and
  - (b) a regulation, code, standard or rule referred to in paragraph (a) may be adopted in whole or in part, with any changes that, in the opinion of the provincial health officer, are appropriate, and as amended from time to time.

**Taking regulated actions**

- 336** (1) This section applies if,
- (a) under a health regulation, a regulated action may be taken only by persons within a class of regulated health practitioners, and
  - (b) under a scope of practice order, authorized persons who are not within that class are authorized to take the regulated action.
- (2) If this section applies, the provincial health officer must, under the scope of practice order, require at least one of the following:
- (a) that authorized persons be supervised while taking the regulated action by regulated health practitioners who are authorized under a health regulation to take the action;

- (b) that authorized persons
  - (i) have the education, training, experience and other qualifications specified in the order, and
  - (ii) be assessed, before taking the regulated action, to determine whether the persons have sufficient knowledge, skills, ability and judgment to take the action.
- (3) The provincial health officer may authorize an assessment referred to in subsection (2) (b) to be conducted by means of a self-assessment or by one or more of the following:
  - (a) a medical health officer, a regulator or the authorized person's employer;
  - (b) the board of management or administrator of a hospital.

**Limits on acting as authorized person**

- 337** (1) A regulated health practitioner must not take a regulated action under a scope of practice order if taking the regulated action would contravene a limit, condition or suspension imposed on the regulated health practitioner's practice authority.
- (2) A person must not take a regulated action under a scope of practice order if
- (a) the person's practice of a health profession or health occupation is suspended by an extrajurisdictional regulator, and
  - (b) the suspension is in relation to an allegation or determination that the person
    - (i) is unable to practise a health profession in a manner that protects the public from harm, or
    - (ii) has committed an act that is in the nature of an act of misconduct or actionable conduct.

**Records and reports**

- 338** The provincial health officer may do one or more of the following in a scope of practice order:
- (a) require persons to keep records or make reports with respect to matters relevant to the order;
  - (b) authorize but not require persons to keep records or make reports on another person's behalf;
  - (c) require persons to give records or make reports to the provincial health officer, a medical health officer, the minister, the superintendent, the chair of the Health Professions Review Board or a regulator.

**On making scope of practice order**

- 339** The provincial health officer must, as soon as reasonably practicable after making a scope of practice order,
- (a) publish the order on a website maintained for the provincial health officer, and
  - (b) give a copy of the order to the minister and the persons consulted on the proposed order.

**Minister retains discretion**

- 340** (1) The minister may, at any time after receiving notice of a proposed scope of practice order or a copy of a scope of practice order, order the provincial health officer to do any of the following:
- (a) refrain from making the proposed order;
  - (b) modify the order or the proposed order in accordance with the directions of the minister;
  - (c) rescind the order.
- (2) The provincial health officer must comply with the minister's order.

**PART 8 – REGULATORS**

**Division 1 – Regulatory Colleges**

**Definitions**

- 341** In this Part, “**interfere with or influence**” includes
- (a) an attempt to interfere with or influence, and
  - (b) an action that may directly or indirectly interfere with or influence.

**Regulatory colleges**

- 342** (1) The following are regulatory colleges for the purposes of this Act:
- (a) a regulatory college established under section 415 [*establishing new regulatory college*];
  - (b) a regulatory college that continues on the amalgamation of former regulatory colleges;
  - (c) a regulatory college continued under subsection (2) of this section.
- (2) A corporation established or continued as a college under the *Health Professions Act*, R.S.B.C. 1996, c. 183, as it read immediately before its repeal, is continued as a regulatory college under this Act.

**Corporate matters**

- 343**
- (1) A regulatory college is a corporation consisting of the persons appointed as members of the board.
  - (2) A regulatory college is not an agent of the government.
  - (3) For the purposes of exercising powers and performing duties under this Act, a regulatory college has the powers and capacity of a natural person of full capacity, including the power to acquire and dispose of property.
  - (4) The *Business Corporations Act* does not apply to a regulatory college except as specified under an order made under subsection (5) (a) of this section.
  - (5) The minister may, by order, do one or both of the following:
    - (a) provide that one or more provisions of the *Business Corporations Act* apply to a regulatory college;
    - (b) change the name of a regulatory college, in which case a reference to the regulatory college under its previous name in a commercial paper, contract, lease, licence, permit or other instrument or record is deemed to be a reference to the regulatory college under its name as changed.

**Responsibilities of board**

- 344**
- (1) A board is responsible for
    - (a) governing, in the public interest, the designated health professions for which the regulatory college is responsible under a designation regulation, and
    - (b) ensuring that governance activities of the regulatory college are conducted in accordance with this Act and the regulations.
  - (2) A board must exercise the powers and perform the duties of a regulatory college under this Act on behalf of the regulatory college.
  - (3) A regulatory college, through its board, must ensure that the board and all officers, employees and agents of the regulatory college
    - (a) comply with all orders of the minister and the superintendent that apply to the regulatory college,
    - (b) cooperate fully with the superintendent in the superintendent's exercise of powers and performance of duties under this Act, and
    - (c) meet performance standards that apply to the regulatory college.



**Recommendations of superintendent**

- 345** (1) The minister must, by order and on the recommendation of the superintendent, appoint persons as members of a board.
- (2) The minister may reject a recommendation of the superintendent and request a new recommendation if the minister is of the opinion that doing so is necessary for one or more of the following reasons:
- (a) to ensure that board members will, collectively, have the education, training, experience and other qualifications that are necessary or desirable;
  - (b) to ensure that boards have sufficient members who are representatives of the public;
  - (c) to meet prescribed objectives and the objectives referred to in section 452 (1) (b) [*appointment processes*].

**Appointments to board**

- 346** The minister
- (a) must appoint no fewer than 8 persons and no more than 12 persons to a board,
  - (b) must ensure, subject to paragraph (c), that a board is composed of equal numbers of the following:
    - (i) licensees who practise a designated health profession that is governed by the regulatory college;
    - (ii) representatives of the public,
  - (c) must, if a board has 9 members or 11 members, appoint as the ninth member or eleventh member a person described in paragraph (b) (i),
  - (d) must set members' terms for 4 years or less, and may set different terms for different members, and
  - (e) must not reappoint to a board any person who, by the date that the person's appointment ends, has served or will have served as a member of the board for more than
    - (i) 4 consecutive terms, unless at least one year has passed since the person last served, or
    - (ii) 12 years in total.

**If board membership does not meet requirements**

- 347** (1) An act of a board is not invalid because of a defect that is subsequently discovered in the appointment of a board member.
- (2) A board may continue to exercise the powers and perform the duties of a board if
- (a) a board member's term ends or is rescinded or the member is, for any reason, unable or unwilling to continue acting as a member, and
  - (b) because of the member's absence,
    - (i) the board has fewer than 8 members, or
    - (ii) the board membership is not in accordance with section 346 (b) [*appointments to board*].

**Board chair and vice chair**

- 348** Board members may, in accordance with the procedures established under the bylaws, select from among their own members a chair and vice chair.

**Oath of office**

- 349** (1) A person appointed to a board must not exercise a power or perform a duty as a board member unless the person first takes and signs an oath of office.
- (2) An oath of office must be taken in the prescribed form, either by oath or by solemn affirmation.
- (3) The minister may rescind the appointment of a person who fails to take an oath of office within a reasonable time.
- (4) The registrar must keep the signed oath of office or a copy of it with the records of the regulatory college.

**Remuneration and expenses**

- 350** A board must make bylaws to set
- (a) remuneration for board members, and
  - (b) reimbursement for reasonable travelling and out-of-pocket expenses necessarily incurred in carrying out board members' duties.

**Bylaws respecting conflicts of interest**

- 351** A board must make bylaws respecting all of the following in relation to board members and officers and employees of the regulatory college:
- (a) the identification of conflicts of interest;
  - (b) the policies and procedures that apply if a conflict of interest is identified;
  - (c) the circumstances in which section 352 [*if board member has conflict of interest*] applies.

**If board member has conflict of interest**

- 352** (1) If a board member has a conflict of interest in relation to a matter,
- (a) the member must, as soon as reasonably practicable, disclose to the other members the general nature of the conflict, and
  - (b) the board must make a record of a disclosure under paragraph (a) and give a copy of the record to the registrar to keep with the records of the regulatory college.
- (2) A board member who has a conflict of interest in relation to a matter
- (a) must not attempt in any way, whether before, during or after a board meeting, to influence the voting or decision on any question with respect to the matter, and
  - (b) must not be present at any board meeting while the matter is considered, and must not take part in the discussion of the matter by board members or vote on any question with respect to the matter.
- (3) If subsection (2) applies, the remaining board members constitute a quorum for the purposes of a vote or decision with respect to the matter.
- (4) Despite subsection (2), if all of the board members have a conflict of interest, any or all of the members may take part in the discussion of the matter or vote on any question with respect to the matter.

**If regulatory complaint against board member**

- 353** (1) If a board member receives notice that the member is the subject of a regulatory complaint, other than a complaint that has been disposed of by an order to dismiss the complaint, the member
- (a) must give written notice of the complaint to the board as soon as reasonably practicable, and
  - (b) must not exercise a power or perform a duty of a member until a circumstance described in subsection (2) applies.
- (2) A board member referred to in subsection (1) may resume exercising powers and performing duties as a member if any of the following occurs:
- (a) the complaint is disposed of by an order to dismiss the complaint or an order to dismiss a citation based on the complaint;
  - (b) the complaint is deemed to be dismissed under section 168 (1) (c) [*if citation refused or cancelled*];
  - (c) if the complaint alleges only that the member lacks capacity, a capacity officer gives written notice to the board of the officer's opinion that the member is not unduly impaired, because of a health condition, from effectively exercising powers or performing duties as a member.

- (3) A board member referred to in subsection (1) must immediately resign the member's appointment to the board if the regulatory complaint is disposed of by a disciplinary order other than to dismiss the complaint or to dismiss a citation on which the complaint is based.

**Request to superintendent respecting conflict**

- 354** (1) A board member may, if supported by a vote of the majority of the board, request that the superintendent do one or more of the following:
- (a) give advice or conduct an audit or oversight investigation within the meaning of section 455 [*definitions*] with respect to
    - (i) whether a member has a conflict of interest that must be disclosed, or
    - (ii) the steps to be taken if a member has disclosed or has failed to disclose a conflict of interest;
  - (b) recommend to the minister that a member's appointment be rescinded based on a disclosed or undisclosed conflict of interest.
- (2) A board must request that the superintendent recommend to the minister that the appointment of a member be rescinded if the member fails to give notice or to resign in accordance with section 353 [*if regulatory complaint against board member*].

**Bylaws respecting appointments**

- 355** (1) A board must make bylaws respecting persons appointed by the board as follows:
- (a) establishing or adopting policies and procedures for making and rescinding appointments;
  - (b) respecting education, training, experience and other qualifications for appointees;
  - (c) respecting general terms and conditions of appointments, including with respect to remuneration and reimbursement for reasonable travelling and out-of-pocket expenses necessarily incurred in exercising powers or performing duties under this Act.
- (2) A board may make bylaws respecting policies and procedures for making recommendations to the superintendent respecting the following:
- (a) the appointment of board members and the rescindment of appointments;
  - (b) the education, training, experience and other qualifications for persons appointed, or to be appointed, as board members.

**Bylaws respecting general practice**

- 356** A board may make bylaws respecting the exercise of powers and performance of duties by persons who act for the regulatory college under this Act, including
- (a) the policies and procedures to be followed, and
  - (b) the factors to be considered in exercising a power or performing a duty.

**Bylaws respecting meetings and committees**

- 357** A board must make bylaws respecting all of the following:
- (a) procedures for the calling and conduct of meetings of the board and committees;
  - (b) what constitutes a quorum for meetings and resolutions of the board and committees;
  - (c) the composition of committees;
  - (d) panels of committees, including providing for the delegation of a power or duty of a committee to a panel of the committee;
  - (e) the establishment and functions of committees other than those required under this Act.

**No interference or influence**

- 358** (1) A board must not make a bylaw that would authorize or require board members to interfere with or influence, and a board member must not interfere with or influence, any of the following:
- (a) the registrar with respect to whom to retain or employ under this Act;
  - (b) a professional standards advisor with respect to the advice that the advisor gives or proposes to give;
  - (c) a person responsible for making a decision with respect to whether to issue, vary, renew or reinstate a licence or health profession corporation permit;
  - (d) a quality assurance officer with respect to the conduct of a quality assurance assessment;
  - (e) the registrar with respect to actions taken in relation to an administrative matter;
  - (f) the registrar, a member of the investigation committee or an investigator with respect to
    - (i) making or receiving a regulatory complaint, investigating a complaint or making a decision with respect to the disposition of a complaint or requesting a citation based on the complaint, or
    - (ii) giving information or records for the purposes of, or otherwise participating in, disciplinary proceedings or a proceeding before the Health Professions Review Board;

- (g) a capacity officer, or a licensee who is conducting an assessment for the purposes of a capacity evaluation, with respect to the conduct of the evaluation;
  - (h) a person referred to in this section with respect to
    - (i) making, varying or terminating an order,
    - (ii) giving a notice or making a report, or
    - (iii) disclosing information or records under Division 2 [*Disclosure of Information*] of Part 5.
- (2) Nothing in subsection (1) prevents the board from requesting information, advice or a report on a matter for the purposes of exercising its powers or performing its duties under this Act.

**Registrar and other persons**

- 359**
- (1) A board must, by resolution, appoint the following:
    - (a) one employee of the regulatory college as the registrar;
    - (b) professional standards advisors;
    - (c) members of the licence committee, the investigation committee and, if applicable under a designation regulation, the permit committee;
    - (d) if applicable under a designation regulation, a health occupation director.
  - (2) If subsection (1) (d) applies, the board may appoint the registrar or another employee of the regulatory college as the health occupation director.
  - (3) The board may, in a resolution under subsection (1), set the terms and conditions of an appointment.
  - (4) The board must not appoint under subsection (1) a person who is a board member or who, under the regulations, is ineligible for the appointment.

**Deputy registrar and employees**

- 360**
- (1) As soon as reasonably practicable after taking office, a registrar must appoint one deputy to act in the registrar's absence or in circumstances in which the registrar has a conflict of interest.
  - (2) A registrar may appoint additional deputies who may, if authorized under the bylaws, exercise powers and perform duties of the registrar or deputy registrar.
  - (3) Deputy registrars must be employees of the regulatory college.

- (4) A registrar may, on behalf of the regulatory college, employ persons that the registrar considers necessary to
  - (a) exercise powers or perform duties under this Act, or
  - (b) assist persons to exercise powers or perform duties under this Act.
- (5) A registrar may set the terms and conditions of the employment of persons under this Division.

**Professional standards advisors**

- 361**
- (1) A board must seek the advice of professional standards advisors for the purposes of making bylaws with respect to eligibility standards, ethics standards and practice standards.
  - (2) An advisor who gives advice respecting ethics standards must have education, training, experience and other qualifications that qualify that person to give expert advice with respect to ethics standards.
  - (3) An advisor who gives advice respecting eligibility standards or practice standards must
    - (a) be a licensee who is authorized to practise the designated health profession to which the standards relate, or
    - (b) have education, training, experience and other qualifications that qualify that person to give expert advice with respect to the practice of that designated health profession.
  - (4) A board may make bylaws respecting the seeking of advice from professional standards advisors for purposes in addition to those referred to in subsection (1).

**Advice of professional standards advisors**

- 362**
- (1) If a board refuses the advice of a professional standards advisor, the board must make a record of the refusal and the reasons for the refusal.
  - (2) Before refusing the advice of a professional standards advisor or requesting further advice, a board must consider the following, as applicable:
    - (a) any of the following that apply:
      - (i) best practices published under section 456 [*performance standards*];
      - (ii) advice or recommendations given by the superintendent to the regulatory college under Part 9 [*Regulatory Oversight*];
    - (b) whether a bylaw based on the advice would contravene this Act, the regulations or an order of the minister;

- (c) if the regulatory college is responsible for governing more than one designated health profession, whether a bylaw based on the advice would cause conflicts or inconsistency in the standards that apply to each of them;
- (d) if the advice is given in the form of a proposed bylaw, whether the proposed bylaw is unclear, internally inconsistent or otherwise deficient;
- (e) whether the advice was based on a process that contravened the bylaws, failed to provide for adequate consultation with affected persons or was otherwise deficient.

**Officers**

- 363**
- (1) A registrar may, on behalf of a regulatory college,
    - (a) retain or employ persons to exercise the powers and perform the duties of quality assurance assessors, investigators and capacity officers, and
    - (b) set limits and conditions respecting the types of matters and the designated health professions with respect to which persons retained or employed under paragraph (a) may act.
  - (2) Subject to subsection (3), a person must not be retained or employed as both an investigator and either a quality assurance assessor or a capacity officer.
  - (3) The registrar may exercise powers and perform duties as an investigator and, subject to the bylaws, a capacity officer but must not act as both an investigator and a capacity officer with respect to the same regulatory complaint.
  - (4) A person may be both a quality assurance assessor and a capacity officer but must not conduct a quality assurance assessment and a capacity evaluation with respect to the same licensee.
  - (5) A quality assurance assessor may conduct quality assurance assessments only with respect to the practice of a designated health profession for which the assessor holds a licence to practise.
  - (6) An investigator may conduct competence assessments only with respect to the practice of a designated health profession for which the investigator holds a licence to practise.
  - (7) A capacity officer must hold a licence to practise a designated health profession, but may be authorized by the registrar to conduct capacity evaluations with respect to licensees who practise a different designated health profession.



## **Division 2 – Health Occupation Directors**

### **Responsibilities of health occupation director**

- 364** (1) Subject to this Act and the regulations, a health occupation director is responsible for
- (a) governing, in the public interest, the designated health occupations that are subject to the regulatory program for which the director is responsible, and
  - (b) ensuring that governance activities with respect to the regulatory program are conducted in accordance with this Act and the regulations.
- (2) In administering and operating a regulatory program, a health occupation director must ensure that the director and all employees and agents retained or employed for the regulatory program
- (a) comply with all orders of the minister and the superintendent that apply to the regulatory program,
  - (b) cooperate fully with the superintendent in the superintendent's exercise of powers and performance of duties under this Act, and
  - (c) meet performance standards that apply to the regulatory program.

### **Appointment of health occupation director**

- 365** (1) The minister may, in a designation regulation, provide that the health occupation director of a regulatory program is one individual
- (a) who is appointed by the board of a specified regulatory college, or
  - (b) who is a public service employee of a specified government ministry, and
    - (i) holds a specified title or position in that ministry, or
    - (ii) is appointed by a person who holds a specified title or position in that ministry.
- (2) If a board or a person referred to in subsection (1) (b) (ii) is authorized to appoint a health occupation director of more than one regulatory program, the board or person may appoint one individual to have responsibilities as the director of one or more of those regulatory programs.
- (3) The minister may, in a designation regulation, set limits or conditions on
- (a) appointments of health occupation directors, and
  - (b) the appointment of one individual as the health occupation director responsible for multiple regulatory programs.

**Application of bylaws if appointed by board**

- 366** The bylaws of a regulatory college do not apply to a health occupation director appointed by a board, except bylaws made under
- (a) section 351 [*bylaws respecting conflicts of interest*], or
  - (b) section 355 (1) [*bylaws respecting appointments*].

**Deputy health occupation director**

- 367**
- (1) As soon as reasonably practicable after taking office, a health occupation director must appoint one deputy to act in the director's absence or in circumstances in which the director has a conflict of interest.
  - (2) A deputy health occupation director must be an employee of the same regulatory college or government ministry of which the health occupation director is an employee.

**Investigators and others**

- 368**
- (1) A health occupation director may, on behalf of a regulatory college or the government, as applicable,
    - (a) retain or employ persons as investigators, and
    - (b) employ persons the director considers necessary to assist the director, the director's deputy and investigators to exercise powers or perform duties under this Act.
  - (2) If a health occupation director is appointed by the board of a regulatory college, the director may
    - (a) set the terms and conditions of the retainer or employment of persons referred to in subsection (1), and
    - (b) remunerate persons retained under subsection (1) (a) in accordance with the prescribed fees.
  - (3) If a health occupation director is appointed in accordance with section 365 (1) (b) [*appointment of health occupation director*],
    - (a) the *Public Service Act* applies to persons employed under subsection (1) of this section, and
    - (b) the director may, in the case of persons retained under subsection (1) (a) of this section,
      - (i) set the terms and conditions of the retainers of those persons, and
      - (ii) remunerate those persons in accordance with the prescribed fees.

**General powers and duties**

- 369** (1) The minister may, in a designation regulation, do one or more of the following:
- (a) grant powers to and impose duties on the health occupation director that are additional to those provided for under this Act;
  - (b) impose requirements, limits and conditions on the exercise of powers or performance of duties by the director;
  - (c) authorize the director to make rules to do one or more of the following:
    - (i) impose prohibitions, requirements, limits or conditions on regulated health service providers that are additional to those imposed under a designation regulation;
    - (ii) modify, waive or provide exemptions from a prohibition, requirement, limit or condition of a designation regulation, with or without limits or conditions.
- (2) Unless the minister provides otherwise in a designation regulation, a health occupation director may enter into an agreement for the purposes of this Act on behalf of
- (a) a regulatory college, if the director was appointed by the regulatory college's board, or
  - (b) the government, if the director was appointed in accordance with section 365 (1) (b) [*appointment of health occupation director*].

**No interference or influence**

- 370** (1) A person or body that appoints a health occupation director must not interfere with or influence the director or an investigator appointed by the director with respect to any of the following:
- (a) a decision with respect to whom to retain or employ under this Act;
  - (b) a decision with respect to whether to grant registration, issue an authorization or vary, renew or reinstate registration or an authorization;
  - (c) making or receiving a regulatory complaint, investigating a complaint or making a decision with respect to the disposition of a complaint;
  - (d) making, varying or terminating an order;
  - (e) giving a notice or making a report;
  - (f) disclosing information or records under Division 2 [*Disclosure of Information*] of Part 5.
- (2) Nothing in subsection (1) prevents a person or body from requesting, from a health occupation director that the person or body appointed, information, advice or a report on a matter for the purposes of exercising the powers or performing the duties of that person or body.

### **Division 3 – Unauthorized Practice**

#### **Duty to monitor**

- 371** A regulator must make bylaws or rules for the establishment and implementation of a program to monitor for the practice, by persons who are not regulated health practitioners, of the designated professions or occupations for which the regulator is responsible.

#### **References under this Division**

- 372** For the purposes of exercising a power or performing a duty that is incorporated by reference under this Division,
- (a) a registrar may proceed as if a person under investigation were a licensee being investigated or disciplined with respect to an act of misconduct, or
  - (b) a health occupation director may proceed as if a person under investigation were a regulated health service provider being investigated or disciplined with respect to an act of actionable conduct.

#### **Suspected contravention by unauthorized person**

- 373** If a regulator has reasonable grounds to believe that a person who is not a regulated health practitioner has contravened, is contravening or is about to contravene this Act or the regulations, the regulator must do one or both of the following, as applicable:
- (a) investigate the matter in accordance with section 374 [*investigation of unauthorized person*], if the regulator is responsible for governance activities with respect to all or part of the matter;
  - (b) give written notice of the matter to another regulator that is responsible for governance activities with respect to all or part of the matter.

#### **Investigation of unauthorized person**

- 374** (1) If section 373 [*suspected contravention by unauthorized person*] applies to a regulatory college,
- (a) an investigation committee may exercise powers under sections 126 [*general directions to registrar*] and 127 [*control of investigation*], and
  - (b) a registrar of and an investigator for a regulatory college may exercise powers and must perform duties under sections 129 [*duty to proceed in timely manner*] and 131 [*general investigation powers*].
- (2) If section 373 applies to a health occupation director,
- (a) the director may exercise powers under section 227 [*appointment of investigator*], and

- (b) the director and an investigator appointed by the director may exercise powers and must perform duties under sections 228 [*duty to proceed in timely manner*] and 230 [*investigation powers*].
- (3) For the purposes of an investigation, a registrar or health occupation director may seek an order from the court in accordance with Division 3 [*Court Orders and Judicial Review*] of Part 10.

**Information about investigation**

**375** A registrar or health occupation director who conducts an investigation under section 374 [*investigation of unauthorized person*] may exercise powers and must perform duties under the following provisions:

- (a) section 244 (1) and (3) [*disclosure may be refused*];
- (b) section 245 (1), (2) (a) and (c) and (3) (a) and (b) [*investigation information to complainants*];
- (c) section 246 (1) and (2) (a) [*investigation information to respondents*];
- (d) unless the person was not given notice of a regulatory complaint for the reason referred to in section 246 (2) (a), section 246 (2) (b) as that provision relates to the information given under section 245 (3) (a) or (b);
- (e) section 252 [*notice of health hazard*];
- (f) section 253 [*notice to employers*], as if a summary protection order had been made;
- (g) section 254 [*content of notice to employers*], if the registrar or director is satisfied that disclosing information is necessary for a recipient to
  - (i) take steps to prevent or reduce the risk of harm,
  - (ii) effectively monitor the person in carrying out employment duties for indications of harm, or
  - (iii) identify and respond appropriately to any harm that may have occurred already;
- (h) section 255 (1), (3) and (4) [*public notice of certain matters*].

**Dismissal of matter**

**376** (1) At any time during or after an investigation under section 374 [*investigation of unauthorized person*], a registrar or health occupation director may, by order, dismiss the matter being investigated on one or more of the following grounds:

- (a) in the opinion of the registrar or director, the allegations, if admitted or proven, do not indicate that the person under investigation has contravened, is contravening or is about to contravene this Act or the regulations;

- (b) the person under investigation does not practise, and has never practised, a designated profession or occupation governed by the regulator;
  - (c) the registrar or director is of the opinion that a complaint made with respect to the matter is trivial, frivolous, vexatious, an abuse of process or made in bad faith;
  - (d) the registrar or director has reasonable grounds to believe that the investigation cannot reasonably proceed.
- (2) If a person under investigation was given notice of the investigation and the matter is dismissed under this section, the registrar must give to the person written notice of the dismissal.

**Disposition of matter**

- 377 (1) At any time during or after an investigation under section 374 [*investigation of unauthorized person*], a registrar or health occupation director may dispose of the matter by doing one or more of the following:
- (a) giving to the person under investigation, in writing, a warning or advice;
  - (b) accepting from the person a written undertaking not to repeat the conduct to which the matter relates;
  - (c) seeking an order from the court under section 504 [*injunction or compliance order*].
- (2) If a matter is disposed of under subsection (1), a registrar or health occupation director may exercise powers under section 273 [*orders for investigation expenses*].

**Division 4 – Hearings, Reconsiderations and Reviews**

**Interpretation**

- 378 (1) In this Division:
- “**applicant**” means a person who applies for a reconsideration or review;
  - “**decision maker**” means a person who conducts a reconsideration or review;
  - “**hearing**” means a hearing that must or may be held under Part 3, 4 or 5, except a hearing conducted by a discipline panel or the director of discipline;
  - “**reconsideration**” means a reconsideration for which a person may make an application under Part 3, 4 or 5;
  - “**review**” means a review for which a person may make an application under Part 3 or 5, except a review by the director of discipline.
- (2) With respect to a hearing, reconsideration or review conducted for the purposes of a support program, a reference in this Division to the regulations, bylaws or rules must be read as a reference to the program parameters that apply to the support program.

**Bylaws and rules**

- 379** A board or health occupation director must make bylaws or rules respecting policies and procedures for the conduct of hearings, reconsiderations and reviews.

**Conduct of hearings**

- 380** (1) A person who holds a hearing must do so in accordance with the regulations and the bylaws or rules.
- (2) Unless it would be contrary to the regulations, bylaws or rules, a person who holds a hearing may do so by any means that, in the person's opinion, are appropriate, including by
- (a) inviting written submissions, or
  - (b) using a process authorized under the regulations, bylaws or rules.

**Application for reconsideration or review**

- 381** (1) An application for a reconsideration or review must be made by submitting to the applicable registrar or health occupation director
- (a) the application, and
  - (b) all information, records and fees required under the bylaws or rules.
- (2) Except as otherwise provided for under this Act, an application for a reconsideration or review may be made once only, and only within 30 days after the date that notice of the decision or order that is the subject of the application is received.
- (3) An application for a reconsideration or review of a decision or order may be made on one or more of the following grounds only:
- (a) the decision or order was made contrary to this Act or the regulations, bylaws or rules;
  - (b) the decision or order was not made in accordance with the principles of procedural fairness;
  - (c) new information is available that is material and relevant and that
    - (i) was not available or could not reasonably have been discovered through the exercise of due diligence before the decision or order was made, or
    - (ii) relates to a change in circumstances since the decision or order was made and, because of the change, the decision or order is no longer appropriate.
- (4) If a decision maker is of the opinion that it would be appropriate, the decision maker may give to an applicant all or part of any information not disclosed to the applicant under section 246 (2) (a) [*investigation information to respondents*].

**Conduct of reconsideration or review**

- 382**
- (1) A decision maker must conduct a reconsideration or review in accordance with this Act, the regulations and the bylaws or rules.
  - (2) A decision maker may reconsider or review multiple decisions or orders during a single reconsideration or review, if the decisions or orders all relate to the same matter.
  - (3) If a decision maker is of the opinion that an application for a reconsideration or review is trivial, frivolous, vexatious, an abuse of process or made in bad faith, the decision maker may, at any time, make an order to dismiss the application.
  - (4) Unless the decision maker orders otherwise, a reconsideration or review does not operate as a stay of the decision or order that is under reconsideration or review.
  - (5) If a decision maker permits a stay under subsection (4), the decision maker may impose or, if the decision maker is an investigation committee, the committee may direct the registrar to impose, by order, limits or conditions on the applicant's practice authority until the reconsideration or review is concluded.
  - (6) For the purposes of a reconsideration or review, a decision maker must do all of the following that apply:
    - (a) hold a hearing;
    - (b) consider all information and records that were
      - (i) prepared or obtained under the Act, by any person, with respect to the decision or order that is under reconsideration or review, or
      - (ii) provided with the application for the reconsideration or review;
    - (c) consider the applicant's disciplinary record;
    - (d) consider the applicant's capacity record, if the decision maker is a capacity officer.
  - (7) The standard of review to be applied to a decision or order under reconsideration or review is correctness.

**After reconsideration or review**

- 383**
- (1) Unless an application for reconsideration or review is dismissed, a decision maker must do one of the following after the reconsideration or review is complete:
    - (a) confirm, vary, rescind or terminate the decision or order that is under reconsideration or review;
    - (b) rescind the order that is under reconsideration or review and substitute a new order.



- (2) A decision maker must give to the applicant written notice of the decision maker's decision and the reasons for the decision.
- (3) A decision maker must refund to the applicant the fee paid with the application if the decision maker
  - (a) rescinds or terminates an order on the basis that it was not appropriate to make the order, or
  - (b) is of the opinion that a refund is appropriate in the circumstances.
- (4) If a decision maker is an investigation committee, the decision maker must direct the registrar to give to the applicant the information under subsection (2) and any refund under subsection (3).

### **Division 5 – Administration**

#### **How bylaws and rules may be made**

- 384**
- (1) In making bylaws or rules, a board or health occupation director may establish classes of persons, processes, health services and other matters, and make different bylaws or rules for different classes.
  - (2) Before making a bylaw or rule, a board or health occupation director must first consult with all of the following:
    - (a) persons who are affected by the proposed bylaw or rule;
    - (b) other regulators;
    - (c) one or more persons nominated for this purpose by Indigenous governing bodies or other entities representing Indigenous peoples if the bylaw or rule is made with respect to one or more of the following matters:
      - (i) discrimination or anti-discrimination measures, if Indigenous identity is specifically relevant to the matters being considered;
      - (ii) the delivery of a type of health service, if persons provide health services of that type in accordance with Indigenous practices;
      - (iii) the use of restorative processes that are intended to reflect or be influenced by Indigenous practices;
    - (d) the public.
  - (3) A board or health occupation director must publish the bylaws or rules.

#### **General bylaw- and rule-making powers**

- 385**
- (1) An express power to make a bylaw or rule under this Act must not be construed as limiting any other power, whether express or implied, to make a bylaw or rule.
  - (2) A board may make bylaws as follows:
    - (a) with respect to any matter for which bylaws are contemplated under this Act;

- (b) as the board considers necessary or desirable for carrying out responsibilities as referred to in section 344 [*responsibilities of board*].
- (3) A health occupation director may make rules as follows:
  - (a) with respect to any matter for which rules are contemplated under this Act;
  - (b) as the director considers necessary or desirable for carrying out responsibilities as referred to in section 364 [*responsibilities of health occupation director*].
- (4) The authority under this Act to make a bylaw or rule is subject to any regulation of the Lieutenant Governor in Council or the minister made with respect to the same matter.

**Administrative powers**

- 386**
- (1) A registrar or health occupation director may, by order, set requirements respecting the form and manner of submitting applications, regulatory complaints, information, records, notices, fees and reports to the regulator by
    - (a) regulated health practitioners, and
    - (b) persons making applications, regulatory reports or regulatory complaints.
  - (2) For the purposes of subsection (1), the registrar and the health occupation director
    - (a) may establish classes of persons, processes and other matters,
    - (b) may set different requirements, limits or conditions for different classes, and
    - (c) must publish the requirements, limits and conditions.

**Notices and consultations**

- 387**
- (1) A board or health occupation director must make bylaws or rules respecting policies and procedures for all of the following:
    - (a) giving a notice respecting any matter for which a notice must be given under this Act;
    - (b) carrying out consultations as required under section 384 [*how bylaws and rules may be made*] and with respect to other matters.
  - (2) Without limiting subsection (1) (b), a board or health occupation director must, in collaboration with Indigenous governing bodies and other entities representing Indigenous peoples, establish policies and procedures for the nomination of persons by those Indigenous governing bodies and other entities for the purposes of section 384 (2) (c).

**Collaboration between jurisdictions**

- 388** (1) The powers under this section are subject to the bylaws, in the case of a regulatory college, or a designation regulation, in the case of a health occupation director.
- (2) A regulator may enter into an agreement with an extrajurisdictional regulator that governs a health profession or health occupation equivalent to that governed by the regulator.
- (3) An agreement referred to in subsection (2) may be for one or more of the following purposes:
- (a) to provide for or to facilitate the interjurisdictional practice of the health profession or health occupation;
  - (b) to recognize the extrajurisdictional regulator’s processes for and results of assessing and verifying whether a person is authorized to practise the health profession or health occupation in that regulator’s jurisdiction;
  - (c) to implement a prescribed trade agreement, as it relates to labour mobility;
  - (d) for the purposes of any other matter related to the labour mobility of persons who provide health services.

**Oversight of agreements**

- 389** (1) In this section, “**agreement**” means an agreement
- (a) referred to in section 60 [*collaboration agreements*], 388 [*collaboration between jurisdictions*] or 407 [*transfer agreements*], or
  - (b) made between a regulator and another person for the purposes of sharing information that includes the personal information of regulated health practitioners.
- (2) As soon as reasonably practicable after entering into or amending an agreement, a regulator must give to the superintendent a copy of the agreement or amendment.

**Disciplinary and capacity records**

- 390** (1) Subject to subsection (2), a registrar or health occupation director must keep, for each regulated health practitioner governed by the regulator, a disciplinary record that includes copies of all of the following made with respect to the regulated health practitioner:
- (a) regulatory complaints and, in the case of licensees, regulatory reports and citations;

- (b) orders made against the regulated health practitioner under this Act
    - (i) with respect to an investigation or disciplinary proceeding, including, in the case of licensees, in relation to an administrative matter or an order made under section 319 (1) (b) (i) [*after complaint disposition review*],
    - (ii) in a proceeding before the Health Professions Review Board or the Supreme Court, or
    - (iii) with respect to an offence;
  - (c) the decisions that led to an order referred to in paragraph (b) and the reasons for the decisions;
  - (d) if an order was reconsidered or reviewed under this Act or under judicial review, the decision on reconsideration, review or judicial review and the reasons for the decision;
  - (e) notices, including warnings, advice or information, given under a summary dismissal order;
  - (f) orders made under section 302 [*orders for recovery*] or agreements made under section 303 [*recovery from respondents*];
  - (g) orders that are in the nature of orders referred to in this section and that were made
    - (i) under an enactment referred to in section 5 [*application to former regulated health practitioners*], except an order made with the consent of the respondent, or
    - (ii) by an extrajurisdictional regulator under an enactment of the regulator's jurisdiction.
- (2) If a regulatory complaint, regulatory report, order, decision or notice referred to in subsection (1) is with respect to a licensee's capacity only,
- (a) the registrar must keep copies of the complaint, report, order, decision or notice in a capacity record for the licensee, separate from the licensee's disciplinary record,
  - (b) a capacity officer must give to the registrar a summary of the complaint, report, order, decision or notice, and
  - (c) the registrar must keep the summary with the licensee's capacity record.
- (3) Despite subsection (1) (a), a citation must not be included in a disciplinary record if the citation is cancelled for a reason referred to in section 173 (1) (a) or (b) [*recommendation to cancel citation*].

- (4) Despite subsections (1) and (2), a regulatory complaint or regulatory report must not be included in a disciplinary record or capacity record if, because the complaint or report was trivial, frivolous, vexatious, an abuse of process or made in bad faith,
  - (a) the complaint was disposed of by being dismissed,
  - (b) no regulatory complaint was made on the basis of the report, or
  - (c) a citation based on the complaint was refused or cancelled.

**Information and records generally**

- 391** (1) A board or health occupation director must make bylaws or rules respecting the following:
- (a) the collection, use and disclosure, by the regulatory college or for the purposes of the regulatory program, as applicable, of the personal information of persons who participate in regulatory processes;
  - (b) policies and procedures for the making and keeping of records prepared for or obtained by the regulator.
- (2) A certificate is proof, in the absence of evidence to the contrary, of the matters stated in the certificate that relate to the records of a regulator, if the certificate is signed by
- (a) a member of the board or the registrar, in the case of a regulatory college, or
  - (b) the health occupation director, in the case of a regulatory program.

**Fees for regulatory colleges**

- 392** (1) A board may make bylaws establishing
- (a) annual and special fees payable by licensees,
  - (b) fees with respect to applications, if a fee is contemplated under this Act, and
  - (c) fees for other services provided by the regulatory college.
- (2) A board may make bylaws respecting one or both of the following:
- (a) when and the manner in which fees must be paid;
  - (b) the payment of interest or the imposition of penalties for non-payment or late payment of fees.
- (3) A board may levy or charge a fee referred to in subsection (1) in accordance with the bylaws.

**Fees for regulatory programs**

- 393** (1) The minister may, in a designation regulation, make regulations establishing fees and authorizing a health occupation director to
- (a) levy an annual fee on regulated health service providers, and
  - (b) charge fees for one or more types of
    - (i) applications, if a fee is contemplated under this Act, and
    - (ii) other services provided by the health occupation director.
- (2) A health occupation director may make rules respecting
- (a) when and the manner in which fees must be paid, and
  - (b) the payment of interest on late payment of fees.
- (3) Subject to the regulations, a health occupation director may waive a person's obligation to pay a fee if satisfied that the person is not able to pay or would otherwise suffer undue hardship.

**Application of *Financial Administration Act***

- 394** Section 16 (b) of the *Financial Administration Act* does not apply for the purposes of sections 47 (3) [*other matters*] and 212 (3) [*other matters*] of this Act.

**Keeping a registry**

- 395** (1) A registrar must, in accordance with this Act, the regulations and the bylaws, establish or continue, and manage, the registry for the regulatory college.
- (2) A board may make bylaws
- (a) requiring or authorizing information, including personal information and other types of confidential information, to be included in or removed from the registry, and
  - (b) respecting giving and refusing access to information kept in the registry.
- (3) A health occupation director who is required to keep a registry
- (a) must establish or continue, and manage, the registry in accordance with the designation regulation, and
  - (b) may make rules respecting the matters referred to in subsection (2).
- (4) If a person is appointed as the registrar or health occupation director with respect to more than one designated profession or occupation, the person may combine the registries that must be kept for each designated profession or occupation.

**Publishing information kept in registry**

- 396** (1) Subject to subsection (2), a registrar and a health occupation director who is required to keep a registry must make information kept in the registry publicly accessible, free of charge, by doing all of the following:
- (a) publishing the information kept in the registry;
  - (b) during regular business hours,
    - (i) permitting persons to inspect the information kept in the registry, and
    - (ii) if appropriate in the circumstances, responding to requests to verbally disclose information kept in the registry.
- (2) A registrar and a health occupation director
- (a) must not disclose under subsection (1) any information that, under this Act, must not be disclosed to the public, and
  - (b) must or may refuse access to all or part of the information kept in a registry in accordance with the regulations, bylaws or rules.

**Publishing information generally**

- 397** (1) A registrar and a health occupation director must ensure that all matters that must, under this Act, be published are published electronically, using means that are publicly accessible and free of charge.
- (2) If a health occupation director is not required to keep a registry,
- (a) the minister may, in a designation regulation, identify information with respect to regulated health service providers, including personal information and other types of confidential information, that must be published, and
  - (b) the director must publish the information in accordance with the designation regulation.

**Annual report**

- 398** (1) A board or health occupation director must make an annual report respecting all of the following:
- (a) the exercise of powers and performance of duties under this Act by
    - (i) the board, registrar, licence committee, permit committee, investigation committee and quality assurance assessors, in the case of a regulatory college, or
    - (ii) the health occupation director, in the case of a regulatory program;
  - (b) any matter that, in the opinion of the board or health occupation director, should be included in the report;

- (c) other matters as prescribed, as directed by the minister and, in the case of a health occupation director appointed by a board, as directed by the board.
- (2) An annual report must be made in the form and manner required by the minister.
- (3) A board must
  - (a) include, in the annual report made for the regulatory college, the annual report of a health occupation director whom the board has appointed,
  - (b) give its annual report to the minister, with a copy to the superintendent, and
  - (c) publish the annual report.
- (4) A health occupation director appointed by a board must give a copy of the annual report to the board.
- (5) A health occupation director appointed in accordance with section 365 (1) (b) [*appointment of health occupation director*] must
  - (a) give a copy of the annual report to the superintendent, and
  - (b) publish the report.

**Statutory immunity for protected persons**

- 399** (1) In this section, “**protected person**” means a person who is any of the following:
- (a) a member of a licence committee, permit committee or investigation committee;
  - (b) a registrar, deputy registrar, quality assurance assessor, investigator or capacity officer;
  - (c) in the case of a health occupation director who is appointed by a board, the health occupation director, the director’s deputy or an investigator employed or retained by the director;
  - (d) an administrator of a support program;
  - (e) a person who acts under the order or direction of a person referred to in any of paragraphs (a), (b), (c) and (d).
- (2) Subject to subsection (3), no legal proceeding for damages lies or may be commenced or maintained against a protected person because of anything done or omitted
- (a) in the exercise or intended exercise of a power under this Act, or
  - (b) in the performance or intended performance of a duty under this Act.



- (3) Subsection (2) does not apply to a protected person in relation to anything done or omitted in bad faith.
- (4) Subsection (2) does not absolve a regulatory college from vicarious liability arising out of anything done or omitted by a protected person for which the regulatory college would be vicariously liable if this section were not in force.

**Statutory immunity for regulatory colleges**

- 400** (1) In this section, “**investigative or disciplinary action**” means a power exercised or intended to be exercised, or a duty performed or intended to be performed, under this Act by a protected person within the meaning of section 399 [*statutory immunity for protected persons*] for the purposes of
- (a) conducting an investigation,
  - (b) taking a disciplinary action, or
  - (c) participating in a disciplinary proceeding.
- (2) Subject to subsection (3), no legal proceeding for damages lies or may be commenced or maintained against a regulatory college because of anything done or omitted with respect to an investigative or disciplinary action.
- (3) Subsection (2) does not apply to a regulatory college in relation to anything done or omitted in bad faith.

**Division 6 – Restructuring Assessments**

**Restructuring assessments**

- 401** In this Division, “**restructuring assessment**” means an assessment conducted by the superintendent for the purposes of assisting the minister in determining whether to do one or more of the following:
- (a) transfer responsibility for governing a designated profession or occupation from one regulator to another;
  - (b) establish a new regulatory college;
  - (c) amalgamate 2 or more regulatory colleges into one regulatory college.

**When restructuring assessment must or may be conducted**

- 402** (1) The superintendent must conduct a restructuring assessment if required by the minister.
- (2) The superintendent may conduct a restructuring assessment on the superintendent’s own initiative if the superintendent is of the opinion that to do so would be in the public interest
- (a) for the more effective and efficient performance of governance activities by regulators, or

- (b) because a designated profession or occupation is no longer or may no longer be governed by the most appropriate regulator or under the most appropriate form of governance.
- (3) For certainty, a restructuring assessment is not required for the minister to make a decision under section 404 [*minister's decision*].

**How to conduct restructuring assessment**

- 403**
- (1) The superintendent must conduct a restructuring assessment in accordance with this section, the regulations and the directions, if any, of the minister.
  - (2) The following sections apply to a restructuring assessment as if it were a designation assessment:
    - (a) sections 18 (2) and (3) [*how to conduct designation assessment*], 19 (1) and (2) (a) to (d), (f) and (g) [*consultation*] and 20 [*obtaining additional information*];
    - (b) if the assessment is conducted for a purpose referred to in section 402 (2) (b) [*when restructuring assessment must or may be conducted*], sections 21 [*risk assessment*] and 22 [*matters to consider to assess risk*];
    - (c) section 23 [*report and recommendations*], except that
      - (i) recommendations must be made respecting the matter that was the subject of the restructuring assessment,
      - (ii) the superintendent must consider the prescribed matters and any other matter that the minister directs for the purposes of making recommendations, and
      - (iii) section 23 (4) applies after the minister makes a decision under section 404 [*minister's decision*].

**Minister's decision**

- 404**
- (1) To decide if restructuring should occur, the minister must consider
    - (a) the superintendent's report, if a restructuring assessment was conducted, and
    - (b) prescribed factors and other factors that, in the opinion of the minister, are relevant to protecting or promoting the public interest.
  - (2) If the minister is satisfied that restructuring is in the public interest, the minister may, subject to the regulations, require restructuring by
    - (a) enacting, amending or repealing a designation regulation, and
    - (b) exercising powers under one or more of Divisions 7, 8 and 9 of this Part, if applicable.

## Division 7 – Transferring Governance Responsibilities

### Definitions

**405** In this Division:

“**committee**” means the following:

- (a) the licence committee, permit committee, investigation committee or another committee established under the bylaws of a regulatory college;
- (b) a panel or a member of, or a person appointed by or acting for, a committee referred to in paragraph (a);

“**officer**” means,

- (a) with respect to a regulatory college, a person who is a registrar, deputy registrar, quality assurance assessor, investigator or capacity officer, and
- (b) with respect to a regulatory program, the health occupation director or an investigator;

“**transfer agreement**” means an agreement described in section 407 [*transfer agreements*];

“**transfer date**” means the date on which a transfer regulation takes effect;

“**transfer regulation**” means a designation regulation that has been enacted, amended or repealed for the purposes of transferring responsibility for governing a designated profession or occupation;

“**transferee**” means a regulator to which responsibility for governing a designated profession or occupation is being transferred;

“**transferor**” means a regulator from which responsibility for governing a designated profession or occupation is being transferred.

### Transfer of governance responsibilities

**406** (1) Subject to the regulations and subsection (2), the minister may transfer responsibility for governing a designated profession or occupation from one regulator to another by enacting, amending or repealing a designation regulation, as appropriate.

(2) A transfer under subsection (1) must not be made unless the minister is satisfied that any objections raised by the regulators during consultation can be addressed satisfactorily, including through a transfer agreement.

### Transfer agreements

**407** (1) A transfer agreement may be made between a transferee and a transferor for the purposes of transferring responsibility for governing a designated profession or occupation.

- (2) A transfer agreement may provide for the transfer of one or more of the following:
  - (a) property, assets, rights, interests, liabilities and obligations;
  - (b) records, including records that contain personal information;
  - (c) officers and employees;
  - (d) prescribed matters.
- (3) A transfer agreement may identify matters referred to in subsection (2) by name, class or description.
- (4) Unless a transfer agreement provides otherwise, officers and employees transferred under a transfer agreement
  - (a) continue as officers and employees of the transferee, and
  - (b) have no right of compensation arising from the transfer.
- (5) A transfer agreement may provide for transitional matters necessary to transfer the exercise of powers or performance of duties by officers and committees.
- (6) Subject to this Division and the regulations, a transfer agreement may provide for the transfer of a matter referred to in subsection (2) of this section before the date on which a transfer regulation comes into force.

**Transfer under transfer agreement**

- 408**
- (1) In this section, “**transferred matters**” means the property, assets, rights, interests, liabilities and obligations transferred as provided for under a transfer agreement.
  - (2) On the date that a transfer agreement takes effect,
    - (a) the transferred matters cease to be the property, assets, rights, interests, liabilities and obligations of the transferor and become those of the transferee, and
    - (b) the transferor is released from the transferred matters.
  - (3) If the minister provides, in writing, that this subsection applies to a transfer agreement,
    - (a) a transfer described under subsection (2) is effective despite any lack of fulfillment of a provision in an agreement or instrument requiring consent, leave or approval respecting the transfer or assignment of the transferred matters, and
    - (b) the lack of fulfillment does not constitute a breach or default of the agreement or instrument.

**Records and confidential information**

- 409**
- (1) A record held by a transferor in relation to the governance responsibilities being transferred is deemed to be the record of the transferee as of the date provided for under a transfer agreement or the transfer date, whichever is earliest.
  - (2) Personal information may be collected and disclosed between a transferor and a transferee for the purposes of giving effect to the transfer of governance responsibilities.
  - (3) Despite any provision to the contrary under this Act, a person who obtained information or a record in the exercise of powers or performance of duties for a transferor may disclose the information and records to a person who exercises similar powers or performs similar duties for a transferee.

**Power or duty in progress**

- 410**
- (1) In this section, “**power or duty in progress**” means a power or duty under this Act that a transferor or its officers, employees or committees
    - (a) began to exercise or perform, but did not complete, before the transfer date, or
    - (b) could have exercised or performed with respect to a matter that is alleged to have existed or occurred, but was not investigated, before the transfer date.
  - (2) Except as provided under a transfer agreement, as of the transfer date,
    - (a) the board of the transferee may exercise any power or duty in progress that was being exercised
      - (i) by a board of the transferor, or
      - (ii) by the health occupation director of a transferor, if a designated health occupation is restructured as a designated health profession,
    - (b) an officer of the transferee may exercise any power or duty in progress that was being exercised by an officer of a transferor who held the same title,
    - (c) a committee of the transferee may exercise any power or duty in progress that was being exercised by a committee of a transferor that has the same mandate, and
    - (d) without limiting paragraphs (b) or (c), a health occupation director of the transferee may exercise any power or duty in progress that was being exercised by the board, an officer or a committee of a transferor, if a designated health profession is restructured as a designated health occupation.

**Practitioners**

- 411** A person who, on the transfer date, is a regulated health practitioner or former regulated health practitioner governed by a transferor is deemed on that date to be a regulated health practitioner or former regulated health practitioner governed by the transferee and, subject to the bylaws or rules of the transferee, continues
- (a) to be a member of the same or a comparable class established by the bylaws or rules of the transferee, if a bylaw or rule made by the transferor established classes of regulated health practitioners, and
  - (b) to be subject to all limits or conditions, if any, imposed on the regulated health practitioner’s practice authority by the transferor until
    - (i) the limits or conditions are varied in accordance with this Act, or
    - (ii) the practice authority expires or is revoked.

**Applicants**

- 412** A person who, on or before the transfer date, made an application to a transferor for a licence, registration or authorization
- (a) is deemed on the transfer date to have made the application to the transferee, if no decision was made on the application before that date, and
  - (b) is, subject to the bylaws or rules of the transferee, deemed to have applied to be a member of the same or a comparable class established by the bylaws or rules of the transferor, if a bylaw or rule made by a transferor established classes of regulated health practitioners.

**Health profession corporations**

- 413** (1) A health profession corporation that, on the transfer date, holds a permit issued by a transferor
- (a) is deemed on the transfer date to hold a permit issued by the transferee, and
  - (b) continues to be subject to all limits and conditions, if any, imposed on the permit by the transferor until
    - (i) the limits or conditions are varied in accordance with this Act, or
    - (ii) the permit expires or is revoked.
- (2) A person who, on or before the transfer date, made an application for a health profession corporation permit to a transferor is deemed on the transfer date to have
- (a) made the application to the transferee, if no decision was made on the application before that date and the transferee is authorized to issue health profession corporation permits, or

- (b) withdrawn the application, if no decision was made on the application before that date and the transferee is not authorized to issue health profession corporation permits.
- (3) Despite any provision to the contrary in this Division, if, before the transfer date, the permit committee of a transferor began hearing a matter or making a decision under section 114 [*if reason for disciplinary action suspected*], the persons who were members of that committee
  - (a) must continue the hearing or make the decision, and
  - (b) may exercise any power and must perform any duty that applies under section 114, 115 [*disposition*] or 116 [*if revocation or penalty*].

**Directions respecting transfer**

- 414** If, in the opinion of the minister, it is necessary to give effect to a transfer under this Division, the minister may, by order, give directions
- (a) respecting any matter that the minister considers is not provided for, or is not sufficiently provided for, under this Division or in a transfer agreement, or
  - (b) that, in the opinion of the minister, are appropriate to prevent, minimize or otherwise address any transitional difficulties that may be encountered.

**Division 8 – Establishing New Regulatory College**

**Establishing new regulatory college**

- 415** (1) Subject to the regulations, the minister may, by order, establish a new regulatory college.
- (2) An order that establishes a new regulatory college must name the new regulatory college and appoint the first members of the board.

**Additional establishment powers**

- 416** The minister may, in an order to establish a new regulatory college, do one or more of the following:
- (a) require the first board to consult with one or more persons, as directed by the minister, with respect to one or more matters;
  - (b) require the first board to obtain the approval of the superintendent with respect to one or more matters;
  - (c) set a date or schedule by which the first board or registrar must exercise powers or perform duties under this Act, including making bylaws and appointments.

## Division 9 – Amalgamating Regulatory Colleges

### Definitions

**417** In this Division:

“**amalgamated regulatory college**” means the regulatory college that continues on the amalgamation of former regulatory colleges;

“**amalgamation date**” means the date stated in an amalgamation order as the date on which amalgamation under the order takes effect;

“**amalgamation order**” means an order made under section 418 [*amalgamation orders*];

“**committee**” means the following:

- (a) the licence committee, permit committee, investigation committee or another committee established under the bylaws of a regulatory college;
- (b) a panel or a member of, or a person appointed by or acting for, a committee referred to in paragraph (a);

“**first board**” means the first board of an amalgamated regulatory college, appointed in accordance with section 419 [*first board*];

“**former regulatory college**” means a regulatory college that is amalgamating, or has amalgamated, with another regulatory college;

“**officer**” means a person who is a registrar, deputy registrar, quality assurance assessor, investigator or capacity officer.

### Amalgamation orders

**418** (1) Subject to the regulations, the minister may, by order, amalgamate 2 or more regulatory colleges into one regulatory college.

(2) An order to amalgamate 2 or more regulatory colleges must do all of the following:

- (a) name the regulatory colleges being amalgamated;
- (b) state the date on which the amalgamation takes effect;
- (c) provide, in accordance with section 419 [*first board*], for the first board of the amalgamated regulatory college;
- (d) provide, in accordance with section 421 (1) [*first bylaws and transition of bylaws*], for the first bylaws of the amalgamated regulatory college;
- (e) provide, in accordance with section 422 (1) and (2) [*officers and committees*], for the officers and committees of the amalgamated regulatory college.



**First board**

- 419** (1) An order to amalgamate 2 or more regulatory colleges must
- (a) name the members and set the terms of the members of the first board, and
  - (b) state the date on which the first board may begin to exercise one or more powers and perform one or more duties under this Act.
- (2) The first board may be composed of
- (a) new appointments only,
  - (b) members of the board of one or more of the former regulatory colleges, or
  - (c) a combination of new appointments and persons referred to in paragraph (b).
- (3) If a member of the first board was a board member for a former regulatory college, any period served as a board member for the former regulatory college must not be counted for the purposes of section 346 (e) [*appointments to board*].

**Transition of board**

- 420** (1) On amalgamation, all of the following occur on the amalgamation date:
- (a) board members of former regulatory colleges who are not members of the first board cease to hold office;
  - (b) the term of each member of the first board begins.
- (2) For the purposes of providing an orderly transition from a former regulatory college to an amalgamated regulatory college,
- (a) the minister may, by order, appoint one or more persons to exercise the powers and perform the duties of a board of a former regulatory college, and
  - (b) subject to any limits or conditions set by the minister, the appointed person
    - (i) has all the powers, duties, rights and obligations of the board of the former regulatory college, to the extent that those powers, duties, rights and obligations relate to the amalgamation, and
    - (ii) may, before the amalgamation date, exercise a power and perform a duty referred to in subparagraph (i).

**First bylaws and transition of bylaws**

- 421** (1) An order to amalgamate 2 or more regulatory colleges must provide for one of the following:
- (a) that the bylaws made by the first board are the bylaws of the amalgamated regulatory college;

- (b) that the bylaws made by one of the former regulatory colleges continue as the bylaws of the amalgamated regulatory college.
- (2) On amalgamation, all of the following occur on the amalgamation date:
  - (a) the bylaws of a former regulatory college that are not continued under subsection (1) are deemed to be repealed;
  - (b) whichever of the following applies takes effect:
    - (i) the bylaws made by the first board;
    - (ii) any amendments made for the purposes of the amalgamation to bylaws that were continued.

**Officers and committees**

- 422**
- (1) An order to amalgamate 2 or more regulatory colleges must provide for one or both of the following:
    - (a) that one or more officers of the amalgamated regulatory college will be appointed by the first board;
    - (b) that one or more officers of a former regulatory college will continue as officers of the amalgamated regulatory college.
  - (2) An order to amalgamate 2 or more regulatory colleges must provide for one or both of the following:
    - (a) that one or more committees for the amalgamated regulatory college will be established by the first board;
    - (b) that one or more committees of a former regulatory college will continue as committees of the amalgamated regulatory college.
  - (3) On amalgamation, all of the following occur on the amalgamation date:
    - (a) officers whose appointments are not continued cease to hold office;
    - (b) committees that are not continued are disestablished.

**If regulatory program included**

- 423**
- If a board of a former regulatory college appointed a health occupation director and the former regulatory college amalgamates with another regulatory college, nothing in this Division affects
- (a) the appointment of the health occupation director, the rules made by the director or the director's administration or operation of the regulatory program, or
  - (b) the authority of a regulated health service provider to practise a designated health occupation.

**Additional restructuring powers**

- 424** (1) The minister may, in an amalgamation order, exercise one or more of the powers referred to in section 416 [*additional establishment powers*] as if the minister were establishing a new regulatory college.
- (2) The minister may, in an amalgamation order, give directions
- (a) respecting any matter that the minister considers is not provided for, or is not sufficiently provided for, in this Division, or
  - (b) that, in the opinion of the minister, are appropriate to prevent, minimize or otherwise address any transitional difficulties encountered in amalgamating regulatory colleges.

**Effect of amalgamation generally**

- 425** On the amalgamation date, former regulatory colleges that are amalgamated continue under this Act as one corporation
- (a) under the name of the amalgamated regulatory college, and
  - (b) consisting of the members of the board of the amalgamated regulatory college.

**Property and obligations**

- 426** (1) On amalgamation, all of the following apply as of the amalgamation date:
- (a) the property, assets, rights, interests, liabilities and obligations of each former regulatory college continue as the property, assets, rights, interests, liabilities and obligations of the amalgamated regulatory college;
  - (b) a reference to a former regulatory college in a commercial paper, contract, lease, licence, permit or other instrument or record is deemed to be a reference to the amalgamated regulatory college;
  - (c) an existing cause of action, claim or liability to prosecution is unaffected;
  - (d) a legal proceeding being prosecuted or pending by or against a former regulatory college may be prosecuted, or its prosecution may be continued, by or against the amalgamated regulatory college;
  - (e) a conviction against, or a ruling, order or judgment in favour of or against, a former regulatory college may be enforced by or against the amalgamated regulatory college.
- (2) An amalgamation does not constitute an assignment by operation of law, or a transfer or any other disposition, of the property, assets, rights and interests of a former regulatory college to the amalgamated regulatory college.

**Information and records**

- 427** (1) On amalgamation, the information and records in the possession or control of a former regulatory college on the amalgamation date are deemed, as of that date, to be the information and records in the possession or control of the amalgamated regulatory college.
- (2) Despite any provision to the contrary under this Act, a person who obtained information or records in the exercise of powers or performance of duties for a former regulatory college may disclose the information and records to a person who exercises similar powers or performs similar duties for an amalgamated regulatory college.

**Power or duty in progress**

- 428** (1) In this section, “**power or duty in progress**” means a power or duty under this Act that a former regulatory college or its officers, employees or committees
- (a) began to exercise or perform, but did not complete, before the amalgamation date, or
  - (b) could have exercised or performed with respect to a matter that is alleged to have existed or occurred, but was not investigated, before the amalgamation date.
- (2) The provisions of this section are subject to sections 429 [*bylaws to authorize continued actions*], 430 [*quality assurance assessments*] and 431 [*investigation and discipline*].
- (3) On amalgamation, all of the following apply as of the amalgamation date:
- (a) the first board may exercise any power or duty in progress that was being exercised by a board of a former regulatory college;
  - (b) an officer of the amalgamated regulatory college may exercise any power or duty in progress that was being exercised by an officer of a former regulatory college who held the same title;
  - (c) a committee of the amalgamated regulatory college may exercise any power or duty in progress that was being exercised by a committee of a former regulatory college that had the same mandate.

**Bylaws to authorize continued actions**

- 429** (1) Despite section 422 [*officers and committees*], the first board may make a bylaw to
- (a) authorize an officer or committee of a former regulatory college to continue to exercise a power or perform a duty under this Act that the officer or committee began to exercise or perform, but did not complete, before the amalgamation date, and

- (b) set limits or conditions on the exercise of the power or performance of the duty.
- (2) If a bylaw is made under subsection (1), the authorized officer or committee is deemed to be an officer or committee of the amalgamated regulatory college for the purposes of continuing to exercise the power or perform the duty on and after the amalgamation date.

**Quality assurance assessments**

- 430** (1) Despite section 422 [*officers and committees*], a quality assurance assessor of a former regulatory college who began to conduct a quality assurance assessment before the amalgamation date
- (a) may continue to conduct the assessment on and after the amalgamation date, and
  - (b) for the purposes of paragraph (a), is deemed to be a quality assurance assessor of the amalgamated regulatory college.
- (2) Without limiting section 427 (2) [*information and records*], a quality assurance officer of a former regulatory college may disclose information and records prepared for the purposes of a quality assurance assessment to the registrar of an amalgamated regulatory college for the purposes of taking an action under section 103 [*failure to cooperate*].

**Investigation and discipline**

- 431** Despite section 422 [*officers and committees*], an action taken with respect to the investigation or discipline of a respondent by an officer or committee of a former regulatory college is deemed on the amalgamation date to be the action of the following:
- (a) an officer of the amalgamated regulatory college who holds the same title, if the action was taken by an officer;
  - (b) a committee of the amalgamated regulatory college that has the same mandate, if the action was taken by a committee.

**Practitioners**

- 432** A person who, on the amalgamation date, is a licensee or former licensee governed by a former regulatory college is deemed on that date to be a licensee or former licensee governed by the amalgamated regulatory college and, subject to the bylaws of the amalgamated regulatory college, continues
- (a) to be a member of the same or a comparable class established by the bylaws of the amalgamated regulatory college, if a bylaw made by the former regulatory college established classes of licensees, and

- (b) to be subject to all limits or conditions, if any, imposed on the licensee's licence by the former regulatory college until
  - (i) the limits or conditions are varied in accordance with this Act, or
  - (ii) the licence expires or is revoked.

**Applicants**

- 433** A person who, on or before the amalgamation date, made to a former regulatory college an application with respect to a licence
- (a) is deemed on the amalgamation date to have made the application to the amalgamated regulatory college, if no decision was made on the application before that date, and
  - (b) is, subject to the bylaws of the amalgamated regulatory college, deemed to have applied to be a member of the same or a comparable class established by the bylaws of the amalgamated regulatory college, if a bylaw made by the former regulatory college established classes of licensees.

**Health profession corporations**

- 434** (1) A health profession corporation that, on the amalgamation date, holds a permit issued by a former regulatory college
- (a) is deemed on the amalgamation date to hold a permit issued by the amalgamated regulatory college, and
  - (b) continues to be subject to all limits and conditions, if any, imposed on the permit by the former regulatory college until
    - (i) the limits or conditions are varied in accordance with this Act, or
    - (ii) the permit expires or is revoked.
- (2) A person who, on or before the amalgamation date, made an application for a health profession corporation permit to a former college is deemed on the amalgamation date to have
- (a) made the application to the amalgamated college, if no decision was made on the application before that date and the amalgamated college is authorized to issue health profession corporation permits, or
  - (b) withdrawn the application, if no decision was made on the application before that date and the amalgamated college is not authorized to issue health profession corporation permits.

- (3) Despite any provision to the contrary in this Division, if, before the amalgamation date, a permit committee of a former regulatory college began hearing a matter or making a decision under section 114 [*if reason for disciplinary action suspected*], the committee
  - (a) must continue the hearing or make the decision, and
  - (b) may exercise any power and must perform any duty that applies under any of sections 114, 115 [*disposition*] and 116 [*if revocation or penalty*].

## **PART 9 – REGULATORY OVERSIGHT**

### **Division 1 – Superintendent’s Office**

#### **Establishment of superintendent’s office**

- 435**
- (1) The Office of the Superintendent of Health Profession and Occupation Oversight is established as an office of the government.
  - (2) The purposes of the superintendent’s office are as follows:
    - (a) to give advice and recommendations to the minister respecting
      - (i) the administration of and amendments to this Act and the regulations,
      - (ii) the improvement of the regulatory performance of regulators, and
      - (iii) any other matter the minister requests;
    - (b) to promote awareness of and adherence to the guiding principles as described in section 14 [*guiding principles for persons acting under this Act*];
    - (c) to develop and implement a merit-based selection process for the appointment of members to boards of regulatory colleges;
    - (d) to promote consistency among regulators with respect to the exercise of powers and performance of duties under this Act;
    - (e) to superintend regulators in the exercise of powers and performance of duties under this Act, including reporting on regulatory performance and recommending improvements;
    - (f) to publish information and records that the superintendent determines to be in the public interest;
    - (g) to exercise additional powers and perform additional duties as prescribed.

**Members of superintendent's office**

- 436** (1) The superintendent's office consists of the following:
- (a) the superintendent;
  - (b) the discipline tribunal;
  - (c) employees required to carry out the functions of the office.
- (2) The Lieutenant Governor in Council may appoint the superintendent in accordance with the *Public Service Act*.

**Employees**

- 437** (1) The superintendent may appoint, in accordance with the *Public Service Act*, the employees the superintendent considers necessary to assist the superintendent and the discipline tribunal to exercise powers and perform duties under this Act.
- (2) The superintendent is a deputy minister for the purposes of applying the *Public Service Act* to subsection (1) of this section.

**Deputy superintendent**

- 438** (1) As soon as reasonably practicable after taking office, the superintendent must appoint one deputy to act in the superintendent's absence.
- (2) The deputy superintendent must be an employee of the superintendent's office.

**Retention of experts**

- 439** (1) The superintendent may retain consultants, experts, specialists and other persons who, in the opinion of the superintendent, are necessary to assist the superintendent to exercise powers and perform duties under this Act.
- (2) The superintendent may establish the remuneration of persons retained under this section and other terms and conditions of their retainers.
- (3) The *Public Service Act* does not apply with respect to persons retained under this section.

**Collection of fees**

- 440** (1) Subject to the regulations, the superintendent may, by order,
- (a) require regulatory colleges to pay to the superintendent's office general administration fees for superintending the regulatory performance of
    - (i) regulatory colleges, and
    - (ii) regulatory programs for which regulatory colleges appoint the health occupation director, and
  - (b) set the amount of the fees and the date by and manner in which the fees must be paid.



- (2) Subject to the regulations, the superintendent may make different requirements under subsection (1) for different regulatory colleges and different regulatory programs.
- (3) The amount of a fee that must be paid under this section is a debt due to the government and may be recovered in accordance with Division 2 [*Recovering Debts Due*] of Part 10.

**Minister's directions**

- 441** The superintendent must comply with any general or special direction made by order of the minister with respect to the superintendent's exercise of powers and performance of duties under this Act.

**Administrative powers**

- 442** (1) The superintendent may, by order, set requirements respecting the form and manner of submitting oversight complaints under section 462 [*making oversight complaints*], information, records, notices, fees and reports, other than annual reports, to the superintendent by
- (a) boards and health occupation directors, and
  - (b) persons making oversight complaints.
- (2) With respect to any matter over which the superintendent may, under this Act, set requirements or impose limits or conditions, the superintendent
- (a) may establish classes of persons, processes and other matters,
  - (b) may set different requirements, limits or conditions for different classes, and
  - (c) must publish the requirements, limits and conditions.

**Division 2 – Discipline Tribunal**

**Establishment of discipline tribunal**

- 443** (1) The discipline tribunal is established within the superintendent's office.
- (2) The discipline tribunal consists of the following members:
- (a) the director of discipline;
  - (b) discipline panel members.

**Director of discipline**

- 444** (1) The director of discipline is responsible for the management of the discipline tribunal.
- (2) The minister may appoint the director of discipline in accordance with the *Public Service Act*.
- (3) The person appointed as the director of discipline must be a member or former member of the Law Society of British Columbia or a law society of another province of Canada.

**Deputy director of discipline**

- 445** (1) As soon as reasonably practicable after taking office, the director of discipline must appoint one deputy to act in the director's absence or in circumstances in which the director has a conflict of interest.
- (2) The deputy director of discipline must be
- (a) a discipline panel member, and
  - (b) a member or former member of the Law Society of British Columbia or a law society of another province of Canada.

**Retention of experts**

- 446** (1) The director of discipline may retain consultants, experts, specialists and other persons who, in the opinion of the director, are necessary to assist the director or discipline panel members to exercise powers and perform duties under this Act.
- (2) The director of discipline may establish the remuneration of persons retained under this section and other terms and conditions of their retainers.
- (3) The *Public Service Act* does not apply with respect to persons retained under this section.

**Practice and procedure**

- 447** (1) Subject to the regulations, the director of discipline may issue practice directives respecting practices and procedures to facilitate the just and timely conduct of discipline hearings.
- (2) Without limiting subsection (1), the director of discipline
- (a) may issue practice directives for any matter described in section 11 (2) of the *Administrative Tribunals Act*, and
  - (b) must issue practice directives as referred to in section 12 (1) of that Act.
- (3) Sections 11, 12 (3) and (4) and 13 (1.1) and (3) of the *Administrative Tribunals Act* apply to practice directives issued under subsection (2) of this section.

**Process for appointing discipline panel members**

- 448** (1) The director of discipline must establish or adopt, and publish, policies and guidance respecting
- (a) the education, training, experience and other qualifications that are necessary or desirable for discipline panel members to have, and
  - (b) the processes and best practices for selecting persons to be appointed as discipline panel members, including, subject to the regulations,
    - (i) factors that must or must not be considered,
    - (ii) requirements for consultation, and
    - (iii) objectives to be achieved, including with respect to ensuring that discipline panels will benefit from a diversity of perspectives.
- (2) The director of discipline must ensure that appointment processes and best practices reflect the principle of merit and conform to any prescribed requirements, limits and conditions.
- (3) For the purposes of establishing or adopting appointment processes and best practices, the director of discipline may establish or adopt requirements, limits and conditions that apply with respect to appointees individually or collectively, or both.

**Appointment of discipline panel members**

- 449** (1) The director of discipline must appoint persons as discipline panel members.
- (2) The director of discipline must ensure that the discipline tribunal
- (a) has, for each designated health profession, one or more discipline panel members who hold a licence to practise the designated health profession, and
  - (b) is composed of discipline panel members who, collectively,
    - (i) represent diverse groups of people,
    - (ii) have expertise in assisting persons who have experienced conduct that is in the nature of sexual misconduct, sexual abuse or discrimination,
    - (iii) have expertise in mitigating any potential trauma that may arise from an adversarial process, and
    - (iv) have other relevant experience or qualifications.
- (3) The director of discipline may terminate the appointment of a discipline panel member for cause.

**Application of *Administrative Tribunals Act***

- 450** (1) Section 10 of the *Administrative Tribunals Act* applies to discipline panel members.
- (2) Sections 30, 55, 56, 59.1 and 61, except section 61 (2) (b), of the *Administrative Tribunals Act* apply to the director of discipline and to discipline panel members.

**Information and records**

- 451** The superintendent may access, at any time, information or records of the discipline tribunal, including information or records that contain personal information.

**Division 3 – Appointment of Board Members**

**Appointment processes**

- 452** (1) The superintendent must establish or adopt, and publish, policies and guidance respecting
- (a) the education, training, experience and other qualifications that are necessary or desirable for board members to have, and
  - (b) processes and best practices for selecting persons to be appointed as board members, including, subject to the regulations,
    - (i) factors that must or must not be considered,
    - (ii) requirements for consultation, and
    - (iii) objectives to be achieved, including with respect to ensuring that boards will benefit from a diversity of perspectives.
- (2) The superintendent must ensure that appointment processes and best practices reflect the principle of merit and conform to any prescribed requirements, conditions and limits.
- (3) For the purposes of establishing or adopting appointment processes and best practices, the superintendent may establish or adopt requirements, limits and conditions that apply with respect to appointees individually or collectively, or both.

**Consultations and assistance**

- 453** In establishing, adopting or reviewing processes and best practices for appointing board members, the superintendent
- (a) must consult with regulatory colleges and prescribed persons,
  - (b) may consult with the public and any other person, and

- (c) may, by order, require a regulatory college to provide information and conduct surveys and assessments with respect to one or more of the following:
  - (i) necessary or desirable education, training, experience and other qualifications;
  - (ii) the demographic composition of the board;
  - (iii) the recruitment or retention of board members;
  - (iv) matters that are relevant to whether the objectives of the appointment processes and best practices are being met;
  - (v) a matter identified by the minister or superintendent.

#### **Recommendations for appointments and rescindments**

- 454** The superintendent must manage the implementation of processes and best practices for appointing board members, including by making recommendations to the minister respecting the following:
- (a) the persons to be appointed as board members;
  - (b) the rescindment of a person’s appointment if the superintendent has reasonable grounds to believe that the person has
    - (i) contravened a provision of this Act, the regulations or the bylaws, or
    - (ii) failed to meet performance standards.

### **Division 4 – Types of Oversight Processes**

#### **Definitions**

- 455** In this Division and in Divisions 5 [*Conduct of Oversight Processes*] and 6 [*Inquiries and Public Administrators*] of this Part:
- “**audit**” means the oversight function described in section 457 (c) [*types of oversight processes*];
  - “**general review**” means the oversight process described in section 457 (a);
  - “**oversight complaint**” means a complaint described in section 457 (b);
  - “**oversight investigation**” means the oversight process described in section 457 (d);
  - “**oversight process**” means a general review, a review of an oversight complaint, an audit, an oversight investigation or a systemic review;
  - “**oversight report**” means a report prepared under section 474 [*preparing oversight report*];
  - “**systemic review**” means the oversight process described in section 457 (e).

**Performance standards**

- 456** The superintendent must establish or adopt, and publish, policies and guidance respecting
- (a) performance standards for the conduct of governance activities, and
  - (b) best practices for meeting performance standards.

**Types of oversight processes**

- 457** The superintendent may perform the following types of oversight processes:
- (a) general reviews of a regulator's
    - (i) policies, procedures and bylaws or rules,
    - (ii) timeliness in conducting governance activities,
    - (iii) agreements, as provided under section 389 [*oversight of agreements*], and
    - (iv) annual reports;
  - (b) reviews of oversight complaints made by a person respecting one or both of the following:
    - (i) the performance of governance activities by a regulator;
    - (ii) this Act or the regulations;
  - (c) audits of a regulator to monitor compliance with performance standards;
  - (d) oversight investigations into the conduct of governance activities by a regulator;
  - (e) systemic reviews with respect to any matter relevant to
    - (i) the overall regulatory performance of one or more regulators, or
    - (ii) the regulation of, or the state of practice of, one or more health professions or health occupations, whether designated or not.

**When superintendent must act**

- 458**
- (1) The superintendent must conduct a general review, audit, oversight investigation or systemic review on request of the minister.
  - (2) The superintendent must conduct a review of an oversight complaint unless the complaint must or may be dismissed under section 460 [*dismissal of oversight complaint*] or transferred under section 461 [*transfer of oversight complaint*].
  - (3) The superintendent must conduct an oversight investigation if the superintendent has reasonable grounds to believe that a regulator has acted in a manner that contravenes this Act or the regulations.

- (4) The superintendent must conduct a systemic review if the superintendent has reasonable grounds to believe that any of the following circumstances apply:
  - (a) there is a generalized failure, by one or more regulators, to meet performance standards;
  - (b) similar grounds exist for conducting oversight investigations into the conduct of governance activities by more than one regulator;
  - (c) the manner in which a designated profession or occupation is regulated is inadequate to meet one or more objectives of this Act;
  - (d) the public is at risk of harm from
    - (i) the unregulated practice of a health profession or health occupation, or
    - (ii) the manner by which a health service is or may be delivered by one or more types of providers of health services.

**When superintendent may act**

- 459** (1) The superintendent may conduct a general review or audit at any time on the superintendent's own initiative or in accordance with policies established by the superintendent.
- (2) The superintendent may conduct the following:
  - (a) an audit, oversight investigation or systemic review after receiving an oversight complaint, if
    - (i) the allegations contained in the complaint, if admitted or proven, would warrant this, or
    - (ii) the superintendent is of the opinion, on conducting a review of the complaint, that a further oversight process is advisable;
  - (b) an audit on request of a board or health occupation director or if the superintendent has reasonable grounds to believe that a regulator is not meeting performance standards;
  - (c) an oversight investigation if the superintendent has reasonable grounds to believe that a regulator has acted in a manner that indicates a serious deficiency in the regulator's regulatory performance or that is otherwise not in the public interest;
  - (d) a systemic review for any reason the superintendent believes to be in the public interest.

**Dismissal of oversight complaint**

- 460** (1) The superintendent must, by order, dismiss an oversight complaint if
  - (a) the matter about which the complaint is made is, or could be, the subject of a regulatory report or regulatory complaint, or
  - (b) prescribed circumstances apply.

- (2) The superintendent may, by order, dismiss an oversight complaint if one or more of the following circumstances applies:
- (a) the complaint relates to a matter with respect to which an oversight report has already been prepared;
  - (b) the complaint is against a person that is not responsible, under this Act, for conducting governance activities with respect to the matter about which the complaint is made;
  - (c) the complaint makes allegations that, in the opinion of the superintendent, do not, if admitted or proven, indicate a deficiency in a regulator's regulatory performance;
  - (d) the complaint seeks a review of an order or decision made, or an action taken or not taken, with respect to a particular person, including a decision or action with respect to any of the following:
    - (i) an application the person makes under this Act;
    - (ii) the person's practice authority or a health profession corporation permit;
    - (iii) an investigation or an action that is disciplinary in nature;
    - (iv) a matter that is within the jurisdiction of the discipline tribunal or the Health Professions Review Board;
  - (e) the complaint seeks a review of an order or decision made, or an action taken or not taken, under an enactment referred to in section 5 [*application to former regulated health practitioners*];
  - (f) in the opinion of the superintendent, the complaint is trivial, frivolous, vexatious, an abuse of process or made in bad faith;
  - (g) prescribed circumstances.

**Transfer of oversight complaint**

- 461** The superintendent may transfer an oversight complaint to another person if
- (a) the complaint is dismissed for a reason referred to in section 460 (1) (a) or (2) (b) or (d) [*dismissal of oversight complaint*], and
  - (b) the person who made the complaint consents to the transfer.

**Division 5 – Conduct of Oversight Processes**

**Making oversight complaints**

- 462** (1) Subject to the regulations, a person may make an oversight complaint by submitting to the superintendent the complaint and all information and records required by the superintendent.



- (2) After receiving an oversight complaint, the superintendent
  - (a) must give written notice to the person who made the complaint that the complaint was received, and
  - (b) may request further information and records from the person.

**Notice of decision to dismiss**

- 463**
- (1) If the superintendent dismisses an oversight complaint, the superintendent
    - (a) must give to the person who made the complaint
      - (i) written notice of the dismissal and the reasons for the dismissal, and
      - (ii) a copy of all relevant oversight reports, if the complaint is dismissed for a reason referred to in section 460 (2) (a) [*dismissal of oversight complaint*], and
    - (b) may give to the minister a copy of the notice given under paragraph (a).
  - (2) If the superintendent dismisses an oversight complaint, the superintendent may, if the superintendent is of the opinion that it would be appropriate to do so, give information to the person who made the complaint respecting one or both of the following:
    - (a) processes under other enactments that may be suitable for addressing complaints or concerns;
    - (b) a transfer proposed to be made under section 461 [*transfer of regulatory complaint*].

**Notice to regulator**

- 464**
- (1) The superintendent must give to a board or health occupation director that will be subject to an oversight process, other than a general review, written notice of the process and the reasons for conducting the process.
  - (2) The superintendent must include with a notice given under subsection (1) all of the following that apply:
    - (a) a copy of all relevant oversight complaints, if any;
    - (b) the procedures the superintendent will use to conduct the oversight process;
    - (c) information respecting how the board or health occupation director may request
      - (i) further information about the process, and
      - (ii) the opportunity to review and make submissions with respect to the superintendent's findings before an oversight report is made.

**Notice to other persons**

- 465** The superintendent may give to any person whose interests, in the opinion of the superintendent, may be affected a copy of one or both of the following:
- (a) the notice given under section 464 [*notice to regulator*];
  - (b) any oversight complaints that relate to the notice.

**General powers**

- 466** (1) An oversight process, other than a general review, must be conducted in accordance with
- (a) the regulations, and
  - (b) the directions of the minister, in the case of a process conducted on the minister's request.
- (2) The superintendent may conduct a review of multiple oversight complaints together, if the complaints are with respect to the same regulator.
- (3) The superintendent may delegate a power to make an order under this Division, and an order made by a delegate must be considered, for all purposes, to be an order made by the superintendent.

**If Indigenous matters**

- 467** (1) The superintendent must collaborate with one or more persons nominated by Indigenous governing bodies or other entities representing Indigenous peoples if an oversight process includes conducting a review of one or more of the following matters:
- (a) discrimination or anti-discrimination measures, if Indigenous identity is specifically relevant to the matters being considered;
  - (b) the delivery of a type of health service, if persons provide health services of that type in accordance with Indigenous practices;
  - (c) the use of restorative processes that are intended to reflect or be influenced by Indigenous practices;
  - (d) the nomination process referred to in section 288 (2) [*list of support workers*].
- (2) The superintendent must, in collaboration with Indigenous governing bodies and other entities representing Indigenous peoples, establish policies and procedures for the nomination of persons by those Indigenous governing bodies and other entities for the purposes of this section.

**Obtaining information and records**

- 468** (1) For the purposes of conducting an oversight process, other than a general review, the superintendent may
- (a) use any information and records that a regulator has published or given to the superintendent for any reason under this Act, and
  - (b) order a board or health occupation director to provide, by the date stated in the order, relevant information or records in the board's or director's possession or control.
- (2) For certainty, the power under subsection (1) includes the power to require and use records that contain personal information or other types of confidential information.

**Oversight investigations and systemic reviews**

- 469** (1) For the purposes of conducting an oversight investigation or systemic review, the superintendent may do one or more of the following:
- (a) order any person who may have relevant information to
    - (i) provide, by the date stated in the order, information or records in the person's possession or control, and
    - (ii) answer questions, including by attending at a specified place and time to answer questions;
  - (b) during regular business hours, enter premises used by a regulator;
  - (c) inspect and copy any records provided under paragraph (a) (i) or found on the premises under paragraph (b), including records that contain personal information or other types of confidential information;
  - (d) require persons to attend a hearing, in person or by electronic means, to give evidence and to produce records in their possession or control;
  - (e) set requirements, limits and conditions respecting the conduct of and participation in a hearing.
- (2) A hearing must be public unless the superintendent is of the opinion that, to protect the privacy of an individual or for any other reason, all or part of the hearing should be held privately.
- (3) Subject to the regulations, the superintendent may reimburse a person for reasonable expenses incurred by the person in providing information or records under an order made under subsection (1) (a).

**Additional powers**

- 470** The superintendent may obtain additional information for the purposes of conducting a review of an oversight complaint made with respect to the Act or regulations, conducting an oversight investigation or conducting a systemic review, including by doing one or more of the following:
- (a) consulting with, seeking expert advice from or accepting submissions from any person;
  - (b) conducting research, including through interviews and surveys;
  - (c) setting requirements, limits and conditions respecting consultations and submissions;
  - (d) doing other things authorized under the regulations or necessary for the purposes of complying with a direction of the minister.

**Enforcement of orders**

- 471** On application by the superintendent to the Supreme Court, a person who fails to comply with an order of the superintendent made under this Division is liable to be committed for contempt as if in breach of an order or judgment of the Supreme Court.

**Remedial and other actions**

- 472** (1) At any time during the conduct of an oversight process, the superintendent may do one or more of the following:
- (a) give advice and recommendations to the board or health occupation director that is the subject of the process;
  - (b) request that the board or director report back to the superintendent respecting
    - (i) the steps taken, if any, in response to the superintendent's advice or recommendations, and
    - (ii) the reasons for not complying with all or part of the superintendent's advice or recommendations, if applicable;
  - (c) give to a person who was affected by a decision of the regulator information respecting options to have the decision reconsidered or reviewed, including by judicial review.
- (2) If the superintendent is considering giving advice or recommendations to the minister, the superintendent must, before preparing an oversight report, give to the board or health occupation director that is the subject of the advice or recommendations both of the following:
- (a) written notice of the advice and recommendations under consideration;

- (b) an opportunity to do the following:
  - (i) make submissions on the advice and recommendations;
  - (ii) take an action for the purposes of remedying an issue identified by the superintendent.

**Matters to consider**

- 473** (1) In conducting an oversight process, the superintendent must consider all of the following:
- (a) whether a regulator has contravened this Act or the regulations;
  - (b) whether a regulator is failing to meet performance standards;
  - (c) whether a regulator is acting, or has acted, in a manner that is not in the public interest.
- (2) Without limiting subsection (1), the superintendent may consider one or more of the following:
- (a) whether a bylaw or rule was developed with sufficient consultation;
  - (b) if a bylaw or rule is substantially inconsistent with similar bylaws or rules of other regulators, whether the inconsistency is necessary or appropriate in the circumstances;
  - (c) whether a bylaw, rule, agreement or annual report is deficient.

**Preparing oversight report**

- 474** (1) After conducting an oversight process, the superintendent must prepare a report that summarizes all of the following that apply:
- (a) the matters that were the subject of the process, the superintendent's findings and the reasons for the findings;
  - (b) any actions taken by the superintendent under section 472 [*remedial and other actions*];
  - (c) any advice or recommendations given by the superintendent to a board or health occupation director and the reasons for the advice and recommendations;
  - (d) any actions taken by a board or health occupation director in response to the process, whether or not the actions were recommended by the superintendent;
  - (e) any advice or recommendations the superintendent has for the minister and the reasons for the advice and recommendations.
- (2) If more than one regulator was the subject of a systemic review, the superintendent may report the superintendent's overall findings and generally describe the actions of regulators.

**Providing oversight report**

- 475** (1) The superintendent must distribute a copy of an oversight report as follows:
- (a) to the board or health occupation director of the regulator that is the subject of the report;
  - (b) if an oversight complaint was made, to the person who made the complaint;
  - (c) to the Indigenous governing bodies or other entities representing Indigenous peoples who nominated persons with whom the superintendent collaborated under section 467 [*if Indigenous matters*];
  - (d) to the minister, immediately, if the superintendent is of the opinion, based on the findings, that
    - (i) there is a significant risk of harm to the public, or
    - (ii) it would be in the public interest for the minister to consider, as soon as reasonably practicable, a matter referred to in the report;
  - (e) to the minister, as soon as reasonably practicable, if paragraph (d) of this section does not apply but the superintendent is of the opinion that the minister should take an action under section 477 [*minister's orders*].
- (2) The superintendent may give a copy of an oversight report to any other person who, in the opinion of the superintendent, has an interest in the report.

**Further information**

- 476** After receiving an oversight report, the minister may give directions to the superintendent to conduct further research and consultations or to take other actions for the purposes of giving further advice and recommendations to the minister, a board or a health occupation director.

**Minister's orders**

- 477** (1) After receiving an oversight report made with respect to any type of oversight process, the minister may, by order, require a board or health occupation director to do one or more of the following:
- (a) carry out further consultation with respect to a bylaw or rule;
  - (b) amend or repeal a policy, procedure, bylaw or rule, or enact a new one;
  - (c) adopt a best practice published under section 456 [*performance standards*];
  - (d) act on one or more of the superintendent's recommendations;
  - (e) seek amendments to an agreement;
  - (f) give to the superintendent information supplemental to, or amend, an annual report.

- (2) After receiving an oversight report made with respect to an oversight process, other than a general review, the minister may make an order under one or more of Divisions 7, 8 and 9 [*restructuring governance responsibilities and regulators*] of Part 8 without a restructuring assessment first being conducted under Division 6 [*Restructuring Assessments*] of that Part.
- (3) After receiving an oversight report made with respect to an audit, oversight investigation or systemic review, the minister may make an order under section 480 [*inquiries*] or 482 [*public administrators*].

**If order made**

- 478**
- (1) The minister must not, in an order under section 477 [*minister's orders*], require a board or health occupation director to make a decision, take an action or not take an action with respect to a particular person, including a decision or action with respect to a matter referred to in section 460 (2) (d) [*dismissal of oversight complaint*].
  - (2) The minister may, in an order under section 477, include one or more of the following:
    - (a) directions with respect to complying with the order, including
      - (i) setting a date or schedule for compliance,
      - (ii) requiring a person to obtain the approval of the superintendent with respect to one or more matters specified in the order, and
      - (iii) requiring a person to report back to the minister or the superintendent with respect to the steps the person is or will be taking to comply;
    - (b) requirements to prepare a record, make a report, provide information or a record to a person or publish information or a record.
  - (3) For certainty, the minister may make an order other than as recommended by the superintendent if the minister is of the opinion that doing so would be in the public interest.

**Failure to comply with certain orders**

- 479**
- If a board or health occupation director fails to comply with an order made under section 477 (1) (a) to (d) [*minister's orders*],
- (a) the minister may, by order, amend or repeal a bylaw or rule, or enact a new bylaw or rule, and
  - (b) the bylaw or rule referred to in paragraph (a) is deemed to have been enacted, amended or repealed, as applicable, by the board or health occupation director.

## Division 6 – Inquiries and Public Administrators

### Inquiries

- 480** (1) If the minister has reasonable grounds to believe that it is necessary and in the public interest to do so, the minister may appoint the superintendent or another person to inquire into
- (a) any matter with respect to a regulatory college that could be the subject of an oversight investigation or a systemic review, or
  - (b) the state of practice of a health profession or health occupation in
    - (i) all or part of British Columbia, or
    - (ii) one or more health care facilities or types of health care facilities.
- (2) For the purposes of an inquiry, a person appointed under subsection (1)
- (a) has the powers, privileges and protection of a commission under sections 22 (1), 23 (a), (b) and (d) and 32 of the *Public Inquiry Act*, and
  - (b) must comply with the terms of reference the minister establishes concerning the conduct of the inquiry.

### After inquiry

- 481** (1) After an inquiry under section 480 [*inquiries*], the minister may make any order that the minister may make under section 477 [*minister's orders*], as if the inquiry had been a systemic review.
- (2) Sections 478 [*if order made*] and 479 [*failure to comply with certain orders*] apply for the purposes of subsection (1) of this section.

### Public administrators

- 482** (1) The minister may appoint a public administrator to discharge the powers and duties of a board of a regulatory college if the minister has reasonable grounds to believe that to do so is in the public interest.
- (2) The minister may specify powers and duties of a public administrator appointed under this section that are in addition to the powers and duties of a board under this Act.
- (3) The minister may specify how a board will operate after a public administrator's appointment ends, including whether a new board will be appointed.

### Board members if public administrator appointed

- 483** Unless otherwise ordered by the minister, the members of a regulatory college board cease to hold office on the appointment of a public administrator for the regulatory college.



**Costs and expenses**

- 484** Costs and expenses incurred by the government with respect to an inquiry held or a public administrator appointed under this Division are a debt due to the government, and the amount of the costs and expenses may be recovered from the regulatory college that was the subject of the inquiry or appointment in accordance with Division 2 [*Recovering Debts Due*] of Part 10.

**Division 7 – Reports**

**Director of discipline’s annual report**

- 485** The director of discipline must make an annual report to the superintendent respecting all of the following:
- (a) the exercise of powers and performance of duties under this Act by the director and by discipline panel members;
  - (b) any matter that, in the opinion of the director, should be included in the report;
  - (c) other matters as prescribed and as directed by the minister.

**Superintendent’s annual report**

- 486** (1) The superintendent must make an annual report to the minister respecting all of the following:
- (a) the exercise of powers and performance of duties under this Act by the superintendent and the discipline tribunal;
  - (b) the extent to which the objectives of this Act are being achieved by each regulator in its governance of the designated health professions and occupations for which it is responsible;
  - (c) any matter that, in the opinion of the superintendent, should be included in the report;
  - (d) other matters as prescribed and as directed by the minister.
- (2) The superintendent’s annual report must include the director of discipline’s annual report.

**Making reports**

- 487** (1) The annual report of the superintendent and discipline tribunal must be made in the form and manner required by the minister.
- (2) After giving an annual report to the minister, the superintendent must do both of the following:
- (a) give a copy of the report to each board and health occupation director;
  - (b) publish the annual report.

**Special reports and public comments**

- 488** (1) If the superintendent is of the opinion that it would be in the public interest to do so, the superintendent may make a report or comment publicly on any matter arising from the superintendent's exercise of powers or performance of duties under this Act.
- (2) A report made under this section must be published.

**Receipt of annual report**

- 489** After receiving the superintendent's annual report, the minister may, by order, require the director of discipline to provide to the superintendent supplemental information.

**PART 10 – ADMINISTRATION AND ENFORCEMENT**

**Division 1 – Information**

**Compellability of information**

- 490** (1) Subject to subsection (2),
- (a) a person must not give or be compelled to give evidence, in a court or in proceedings of a judicial nature, concerning knowledge gained in the exercise of powers or performance of duties under this Act, and
  - (b) records relating to the exercise of powers or performance of duties under this Act are not compellable in a court or in proceedings of a judicial nature.
- (2) Subsection (1) does not apply to proceedings under this Act or a federal enactment.
- (3) Despite subsection (1), if a board or health occupation director is of the opinion that disclosure of knowledge or a record referred to in subsection (1) would be in the public interest, the board or director may authorize the disclosure of the knowledge or record to a court or in proceedings of a judicial nature.

**Health human resources information**

- 491** (1) In this section, "**health human resources management**" includes making plans and taking actions to ensure the sufficient and appropriate distribution of providers of health services in British Columbia, including with respect to
- (a) the timely provision of health services,
  - (b) the scope of health services that can be provided,
  - (c) the efficient and effective use of health human resources, and
  - (d) the demographic composition of persons who provide health services.

- (2) The minister may, by order, require one or more boards or health occupation directors to provide to the minister statistical and other information, except personal information, that, in the opinion of the minister, is advisable for the purposes of health human resources management.
- (3) Without limiting subsection (1), the minister may include in the order a requirement to provide information that is of a prescribed type.

**Discrimination monitoring information**

- 492**
- (1) The minister may, by order, require one or more boards or health occupation directors to provide to the minister statistical and other information, except personal information, that, in the opinion of the minister, is advisable for the purposes of monitoring for discrimination and evaluating anti-discrimination measures.
  - (2) Without limiting subsection (1), the minister may include in the order a requirement to provide one or both of the following:
    - (a) information respecting the demographic composition of regulated health practitioners, applicants to become regulated health practitioners, employees of regulated health practitioners and patients;
    - (b) information that is of a prescribed type.

**If information collection order made**

- 493**
- (1) A board or health occupation director that is subject to an order made under section 491 [*health human resources information*] or 492 [*discrimination monitoring information*] must do all of the following:
    - (a) collect, directly or indirectly, the information the minister requires;
    - (b) assign a unique identification number to each person with respect to whom information is collected;
    - (c) provide the information to the minister in the form and manner, and on or before the date, required by the minister.
  - (2) A board or health occupation director may collect personal information in complying with an order referred to in subsection (1) but must not disclose to the minister information that could reasonably be expected to identify a person.
  - (3) The minister may do the following:
    - (a) use information provided to the minister under subsection (1) (c) for the purposes for which the information was collected and for the purposes of administering this Act;
    - (b) publish the information.

**Disclosure of potential fraud or misbilling**

- 494** (1) Despite any provision to the contrary under this Act, a registrar, investigation committee or health occupation director may disclose information obtained under this Act with respect to a regulated health practitioner if the registrar, committee or director
- (a) has reasonable grounds to believe that the regulated health practitioner has given false or misleading information, or has committed an offence, with respect to health services billing under an enactment or agreement referred to in subsection (2), and
  - (b) discloses the information to a person who is responsible for
    - (i) directing or conducting inspections or investigations under the enactment, or
    - (ii) administering the agreement.
- (2) Information may be disclosed under subsection (1) for the purposes of any of the following:
- (a) the *Laboratory Services Act*, the *Medicare Protection Act*, the *Pharmaceutical Services Act* and any other prescribed enactment;
  - (b) an agreement made with respect to the funding, by the government or a regional health board designated under the *Health Authorities Act*, of the provision of health services by regulated health practitioners.

**Notices, orders and other records**

- 495** (1) A notice that must be given under this Act must include the prescribed content and be given in the prescribed manner.
- (2) An order that is made against a person under this Act must include the prescribed content and be served on the person in the prescribed manner.
- (3) Any other type of record that must be given or served under this Act must be given or served in the prescribed manner.
- (4) A notice, order or record that must be given or served under this Act is deemed in accordance with the regulations to have been received by the intended recipient.

**Division 2 – Recovering Debts Due**

**Definitions**

- 496** In this Division:
- “**certificate**” means a certificate made in accordance with section 498 [*making certificates*];

- “**debtor**” means a person who is liable to pay an amount of money under
- (a) an order referred to in section 497 (1), (2) or (3) [*who may make certificates*], or
  - (b) a provision referred to in section 497 (4).

**Who may make certificates**

- 497** (1) A registrar may issue a certificate stating the amount for which a debtor is liable under an order made against
- (a) a licensee, former licensee or person referred to in section 5 (b) [*application to former regulated health practitioners*] for a monetary penalty, hearing costs or investigation expenses, or
  - (b) a health profession corporation, former health profession corporation or corporation that held a health profession corporation permit under the *Health Professions Act*, R.S.B.C. 1996, c. 183, for
    - (i) a monetary penalty imposed under this Act or the *Health Professions Act*, or
    - (ii) a monetary penalty, hearing costs or investigation expenses, if section 275 (2) (b) [*recovery of penalty, costs, expenses or refund*] applies.
- (2) A health occupation director may issue a certificate stating the amount for which a debtor is liable under an order made against a regulated health service provider or former regulated health service provider for investigation expenses.
- (3) The administrator of a support program may issue a certificate stating the amount for which a debtor is liable under an order made under section 302 [*orders for recovery*].
- (4) The superintendent may issue a certificate stating the amount for which a debtor is liable under section 440 [*collection of fees*] or 484 [*costs and expenses*].

**Making certificates**

- 498** A certificate must be in the prescribed form and include all of the following, as applicable:
- (a) the signature of the person making the certificate;
  - (b) the debtor’s name;
  - (c) the total amount owing, including interest, if any, and the basis on which that amount was determined.

**Filing certificates**

- 499**
- (1) A certificate may be filed in the Supreme Court by the person who made the certificate or by a legal representative of the person to whom the debt is due.
  - (2) A certificate must be filed within 2 years of the date that is 30 days after the date on which the order that is the subject of the certificate is issued.
  - (3) A copy of the filed certificate must be served on the debtor in the prescribed manner.

**Effect of certificates**

- 500**
- (1) Subject to the regulations, a certificate has the same force and effect, and proceedings may be taken on it, as if it were a judgment of the Supreme Court for the recovery of a debt in the amount stated against the debtor.
  - (2) A certificate is
    - (a) admissible in any proceedings to recover the certified debt without proof of the signature or official position of the person appearing to have signed the certificate, and
    - (b) proof of the certified facts.
  - (3) A debtor who has been served with a copy of the filed certificate may, within 30 days after the date of service, apply to the Supreme Court to review the amount owing.
  - (4) A review under subsection (3) must be conducted in accordance with the regulations.
  - (5) After reviewing the amount owing, a judge of the Supreme Court may, by order, rescind or modify the certificate if satisfied by evidence on oath or affirmation that the amount owing is not reasonable.

**Division 3 – Court Orders and Judicial Review**

**Definitions**

- 501** In this Division:
- “**application**” means an application to the Supreme Court for an order that a judge may make under this Division;
- “**grounds for a search and seizure order**” means evidence of either of the circumstances described in section 506 (2) (a) or (b) [*search and seizure order*];
- “**judge**” means a judge of the Supreme Court;

“**owner**”, in relation to a thing seized, means a person who, at the time of the seizure,

- (a) owned or was otherwise entitled to the thing, or
- (b) had possession or control of the thing;

“**search and seizure order**” means an order made under section 506.

#### **Applications for orders**

- 502** (1) An application may be made without notice to any person, unless a judge directs otherwise.
- (2) An application may be made by any of the following:
- (a) a registrar;
  - (b) a person authorized by an investigation committee to make the application;
  - (c) a health occupation director, except that a health occupation director may not apply for a search and seizure order;
  - (d) the superintendent.

#### **Hearings and orders**

- 503** (1) Unless a judge directs otherwise, an application may be heard in private.
- (2) For the purposes of making an order under this Division, a judge may be satisfied of a matter by evidence on oath or affirmation.
- (3) A judge may include in an order made under this Division any limits or conditions that, in the opinion of the judge, are proper.

#### **Injunction or compliance order**

- 504** (1) If satisfied that there has been or will be a contravention, a judge may grant an injunction requiring a person to comply with, or restraining a person from contravening,
- (a) a provision of this Act or of a regulation, bylaw, rule or order, or
  - (b) a term or condition of a licence, a health profession corporation permit or an authorization.
- (2) If satisfied that a person is interfering with or obstructing, or will likely interfere with or obstruct, a person who is exercising a power or performing a duty under this Act, a judge may order the person to do or refrain from doing those things as the judge considers necessary.
- (3) A judge may grant an interim injunction or an order until the outcome of the hearing of an application for an order under this section.
- (4) A judge may grant an injunction, an interim injunction or an order under this section whether or not a penalty or other remedy is available under this Act.

**Order to compel information**

- 505** If satisfied that there are reasonable grounds to believe that information or a record is necessary to conduct an investigation or oversight investigation under this Act, a judge may order a person to
- (a) provide, by the date stated and to a named person, relevant information or a record in the person's possession or control, and
  - (b) answer the questions of a named person, including by attending at a specified place and time to answer questions.

**Search and seizure order**

- 506** (1) If satisfied of a matter referred to in subsection (2), a judge may, by order, authorize a person to do one or more of the following:
- (a) enter a premises at any reasonable time;
  - (b) search the premises and things found on the premises for things specified in the order;
  - (c) inspect, copy, analyze or take other actions specified in the order with respect to things found on the premises;
  - (d) on giving a receipt, seize and remove things specified in the order.
- (2) A judge may make an order described in subsection (1) if satisfied that there are reasonable grounds to believe that evidence of one or both of the following may be found:
- (a) that a person has contravened, is contravening or will likely contravene
    - (i) a provision of this Act or of a regulation, bylaw or order, or
    - (ii) a term or condition of a licence or health profession corporation permit;
  - (b) that a licensee is not fit to practise or has committed an act of misconduct.

**Content of search and seizure order**

- 507** (1) A judge who makes a search and seizure order must identify in the order the premises to be entered and describe, generally, the things to be the subject of the search.
- (2) A judge who makes a search and seizure order may give directions in the order respecting one or more of the following:
- (a) the time of entry, the disposition of things seized and access by any person to things seized;



- (b) that section 509 [*detention of seized things*] does not apply to things specified in the order if both of the following conditions are met:
  - (i) there is compliance with all directions given under paragraph (a) of this subsection;
  - (ii) the owner of the things seized does not make a request in accordance with subsection (3).
- (3) An owner may request section 509 to apply to seized things by submitting the request
  - (a) to the person who made the application for the search and seizure order, in the form and manner required by that person, and
  - (b) within 21 days after the date of the seizure.

**Seizure of things not described in order**

- 508**
- (1) This section applies to a thing that
    - (a) is found by a person while conducting or attempting to conduct an entry or search under a search and seizure order, and
    - (b) is not described in the search and seizure order.
  - (2) If a person finds a thing described in subsection (1) and the person has reasonable grounds to believe that the thing will provide grounds for a search and seizure order,
    - (a) the person may seize that thing as if it were described in the search and seizure order,
    - (b) any limits and conditions that apply to things described in the search and seizure order apply to the seizure under paragraph (a) of this subsection, and
    - (c) section 509 [*detention of seized things*] applies as if the thing were described in the search and seizure order.

**Detention of seized things**

- 509**
- (1) A person who seizes a thing under a search and seizure order must report the seizure
    - (a) as soon as reasonably practicable to the judge who made the search and seizure order, or
    - (b) if it is not practicable to report to the judge referred to in paragraph (a), as soon as reasonably practicable to any judge of the Supreme Court.
  - (2) After receiving a seizure report, the judge must order the seized thing
    - (a) to be detained, if satisfied that the detention is required for the purposes of this Act, or
    - (b) to be returned to its owner, if paragraph (a) does not apply.

- (3) Unless the judge orders otherwise, the owner of a seized thing is entitled to inspect the thing at any reasonable time.

**Detention of seized records**

- 510**
- (1) A seized record must not be detained for more than 90 days from the time of its seizure unless, before the 90-day period expires,
    - (a) the record's owner agrees to its continued detention, or
    - (b) the judge to whom a report was made under section 509 [*detention of seized things*], on being satisfied that continued detention is justified, orders the continued detention of the record for a specified period of time.
  - (2) A person who seized a record detained under an order made under section 509 (2) (a) may make copies of the record.
  - (3) Unless the judge to whom a report was made under section 509 orders otherwise, the owner of a seized record is entitled to obtain one copy of the record at the expense of the person who applied for the search and seizure order.
  - (4) A document purporting to be certified by the applicant for the search and seizure order to be a true copy made under the authority of subsection (2) is evidence of the nature and content of the original document.

**Warrantless search**

- 511**
- (1) A person who may make an application for a search and seizure order may, without first obtaining the order, do a thing described in subsection (2) if the person has reasonable grounds to believe that
    - (a) there are grounds for a search and seizure order, and
    - (b) the delay necessary to obtain the order would result in the loss or destruction of evidence.
  - (2) The things that may be done by a person described in subsection (1) are the following:
    - (a) secure a premises, including preventing the lawful owner of the premises from entering the premises with or without accompaniment, until a search and seizure order may be obtained;
    - (b) enter a premises, other than premises occupied as a residence;
    - (c) search the premises and things found on the premises;
    - (d) seize things found on the premises that the person has reasonable grounds to believe are grounds for a search and seizure order.
  - (3) Sections 509 [*detention of seized things*] and 510 [*detention of seized records*] apply to things seized under this section as if the things were seized under a search and seizure order.

**Judicial review**

- 512** (1) This section applies to a health occupation director, the director of discipline, a discipline panel and the Health Professions Review Board.
- (2) A person or body referred to in subsection (1) has exclusive jurisdiction
- (a) to inquire into, hear and determine all those matters and questions of fact, law and discretion arising or required to be determined by the person or body under this Act, and
  - (b) to make any order authorized to be made by the person or body under this Act.
- (3) A decision or order of a person or body referred to in subsection (1) on a matter with respect to which the person or body has exclusive jurisdiction is final and conclusive and not open to question or review in any court.
- (4) Sections 57 and 58 of the *Administrative Tribunals Act* apply to a judicial review of a decision or order of a person or body referred to in subsection (1) of this section.

**Division 4 – Offences and Penalties**

**Offence Act application**

- 513** Section 5 of the *Offence Act* does not apply with respect to this Act or a regulation, bylaw or rule.

**Offences**

- 514** (1) A person who contravenes section 30 [*unauthorized use of titles*] or 34 [*false or misleading information*] commits an offence.
- (2) A person who does any of the following commits an offence:
- (a) knowingly discloses information in contravention of a provision of this Act or the regulations;
  - (b) knowingly provides false or misleading information to a person who is exercising a power or performing a duty under this Act, or a person acting under the order or direction of that person;
  - (c) wilfully interferes with or obstructs another person in the exercise of a power or performance of a duty under this Act or in carrying out an order made under this Act.
- (3) A person who contravenes section 29 [*unauthorized practice*] commits an offence.

**Limitation date**

- 515** A proceeding for an offence under section 514 [*offences*] may not be commenced in any court more than 2 years after the date that the facts on which the proceeding is based first come to the knowledge of
- (a) the board or health occupation director, with respect to a designated profession or occupation that the regulator is responsible for governing, or
  - (b) the minister, in any other case.

**Offence by corporation**

- 516** If a corporation other than a regulatory college commits an offence under section 514 [*offences*], an employee, officer, director or agent of the corporation who authorizes, permits or acquiesces in the offence also commits the offence.

**Single and continuing offences**

- 517** (1) In this section:
- “**offence**” means an offence listed in section 514 [*offences*];
  - “**order**” includes an order that may be made by the Supreme Court under this Act.
- (2) In a prosecution under this Act, it is sufficient to prove that the accused has done or committed a single act of unauthorized practice or has committed on one occasion any of the acts prohibited under this Act.
  - (3) If a person commits an offence and continues to commit the offence, separate penalties may be imposed with respect to the offence for each day the original offence continues.
  - (4) If a person commits an offence and an order is made with respect to the matter that is the subject of the offence, but the offence continues after the date by which the order is to be complied with,
    - (a) subsection (3) applies from the date by which the order is to be complied with, and
    - (b) the person may be prosecuted both for the original offence and for the additional offence of contravening the order.

**Penalties**

- 518** (1) An individual who commits an offence listed in
- (a) section 514 (1) [*offences*] is liable on conviction to a fine not exceeding \$25 000 or to imprisonment for a term of not more than 6 months, or to both,

- (b) section 514 (2) is liable on conviction to a fine not exceeding \$200 000 or to imprisonment for a term of not more than 6 months, or to both, or
  - (c) section 514 (3) is liable on conviction to a fine not exceeding \$200 000 or to imprisonment for a term of not more than 2 years, or to both.
- (2) If a corporation commits an offence under this Act,
- (a) the corporation is liable on conviction to a fine of not more than \$500 000, and
  - (b) a director or officer of the corporation who authorized, permitted or acquiesced in the offence is liable on conviction to a fine not exceeding \$200 000 or to imprisonment for a term of not more than 2 years, or to both.

## **PART 11 – REGULATION-MAKING POWERS**

### **Division 1 – Regulations of Lieutenant Governor in Council**

#### **General regulation-making powers**

- 519** (1) The Lieutenant Governor in Council may make regulations respecting any matter for which regulations are
- (a) contemplated by this Act, and
  - (b) not assigned by this Act to the minister.
- (2) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.
- (3) A person must not read any provision of this Part as limiting the general powers described in this section.

#### **Designations**

- 520** (1) The Lieutenant Governor in Council may make regulations respecting designation assessments as follows:
- (a) respecting the design and conduct of designation assessments, including the processes used to obtain information;
  - (b) respecting the types of information that must be obtained and the use of that information;
  - (c) authorizing a person who is subject to an order made under section 20 [*obtaining additional information*] to receive reimbursement for reasonable travelling and out-of-pocket expenses necessarily incurred in complying with the order;

- (d) respecting the design and conduct of risk assessments, the criteria to be considered, the relative weighting of criteria and the types of analyses that must be conducted;
  - (e) respecting matters that must be addressed in making recommendations.
- (2) The Lieutenant Governor in Council may make regulations respecting the criteria to be considered in deciding if the provision of health services should be regulated and, if so,
- (a) whether to regulate the provision of those health services as a designated health profession or designated health occupation, and
  - (b) the choice of regulator and regulatory model.
- (3) The Lieutenant Governor in Council may make regulations respecting additional
- (a) powers and duties that the minister may, in a designation regulation, grant to or impose on health occupation directors, and
  - (b) prohibitions, requirements, limits or conditions that the minister may, in a designation regulation, impose on regulated health service providers.

### Hearings

**521** The Lieutenant Governor in Council may make regulations respecting hearings conducted under Part 3 [*Practice of Designated Health Professions*], 4 [*Practice of Designated Health Occupations*] or 5 [*Investigations and Discipline Generally*], except a hearing conducted by a discipline panel or the director of discipline, as follows:

- (a) respecting the form and manner of hearings;
- (b) respecting practices and procedures to be followed, including timelines in which processes and exchanges or submissions of records must be completed;
- (c) respecting the conduct of negotiations or pre-hearing conferences for possible settlement of the issues before or during a hearing;
- (d) respecting the means by which facts may be proved or the mode in which evidence may be given at pre-hearing conferences or in hearings;
- (e) respecting the requirements for the attendance of witnesses, the conduct of witnesses or the compelling of witnesses to give evidence under oath or in some other manner;
- (f) respecting processes that may be used to hold hearings, including conferring a discretion on persons who hold hearings to use any process that is appropriate in the circumstances.

**Disposition of regulatory complaints**

- 522** The Lieutenant Governor in Council may make regulations as follows:
- (a) respecting the factors to be considered in disposing of regulatory complaints and the relative weighting of those factors;
  - (b) prohibiting or setting limits or conditions on the disposition of regulatory complaints by dismissing the complaint, by giving a warning, advice or a reprimand or by accepting an undertaking;
  - (c) respecting the design and conduct of restorative processes, including
    - (i) the practices and procedures to be followed,
    - (ii) the persons who may participate and the participation of those persons, and
    - (iii) the control or direction of restorative processes, and the orders that may be made by persons who control or direct restorative processes.

**Monetary penalties, costs and expenses**

- 523** (1) The Lieutenant Governor in Council may make regulations respecting monetary penalties as follows:
- (a) prescribing different amounts for different contraventions;
  - (b) prescribing a total maximum amount, if penalties are levied for more than one contravention;
  - (c) respecting the levying of monetary penalties for continuing contraventions;
  - (d) respecting circumstances in which monetary penalties must not be imposed.
- (2) The Lieutenant Governor in Council may make regulations respecting orders to recover costs or expenses as follows:
- (a) respecting the determination of costs and expenses, including
    - (i) setting rates and tariffs,
    - (ii) respecting types of expenses, fees, disbursements or other amounts that may or must not be included in the determination, and
    - (iii) respecting the apportionment of costs and expenses;
  - (b) respecting records that must be made or kept to support an order for costs or expenses, and the disclosure of all or part of those records to respondents;
  - (c) respecting circumstances in which costs must not be imposed, expenses must not be recovered or costs or expenses must or may be reduced;
  - (d) respecting the maximum amount of costs or expenses that may be recovered.

**Support programs**

- 524** The Lieutenant Governor in Council may make regulations respecting support programs as follows:
- (a) respecting the establishment, administration and operation of support programs, including respecting
    - (i) the responsibilities of regulators to fund support programs, and
    - (ii) shared funding agreements;
  - (b) respecting eligibility to be a support officer, administrator, recipient or service provider;
  - (c) respecting determinations of support, refusals and reductions of support, changes to support and suspensions and terminations of support;
  - (d) setting prohibitions, requirements, limits or conditions with respect to
    - (i) the types of services that are, or are not, support services, including setting conditions that must be met for a service to be a support service,
    - (ii) the types of services that must or may be provided as support services,
    - (iii) the amount of support that may be given, including setting maximum amounts by type of support, the extent of support received, the cost of support or any other factor,
    - (iv) the period in which support may be provided,
    - (v) providing proof of receipt of services, and
    - (vi) making payments for support services, including respecting the making of payments directly to service providers or persons who pay for services on behalf of recipients;
  - (e) respecting the circumstances in which all or part of funding paid as support may be recovered, and setting prohibitions, requirements, limits or conditions on recovery;
  - (f) respecting the keeping of information confidential;
  - (g) conferring a discretion on a board or health occupation director to make bylaws or rules with respect to a matter referred to in this section.

**General matters respecting regulators**

- 525** (1) The Lieutenant Governor in Council may make regulations as follows:
- (a) providing additional matters for which boards or health occupation directors must or may make bylaws or rules;
  - (b) respecting eligibility to be appointed as a member of a licence committee, an investigation committee or a permit committee;
  - (c) respecting attendance by the public at meetings of the committees of a regulatory college;



- (d) with respect to registries, respecting
    - (i) the information, including personal information and other types of confidential information, that must be kept in the registry, including the correction, updating and removal of that information,
    - (ii) when a duty to add, update or remove information applies, and
    - (iii) the refusal of access to information kept in the registry;
  - (e) prescribing the form and content of an oath of office;
  - (f) respecting practices and procedures to be followed for the purposes of reconsiderations and reviews.
- (2) The Lieutenant Governor in Council may make regulations respecting the factors and circumstances that must or may not be considered for the purposes of timeliness reviews by the Health Professions Review Board, including the relative weighting of factors and circumstances.

**Restructuring regulators**

- 526** (1) The Lieutenant Governor in Council may make regulations respecting restructuring assessments as follows:
- (a) respecting the design and conduct of restructuring assessments, including the processes used to obtain information;
  - (b) respecting the types of information that must be obtained and the use of that information;
  - (c) respecting the criteria to be considered, the relative weighting of criteria and the types of analyses that must be conducted;
  - (d) respecting matters that must be addressed in making recommendations;
  - (e) respecting the application, to restructuring assessments, of a regulation made with respect to designation assessments.
- (2) The Lieutenant Governor in Council may make regulations as follows:
- (a) setting prohibitions, requirements, limits and conditions on transferring governance responsibilities between regulators or on establishing or restructuring regulators;
  - (b) respecting the criteria to be considered in deciding if governance responsibilities should be transferred or if one or more regulators should be restructured;
  - (c) respecting the transfer of governance responsibilities, including the content of transfer agreements and providing for processes to facilitate transfers.

**Superintendent's office**

- 527** (1) The Lieutenant Governor in Council may make regulations respecting the appointment of members of discipline panels and boards as follows:
- (a) respecting processes for inviting persons to apply to be appointees;
  - (b) respecting eligibility to be an appointee;
  - (c) respecting processes and best practices for selecting appointees;
  - (d) respecting the objectives to be met in the design and conduct of appointment processes and the relative weighting of objectives.
- (2) The Lieutenant Governor in Council may make regulations respecting the following:
- (a) the making of oversight complaints;
  - (b) the matters that may or must not be the subject of oversight complaints;
  - (c) the design and conduct of oversight processes, including respecting
    - (i) the processes used to obtain information, the types of information that must be obtained and the use and confidentiality of information obtained, and
    - (ii) the matters to be considered;
  - (d) the reimbursement of expenses by persons who provide information or records for the purposes of a review of an oversight complaint or the conduct of an oversight investigation or systemic review;
  - (e) the superintendent's recommendations after conducting oversight processes.

**Fees and expenses**

- 528** (1) The Lieutenant Governor in Council may make regulations respecting fees as follows:
- (a) setting fees, including setting different fees or different maximum fees for different classes of persons or types of services;
  - (b) setting the maximum fees that may be set under a designation regulation, bylaw or rule, or that may be levied by the superintendent;
  - (c) respecting the process to be used by the superintendent to determine fees and the factors to be considered;
  - (d) respecting refunds, waivers or reductions of fees and the circumstances in which fees must not be refunded, waived, reduced or levied;
  - (e) if a fee is paid as remuneration,
    - (i) setting rates and tariffs, and
    - (ii) respecting the types of expenses, fees, disbursements or other amounts that may or must not be included in determining the fee;
  - (f) respecting penalties that may be levied for late payment of fees.

- (2) If regulations are made respecting reimbursement of expenses, the Lieutenant Governor in Council may make regulations setting prohibitions, requirements, limits or conditions with respect to reimbursements, including
  - (a) setting rates and tariffs,
  - (b) providing for circumstances in which reimbursement must or may be reduced or not paid, including with respect to types of expenses, and
  - (c) respecting the maximum amounts of reimbursement that may be paid.

**Applications to court**

**529** The Lieutenant Governor in Council may make regulations as follows:

- (a) respecting the process for making an application to the court, including
  - (i) authorizing applications to be made electronically or by any other means,
  - (ii) respecting the giving of notice of an application, and
  - (iii) respecting affidavits or other evidence that must accompany an application;
- (b) providing that the Supreme Court Civil Rules apply to the hearing of an application by the court, or modifying those rules;
- (c) respecting certificates for the recovery of debts due under this Act and reviews of amounts owing.

**Information**

**530** The Lieutenant Governor in Council may make regulations as follows:

- (a) respecting the collection, use and disclosure of personal information, quality assurance information, protected information and other types of confidential information by regulators and regulated health practitioners, including
  - (i) authorizing the collection, use and disclosure of the information for purposes that are in addition to any referred to in this Act, and
  - (ii) conferring a discretion on a board or health occupation director to make bylaws or rules that impose prohibitions, requirements, limits and conditions that are in addition to any imposed under this Act or paragraph (b) of this section;
- (b) without limiting paragraph (a), imposing prohibitions, requirements, limits and conditions on disclosing personal information, quality assurance information, protected information and other types of confidential information to
  - (i) the person who is the subject of the information,
  - (ii) other regulated health practitioners, for the purposes of providing health services,

- (iii) regulators, for the purposes of monitoring the practice of a designated profession or occupation, and
- (iv) provincial or federal government payment agencies and insurers that reimburse fees and expenses associated with health services, for the purposes of claims or payment administration and the performance of audits;
- (c) respecting the collection, use and disclosure of information, including personal information, for the purposes of sections 491 [*health human resources information*] and 492 [*discrimination monitoring information*].

**Other matters**

**531** The Lieutenant Governor in Council may make regulations as follows:

- (a) for the purposes of defining “family members”, to include persons who live with or have a close personal relationship with a person;
- (b) respecting consultations that must be carried out under this Act, including who must be consulted and processes for consultation;
- (c) respecting the making of records and the keeping of records made or obtained under this Act;
- (d) respecting the content of reports that must be made under this Act;
- (e) respecting the publishing of any matter that must be published under this Act, including respecting
  - (i) the publishing of personal information and other types of confidential information, and
  - (ii) the form and content of matters to be published;
- (f) respecting the content, service and deemed receipt of notices, orders and records that must be given or served under this Act;
- (g) respecting the interest that persons may be charged on an amount due under this Act, whether with respect to the late payment of fees or amounts imposed under an order, including setting the maximum rate of interest that persons may be charged.

**Classes, exemptions and discretion**

**532** The Lieutenant Governor in Council may make regulations as follows:

- (a) establishing classes of persons, places or things referred to in this Act and making different regulations for different classes;
- (b) exempting a person, place or thing, or a class of persons, places or things, from one or more requirements under this Act;

- (c) conferring a discretion on the minister or the superintendent to, by order,
  - (i) exempt a person, place or thing from one or more requirements under this Act,
  - (ii) modify a requirement set under this Act with respect to a person, place or thing, or
  - (iii) set terms and conditions on an exemption or modification referred to in this paragraph.

## **Division 2 – Incorporation by Reference**

### **Incorporation by reference authorized**

- 533** (1) A regulation of the Lieutenant Governor in Council, designation regulation, bylaw or rule made under this Act may adopt by reference, in whole or in part and with any changes the maker of the regulation, bylaw or rule considers appropriate, a regulation, code, standard or rule
- (a) enacted as or under a law of another jurisdiction, including a foreign jurisdiction, or
  - (b) set by a provincial, national or international body or any other body that may make codes, standards or rules.
- (2) A bylaw or rule made under this Act may adopt by reference, in whole or in part and with any changes the maker of the bylaw or rule considers appropriate, a model bylaw or model rule published by the superintendent.
- (3) Unless otherwise stated, a regulation, code, standard, rule, model bylaw or model rule referred to in subsection (1) or (2) is adopted as amended from time to time.

## **PART 12 – TRANSITIONAL PROVISIONS, REPEAL, CONSEQUENTIAL AMENDMENTS AND AMENDMENT TO THIS ACT**

### **Transitional Provisions**

#### **Definition**

- 534** In this Part, “**former Act**” means the *Health Professions Act*, R.S.B.C. 1996, c. 183.

#### **Transition – advisory panels**

- 535** On the date that this section comes into force,
- (a) the appointment of members of an advisory panel under section 6.2 of the former Act is rescinded,

- (b) any matter referred to an advisory panel is terminated, and
- (c) section 6.5 of the former Act is deemed to be in force for the purposes of remuneration and reimbursement under that section with respect to powers and duties carried out under the former Act.

**Transition – applications for designation**

- 536**
- (1) An application made under the former Act for designation of a health profession, and all information and records submitted with respect to the application, must be transferred to the superintendent as soon as reasonably practicable after the date that this section comes into force.
  - (2) The superintendent must do one of the following with respect to the application referred to in subsection (1):
    - (a) if the superintendent is of the opinion that it would be in the public interest, conduct a designation assessment, in which case, Part 2 [*Designation and Model of Regulation*] of this Act applies;
    - (b) refuse to conduct a designation assessment, in which case the application for designation is deemed to have been refused.
  - (3) If the superintendent refuses to conduct a designation assessment, the superintendent must give to the applicant written notice of the refusal and the reasons for it.

**Transition – board members**

- 537**
- (1) Subject to subsections (2) and (3), a person who is a board member for a college immediately before the repeal of section 17 of the former Act continues to be a board member for the regulatory college that continues after the repeal of that section.
  - (2) Despite any term to the contrary in the appointment of a person referred to in subsection (1), the minister may, without cause, rescind the person's appointment as a board member.
  - (3) The appointment of a person referred to in subsection (1) ends on the earliest of the following dates:
    - (a) the date that the term of the person's appointment ends;
    - (b) the date that the minister rescinds the person's appointment under this Act;
    - (c) the date that the person resigns the person's appointment, dies or is otherwise unable or unwilling to act.
  - (4) An act of a board is not invalid if the composition of the board does not conform to section 346 [*appointments to board*] of this Act.
  - (5) Subsection (4) ceases to apply 3 years after the date that this section comes into force.

**Transition – bylaws**

- 538** (1) A bylaw of a college, made under the former Act, continues to be in force as a bylaw of the regulatory college that continues after the repeal of section 19 of the former Act until the date that the bylaw is repealed.
- (2) A regulatory college must, in a timely manner,
- (a) review all bylaws made under the former Act for consistency with this Act, and
  - (b) if necessary, amend or repeal the bylaws for consistency with this Act.

**Transition – certified non-registrants**

- 539** (1) In this section, “**certified non-registrant**” means a person who, immediately before the repeal of section 19 of the former Act, was a certified non-registrant under that Act.
- (2) Subject to subsections (3) and (4), a certified non-registrant may continue to provide health services after the repeal of section 19 of the former Act in accordance with
- (a) the bylaws made under the former Act by the college that certified the certified non-registrant, as amended under this section, and
  - (b) the limits and conditions, if any and as varied under this section, imposed on the certified non-registrant’s certification.
- (3) A regulatory college may
- (a) amend a bylaw made under the former Act with respect to certified non-registrants for the purpose of making the bylaw more consistent with this Act, and
  - (b) vary any limits and conditions imposed on a certified non-registrant’s certification or revoke a certified non-registrant’s certification
    - (i) on any ground on which a certified non-registrant’s certification could be varied or revoked under the former Act, and
    - (ii) in accordance with the process set out in Division 9 [*Discipline for Administrative Matters*] of Part 3 of this Act, as if it were an administrative matter.
- (4) The authority of a certified non-registrant to continue to provide health services ends on the earliest of the following dates:
- (a) the date that the certified non-registrant’s certification is revoked;
  - (b) the date that a designation regulation is made as referred to in subsection (5);
  - (c) the date that is 3 years after the date that this section comes into force.

- (5) The minister may, in a designation regulation,
  - (a) provide that persons within a class of certified non-registrants are deemed to be regulated health practitioners of a class specified by the minister, and
  - (b) impose prohibitions, requirements, limits and conditions on the practice of a designated profession or occupation by persons deemed to be regulated health practitioners, including a requirement to receive further education, training, experience or other qualifications before a specified date.
- (6) An application to be certified as a certified non-registrant, made under the former Act and with respect to which no final decision has been made as of the date that this section comes into force, is deemed to have been withdrawn.

**Transition – applications for registration or health profession corporation permit**

**540** (1) In this section:

“**application**” means an application

- (a) for
  - (i) registration, including reinstatement of registration, made under section 20 of the former Act, or
  - (ii) a health profession corporation permit made under Part 4 of the former Act, and
- (b) with respect to which no final decision has been made as of the date that this section comes into force;

“**decision maker**” means, with respect to an application

- (a) for registration, the registration committee of a college under the former Act or the board, and
  - (b) for a health profession corporation permit, the board.
- (2) If an application has not yet been referred to the applicable decision maker, this Act applies with respect to the application as if the application had been made under this Act.
  - (3) If an application has been referred to the applicable decision maker, the decision maker may
    - (a) refer the application back to the registrar, in which case this Act applies with respect to the application as if the application had been made under this Act, or



- (b) make a decision on the application, in which case
  - (i) the decision maker may continue to exercise powers and must perform duties with respect to the application under the former Act as if that Act had not been repealed, and
  - (ii) in the exercise of powers and performance of duties under subparagraph (i) of this paragraph, section 14 [*guiding principles for persons acting under this Act*] of this Act applies to the decision maker.

**Transition – committees**

- 541**
- (1) The following committees of regulatory colleges, established or continued under the former Act, are discontinued effective on the date that this section comes into force:
    - (a) executive committees;
    - (b) committees authorized to certify persons as certified non-registrants;
    - (c) unless continued under bylaws made under this Act, other committees that are not expressly referred to in this section.
  - (2) The registration committee of a college, established under the former Act,
    - (a) continues under this Act as the licence committee of the regulatory college, and
    - (b) may continue to exercise powers and perform duties, in accordance with this Act or as provided for under section 540 (3) (b) [*applications for registration or health profession corporation permit*] of this Act, with respect to a matter that arose before the date that this section comes into force.
  - (3) The inquiry committee of a college, established under the former Act,
    - (a) continues under this Act as the investigation committee of the regulatory college, and
    - (b) may continue to exercise powers and perform duties, in accordance with this Act, with respect to a matter that arose before the date that this section comes into force.
  - (4) The discipline committee of a college, established under the former Act, is discontinued effective on the date that the committee is no longer required for the purposes of section 543 (3) [*disciplinary proceedings*] of this Act.
  - (5) The information and records of a committee that is discontinued under this section must, as soon as reasonably practicable, be transferred to
    - (a) the board, in the case of the executive committee, or
    - (b) the registrar, in any other case.

**Transition – investigations**

- 542** (1) In this section, “**transitioned investigation**” means an investigation that was in process under the former Act immediately before the coming into force of this section.
- (2) A transitioned investigation must be continued in accordance with this Act.
- (3) If conduct that is the subject of a transitioned investigation would be an administrative matter under this Act if the conduct occurred on or after the date that this section comes into force,
- (a) the registrar may, if the matter has not yet been referred to the investigation committee, dispose of the matter in accordance with the process set out in Division 9 [*Discipline for Administrative Matters*] of Part 3 of this Act, or
  - (b) the investigation committee may, if the matter has been referred to the committee,
    - (i) refer the matter back to the registrar, in which case the registrar may dispose of the matter in accordance with the process set out in Division 9 of Part 3 of this Act, or
    - (ii) continue the investigation in accordance with this Act.
- (4) If a matter with respect to a transitioned investigation was referred to the board before the date that this section comes into force, the board must refer the matter back to the investigation committee as soon as reasonably practicable.

**Transition – disciplinary proceedings**

- 543** (1) In this section:
- “**discipline committee**” means the discipline committee of a college under the former Act;
  - “**transitioned citation**” means a citation issued under section 37 of the former Act with respect to which no final decision has been made as of the date that this section comes into force.
- (2) If a transitioned citation has been issued but the discipline committee has not yet begun a hearing with respect to the citation,
- (a) the registrar must transfer the citation to the director of discipline and include with the citation all information and records referred to in section 137 [*information to director of discipline*] of this Act, and
  - (b) this Act applies as if the citation had been issued by the director of discipline.

- (3) If a transitioned citation has been issued and the discipline committee has begun a hearing or has completed hearings with respect to the citation,
  - (a) the discipline committee may continue to exercise powers and must perform duties under the former Act as if that Act had not been repealed, and
  - (b) in the exercise of powers and performance of duties under paragraph (a) of this subsection, section 14 [*guiding principles for persons acting under this Act*] of this Act applies to the discipline committee.

**Transition – *Labour Mobility Act* and nurse practitioners**

- 544** (1) In this section:  
“**occupation**” has the same meaning as in the *Labour Mobility Act*;  
“**occupation of nurse practitioner**” means the occupation in British Columbia that constitutes the practice of nursing as a nurse practitioner under this Act.
- (2) The *Labour Mobility Act* does not apply in respect of the occupation of nurse practitioner.
  - (3) Section 318 (2) [*after licensing decision review*] of this Act does not apply to a person applying for a licence to practise as a nurse practitioner under this Act.
  - (4) The Lieutenant Governor in Council may, by regulation, repeal this section, and on that repeal, section 6.1 of the *Labour Mobility Act* is also repealed.

**Transitional regulations**

- 545** (1) The Lieutenant Governor in Council may make regulations the Lieutenant Governor in Council considers necessary or advisable to more effectively bring this Act into operation, including regulations
  - (a) to prevent, minimize or otherwise remedy any transitional difficulties encountered in bringing this Act into operation, and
  - (b) to facilitate the transition from the operation of the former Act to the operation of this Act.
- (2) The authority to make or amend a regulation made under subsection (1), but not the authority to repeal a regulation made under that subsection, ends 3 years after the date that this section comes into force.

**Repeal**

**Repeal – *Health Professions Act***

- 546** The *Health Professions Act*, R.S.B.C. 1996, c. 183, is repealed.

**Consequential Amendments**

*Access to Abortion Services Act*

- 547 *Section 1 of the Access to Abortion Services Act, R.S.B.C. 1996, c. 1, is amended*
- (a) *in the definition of “beset” by striking out “doctor” wherever it appears and substituting “medical practitioner”,*
  - (b) *by repealing the definition of “doctor”,*
  - (c) *in the definition of “facility” by striking out “doctor’s” and substituting “medical practitioner’s”, and*
  - (d) *in the definitions of “patient” and “service provider” by striking out “doctor” and substituting “medical practitioner”.*
- 548 *Sections 2 (1) and (3), 3, 4 (2), 6 (1) and (4) and 7 (1) and (3) are amended by striking out “doctor” wherever it appears and substituting “medical practitioner”.*

*Attorney General Statutes Amendment Act, 2018*

- 549 *Section 81 of the Attorney General Statutes Amendment Act, 2018, S.B.C. 2018, c. 49, is repealed.*

*Business Practices and Consumer Protection Act*

- 550 *Section 142.1 (2) (t) of the Business Practices and Consumer Protection Act, S.B.C. 2004, c. 2, is repealed and the following substituted:*
- (t) *the Health Professions and Occupations Act; .*

*Community Care and Assisted Living Act*

- 551 *Section 1 of the Community Care and Assisted Living Act, S.B.C. 2002, c. 75, is amended in the definition of “professional health services” by repealing paragraph (a) and substituting the following:*
- (a) *by a licensee within the meaning of the Health Professions and Occupations Act, or .*

*Criminal Records Review Act*

552 *Section 1 of the Criminal Records Review Act, R.S.B.C. 1996, c. 86, is amended*

*(a) by adding the following definition:*

**“applicant for registration”** means a person who, under any of the enactments referred to in Schedule 2, is

- (a) applying for registration, or
- (b) engaged in a type of process that, if successful, will result in the person being authorized under the enactment to provide services as a registered service provider; ,

*(b) in the definition of “education program” by repealing paragraph (b) (i) and substituting the following:*

- (i) registration to be regulated by a governing body that is designated, for the purposes of this provision, by regulation, ,

*(c) in the definition of “employer” by repealing paragraph (j) and substituting the following:*

- (j) a registered service provider who employs one or more individuals to assist the registered service provider in practising that registered service provider’s profession or occupation; ,

*(d) by repealing the definition of “registered member” and substituting the following:*

**“registered service provider”** means a person who is regulated by a governing body under any of the enactments referred to in Schedule 2; , *and*

*(e) in the definition of “specified organization” by repealing paragraph (p) and substituting the following:*

- (p) a registered service provider who uses one or more volunteers to assist the registered service provider in practising that registered service provider’s profession or occupation; .

553 *Sections 4 (2) (b) (ii) and (5) (b), 5 (8) (b), 6 (1) (b) and 7 (2) (a) (i) are amended by striking out “registered member” and substituting “registered service provider”.*

554 *Section 6 (1) (d) is amended by striking out “or an applicant for registration” and substituting “or an individual who applies for registration”.*

**555** *Section 12 (3) is amended by striking out “registered member” and substituting “registered service provider” and by striking out “registered member’s” and substituting “registered service provider’s”.*

**556** *The heading to Part 4 is repealed and the following substituted:*

**PART 4 – REGISTERED SERVICE PROVIDERS .**

**557** *Sections 13, 14 and 15 are repealed and the following substituted:*

**General duty of governing body**

- 13** (1) Subject to subsection (2), a governing body must ensure that a registered service provider who is regulated by, and every applicant for registration who makes an application to, the governing body undergoes
- (a) a criminal record check, or
  - (b) a criminal record check verification.
- (2) A governing body may require an individual referred to in subsection (1) to undergo a criminal record check even if the individual could undergo a criminal record check verification.
- (3) The governing body must inform individuals of the requirements of this Act if those individuals are individuals referred to in subsection (1).

**Applicants for registration**

- 14** (1) An applicant for registration must provide to the governing body a criminal record check authorization or a criminal record check verification authorization, as applicable, before the individual
- (a) may be granted registration by the governing body, or
  - (b) is authorized, under the enactment that governs the governing body, to provide services as a registered service provider.
- (2) Unless an applicant for registration complies with subsection (1), a governing body must not grant registration to the applicant or otherwise acknowledge that the applicant is authorized, under the enactment that governs the governing body, to provide services as a registered service provider.

**Existing registered service providers**

- 15** (1) A registered service provider must
- (a) undergo a criminal record check at least once every 5 years, and

- (b) provide to the registered service provider’s governing body a criminal record check authorization or a criminal record check verification authorization, as applicable, at least once every 5 years after the date on which the individual provided to the governing body the individual’s last criminal record check authorization or criminal record check verification authorization.
- (2) If a registered service provider does not provide the criminal record check authorization or criminal record check verification authorization as required by subsection (1) of this section or section 17,
  - (a) the individual must not work with children or with vulnerable adults until that individual has provided the criminal record check authorization or criminal record check verification authorization, as applicable, and
  - (b) the governing body must investigate or review the individual’s authority to provide services as a registered service provider and take appropriate action under the Act that governs the governing body.
- (3) If a registered service provider carries on the individual’s profession or occupation as an employee, the governing body must take reasonable steps to notify the individual’s employer that the governing body is taking action under subsection (2) (b).

**558** *Section 15.1 (b) is amended by striking out “registered member” and substituting “registered service provider”.*

**559** *Section 16 is amended*

- (a)** *in subsections (1) and (1.1) by striking out “the governing body must investigate or review the individual’s registration or application for registration” and substituting “the governing body must investigate or review the individual’s authority to provide services as a registered service provider or, if the individual is an applicant for registration, the individual’s application”, and*
- (b)** *in subsection (2) by striking out “If a registered member carries on his or her occupation as an employee, the governing body must take reasonable steps to notify the registered member’s employer” and substituting “If a registered service provider carries on the individual’s profession or occupation as an employee, the governing body must take reasonable steps to notify the individual’s employer”.*

**560 Section 17 is amended**

**(a) by repealing subsection (1) and substituting the following:**

- (1) If a registered service provider is charged with or convicted of a relevant offence or a specified offence subsequent to a criminal record check or criminal record check verification, the individual must promptly report the charge or conviction to the individual's governing body and provide to the governing body a criminal record check authorization for a further criminal record check. ,

**(b) in subsection (2) by striking out “registered member” wherever it appears and substituting “registered service provider”, and**

**(c) by repealing subsection (3) and substituting the following:**

- (3) If a registered service provider carries on the individual's profession or occupation as an employee, the governing body must take reasonable steps to notify the individual's employer that the governing body is taking action under subsection (2) and that the action is with respect to a risk to children or to vulnerable adults, whichever is applicable.

**561 Schedule 2 is repealed and the following substituted:**

**SCHEDULE 2**

*(Section 1, definitions of “applicant for registration”, “governing body”, “registered service provider” and “registration”)*

- 1 *Health Professions and Occupations Act*
- 2 *Social Workers Act .*

***E-Health (Personal Health Information Access and Protection of Privacy) Act***

**562 Section 12 (2) (c), (d) and (e) of the *E-Health (Personal Health Information Access and Protection of Privacy) Act, S.B.C. 2008, c. 38, is repealed and the following substituted:***

- (c) one person nominated by the board of the regulator that is responsible, under the *Health Professions and Occupations Act*, for governing the practice of the designated health profession of medicine,
- (d) one person nominated by the board of the regulator that is responsible, under the *Health Professions and Occupations Act*, for governing the practice of the designated health profession of pharmacy,



- (e) one person nominated by the board of the regulator that is responsible, under the *Health Professions and Occupations Act*, for governing the practice of the designated health profession of nursing, .

**563 Section 18 (1) (b) and (c) is repealed and the following substituted:**

- (b) the investigation or discipline, by a regulator within the meaning of the *Health Professions and Occupations Act*, of a regulated health practitioner under that Act;
- (c) the monitoring, by a regulator within the meaning of the *Health Professions and Occupations Act*, of the practice of a designated profession or occupation under that Act; .

**564 Section 19 (1) (c) (vi) is repealed and the following substituted:**

- (vi) a regulator within the meaning of the *Health Professions and Occupations Act*; .

***Emergency Health Services Act***

**565 Section 1 of the *Emergency Health Services Act*, R.S.B.C. 1996, c. 182, is amended in the definitions of “health profession” and “restricted activity” by striking out “*Health Professions Act*” and substituting “*Health Professions and Occupations Act*”.**

***Evidence Act***

**566 Section 51 (1) of the *Evidence Act*, R.S.B.C. 1996, c. 124, is amended**

**(a) by repealing the definition of “health care professional” and substituting the following:**

“health care professional” means any of the following:

- (a) an emergency medical assistant within the meaning of the *Emergency Health Services Act*;
- (b) a licensee within the meaning of the *Health Professions and Occupations Act*;
- (c) a member of an organization that is designated by regulation of the Lieutenant Governor in Council; ,

**(b) in paragraph (b) of the definition of “legal proceedings” by striking out “the conduct or competence of a member of the profession licensed, certified, registered or represented by that organization” and substituting “the conduct or competence of a health care professional who is licensed, registered or represented by, or holds a licence issued by, that organization”, and**

**(c) by repealing the definition of “organization of health care professionals” and substituting the following:**

**“organization of health care professionals”** means any of the following that are designated by regulation of the Lieutenant Governor in Council:

- (a) the Emergency Medical Assistants Licensing Board continued under the *Emergency Health Services Act*;
- (b) a regulatory college within the meaning of the *Health Professions and Occupations Act* that is responsible under that Act for governing a designated health profession;
- (c) an organization referred to in paragraph (c) of the definition of “health care professional” in this subsection;
- (d) an organization of health care professionals; .

***Firearm Violence Prevention Act***

**567 Section 72 (1) of the Firearm Violence Prevention Act, S.B.C. 2021, c. 7, is amended in the definition of “designated health professional” by striking out “section 1 [definitions] of the Health Professions Act” and substituting “the Health Professions and Occupations Act”.**

***Freedom of Information and Protection of Privacy Act***

**568 Schedule 2 of the Freedom of Information and Protection of Privacy Act, R.S.B.C. 1996, c. 165, is amended by adding the following:**

Public Body: Office of the Superintendent of Health Profession and Occupation Oversight  
Head: Superintendent .

***Health Authorities Act***

**569 Section 19.1 of the Health Authorities Act, R.S.B.C. 1996, c. 180, is amended**

**(a) in the definition of “nurse” by striking out “Health Professions Act” and substituting “Health Professions and Occupations Act”, and**

**(b) by repealing the definition of “resident” and substituting the following:**

**“resident”** means a person who

- (a) is taking post-graduate training in medicine, and
- (b) holds a licence, including a provisional licence, issued by the regulator that is responsible, under the *Health Professions and Occupations Act*, for governing the practice of the designated health profession of medicine.

***Health Planning Statutes Amendment Act, 2002***

**570** *The Health Planning Statutes Amendment Act, 2002, S.B.C. 2002, c. 15, is repealed.*

***Health Professions Amendment Act, 2003***

**571** *Sections 3, 19, 34 and 37 of the Health Professions Amendment Act, 2003, S.B.C. 2003, c. 57, are repealed.*

***Health Professions (Regulatory Reform) Amendment Act, 2008***

**572** *Sections 10 (c) and 41 of the Health Professions (Regulatory Reform) Amendment Act, 2008, S.B.C. 2008, c. 29, are repealed.*

***Health Statutes Amendment Act, 2007***

**573** *Sections 18 and 19 of the Health Statutes Amendment Act, 2007, S.B.C. 2007, c. 19, are repealed.*

***Hospital Act***

**574** *Section 17 (1) (b) of the Hospital Act, R.S.B.C. 1996, c. 200, is repealed and the following substituted:*

- (b) a person who
  - (i) is a medical practitioner,
  - (ii) is a regulated health practitioner within the meaning of the *Health Professions and Occupations Act* who is authorized under that Act to practise the designated health profession of nursing, or
  - (iii) is a graduate nurse whose qualifications are approved by the chief inspector.

**575 Section 46 (4.1) (a), (b) and (c) is repealed and the following substituted:**

- (a) one member selected after a merit-based process from among 3 or more individuals nominated by the board of the regulatory college that is responsible, under the *Health Professions and Occupations Act*, for governing the designated health profession of medicine;
- (b) one member selected after a merit-based process from among 3 or more individuals nominated by the board of the regulatory college that is responsible, under the *Health Professions and Occupations Act*, for governing the designated health profession of dentistry;
- (c) one member who is authorized to practise the designated health profession of midwifery, selected after a merit-based process from among 3 or more individuals nominated by the board of the regulatory college that is responsible, under the *Health Professions and Occupations Act*, for governing that designated health profession; .

***Insurance Corporation Act***

**576 Section 7 (d) of the *Insurance Corporation Act*, R.S.B.C. 1996, c. 228, is amended by striking out “*Health Professions Act*” and substituting “*Health Professions and Occupations Act*”.**

***Insurance (Vehicle) Act***

**577 Section 1 (1) of the *Insurance (Vehicle) Act*, R.S.B.C. 1996, c. 231, is amended in the definition of “health care practitioner” by repealing paragraphs (c) and (d) and substituting the following:**

- (c) a person who is authorized to practise
  - (i) a designated health profession within the meaning of the *Health Professions and Occupations Act* that is prescribed for the purposes of this definition, or
  - (ii) an equivalent health profession in another jurisdiction;
- (d) a person who is in a prescribed class of persons who provide health care, including prescribed classes of persons who provide health care in other jurisdictions; .

**578 Section 28 (1) (b), (c) and (d) is repealed and the following substituted:**

- (b) a person who is authorized under the *Health Professions and Occupations Act* to practise the designated health profession of chiropractic, dentistry or physical therapy; .

**579 Section 45.1 (1) (c) is repealed and the following substituted:**

(c) for the purposes of paragraph (c) of the definition of “health care practitioner” in section 1, prescribing designated health professions; .

***Interpretation Act***

**580 Section 29 of the Interpretation Act, R.S.B.C. 1996, c. 238, is amended by repealing the definitions of “medical practitioner” and “nurse practitioner” and substituting the following:**

“**medical practitioner**” means a person who is authorized under the *Health Professions and Occupations Act* to practise the designated health profession of medicine;

“**nurse practitioner**” means a person who is authorized under the *Health Professions and Occupations Act* to practise the designated health profession of nursing and to use the title “nurse practitioner”; .

***Laboratory Services Act***

**581 Section 1 of the Laboratory Services Act, S.B.C. 2014, c. 8, is amended by repealing the definitions of “college” and “laboratory medicine physician” and substituting the following:**

“**laboratory medicine physician**” means a medical practitioner who is authorized by the regulatory college that is responsible for governing the designated health profession of medicine to practise in a speciality that is prescribed for the purposes of this definition;

“**regulatory college**” means a regulator that is responsible, under the *Health Professions and Occupations Act*, for governing a designated health profession; .

**582 Section 14 (2) (b) is amended by striking out “Health Professions Act” and substituting “Health Professions and Occupations Act”.**

**583 Section 26 (2) (j) is repealed and the following substituted:**

(j) to provide information to a regulatory college for the purpose of monitoring, by the regulatory college, the practice of a designated health profession the regulatory college is responsible for governing.

**584 Section 49 (2) is amended**

**(a) by repealing paragraph (a) and substituting the following:**

(a) advise one or both of the following of the minister's belief:

(i) the commission;

(ii) the regulatory college that is responsible for governing the designated health profession that is or was practised by the referring practitioner, former referring practitioner or class of referring practitioners; , **and**

**(b) in paragraph (b) by striking out "college" wherever it appears and substituting "regulatory college".**

**585 Section 60 (2) is amended by striking out "college" and substituting "regulatory college".**

***Labour Mobility Act***

**586 Section 4 (2) (b) of the Labour Mobility Act, S.B.C. 2009, c. 20, is amended by striking out "despite any enactment to the contrary other than section 6.1 of this Act" and substituting "despite any enactment to the contrary".**

**587 Section 5 (1) is amended in the definition of "authorizing enactment" by striking out "Health Professions Act" and substituting "Health Professions and Occupations Act".**

**588 Section 6.1 is amended**

**(a) in subsections (1) and (2) by striking out "Health Professions Act" and substituting "Health Professions and Occupations Act", and**

**(b) by repealing subsection (3) and substituting the following:**

(3) Section 6 of this Act does not apply in respect of section 544 of the *Health Professions and Occupations Act*.

***Labour Relations Code***

**589 Section 35 (0.1) of the Labour Relations Code, R.S.B.C. 1996, c. 244, is amended in the definition of "non-clinical services" by striking out "provided by a person who is, under the Health Professions Act, a registrant in respect of a designated health profession" and substituting "provided by a licensee within the meaning of the Health Professions and Occupations Act".**

*Liquor Control and Licensing Act*

**590** *Section 1 of the Liquor Control and Licensing Act, S.B.C. 2015, c. 19, is amended by repealing the definition of “pharmacist” and substituting the following:*

“**pharmacist**” means a person who is authorized under the *Health Professions and Occupations Act* to practise the designated health profession of pharmacy; .

*Medicare Protection Act*

**591** *Section 1 of the Medicare Protection Act, R.S.B.C. 1996, c. 286, is amended*

*(a) by repealing the definition of “appropriate disciplinary body”,*

*(b) by repealing the definitions of “appropriate licensing body” and “health care practitioner” and substituting the following:*

“**appropriate regulatory college**” means the regulator that is responsible, under the *Health Professions and Occupations Act*, for governing the designated health profession practised by a medical practitioner or health care practitioner;

“**health care practitioner**” means a person who is authorized under the *Health Professions and Occupations Act* to practise

(a) the designated health profession of chiropractic, dentistry, optometry or podiatry, or

(b) a designated health profession, within the meaning of that Act, that is prescribed for the purposes of this Act; , *and*

*(c) in paragraph (b) of the definition of “render” by striking out “appropriate disciplinary body” and substituting “appropriate regulatory college”.*

**592** *Sections 4 (1), 13 (2) and 27 (6) (b) are amended by striking out “appropriate licensing body” wherever it appears and substituting “appropriate regulatory college”.*

**593** *Section 13 (6) (a) is repealed and the following substituted:*

(a) as a result of disciplinary proceedings taken against that practitioner under the *Health Professions and Occupations Act*, .

**594 Section 15 (1) is amended**

**(a) by repealing paragraph (a) and substituting the following:**

- (a) a determination by the commission that the practitioner is no longer able to provide proper care or treatment to beneficiaries, based on a finding, after disciplinary proceedings taken against the practitioner under the *Health Professions and Occupations Act*, that the practitioner
  - (i) lacks competence, or
  - (ii) has committed an act of serious misconduct or repeated instances of misconduct, , **and**

**(b) in paragraph (e) by striking out “licensing body appropriate to the practitioner” and substituting “appropriate regulatory college in relation to the practitioner”.**

**595 Section 16 is amended by striking out “appropriate disciplinary body” and substituting “appropriate regulatory college”.**

**596 Section 37 (4) is amended by striking out “appropriate licensing or disciplinary body” and substituting “appropriate regulatory college”.**

***Miscellaneous Statutes Amendment Act (No. 2), 2012***

**597 Sections 76 and 78 of the *Miscellaneous Statutes Amendment Act (No. 2), 2012, S.B.C. 2012, c. 18, are repealed.***

***Opioid Damages and Health Care Costs Recovery Act***

**598 Section 1 (1) of the *Opioid Damages and Health Care Costs Recovery Act, S.B.C. 2018, c. 35, is amended in paragraph (a) of the definition of “practitioner” by striking out “Health Professions Act” and substituting “Health Professions and Occupations Act”.***

***Pharmaceutical Services Act***

**599 Section 1 (1) of the *Pharmaceutical Services Act, S.B.C. 2012, c. 22, is amended by repealing the definition of “college” and substituting the following:***

**“regulatory college”** has the same meaning as in the *Health Professions and Occupations Act*; .

**600 Section 17 (3) (a) is amended by striking out “Health Professions Act” and substituting “Health Professions and Occupations Act”.**



**601 Section 23 (1) (b) and (c) is repealed and the following substituted:**

- (b) to investigate or discipline
  - (i) a licensee under the *Health Professions and Occupations Act*, or
  - (ii) a person who practises in another jurisdiction a health profession within the meaning of that Act;
- (c) for the monitoring of
  - (i) the practice of a designated health profession within the meaning of the *Health Professions and Occupations Act*, or
  - (ii) the practice in another jurisdiction of a health profession within the meaning of that Act; .

**602 Section 24 (1) (d) is repealed and the following substituted:**

- (d) for the purposes of enabling a regulatory college that is responsible, under the *Health Professions and Occupations Act*, for governing a designated health profession, a committee of the regulatory college or a person acting for the regulatory college to exercise powers or perform duties under
  - (i) the *Health Professions and Occupations Act*, or
  - (ii) the bylaws of the regulatory college.

**603 Sections 32 (a) and 43 (2) and (3) are amended by striking out “college” wherever it appears and substituting “regulatory college”.**

**604 Section 61 (2) is amended by striking out “a bylaw of the College of Pharmacists of British Columbia” and substituting “a bylaw of the regulatory college that is responsible, under the *Health Professions and Occupations Act*, for governing the designated health profession of pharmacy”.**

***Pharmacy Operations and Drug Scheduling Act***

**605 Section 1 of the *Pharmacy Operations and Drug Scheduling Act*, S.B.C. 2003, c. 77, is amended**

**(a) by repealing the definitions of “application committee”, “board”, “bylaw”, “practice of pharmacy”, “practitioner”, “registrar” and “support person” and substituting the following:**

**“application committee”** means the application committee established or continued under section 21.1;

**“board”** means the board, within the meaning of the *Health Professions and Occupations Act*, for the regulatory college;

**“bylaw”** means a bylaw made under section 21, 21.1 or 23 by the board;

**“practice of pharmacy”** means the practice of the profession that, under the *Health Professions and Occupations Act*, is the designated health profession of pharmacy;

**“practitioner”** means a person

- (a) who is authorized under the *Health Professions and Occupations Act* to practise the designated health profession of medicine, dentistry or podiatry,
- (b) who is authorized under the *Veterinarians Act* to practise veterinary medicine, or
- (c) who is
  - (i) in a class of persons prescribed by the minister for the purpose of this definition, and
  - (ii) authorized under the *Health Professions and Occupations Act* to prescribe drugs or devices in the course of providing health services as a licensee under that Act;

**“registrar”**, except in section 22 (2.3) and (2.4), means the registrar, within the meaning of the *Health Professions and Occupations Act*, for the regulatory college;

**“support person”** means a person who

- (a) is not a licensee, and
- (b) performs, under the direct supervision of a licensee, technical functions related to the dispensing, distribution or sale of drugs or the operation of a pharmacy; ,

**(b) by repealing the definitions of “college”, “discipline committee”, “inquiry committee”, “inspector”, “pharmacist” and “registrant”,**

**(c) by adding the following definitions:**

**“director of discipline”** means the director of discipline appointed under the *Health Professions and Occupations Act*;

**“discipline panel”** means a discipline panel appointed under the *Health Professions and Occupations Act*;

**“former licensee”** includes a person whose practice of pharmacy was governed under the *Health Professions Act*, R.S.B.C. 1996, c. 183, or the *Pharmacists, Pharmacy Operations and Drug Scheduling Act*, R.S.B.C. 1996, c. 363;

**“investigation committee”** means the investigation committee, within the meaning of the *Health Professions and Occupations Act*, for the regulatory college;

**“investigator”** means an investigator, within the meaning of the *Health Professions and Occupations Act*, retained or employed by the regulatory college;

“**licensee**” means a person who holds a licence issued, under the *Health Professions and Occupations Act*, by the regulatory college;

“**regulatory college**” means the regulator that is responsible, under the *Health Professions and Occupations Act*, for governing the designated health profession of pharmacy; ,

**(d) in paragraph (b) of the definition of “limited access drug” by striking out “pharmacist” and substituting “licensee”, and**

**(e) in the definitions of “manager” and “wholesaler” by striking out “pharmacist” and substituting “licensee”.**

**606 Section 2 (2) (d) (ii) (B) is amended by striking out “Health Professions Act” and substituting “Health Professions and Occupations Act”.**

**607 Section 3 is repealed and the following substituted:**

**Eligibility for pharmacy licence**

- 3** (1) A direct owner is eligible to hold a pharmacy licence if
- (a) the ownership of the pharmacy complies with section 5 and the bylaws,
  - (b) the manager is a licensee and will have responsibility for the actual management and operation of the pharmacy, and
  - (c) none of the circumstances referred to in subsection (2) apply to any direct owner, indirect owner or manager.
- (2) For the purposes of subsection (1) (c), the following circumstances must not apply to the person:
- (a) a limitation that precludes the person from being a direct owner, indirect owner or manager, imposed by
    - (i) a discipline panel or the director of discipline, or
    - (ii) the discipline committee of the regulatory college before the date that applies to the committee under section 541 (4) of the *Health Professions and Occupations Act*;
  - (b) a current or previous order or conviction for an information or billing contravention;
  - (c) a conviction, within the previous 6 years, of an offence
    - (i) prescribed under the *Pharmaceutical Services Act* for the purposes of section 45 (1) (a) (ii) of that Act, or
    - (ii) under the *Criminal Code*, other than an offence to which subparagraph (i) of this paragraph applies;

- (d) a judgment entered against the person, within the previous 6 years, in a court proceeding related to commercial or business activities that occurred in relation to the provision of
  - (i) drugs or devices, or
  - (ii) substances or related services within the meaning of the *Pharmaceutical Services Act*;
- (e) the person's authorization to engage in the practice of pharmacy or an equivalent health profession in another jurisdiction was, within the previous 6 years, suspended, revoked or subjected to additional limits or conditions by
  - (i) the regulatory college, a discipline panel or the director of discipline,
  - (ii) the discipline committee of the regulatory college before the date that applies to the committee under section 541 (4) of the *Health Professions and Occupations Act*, or
  - (iii) a person or body in the other jurisdiction that is equivalent in that jurisdiction to a person or body referred to in subparagraph (i) or (ii) of this paragraph.

**608 Section 4 (4) (b) is amended**

- (a) by striking out “section 3 (f), (g), (h) or (i)” and substituting “section 3 (2) (c) (ii), (d) or (e)”**,
- (b) in subparagraph (i) by striking out “section 3 (f)” and substituting “section 3 (2) (c) (ii)”, and**
- (c) in subparagraph (ii) by striking out “the judgment referred to in section 3 (g), the suspension or cancellation referred to in section 3 (h) or the disciplinary action referred to in section 3 (i)” and substituting “the judgment referred to in section 3 (2) (d) or the disciplinary action referred to in section 3 (2) (e)”**.

**609 Section 5 (2) is amended**

- (a) by repealing paragraph (a) and substituting the following:**
  - (a) a licensee or a partnership of licensees, , and**
- (b) in paragraphs (b) and (c) by striking out “pharmacists” and substituting “licensees”**.

**610 Section 5.1 is amended**

**(a) in paragraph (b) by striking out** “the discipline committee or the inquiry committee” **and substituting** “the investigation committee, a discipline panel or the director of discipline”, **and**

**(b) in paragraph (c) by striking out** “under section 3 (e) or (f)” **and substituting** “because of circumstances referred to in section 3 (2) (c)”.

**611 Section 6 (2) and (3) is amended by striking out** “pharmacist” **and substituting** “licensee”.

**612 Section 7.1 (1) is amended by striking out** “Health Professions Act” **and substituting** “Health Professions and Occupations Act”.

**613 Section 11 is amended by striking out** “pharmacist” **and substituting** “licensee”.

**614 Section 12 (2) (b) is repealed and the following substituted:**

(b) for the purposes of

(i) court proceedings or proceedings before a discipline panel or the director of discipline, or

(ii) enabling the regulatory college, or a person or committee acting for the regulatory college, to carry out powers or duties under this Act, the *Health Professions and Occupations Act* or the bylaws made under either Act.

**615 The following section is added to Part 3:**

**Former licensees included**

**16.2** In this Part, a reference to a licensee includes a former licensee.

**616 Section 17 is amended**

**(a) in subsection (1) by striking out** “In addition to the powers of an inspector under the *Health Professions Act*, an inspector may” **and substituting** “In addition to the powers of an investigator under the *Health Professions and Occupations Act*, an investigator may”,

**(b) in subsection (1) (a) by striking out** “a registrant practises pharmacy or carries out duties and procedures delegated by a pharmacist” **and substituting** “a licensee engages in the practice of pharmacy or carries out duties or procedures delegated by a licensee”,

*(c) by repealing subsection (1) (d) and substituting the following:*

(d) inspect a licensee's records relating to the practice of pharmacy by the licensee; ,

*(d) in subsection (1) (g) by striking out "a registrant" and substituting "a licensee",*

*(e) in subsection (1) (j) by striking out "inquiry committee" and substituting "investigation committee",*

*(f) in subsection (1) (j) (i) by striking out "inspector" and substituting "investigator", and*

*(g) in subsection (2) by striking out "the discipline committee or the inquiry committee" and substituting "the investigation committee, a discipline panel or the director of discipline".*

**617** *Section 18 is repealed and the following substituted:*

**Direction to investigator**

**18** The investigation committee may direct an investigator to

- (a) take an action referred to in section 17, and
- (b) if an action is taken under paragraph (a), give to the investigation committee a written report of the action.

**618** *Section 19 is amended by striking out "an inspector" and substituting "an investigator".*

**619** *Section 20 is repealed and the following substituted:*

**Investigations and disciplinary actions**

**20** (1) For the purposes of conducting an investigation or disciplinary proceedings under this Act, sections 13, 14, Divisions 11 to 17 of Part 3, Division 3 of Part 10, and sections 541 (4) and (5) and 543 of the *Health Professions and Occupations Act* apply

- (a) to a direct owner or an indirect owner as if the direct owner or indirect owner were a licensee or former licensee, and
- (b) a pharmacy licence as if it were the licence of a licensee or former licensee.

(2) For the purposes of subsection (1) of this section, a reference, in any provision of the *Health Professions and Occupations Act* referred to in that subsection,

- (a) to that Act is deemed to include a reference to this Act, and
- (b) to a regulation or bylaw made under that Act is deemed to include a reference to a regulation or bylaw made under this Act.

**Grounds for investigation and disciplinary action**

- 20.1** (1) In this section and section 20.2, “**disciplinary action**” includes
- (a) the suspension or cancellation of a pharmacy licence,
  - (b) the imposition of limits and conditions on a pharmacy licence, and
  - (c) the variation of limits and conditions on a pharmacy licence.
- (2) An investigation may be conducted and disciplinary action may be taken with respect to a pharmacy licence if any of the following apply:
- (a) the operation of the pharmacy is not in compliance with
    - (i) this Act, the *Health Professions and Occupations Act* or the regulations or bylaws made under either Act, or
    - (ii) the limits and conditions of the pharmacy licence;
  - (b) the direct owner ceases to be eligible, under section 3 of this Act, to hold a pharmacy licence.
- (3) Nothing in this section is intended to limit any other ground on which an investigation may be conducted or disciplinary action may be taken.

**Additional disciplinary actions**

- 20.2** (1) A discipline panel or the director of discipline may, on finding that taking disciplinary action is warranted,
- (a) prohibit a person from being a direct owner or an indirect owner, or
  - (b) set limits for a specified period on the activities a person can carry out as a direct owner or an indirect owner.
- (2) Nothing in this section is intended to limit any other type of disciplinary action that may be taken by a discipline panel or the director of discipline.

**620** *The following section is added to Part 4:*

**Responsibility for pharmacies, drugs and devices**

- 20.3** (1) The regulatory college is responsible for regulating and superintending the operation of pharmacies.
- (2) The regulatory college is responsible for establishing the terms and conditions of sale for drugs and devices.

**621** *Section 21 is amended*

*(a) in subsection (1) by adding the following paragraph:*

(c.01) standards for pharmacies; ,

*(b) in subsection (1) (d) by striking out “the requirements for the licensing and operation of a pharmacy” and substituting “the requirements for the ownership, licensing and operation of a pharmacy”,*

- (c) in subsection (1) (d) (i) by striking out “pharmacists” and substituting “licensees”,*
- (d) by repealing subsection (1) (k),*
- (e) in subsection (2) by striking out “pharmacist” wherever it appears and substituting “licensee”,*
- (f) in subsection (3) by striking out “registrants” and substituting “licensees”,*
- (g) in subsections (8) (b) (i) and (9) (b) by striking out “office of the college” and substituting “office of the regulatory college”, and*
- (h) in subsections (8) (b) (ii) and (9) (c) by striking out “college website” and substituting “website of the regulatory college”.*

**622** *The following section is added:*

**Application committee**

- 21.1** (1) The board must make bylaws respecting the application committee as follows:
- (a) bylaws establishing or continuing the application committee;
  - (b) bylaws as described in section 357 of the *Health Professions and Occupations Act*.
- (2) Section 21 (4) to (9) applies to bylaws made or proposed to be made under this section as if the bylaws were made or proposed to be made under that section.

**623** *Section 22 (5) is amended by striking out “The college must make available to any person for inspection at the college’s offices” and substituting “The registrar must make available to any person for inspection at the offices of the regulatory college”.*

**624** *Section 24 is amended by striking out “Subject to section 25.93 (4) of the Health Professions Act” and substituting “Except as authorized by a bylaw referred to in section 73 (3) of the Health Professions and Occupations Act”.*

**625** *Section 26 (b) (ii) is amended by striking out “pharmacist” and substituting “licensee”.*

**626** *Section 27 is amended by striking out “an inspector” and substituting “an investigator”.*

**627** *Section 28 is amended by striking out “the college” and substituting “the regulatory college”.*



**628** *Section 30 (1) is amended by striking out “pharmacist” wherever it appears and substituting “licensee”.*

**629** *Section 33 is repealed and the following substituted:*

**Protection against lawsuits**

- 33** (1) In this section, “**protected individual**” means an individual who is any of the following:
- (a) an employee or officer of the regulatory college;
  - (b) an individual acting on behalf of the regulatory college or under the direction of the board of the regulatory college;
  - (c) the director of discipline or a member of a discipline panel;
  - (d) an individual acting on behalf of or under the direction of the director of discipline or a discipline panel.
- (2) Subject to subsection (3), no legal proceeding for damages lies or may be commenced or maintained against a protected individual because of anything done or omitted
- (a) in the exercise or intended exercise of a power under this Act, or
  - (b) in the performance or intended performance of a duty under this Act.
- (3) Subsection (2) does not apply to a protected individual in relation to anything done or omitted in bad faith.
- (4) Subsection (2) does not absolve the regulatory college from vicarious liability arising out of anything done or omitted by a protected individual for which the regulatory college would be vicariously liable if this section were not in force.

***Pill Press and Related Equipment Control Act***

**630** *Section 1 of the Pill Press and Related Equipment Control Act, S.B.C. 2018, c. 24, is amended by repealing the definitions of “authorized health professional” and “health college” and substituting the following:*

“**authorized health professional**” means a person who is authorized under the *Health Professions and Occupations Act* to practise a designated health profession that is prescribed for the purposes of this Act;

“**health college**” has the same meaning as “regulatory college” in the *Health Professions and Occupations Act*; .

**631** *Sections 2 (1) (a) (ii) and 20 (3) (b) are amended by striking out “registration under the Health Professions Act” and substituting “licence under the Health Professions and Occupations Act”.*

- 632 *Section 5 (2) (d) is amended by striking out “authority to practise a health profession is suspended or cancelled” and substituting “licence to practise a designated health profession is suspended or revoked”.*
- 633 *Section 17 (1) (a) and (b) is repealed and the following substituted:*
- (a) the registrar of or an investigator for a health college;
  - (b) the registrar acting under, or a person having powers of inspection under, the *Pharmacy Operations and Drug Scheduling Act*; .
- 634 *Section 20 (2) (c) (ii) is repealed and the following substituted:*
- (ii) consulting with the registrar of a health college or the registrar acting under the *Pharmacy Operations and Drug Scheduling Act*; .
- 635 *Section 27 (2) (a) is repealed and the following substituted:*
- (a) prescribing designated health professions within the meaning of the *Health Professions and Occupations Act* for the purposes of the definition of “authorized health professional” in section 1 [definitions] of this Act; .

***Public Health Act***

- 636 *Section 1 of the Public Health Act, S.B.C. 2008, c. 28, is amended in paragraphs (b) and (c) of the definition of “health professional” by striking out “Health Professions Act” and substituting “Health Professions and Occupations Act”.*

***Veterinary Drugs Act***

- 637 *Section 1 of the Veterinary Drugs Act, R.S.B.C. 2018, c. 2, is amended by repealing the definition of “pharmacist” and substituting the following:*
- “**pharmacist**” means a person who is authorized under the *Health Professions and Occupations Act* to practise the designated health profession of pharmacy; .

***Vital Statistics Act***

- 638 *Section 1 of the Vital Statistics Act, R.S.B.C. 1996, c. 479, is amended by repealing the definition of “midwife” and substituting the following:*
- “**midwife**” means a person who is authorized under the *Health Professions and Occupations Act* to practise the designated health profession of midwifery; .

**639 Section 27 (2) (c) (i), (ii) and (iii) is repealed and the following substituted:**

- (i) a person who is authorized under the *Health Professions and Occupations Act* to practise the designated health profession of medicine or psychology;
- (ii) in the case of an applicant who resides in a province outside British Columbia, a person who is authorized in that other province to practise a health profession equivalent to that practised by a person referred to in subparagraph (i); .

***Wills, Estates and Succession Act***

**640 Section 219 of the *Wills, Estates and Succession Act*, S.B.C. 2009, c. 13, is repealed.**

***Workers Compensation Act***

**641 Section 1 of the *Workers Compensation Act*, R.S.B.C. 2019, c. 1, is amended by repealing the definitions of “physician”, “qualified practitioner” and “specialist” and substituting the following:**

**“physician”** means a medical practitioner;

**“qualified practitioner”** means

- (a) a nurse practitioner, or
- (b) a person who is authorized under the *Health Professions and Occupations Act* to practise the designated health profession of chiropractic, dentistry, naturopathic medicine or podiatry;

**“specialist”** means a physician who

- (a) resides and practises in British Columbia, and
- (b) is recognized as having specialist qualifications by the regulator that is responsible, under the *Health Professions and Occupations Act*, for governing the designated health profession of medicine; .

**642 Section 135 (5) is amended by repealing the definitions of “psychiatrist” and “psychologist” and substituting the following:**

**“psychiatrist”** means a physician who is authorized to practise in the speciality of psychiatry by

- (a) the regulator that is responsible, under the *Health Professions and Occupations Act*, for governing the designated health profession of medicine, or
- (b) an accredited body recognized by the Board;

“**psychologist**” means a person who is authorized

- (a) under the *Health Professions and Occupations Act* to practise the designated health profession of psychology, or
- (b) under the laws of another province to practise as a psychologist; .

**643** *Section 164 (5) (a) (ii) is repealed and the following substituted:*

- (ii) inform the applicable regulator under the *Health Professions and Occupations Act*, and .

### **Amendment to This Act**

**644** *Section 59 (3) (a) of this Act is repealed and the following substituted:*

- (a) an executor, administrator of the estate or small estate declarant of a deceased licensee to allow the person to discharge that person’s duties in relation to the estate, or .

### **Commencement**

**645** This Act comes into force by regulation of the Lieutenant Governor in Council.