



Ministry of Health Planning

**Proposals to Amend the *Health Professions Act*:
Improving Governance and Accountability**

July 2002

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MESSAGE FROM THE MINISTER OF HEALTH PLANNING

As Minister of Health Planning, I am pleased to release proposed amendments to the *Health Professions Act*. These amendments propose a number of changes to the *Health Professions Act* to implement recommendations resulting from the extensive consultation and analysis conducted by the Health Professions Council. The draft legislation implements most of the recommendations of the Council presented in its March 2001 report entitled *Safe Choices: A New Model for Regulating Health Professions in British Columbia*.

In addition, the Government of British Columbia has identified necessary amendments to improve public safety and accountability of the regulated health professions. These changes are consistent with the government's *New Era* vision of providing high quality, patient-centred care and improving the health and wellness of British Columbians.

The suggested changes are being released at this time to allow colleges, professional associations and the public to review the proposed wording of the amendments. It is intended that the new legislation will be introduced and debated in the Fall Sitting of the Legislature, 2002.

The consultation to be undertaken in the coming weeks is not intended to replicate the extensive research, consultation and analysis done by the Health Professions Council. Rather, within the broad directions that government has established in the draft legislation, we are seeking to ensure that this legislation is clear, workable, and effective for the purpose of regulating health professions in the public interest. Therefore, it is intended that colleges and organizations representing health professions have the opportunity to assist in identifying errors or omissions or in proposing refinements to the wording of the draft legislation that may be necessary to meet the policy objectives reflected in these amendments.

To ensure that there will be an opportunity to consider the views of your organization, please submit any comments you may have by Monday, September 16, 2002, to the attention of:

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In order to meet the time constraints associated with preparing for the Fall Sitting of the Legislature commencing October 7, 2002, we are unable to accommodate a longer consultation period. However, if any revisions to the draft legislation are determined to be necessary, this schedule will permit changes to be drafted and approved prior to the introduction of a Bill in the Fall.

Each submission will be acknowledged, but we will not provide an individual response. A summary of all the submissions received will be sent to all persons who comment on these proposals.

I believe the proposed changes to the *Health Professions Act* will make important strides in improving the regulation of health care delivery in this province and they will help to ensure that patients can continue to have confidence in our health care system. I encourage your participation and look forward to receiving your comments and your support.

Sincerely,

A handwritten signature in cursive script that reads "Sindi Hawkins".

Sindi Hawkins
Minister of Health Planning

INTRODUCTION

All jurisdictions in Canada have a self-governing model of professional regulation. According to this model, responsibility for setting and enforcing standards of practice is delegated by the government to the regulatory bodies or colleges. The colleges are accountable to both the government and the public for performing these functions and regulating the health professions in the public interest.

The specialized practice of health professions makes direct regulation by the government difficult. The self-governing model relies on the expertise of practitioners and recognizes the value of peer review to establish and monitor standards of practice and ethics and to promote quality assurance. The self-governing model maximizes the autonomy of the health professions, but requires them to act in the public interest to regulate professional practice. Self-governance is a privilege conferred by society and it is the responsibility of the profession to ensure that it acts at all times to serve and protect the public.

The delegation of regulatory authority by the government to a college takes place through legislation, which establishes a college and grants it the power to make bylaws and rules in relation to the practice of the profession. Although the government delegates to colleges the power to make rules or bylaws, those rules and bylaws are subject to review by government and do not become effective until they have been approved by Cabinet.

In 1990, the *Health Professions Act* was introduced in British Columbia. The purpose of the Act was twofold – to provide a common regulatory structure for the governance of health professions in the province, and to establish a clear process for the consideration of requests from groups seeking recognition as a regulated health profession.

The Act has now been in force for more than 10 years. The need for various improvements to the Act and to the governance structure of the regulated health professions has been determined. Additionally, at the request of the provincial government, the Health Professions Council conducted an extensive Legislative Review and made a number of recommendations for improvements to the Act.

The Health Professions Council is an independent agency established by the provincial government to provide advice to the Minister of Health Planning on the designation of new health professions pursuant to the *Health Professions Act*, and on matters relating to the regulation of health professions generally¹.

In 1994, the Health Professions Council was directed to review the regulation of B.C.'s health professions by examining scopes of practice and legislation governing those professions. Specifically, the Council was asked to make recommendations about the scopes of practice and title restrictions for each profession. It was further directed to

¹ Note that in April 2002, Bill 19, the *Ministry of Health Planning Statutes Amendment Act* was approved by the Legislature. Among other matters, this Bill will wind up the functions of the Council. In the future, applications for designation under the *Health Professions Act* will be made to the Minister who may designate a person or staff to investigate and provide recommendations on the request.

consider whether the designation of specified professions under the *Health Professions Act* would be appropriate, including whether there are unique features of the professions or other relevant factors to justify a separate statute.

The terms of reference set out the framework for a new way of regulating health professions. Under the current system, each regulated profession has an exclusive scope of practice that prohibits others from practising within its scope of practice unless permitted to do so by statute. The proposed system consists of non-exclusive scopes of practice and a series of reserved acts for regulated health professions.

The Review Process Conducted by the Health Professions Council

The Council consulted broadly in its review process. All health professions and professionals in British Columbia were invited to participate, as well as government departments, agencies and other interest groups. Research was conducted into the regulation of health professions in other provinces and U.S. jurisdictions.

Each individual profession was consulted with respect to its own review as well as that of all the others. Responses were sought from professional, academic and educational bodies, organizations representing employers and employees, and governmental authorities across the country, as well as from public interest and consumer groups.

Literature was reviewed from Canada, the United States and Europe. In particular, the Council availed itself of the research and reports from similar reviews in other provinces, notably Ontario and Alberta, as well as Manitoba. In certain instances, to deal with specific activities beyond the expertise of the Council and staff, professionals were engaged to provide information and research mainly on the degree of risk for certain reserved acts under contemplation. Finally, after a preliminary report was published for each profession, public hearings were held to allow interested parties to comment on the report and to make further submissions.

Scope of Practice Review

The key elements of the new framework are broad, non-exclusive scope of practice statements and narrowly defined “reserved actions”.² Reserved actions are those elements of a profession’s scope of practice that present a high risk of harm so they should be performed only by a particular profession qualified to do so. The new system will create shared scopes of practice, and many of the reserved actions will be shared among qualified health professions.

The Council made specific recommendations respecting scope of practice statements and appropriate reserved actions for each profession. Profession-specific scopes of practice and the list of “reserved actions” will be developed in regulations and are not established in the draft legislation.

² Note that the *Safe Choices* report refers to “reserved acts” but the proposed amendments to the Act refer to “reserved actions”. Consequently, this Paper will use the phrase “reserved actions”.

Legislative Review

The Council concluded that uniformity of the regulatory system governing health professionals is in the public interest. It would eliminate much of the complexity and confusion that presently exists and would promote an integrated approach to health care delivery.

Co-ordination and co-operation amongst health care providers is of fundamental importance to such an approach, and a uniform regulatory structure enhances the government's ability to apply health care policy consistently.

With one exception, the Council recommended repealing the existing Acts regulating health professions and revising the *Health Professions Act* to be the umbrella statute for regulating all health care professionals in the province.³

The Report of the Health Professions Council

In March 2001, the Health Professions Council submitted its final report to government entitled *Safe Choices: A New Model for Regulating Health Professions in British Columbia*. The comprehensive report of the Council is set out in two parts. Part 1 includes the Scope of Practice Review and Part 2 includes the Legislative Review. The draft legislation presented in the appendix to this paper is intended to address changes recommended by the Council in Part 2, the Legislative Review. Changes necessary to implement Part 1 of the report will proceed separately at a future date.

MAJOR CHANGES IN THE DRAFT LEGISLATION

The following summarizes the major changes reflected in the draft legislation:

1. Implementation of the “Reserved Actions” Model of Professional Regulation

The amendments fully implement a regulatory system that provides for broad, overlapping scopes of practice among health professions. Clinical procedures that may present a risk of harm – referred to as “reserved actions” in the amendments – will be reserved for specified professions only. These changes ensure that only members of specified health professions will be authorized to perform procedures that pose a risk to public health or safety.

³ Bill 19, the *Ministry of Health Planning Statutes Amendment Act* amends the *Health Emergency Act* to wind up the functions of the Emergency Medical Assistants Licensing Board. The Council recommended that the *Health Emergency Act* not be repealed and that the profession of emergency medical assisting not be designated under the *Health Professions Act*. However, the decision to establish a separate college for EMAs was made in the context of the Government's Budget and Core Review processes whereby it was determined that the Ministry of Health Planning would no longer provide administrative and financial support for health professions which in future should be self-sufficient.

This approach to defining scopes of practice will enhance public safety and will allow for scopes of practice to be shared among health professions in appropriate circumstances. The historical and outdated notion of exclusive scopes of practice will be abandoned. Profession-specific scopes of practice and the list of “reserved actions” will be developed in regulations and will not be defined in the Act itself.

2. A Uniform Regulatory Framework for Health Professions

The legislation will repeal the six statutes governing medicine, optometry, dentistry, podiatry, chiropractic and registered nursing. Physicians, optometrists, dentists, podiatrists, chiropractors and registered nurses will be regulated in the future under the *Health Professions Act*.

Designation of these professions under the *Health Professions Act* will provide for a uniform regulatory system for all regulated health professions in British Columbia. The amendments eliminate the complexity and confusion associated with different governing statutes, and enhance the government’s ability to apply health care policy consistently.

3. Enhancing Accountability of Health Professions

Designation as a health profession requires that the governing body regulate its members in the public interest at all times. This is a significant responsibility that is delegated by the government to the colleges of self-regulating professions, which carry out this responsibility on behalf of the government. However, even though this authority is delegated, the government is ultimately responsible for ensuring that colleges effectively regulate their members in order to protect public health and safety.

From time to time some colleges have encountered difficulties in effectively carrying out their mandate and have failed to act in the public interest in carrying out their regulatory responsibilities. In previous situations where the public has been exposed to potential risk resulting from the failure of a college to adequately regulate its members, the government has had no power to intervene or take steps to protect the public.

Under the amendments, government will have new powers to enquire into the functioning of a college, and to direct a board of a college to act where it is determined to be necessary. In addition, the government will have the ability to appoint a public administrator to carry out the functions of a board in extraordinary circumstances if it is necessary to protect the public. These types of circumstances could include cases where a board failed to properly enforce legislation, including limits on professional scope of practice -- for example, if a board condoned the use of equipment or procedures which the professional is not authorized to administer, and which place patients at risk. The proposed changes would enable the government to respond more effectively to these types of situations.

4. Improving Quality of Health Care

The amendments also require colleges to establish quality assurance programs. The purpose is to have the regulatory bodies be more proactive in ensuring registrants provide high quality services to the public and, therefore, to improve the overall standard of health care in British Columbia.

It is the government's expectation that the regulatory bodies will develop and enhance practice standards, and ensure that those standards are consistently met by registrants. The amendments to the Act respecting quality assurance allow colleges to engage registrants in ongoing evaluation of standards of practice and service delivery – without waiting for a complaint to trigger a review of a registrant's practice.

5. Supporting the Public's Right to Information

It is important that patients, employers and other agencies have timely access to information about a health professional's registration status. The new legislation increases public access to information about health professionals' registration status and disciplinary records by specifying the type of information that must be kept in the public registry. At present, the existing obligation of colleges to provide access to information on health professionals is vague and, consequently, the degree of access is inconsistent among professions. Enhancing public access to this information will improve accountability of the health professionals.

Because self-governance is a privilege that must be exercised in the public interest, it is important that professional colleges are held accountable to the government, the other members of the college, and to the public. Individuals affected by decisions of a college have a right to be kept informed of those decisions and the reasons for them. A number of the proposed amendments to the Act will require colleges to provide more information to a member of the public who makes a complaint to the college so that the complainant is aware of how his or her complaint was dealt with by the college.

6. Changes to the Bylaw Approval Process

Some changes have been made to the Act respecting the process by which bylaws are made. The amendments clarify that if a college intends to make rules respecting certain matters, those matters *must* be set out in the bylaws of the college in order to be effective.

However, the amendments also clarify that a college may establish practice standards, limits or conditions without the requirement that these matters be established in the bylaws. Further, Cabinet would be prevented from making practice standards or codes of ethics for a profession.

For greater administrative efficiency, certain matters related to the internal administration of the college (for example, the establishment of fees) are exempted from the requirement that they be approved by the Cabinet before they are effective.

7. Restrictions on Use of Specified Phrases

Amendments have been drafted that would restrict the use of the phrases “registered”, “licensed” or “certified” in relation to the provision of health services. A person who provides a health service but is not a member of a regulated health profession is not permitted to use any of the phrases “registered”, “licensed” or “certified” as part of a job title or description. These amendments permit an application to the courts to enjoin the use of these phrases as part of a title describing his or her services if the person is not a registrant of a college.

At present, a wide variety of unregulated practitioners use the phrases “registered”, “licensed” or “certified” in a manner that may confuse or mislead the public. The concern is that the public may infer that there is some degree of oversight by the government or the college of these groups which does not exist because the individuals are not members of any regulated group.

The amendments would create a prohibition on the use of these phrases by a person providing health services unless he or she is a member of a regulated health profession. A college, with the prior approval of the Minister, could enforce this prohibition by seeking a court injunction if public safety is considered to be at risk.

8. Changes Respecting “Parties” to Discipline Proceedings

The amendments remove the complainant as a party to a hearing of the discipline committee. The amendments allow the complainant a right to appear at a hearing of the discipline committee and to give evidence and to be represented by legal counsel. However, the complainant is not a “party” to the proceedings and does not have a right to cross-examine witnesses.

The amendments also clarify that only a party to the proceedings (the college and the registrant) and the complainant may appeal an order of the discipline committee to the Supreme Court. Under the existing wording of the Act, “any person aggrieved” of a decision of the discipline committee may appeal to the Supreme Court.

APPENDIX

Proposed Amendments to the

Health Professions Act

1 Section 12 of the Health Professions Act, R.S.B.C. 1996, c. 183, is amended by adding the following subsections:

- (2.1) A designation under subsection (1) and regulations under subsection (2) may recognize that
 - (a) a college has 2 or more classes of registrants, or
 - (b) 2 or more health professions are included in the designation of a college.
- (2.2) If subsection (2.1) applies to a college, this Act, the regulations or the bylaws of the college may be applied to
 - (a) each health profession or class of registrants separately,
 - (b) 2 or more health professions jointly,
 - (c) 2 or more classes of registrants jointly, or
 - (d) any combination of paragraphs (a) to (c).

2 Section 14 is amended by striking out “or” at the end of paragraph (a) and by adding the following paragraph:

- (a.1) treating a person by prayer or spiritual means in accordance with the tenets of the religion of the person giving the treatment, or .

3 Section 16 (2) (c) is repealed and the following substituted:

- (c) to establish standards of educational achievement required for admission to the health profession; .

4 Section 17 (5) (a) is repealed.

5 The following sections are added:

Inquiry

- 18.1**
- (1) If the minister considers it necessary in the public interest, the minister may appoint a person to inquire into
 - (a) any aspect of the administration or operation of a college, or
 - (b) the state of practice of a health profession in
 - (i) British Columbia,
 - (ii) a locality, or
 - (iii) a facility.
 - (2) Subsection (1) (a) includes inquiry into an exercise of a power or a performance of a duty, or the failure to exercise a power or perform a duty, under this Act, the regulations or the bylaws of a college or its board.
 - (3) A person appointed under subsection (1) has the power, privileges and protection of a commissioner under sections 12, 15 and 16 of the *Inquiry Act*.
 - (4) A person appointed under subsection (1) must comply with any directions the minister may give concerning the conduct of the inquiry.
 - (5) The expenses incurred by the government under this section respecting a college are a debt due and owing by the college to the government.

Directives

- 18.2** (1) A board must comply with a written directive the minister issues to it concerning the exercise of the powers, duties or functions of the board under this Act, the regulations or the bylaws of the college.
- (2) A directive under subsection (1) may include a requirement that a board submit a written report to the minister, within the time specified in the directive, detailing the measures the board has taken to implement that directive.

Appointment of a public administrator

- 18.3** (1) If the Lieutenant Governor in Council considers it in the public interest to do so, the Lieutenant Governor in Council may appoint a public administrator to exercise the powers, duties and functions of a board.
- (2) On the appointment of a public administrator under subsection (1), the board members cease to hold office.
- (3) On the appointment of a public administrator under subsection (1), the Lieutenant Governor in Council may
- (a) suspend elections to the board for up to 3 years,
 - (b) appoint one or more persons as a committee to advise the public administrator in the management of the affairs of the college,
 - (c) direct the public administrator to take the measures the Lieutenant Governor in Council specifies as necessary or advisable to carry out the purposes of this Act, and
 - (d) specify the date on or before which new elections must be held to fill the positions described in section 17 (3) (a).
- (4) The public administrator must not acquire or dispose of assets of the College unless satisfied that sound management of the affairs of the college requires that the acquisition or disposal take place during the term of the public administrator's appointment.

6 *Section 19 (1) is amended*

(a) by adding the following paragraphs:

- (k.1) establish aspects of practice that a registrant may
 - (i) delegate to a non-registrant to perform, or
 - (ii) authorize a non-registrant to perform under the supervision of a registrant;
- (k.2) specify actions for the purposes of section 33 (6) (b);
- (k.3) establish a quality assurance program;
- (k.4) provide for the recognition of registrants as specialists in a field of the health profession;
- (k.5) specify the manner by which registrants may hold themselves out as specialists in a field recognized under a bylaw made under paragraph (k.4);
- (k.6) establish the obligations that a registrant who is under suspension from practice must discharge
 - (i) in referring patients to another registrant,

- (ii) in allowing another member of the college to use the suspended registrant's premises,
 - (iii) to refrain from deriving an income from the registrant's practice, or from the use by another registrant of the suspended registrant's premises, for the period of the suspension,
 - (iv) to give proper notice of the suspension to patients, or persons who might wish to become patients, or
 - (v) to cease during the suspension to be held out as a registrant;
- (k.7) for the College of Physicians and Surgeons of British Columbia, if designated under section 12 (1) as a college, specify the relationship between the college and the Medical Council of Canada;
- (o.1) establish the circumstances in which a registrant may or must give undertakings to the inquiry committee and the types of undertakings that a registrant may or must be required to give in each of those circumstances;
- (t.1) establish classes of orders made by a committee established under paragraph (t) for which a notation must be made under section 22.1 (1) (e);
- (y.1) establish rules concerning the collection, retention, disclosure, storage and destruction of health care records by
- (i) the college, and
 - (ii) registrants. ,
- (b) by striking out “registrants;” in paragraph (l) and substituting “registrants, including standards for the avoidance of conflicts of interest;”, and**
- (c) by repealing paragraph (m) and substituting the following:**
- (m) establish standards of educational achievement required for admission to the health profession;
 - (m.1) provide that graduation from educational programs specified by an educational programs committee established under paragraph (t) satisfies educational requirements for registration as a member of the college; .

7 Section 19 is amended

(a) by adding the following subsections:

- (1.1) A board may only do the things described in subsection (1), except subsection (1) (k), by bylaw.
- (6.1) A bylaw under subsection (1) (k) or (l) must not be altered under subsection (6). ,
and

(b) by repealing subsection (3) and substituting the following:

- (3) A bylaw under subsection (1) (a), (e), (i), (j), (k.1) to (k.7), (m) to (o.1) or (r) to (z) has no effect until it is approved by the Lieutenant Governor in Council.
- (3.1) A bylaw under subsection (1) (b) to (d), (f) to (h), (k), (l), (p) or (q) has no effect until it is deposited with the minister.
- (3.2) A bylaw made under subsection (1) must be available for inspection by registrants and the public, either at the office of the college or electronically on the college website.

8 *Section 20 is amended by adding the following subsections:*

- (2.1) Despite subsection (2), the registration committee may refuse to grant registration, may grant registration for a limited period or may attach terms and conditions to the grant of registration if it determines, after giving the person an opportunity to be heard, that
- (a) the person's entitlement to practise the health profession has been cancelled or suspended at some time in British Columbia or in another jurisdiction,
 - (b) an investigation, review or other proceeding is under way in British Columbia or in another jurisdiction that could result in the person's entitlement to practise the health profession being cancelled or suspended, or
 - (c) the person has been convicted of an indictable offence.
- (2.2) The registration committee must not act under subsection (2.1) on the basis of paragraph (c) of that subsection if the registration committee is satisfied that the nature of the offence or the circumstances under which it was committed do not, in the opinion of the registration committee, warrant action under subsection (2.1).
- (6) In this section, except in subsection (2.1) or (2.2), "**registration committee**" includes the registrar if the registrar has been authorized in writing by the registration committee to act for it in the matter.

9 *The following section is added:*

Interprovincial cooperation

- 20.1** (1) In this section, "**governing body**" means the governing body of a health profession in another province.
- (2) A board may promote cooperation with governing bodies for a corresponding health profession by doing one or more of the following:
- (a) entering into agreements with one or more governing bodies concerning the interjurisdictional practice of the health profession;
 - (b) entering into information sharing agreements, as defined in section 69 (1) of the *Freedom of Information and Protection of Privacy Act* as enacted by the *Freedom of Information and Protection of Privacy Amendment Act, 2002*, to allow the release of information about a registrant to a governing body, including information about practice restrictions, complaints, competency and discipline.

10 *Section 22 is amended by adding the following subsection:*

- (3) The registrar may refuse to disclose to a person the business address and business telephone number of a registrant if the registrant satisfies the registrar or another person authorized by the board that the disclosure could reasonably be expected to threaten the registrant's safety.

11 *The following section is added:*

Register of members

- 22.1** (1) The registrar must maintain a register setting out, for each registrant, the following:
- (a) the name, business address and business telephone number;

- (b) the class of registration, including areas of specialization and related credentials;
 - (c) the terms, conditions and limitations imposed by the college;
 - (d) a notation of each revocation or suspension of registration;
 - (e) a notation of each order, within a class established under section 19 (1) (t.1), that applies;
 - (f) the undertakings or agreements entered into or consents given under section 36;
 - (g) additional prescribed matters.
- (2) If directed by the minister, the registrar must include information described in subsection (1) that arose from events occurring, or that was recorded, before this section came into force.

12 Section 26 is repealed and the following substituted:

Definitions for Part

26 In this Part:

“**professional misconduct**” includes sexual misconduct and conduct unbecoming a member of the health profession;

“**registrant**” includes a former registrant.

13 The following sections are added:

Alternative medicine

26.1 The College of Physicians and Surgeons of British Columbia, if designated under section 12 (1) as a college, must not act against a registrant or an applicant for registration solely on the basis that the person practises a therapy that departs from prevailing medical practice unless it can be demonstrated that the therapy poses a greater risk to patient health or safety than does prevailing medical practice.

Quality assurance program

- 26.2** (1) A college must establish a program of quality assurance under its bylaws unless the college is exempted from this subsection by regulation of the Lieutenant Governor in Council.
- (2) Unless a college is exempted from this subsection by regulation of the Lieutenant Governor in Council, its quality assurance committee must include
- (a) members, equal in number to at least one third of the total membership of the quality assurance committee, who are not members of the health profession and who are chosen to represent the general public, and
 - (b) members, equal in number to at least one third of the total membership of the quality assurance committee, who are members of the health profession.
- (3) The quality assurance committee, for the purpose of sampling or monitoring the standards of practice of registrants and assisting them in their practice, may require a registrant to allow evaluation of the registrant’s professional performance and inspection of the registrant’s clinical records respecting patients by one or more registrants designated by the quality assurance committee.

- (4) If the quality assurance committee concludes after evaluating a registrant's professional performance that there is a deficiency in the manner in which the registrant's practice is being conducted, the quality assurance committee may require that registrant to
 - (a) undertake further education or training,
 - (b) undergo clinical or other examinations, or
 - (c) undertake other remedial activitiesthat the quality assurance committee considers will assist the registrant to remedy the deficiency.
- (5) The quality assurance committee may appoint assessors for the purposes of a quality assurance program.
- (6) A registrant must cooperate with the quality assurance committee and with any assessor the committee appoints, which cooperation includes
 - (a) permitting the assessor to enter and inspect the premises where the registrant practises,
 - (b) permitting the assessor to inspect the registrant's records of the care of patients,
 - (c) giving the quality assurance committee or assessor the information on the care of patients, or on the registrant's records of the care of patients, the quality assurance committee or assessor requests in the form specified by the quality assurance committee or assessor,
 - (d) conferring with the quality assurance committee or assessor if requested to do so by either of them, and
 - (e) participating in a program designed to evaluate the knowledge, skill and judgment of the registrant, if requested to do so by the quality assurance committee.
- (7) A person who controls premises, other than a private dwelling, where a registrant practises must allow an assessor to enter and inspect the premises.
- (8) A person who controls records relating to a registrant's care of patients must allow an assessor to inspect the records.
- (9) Subsection (8) does not
 - (a) require a patient or a patient's representative to allow an assessor to inspect records relating to the patient's care, or
 - (b) override any claim of confidentiality or privilege founded on solicitor client privilege.
- (10) This section applies despite any enactment relating to the confidentiality of health records.
- (11) If a registrant fails, after reasonable notice, to permit inspection of the registrant's clinical records and other documents relating to the subject matter of the investigation, as required under this section, or to appear before the quality assurance committee, the board may direct the registrar to issue a citation under section 37 (1).

- (12) The minister must be given access to information collected by a quality assurance committee under this section in order that the minister may conduct an audit of the effectiveness of the quality assurance program of the college.

Confidentiality of information

- 26.3**
- (1) Except as provided in this section, a quality assurance committee and an assessor appointed by it must not disclose to any other committee information that
 - (a) the registrant gives, or
 - (b) relates to the registrant and is obtained under section 26.2.
 - (2) A quality assurance committee or an assessor appointed by it may disclose information described in subsection (1) to show that the registrant knowingly gave false information to the quality assurance committee or assessor.
 - (3) If, based on an assessment, the quality assurance committee believes that a registrant may have committed an act of professional misconduct or may be incompetent or incapacitated, the quality assurance committee must disclose to the inquiry committee the name of the registrant and the allegations against the registrant.
 - (4) Information that was disclosed contrary to subsection (1) must not be used against the registrant to whom it relates before a committee established under section 19 (1) (t).
 - (5) Information described in subsection (1) or held by a registrant for the purpose of complying with the requirements of a quality assurance program prescribed under section 19 (1) is not admissible in evidence in a civil proceeding except in a proceeding under this Act and to the extent permitted by this Act.
 - (6) This section applies despite the *Freedom of Information and Protection of Privacy Act*.

14 Section 33 is amended

(a) in subsection (4) by adding the following paragraph:

- (a.1) a conviction for an indictable offence; ,

(b) by adding the following subsections:

- (4.1) The inquiry committee
 - (a) may appoint a panel of one or more persons who, for the purpose of investigating whether a registrant has adequate skill and knowledge to practise the health profession, may require the registrant to
 - (i) undergo clinical or other examinations that the board considers appropriate, and
 - (ii) permit inspection, by the quality assurance committee, of the registrant's clinical records respecting patients and other documents relating to the subject matter of the investigation, and
 - (b) accept for the purposes of this section the findings of a panel appointed under paragraph (a).

(4.2) The inquiry committee must not act under subsection (6) (b) to (d) on the basis of subsection (4) (a.1) if the inquiry committee is satisfied that the nature of the offence or the circumstances under which it was committed do not warrant action under subsection (6) (b) to (d).

(4.3) For the purposes of an investigation of the matters set out in subsection (4) (d) or (e), the inquiry committee may require a registrant to allow evaluation of the registrant's professional performance and inspection of the registrant's clinical records respecting patients by one or more registrants designated by the inquiry committee. , **and**

(c) in subsection 6 (b) by striking out “any action” and substituting “one or more prescribed actions”.

15 Section 34 (1) (b) is repealed and the following substituted:

(b) if the investigation resulted from a complaint, provide a copy of its decision and give written reasons for the decision to the complainant.

16 Section 36 is amended by adding the following subsections:

(1.1) The inquiry committee must give the complainant a copy of any undertaking or consent given under subsection (1).

(3) A request of the inquiry committee under subsection (1) must be in writing and must be delivered to the registrant and to the complainant, if any.

17 Section 38 is amended:

(a) by repealing subsection (2) and substituting the following:

(2) The respondent and the college may appear as parties and with legal counsel at a hearing of the discipline committee.

(2.1) The complainant may appear, give evidence and be represented by legal counsel at a hearing of the discipline committee. , **and**

(b) by adding the following subsection:

(4.1) Evidence against the respondent is not admissible at a hearing of the discipline committee unless, at least 14 days before the hearing, the respondent is given

(a) in the case of evidence in the form of a document, an opportunity to examine the document,

(b) in the case of the evidence of an expert, the identity of the expert and

(i) a copy of each written report the expert has prepared respecting the matter, and

(ii) if the expert has not prepared a written report respecting the matter, a written summary of the evidence the expert will present at the hearing, and

(c) in the case of evidence of a witness who is not an expert, the identity of the witness.

18 Section 39 (2) is amended by striking out everything after “subsection (1) must” and substituting the following paragraphs:

(a) be in writing,

- (b) include reasons for the order, and
- (c) be delivered to the respondent and to the complainant, if any.

19 *Section 40 is amended*

(a) *by repealing subsection (1) and substituting the following:*

- (1) A complainant or a party to a proceeding for an order of the discipline committee under section 39 (1) may appeal the order to the Supreme Court. , **and**

(b) *by adding the following subsection:*

- (8.1) If the Supreme Court stays the order pending the hearing of an appeal under this section, the Supreme Court may set terms and conditions respecting the practice of the registrant during the stay.

20 *The following Part is added:*

PART 4.1 – RESERVED ACTIONS

Definition

- 50.1** In this Part, “**reserved action**” means an activity prescribed for the purposes of this Part.

Reserved actions restricted

- 50.2** (1) A person must not perform a reserved action in the course of providing a service described in the definition of “health profession” in section 1, unless
- (a) the person is a registrant of a college for a health profession authorized under section 12 to perform the reserved action,
 - (b) the performance of the reserved action has been delegated to the person by a registrant described in paragraph (a),
 - (c) the person is exempted, or is a member of a class of persons exempted, by the regulations from the prohibition against performing the reserved action, or
 - (d) the reserved action is performed in the course of an activity exempted by the regulations.
- (2) Subsection (1) applies to any person, including a person who is not a registrant of any college.

Delegation of reserved actions

- 50.3** (1) The delegation of a reserved action by a registrant must be in accordance with the bylaws governing the registrant’s health profession.
- (2) The delegation of a reserved action to a registrant must be in accordance with the bylaws governing the registrant’s health profession.

Exceptions

- 50.4** (1) A person's performance of a reserved action is not a contravention of section 50.2 if the person performs the reserved action while
- (a) rendering first aid or temporary assistance in an emergency,
 - (b) fulfilling the requirements to become a registrant and the reserved action is within the scope of practice of the health profession and is done under the supervision or direction of a registrant of that health profession, or
 - (c) caring for a member of the person's family.
- (2) Subsection (1) does not apply to a person who treats or advises an individual respecting the health of the individual, or of a dependent of the individual, if a reasonable person could foresee that a serious risk to life or health could result from
- (a) carrying out the treatment or advice, or
 - (b) committing errors or omissions in attempting to carry out the treatment or advice.

21 *Section 51 (1) is repealed and the following substituted:*

- (1) A person who contravenes section 13 (1), (2), (3) or (4), 20 (5), 31 (1) or (2), 50.2, 52.1 or 53 (1) or (2) commits an offence.

22 *The following section is added:*

Injunction to restrain use of certain terms

- 52.1** (1) A person who is not a registrant must not use "registered", "licensed" or "certified" as part of a title describing their work if the person is providing
- (a) a service related to the preservation or the improvement of the health of individuals, or
 - (b) treatment or care to individuals who are injured, sick, disabled or infirm.
- (2) A board, with the prior written approval of the minister, may apply to the Supreme Court for an interim or permanent injunction to restrain a person from using "registered", "licensed" or "certified" as part of a title describing their work if
- (a) the definition of "health profession" in section 1 describes the nature of that work, and
 - (b) the person is not a registrant.

23 *Section 53 is repealed and the following substituted:*

Confidential information

- 53** (1) Subject to the *Ombudsman Act*, a person must preserve confidentiality with respect to all matters or things that come to the person's knowledge while exercising a power or performing a duty or function under Part 3 unless the disclosure is
- (a) necessary to exercise the power or to perform the duty or function, or

- (b) authorized as being in the public interest by the board of the college in relation to which the power, duty or function is exercised or performed.
- (2) Insofar as the laws of British Columbia apply, 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 a power or in the performance of a duty or function under Part 3 unless
 - (a) the proceedings are under this Act, or
 - (b) disclosure of the knowledge is authorized under subsection (1) (b) or under the bylaws or regulations made under this Act.
- (3) The records relating to the exercise of a power or the performance of a duty or function under Part 3 are not compellable in a court or in proceedings of a judicial nature insofar as the laws of British Columbia apply unless
 - (a) the proceedings are under this Act, or
 - (b) disclosure of the knowledge is authorized under subsection (1) (b) or under the bylaws or regulations made under this Act.

24 Section 55 is renumbered as section 55 (1) and the following subsection is added:

- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations
 - (a) subject to this Act, prescribing the composition of a committee established under section 19 (1) (t), or of panels of a committee,
 - (b) establishing a deadline for a committee established under section 19 (1) (t) to complete a stage of its work respecting a registrant and establishing that the committee must report to the minister, or a person specified by the minister, if the deadline is missed,
 - (c) specifying the information that a registrar must collect and include in a register to which section 21 (2) refers,
 - (d) specifying how a registrar is to establish, maintain, make open to the public and otherwise administer a register to which section 21 (2) refers,
 - (e) prescribing reserved actions for the purposes of Part 4.1,
 - (f) exempting a person, or a class of persons, for the purposes of section 50.2 (1) (c),
 - (g) exempting an activity for the purposes of section 50.2 (1) (d), and
 - (h) prescribing manners and circumstances for the purposes of section 50.4 (1) (e).

Transitional – interpretation of bodies, rules, regulations and bylaws

- 25** (1) If a health profession for persons registered or formerly registered under the *Chiropractors Act*, the *Dentists Act*, the *Medical Practitioners Act*, the *Nurses (Registered) Act*, the *Optometrists Act* or the *Podiatrists Act* is designated under section 12 of the *Health Professions Act*, section 36 of the *Interpretation Act* applies and the *Chiropractors Act*, the *Dentists Act*, the *Medical Practitioners Act*,

the *Nurses (Registered) Act*, the *Optometrists Act* or the *Podiatrists Act*, as the case may be, is deemed to be the “former enactment” and the *Health Professions Act* is deemed to be the “new enactment” for the purposes of this application of section 36 of the *Interpretation Act*.

- (2) For the purposes of this section, section 36 of the *Interpretation Act* applies to the following:
- (a) the board established under section 17 of the *Health Professions Act* for the health profession as though the board were, for the purposes of the health profession,
 - (i) the board under the *Chiropractors Act*, the *Optometrists Act* or the *Podiatrists Act*,
 - (ii) the Council under the *Dentists Act* or the *Medical Practitioners Act*, or
 - (iii) the board of directors under the *Nurses (Registered) Act*,as the case may be;
 - (b) as circumstances require, the discipline committee or inquiry committee as defined in section 1 of the *Health Professions Act* for the health profession, as though the discipline committee or inquiry committee were, for the purposes of the health profession,
 - (i) the board under the *Chiropractors Act*, the *Optometrists Act* or the *Podiatrists Act*,
 - (ii) the Council, or a person, committee or panel to which the Council has delegated its powers, under the *Dentists Act*,
 - (iii) the executive Council, sexual misconduct review committee or inquiry committee under the *Medical Practitioners Act*, or
 - (iv) the professional conduct committee or panels under the *Nurses (Registered) Act*,as the case may be;
 - (c) bylaws or rules made under the former enactment as though they were bylaws made under the *Health Professions Act*;
 - (d) regulations made under the former enactment;
 - (e) a proceeding under the former enactment to investigate or discipline a member or former member of a health profession.
- (3) The Lieutenant Governor in Council may make regulations to facilitate the transition from the former enactment to the new enactment for a health profession.

Transitional – regulations

- 26** (1) The Lieutenant Governor in Council may make regulations considered necessary or advisable for the purpose of more effectively preparing to designate a health profession under this Act and meeting or removing any transitional difficulties encountered in doing so.

- (2) A regulation under subsection (1) may
 - (a) suspend, for a period the Lieutenant Governor in Council specifies, the operation of a provision of an enactment, or
 - (b) make a provision of section 25 apply to a health profession and the bodies, rules, bylaws or regulations that govern the health profession.
- (3) For the purposes of subsection (2), the enactment under which the governing body of the health profession is incorporated is deemed to be the “former enactment” and the *Health Professions Act* is deemed to be the “new enactment” for the purposes of the application of section 36 of the *Interpretation Act*.
- (4) Unless earlier repealed, a regulation made under this section is repealed one year after it is enacted.

Consequential Amendments and Repeals

Criminal Injury Compensation Act

- 27 *Section 1 (1) of the Criminal Injury Compensation Act, R.S.B.C. 1996, c. 85, is amended by repealing the definitions of “physician” and “qualified practitioner” and substituting the following:*

“qualified practitioner” means a person authorized under an enactment to practise in British Columbia as a chiropractor, dentist, medical practitioner, naturopathic physician or podiatrist; .

Evidence Act

- 28 *Section 51 (1) of the Evidence Act, R.S.B.C. 1996, c. 124, is amended in the definition of “health care professional” by repealing paragraphs (b) and (c).*

Health Authorities Act

- 29 *The definition of “nurse” in section 19.1 of the Health Authorities Act, R.S.B.C. 1996, c. 180, is repealed and the following substituted:*

“nurse” means a person who is authorized under an enactment to practise in British Columbia as a registered nurse or as a registered psychiatric nurse and who works in a job for which that authorization is a requirement of the employer or a prerequisite to performing the job as required by statute, regulation or program accreditation; .

Health Emergency Act

- 30 *Section 11 of the Health Emergency Act, R.S.B.C. 1996, c. 182, is amended by striking out “medicine without being registered under the Medical Practitioners Act;” and substituting “medicine;”.*

Hospital Act

- 31 *Section 1 of the Hospital Act, R.S.B.C. 1996, c. 200, is amended by repealing the definition of “practitioner” and substituting the following:*

“**practitioner**” means a person registered as a member of a prescribed health profession.

Insurance Corporation Act

- 32 *Section 7 (d) of the Insurance Corporation Act, R.S.B.C. 1996, c. 228, is amended by striking out “the Medical Practitioners Act” and substituting “the Health Professions Act”.*

Insurance (Motor Vehicle) Act

- 33 *Section 28 of the Insurance (Motor Vehicle) Act, R.S.B.C. 1996, c. 231, is amended*

(a) by repealing paragraph (b) and substituting the following:

(b) a person entitled to practise as a chiropractor under an enactment; , *and*

(b) by repealing paragraph (c) and substituting the following:

(c) a person entitled to practise dentistry under an enactment; .

Interpretation Act

- 34 *Section 29 of the Interpretation Act, R.S.B.C. 1996, c. 238, is amended by repealing the definition of “medical practitioner” and substituting the following:*

“**medical practitioner**” means, if the College of Physicians and Surgeons of British Columbia is designated under section 12 (1) of the *Health Professions Act* as a college, a registrant of that college entitled to practise medicine; .

Jury Act

- 35 *Section 3 (2) of the Jury Act, R.S.B.C. 1996, c. 242, is amended by striking out “registered under the Chiropractors Act or the Dentists Act or registered as a naturopathic physician under the Health Professions Act” and substituting “authorized under an enactment to practise as a dentist, chiropractor or naturopathic physician in British Columbia”.*

Medicare Protection Act

36 *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” and substituting the following:*

“appropriate disciplinary body” means the person or body that may cancel or suspend the right to practise under

- (a) an enactment, as a chiropractor, a dentist, a medical practitioner, an optometrist or a podiatrist in British Columbia, or
- (b) the governing Act, bylaws or rules for a member of the health care profession or occupation prescribed for the purposes of paragraph (b) of the definition of “health care practitioner”;

(b) *by repealing the definition of “appropriate licensing body” and substituting the following:*

“appropriate licensing body” means the person or body having the power to grant the right to practise as a practitioner under

- (a) an enactment, as a chiropractor, a dentist, a medical practitioner, an optometrist or a podiatrist in British Columbia, or
- (b) the governing Act, bylaws or rules for a member of the health care profession or occupation prescribed for the purposes of paragraph (b) of the definition of “health care practitioner”; , *and*

(c) *by repealing the definition of “health care practitioner” and substituting the following:*

“health care practitioner” means a person entitled to practise as

- (a) a chiropractor, a dentist, an optometrist or a podiatrist in British Columbia under an enactment, or
- (b) a member of a health care profession or occupation that may be prescribed; .

Miscellaneous Statutes Amendment Act (No. 2), 2000

37 *Section 5 of the Miscellaneous Statutes Amendment Act (No. 2), 2000, S.B.C. 2000, c. 26, is repealed.*

Motor Vehicle Act

38 *Section 225 (3) of the Motor Vehicle Act, R.S.B.C. 1996, c. 318, is amended by striking out “within the meaning of the Nurses (Registered) Act.” and substituting “authorized under an enactment to practise as a medical practitioner or registered nurse in British Columbia.”*

Public Service Labour Relations Act

39 *Section 1 (1) of the Public Service Labour Relations Act, R.S.B.C. 1996, c. 388, is amended in the definition of “employee” by repealing paragraph (d) and substituting the following:*

(c) a person authorized under an enactment to practise as a medical practitioner in British Columbia who is engaged in and working in the practice of that profession; .

40 *Section 4 (a) is repealed and the following substituted:*

(a) a nurses’ bargaining unit, including all employees authorized under an enactment to practise as a registered nurse or registered psychiatric nurse, including those employees who are eligible to become so authorized, .

Workers Compensation Act

41 *Section 1 (1) of the Workers Compensation Act, R.S.B.C. 1996, c. 492, is amended by repealing the definitions of “physician” and “qualified practitioner” and substituting the following:*

“**physician**” means a person authorized under an enactment to practise in British Columbia as a medical practitioner;

“**qualified practitioner**” means a person authorized under an enactment to practise in British Columbia as a chiropractor, a dentist, a naturopathic physician or a podiatrist; .

Repeals

42 The following Acts and Supplement are repealed:

- (a) the *Chiropractors Act*, R.S.B.C. 1996, c. 48;
- (b) the *Dentists Act*, R.S.B.C. 1996, c. 94;
- (c) the *Medical Practitioners Act*, R.S.B.C. 1996, c. 285;
- (d) the *Nurses (Registered) Act*, R.S.B.C. 1996, c. 335;
- (e) the Supplement to the *Nurses (Registered) Act*, R.S.B.C. 1996, c. 335;
- (f) the *Optometrists Act*, R.S.B.C. 1996, c. 342;
- (g) the *Podiatrists Act*, R.S.B.C. 1996, c. 366.

Commencement

43 This Act comes into force by regulation of the Lieutenant Governor in Council.