

The [Legislation and Professional Regulation Branch](#) of the Ministry of Health Services has prepared this unofficial consolidation of the *Health Professions Act*.

This version includes amendments made by the [Health Professions \(Regulatory Reform\) Amendment Act, 2008](#), S.B.C. 2008, c. 29 (Bill 25).

Bill 25 received Royal Assent on May 29, 2008.

Please note this consolidation is provided for personal or legal use only, within the terms of the Government's [copyright policy](#) and [guidelines covering reproduction of provincial legislation](#). Copyright belongs exclusively to the Province of British Columbia.

This consolidation is not the official version. The Province of British Columbia does not warrant the accuracy or completeness of this version and in no event will the Province of British Columbia be liable or responsible for damages of any kind arising out of its use. Please read this [disclaimer](#) for more information.

If you find any errors or omissions, please let us know:

Ministry of Health Services  
Legislation and Professional Regulation  
5-2, 1515 Blanshard Street  
Victoria BC V8W 3C8  
Fax: (250) 952-2205  
Email: [HLTH.LPRAdmin@gov.bc.ca](mailto:HLTH.LPRAdmin@gov.bc.ca)

Consolidation Revision Date: January 7, 2009

*Current to January 7, 2009*  
**This is not the official version.**

# HEALTH PROFESSIONS ACT

## [RSBC 1996] CHAPTER 183

### *Contents*

#### *Section*

- 1 Definitions
- 2 - 6 [Repealed]

#### **PART 1.1 – ADVISORY PANELS**

- 6.1 Definitions
- 6.2 Appointment of advisory panel
- 6.3 Referral to advisory panel
- 6.4 Meetings of advisory panel
- 6.5 Remuneration and reimbursement of expenses

#### **PART 2 – DESIGNATED HEALTH PROFESSIONS**

- 7 Application by health profession association for designation
- 8 Reference by minister regarding possible designation
- 9 Investigation regarding possible designation
- 10 Designations
- 11 Regulations respecting applications for designation
- 12 Designation of a health profession
- 12.1 Prohibition and limitation – use of reserved titles
- 12.2 Exceptions
- 13 Prohibitions regarding practice of designated health profession
- 14 Exceptions to prohibitions
- 14.1 Responsibility of registrants not affected by incorporation
- 15 Health profession college established
- 15.1 Colleges continued
- 16 Duty and objects of a college
- 17 Board for health profession college
- 17.1 Election validation
- 17.11 Oath of office
- 17.2 Executive committee
- 18 Responsibilities of board
- 18.1 Inquiry
- 18.2 Directives
- 19 Bylaws for college
- 20 Registration of person in college
- 20.01 Notice to applicant for certification
- 20.1 Application of sections 20.2 and 20.3 [Repealed]
- 20.2 Review on the record [Repealed]
- 20.3 Appeal from a review on the record [Repealed]
- 20.4 Interjurisdictional cooperation

- 21 Registrar and register for college
- 22 Inspection of register
- 22.1 [Repealed]
- 23 Certificate as evidence
- 24 Immunity for acts or omissions in good faith
- 25 [Repealed]

### **PART 2.1 – MEDICAL PRACTITIONERS**

- 25.1 Definitions for Part
- 25.2 Investigation of skill
- 25.3 Absence from British Columbia
- 25.4 Alternative medicine
- 25.5 Bylaws
- 25.6 Medical examination to assess whether curtailment of practice should be ordered

### **PART 2.2 – PHARMACISTS**

- 25.8 Definitions for Part
- 25.9 Objects of the college
- 25.91 Interchangeable drugs
- 25.92 Terms of a prescription
- 25.93 Misrepresentation
- 25.94 Disclosure of patient record information
- 25.95 Exceptions

### **PART 3 – INSPECTIONS, INQUIRIES AND DISCIPLINE**

- 26 Definitions for Part
- 26.1 Quality assurance program
- 26.2 Confidential information
- 27 Inspectors
- 28 Powers and duties of inspectors
- 29 Search and seizure under court order
- 30 Detention of things seized
- 31 Prohibition against obstructing inspection or search
- 32 Complaints to be made to registrar for delivery
- 32.1 Definition for sections 32.2 and 32.3
- 32.2 Duty to report registrant
- 32.3 Duty to report respecting hospitalized registrant
- 32.4 Duty to report sexual misconduct
- 32.5 Immunity
- 33 Investigations by inquiry committee
- 34 Report and review ~~Report and review~~ Notice of disposition
- 35 Extraordinary action to protect public
- 36 Reprimand or remedial action by consent
- 37 Citation for hearing by discipline committee
- 37.1 Consent orders
- 38 Discipline committee hearing
- 39 Action by discipline committee
- 39.1 Unprofessional conduct in another jurisdiction or while practising as a registrant of another college
- 39.2 Consideration of past action
- 39.3 Public notification
- 39.4 Funding for therapy and counselling
- 40 Appeal of discipline committee decision to Supreme Court

**PART 4 – HEALTH PROFESSION CORPORATIONS**

- 40.1 Definition
- 41 Application of this Part
- 42 Health profession corporations
- 43 Health profession corporation permits to be issued by board
- 44 Revocation of corporation permits
- 45 Prohibition against carrying on corporate business
- 46 Prohibition against certain voting agreements
- 47 Obligations to provide evidence respecting health profession corporation
- 48 [Repealed]
- 49 Bylaws applicable to health profession corporations
- 50 Regulations respecting health profession corporations

**PART 4.1 – RESTRICTED ACTIVITIES**

- 50.1 Definitions for Part
- 50.2 Prohibition and limitation – performance of restricted activities
- 50.3 Delegation of restricted activities
- 50.4 Exceptions

**PART 4.2 – HEALTH PROFESSIONS REVIEW BOARD**

- 50.5 Definitions for Part 4.2
- 50.51 Health Professions Review Board established
- 50.52 Application of *Administrative Tribunals Act* to the review board
- 50.53 Powers and duties of review board
- 50.54 Review of registration decisions
- 50.55 Timeliness of inquiry committee investigations
- 50.56 Investigation by inquiry committee suspended
- 50.57 Review – delayed investigation
- 50.58 Duties and powers of review board – review of delayed investigations
- 50.59 Investigation by inquiry committee terminated
- 50.6 Review of inquiry committee decisions
- 50.61 Procedural requirements – application for review
- 50.62 Review does not operate as stay
- 50.63 Exclusive jurisdiction of review board
- 50.64 Application of *Administrative Tribunals Act* to review board for purposes of reviews
- 50.65 Reports to minister

**PART 5 – GENERAL**

- 51 Offences
- 52 Injunction to restrain contravention
- 52.1 Restriction on use of terms
- 52.2 Collection and disclosure of health human resources information
- 52.3 Obligation of registrants to provide information
- 52.4 Use of health human resources information by government
- 53 Confidential information
- 54 Deemed receipt of documents
- 55 Power to make regulations
- 56 Regulations of the Lieutenant Governor in Council

**SCHEDULE**

**Definitions****1** In this Act:

“**board**” means the board established under section 17 (1) for a college;

“**bylaw**” means a bylaw for a college made under section 19 or 49;

“**certified non-registrant**” means a non-registrant to whom registrants of a college may delegate aspects of practice or who may be authorized to provide or perform aspects of practice in accordance with a bylaw of the college made under section 19 (1) (k.1) and who is certified by the college in accordance with a bylaw of the college made under section 19 (1) (l.2);

“**college**” means, in relation to a designated health profession, its college established under section 15 (1);

“**college website**” means a website established and maintained by or on behalf of a college under section 18 (3);

“**designated health profession**” means a health profession designated for the purposes of this Act under section 12 (1);

“**discipline committee**” means the discipline committee for a college as established by a bylaw under section 19 (1) (t);

“**health profession**” means a profession in which a person exercises skill or judgment or provides a service related to

(a) the preservation or improvement of the health of individuals, or

(b) the treatment or care of individuals who are injured, sick, disabled or infirm;

“**health profession association**” means a society, as defined in the *Society Act*, whose members are persons practising a health profession;

“**health profession corporation**” means a corporation to which a permit has been issued under section 43;

“**Health Professions Review Board**” or “**review board**” means the Health Professions Review Board established under section 50.51;

“**inquiry committee**” means the inquiry committee for a college as established by a bylaw under section 19 (1) (t);

“**inspector**” means an inspector for a college under section 27;

“**minister**” includes a person who, to carry out a power or duty described in sections 7 to 10,

(a) is employed in the minister’s ministry, or

(b) is retained on behalf of the minister;

“**registrant**” means, in respect of a designated health profession, a person who is granted registration as a member of its college in accordance with section 20;

“**registrar**” means the person appointed as registrar for a college under section 21 (1);

“**registration committee**” means the registration committee for a college as established by a bylaw under section 19 (1) (t);

“**restricted activity**” means an activity prescribed under section 55 (2) (g).

### Repealed

2 to 6 [Repealed 2002-15-10]

## PART 1.1 –ADVISORY PANELS

### Definitions

**6.1** In this Part, “**advisory panel**” means an advisory panel appointed under section 6.2.

### Appointment of advisory panel

- 6.2** (1) The minister may, by order,
- (a) appoint one or more advisory panels consisting of one or more members named in the order,
  - (b) designate the chair and one or more vice-chairs of an advisory panel from among its members, and
  - (c) set the terms and conditions of appointments under paragraph (a).
- (2) The chair of an advisory panel must not be
- (a) a registrant of a college for a designated health profession or a certified non-registrant,
  - (b) a member of a body, in another province or a foreign jurisdiction, that regulates a health profession in that other province or foreign jurisdiction,
  - (c) an employee or agent of the government of British Columbia, or
  - (d) an employee or agent of the government of another province or a foreign jurisdiction.
- (3) The majority of members of an advisory panel must be persons who are not persons described in subsection (2).

### Referral to advisory panel

- 6.3** (1) The minister may, by order, refer to an advisory panel any matter related to the following:
- (a) professional scopes of practice, including the services or restricted activities that may, or must not, be provided or performed by registrants or other persons;
  - (b) the use of professional or occupational titles and other work related descriptive terms by registrants or other persons:

- (c) the interjurisdictional, interprofessional, multidisciplinary or collaborative practice of registrants or other persons;
  - (d) the education, training, technical achievement, competencies, credentials and other substantive or procedural entry-to-practice requirements for health professions, including the conditions or requirements for registration as a member of or certification by a college;
  - (e) the confidentiality and disclosure of information under this Act, including disclosure by colleges of information related to matters under Part 3;
  - (f) the patient relations programs and quality assurance programs of colleges;
  - (g) health human resource planning and management;
  - (h) labour mobility of health professions within the Province or between the Province and other provinces or foreign jurisdictions;
  - (i) the duties, objects and powers of colleges;
  - (j) the operation or administration of this Act or the regulation of health professions generally.
- (2) An order under subsection (1) may establish terms of reference respecting the advisory panel's consideration of a matter referred to the panel.
  - (3) An advisory panel may consider and provide advice or recommendations to the minister respecting a matter referred to it under subsection (1).
  - (4) An advisory panel may consult as it considers necessary or appropriate with any person, who, in the opinion of the advisory panel, has expertise or information relevant to a matter referred to the advisory panel under subsection (1).
  - (5) An advisory panel must have regard to any terms of reference established under subsection (2).
  - (6) An advisory panel must not consider or otherwise become involved in any matter respecting
    - (a) a specific person who is applying to a college for registration as a member of the college, certification as a certified non-registrant or reinstatement of registration or certification, or
    - (b) a specific registrant, former registrant, certified non-registrant or former certified non-registrant.

#### **Meetings of advisory panel**

- 6.4** (1) An advisory panel may meet
- (a) as the chair of the advisory panel considers necessary, or
  - (b) on the request of the minister.
- (2) An advisory panel must

- (a) give, to each college established under this Act, reasonable notice of the matters to be discussed at a meeting of the panel, and
  - (b) allow the colleges to make submissions to the panel.
- (3) A portion of a meeting during which submissions under subsection (2) are made must be open to the public unless the advisory panel is satisfied that the interests of the person making the submission, or of any other person, would be detrimentally affected if the submission were not presented in private.
- (4) Subject to this Act and any terms of reference established under section 6.3 (2), an advisory panel may make rules governing its own procedures.

#### **Remuneration and reimbursement of expenses**

- 6.5** (1) Members of an advisory panel may be
- (a) paid remuneration at rates set by the minister, and
  - (b) reimbursed for reasonable and necessary travelling and out of pocket expenses incurred in carrying out their powers and duties under this Act.
- (2) The remuneration and reimbursement of expenses referred to in subsection (1) must be set in accordance with general directives of the Treasury Board.
- (3) Members of an advisory panel who are employees of the government of British Columbia must not be paid remuneration or reimbursed for expenses under this section.

## **PART 2 – DESIGNATED HEALTH PROFESSIONS**

#### **Application by health profession association for designation**

- 7** (1) A health profession association seeking designation of its health profession under this Act must apply to the minister.
- (2) An application under subsection (1) must be in the form and contain the information required by the minister and must be submitted with the fee prescribed by the Lieutenant Governor in Council.
- (3) On receiving an application under subsection (1), the minister may
- (a) refuse the application without investigation,
  - (b) act under section 10, or
  - (c) conduct an investigation the minister considers necessary to determine whether the health profession should be designated under this Act.

#### **Reference by minister regarding possible designation**

- 8** The minister may, in the absence of an application under section 7 (1), investigate a health profession to determine whether it should be designated under this Act.

**Investigation regarding possible designation**

- 9**
- (1) If the minister decides to conduct an investigation under section 7 (3) (c) to determine whether a health profession should be designated under this Act, the minister must give public notice of the investigation in the Gazette.
  - (2) Without limiting an investigation under this Act, the minister may do one or more of the following for the purposes of the investigation:
    - (a) require the health profession association to provide further information;
    - (b) examine the directors and officers of the health profession association;
    - (c) seek the advice of other associations, organizations or persons;
    - (d) if the minister considers the action to be in the best interests of the health profession association or the public, hold hearings the minister considers necessary in a manner the minister determines;
    - (e) determine what services practitioners of the health profession provide to persons who require care and treatment within the scope of that health profession;
    - (f) evaluate the degree of risk to the health or safety of the public from incompetent, unethical or impaired practice of the health profession;
    - (g) evaluate the degree of supervision that may be necessary or desirable for a person practising the health profession;
    - (h) assess the degree of supervision that a person practising the health profession receives or is likely to receive with respect to that practice;
    - (i) determine what educational programs exist in British Columbia or elsewhere for the proper education and training of persons with respect to the practice of the health profession and evaluate the content of those programs;
    - (j) do other things that the minister considers necessary and incidental to the consideration of the application or matter.
  - (3) If the minister holds a hearing under subsection (2) (d), the minister may order a person to attend at the hearing to give evidence and to produce records in the possession of or under the control of the person.
  - (4) On application by the minister to the Supreme Court, a person who fails to attend or to produce records as required by an order under subsection (3) is liable to be committed for contempt as if in breach of an order or judgment of the Supreme Court.
  - (5) Subject to the regulations, the minister may charge to a health profession association part of the costs, including the administrative costs, incurred by the minister to conduct an investigation regarding the health profession association's application under section 7 (1).

**Designations**

- 10**
- (1) If the minister receives an application under section 7 (1), the minister must determine whether it would be in the public interest to designate a health profession under this Act,

having regard to the information obtained during any investigation and in accordance with the prescribed criteria, if any.

- (2) If the minister concludes under subsection (1) that it is contrary to the public interest to designate the applicant a health profession, the minister must refuse the application and provide the applicant with reasons for the refusal.
- (3) [Repealed 2002-15-13]

#### **Regulations respecting applications for designation**

- 11** The Lieutenant Governor in Council may make regulations respecting the following:
- (a) fees, or rates or levels of fees, to be submitted with an application under section 7 (1);
  - (b) limits on the minister's authority to charge costs under section 9 (5);
  - (c) criteria to be applied under section 10 (1) in determining whether it would be in the public interest to designate a health profession under this Act.

#### **Designation of a health profession**

- 12** (1) The Lieutenant Governor in Council may, by regulation, designate a health profession for the purposes of this Act.
- (2) In respect of a designated health profession, the minister may, by regulation, prescribe the following:
- (a) the name of the college established under section 15 (1) for the health profession;
  - (b) one or more titles to be used exclusively by registrants;
  - (b.1) limits or conditions respecting the use of titles prescribed under paragraph (b);
  - (c) services that may be provided by registrants;
  - (d) limits or conditions on the services that may be provided by registrants;
  - (e) services that may be provided only by registrants;
  - (f) services that may be provided under the supervision of a registrant by a person who is not a registrant;
  - (g) services that may be provided by a registrant despite a limitation or prohibition under the regulations, the bylaws or another enactment;
  - (g.1) restricted activities that may be performed by registrants in the course of providing services referred to in paragraphs (c) to (g);
  - (g.2) limits or conditions on the performance of restricted activities referred to in paragraph (g.1);
  - (g.3) whether the board for the college is authorized to establish, under section 19 (1) (i), one or both of the following:
    - (i) a class of restricted registrants, for the purposes of section 20 (4.2);

- (ii) a class of provisional registrants, for the purposes of section 20 (4.3);
  - (h) whether the college is designated for the purposes of section 16 (2) (f).
- (2.1) A designation under subsection (1) and regulations under subsection (2) may recognize that 2 or more health professions are included in the designation.
- (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 separately, or
  - (b) 2 or more health professions jointly.
- (3) Subject to subsection (4), notice of a proposal to make, amend or repeal a regulation under this section must be given to the college of each health profession prescribed by the minister for the purpose of this subsection at least 3 months before the regulation, amendment or repeal comes into force.
- (4) A notice period of less than 3 months applies for the purposes of subsection (3) if the minister specifies this shorter notice period.

#### **Prohibition and limitation – use of reserved titles**

- 12.1** (1) If a regulation under section 12 (2) (b) prescribes a title to be used exclusively by registrants of a college, a person other than a registrant of the college must not use the title, an abbreviation of the title or an equivalent of the title or abbreviation in another language
- (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.
- (2) If a regulation under section 12 (2) (b.1) prescribes a limit or condition respecting the use of a title, the title must not be used except in accordance with the regulation.
- (3) A person other than a registrant of a college must not use a name, title, description or abbreviation of a name or title, or an equivalent of a name or title in another language, in any manner that expresses or implies that he or she is a registrant or associated with the college.

#### **Exceptions**

- 12.2** (1) Despite section 12.1 (1) and (2), but subject to section 12.1 (3), a person's use of a title prescribed under section 12 (2) (b), an abbreviation of the title or an equivalent of the title or abbreviation in another language is not a contravention of section 12.1 (1) if the person
- (a) is authorized by a body in another province or a foreign jurisdiction that regulates a health profession in that other province or foreign jurisdiction to use the title, the abbreviation of the title or the equivalent of the title or abbreviation in another language to indicate membership in that body,

- (b) indicates, in using the title, the abbreviation of the title or the equivalent of the title or abbreviation in another language
    - (i) whether the person is authorized to practise the health profession in the other province or foreign jurisdiction, and
    - (ii) the name of the other province or foreign jurisdiction, and
  - (c) uses the title only for the purpose of indicating whether the person is authorized to practise the health profession in the other province or foreign jurisdiction.
- (2) Despite section 12.1 (1) and (2), but subject to section 12.1 (3), a person's use of a title prescribed under section 12 (2) (b), an abbreviation of the title or an equivalent of the title or abbreviation in another language is not a contravention of section 12.1 (1) if the person uses the title, the abbreviation of the title or the equivalent of the title or abbreviation in another language while
- (a) fulfilling the conditions or requirements for registration as a member of the college whose registrants are granted exclusive use of the title by a regulation under section 12 (2) (b), and
  - (b) under the supervision of a registrant of a college specified for the purposes of this subsection by the board for the college referred to in paragraph (a).

#### **Prohibitions regarding practice of designated health profession**

- 13**
- (1) If a regulation under section 12 (2) (d) limits the services that may be provided in the course of practice of a designated health profession, a registrant must limit his or her practice of that designated health profession in accordance with the regulation.
  - (2) If a regulation under section 12 (2) (e) prescribes a service that may only be provided by a registrant of a particular college,
    - (a) a person other than a registrant of the college must not provide the service, and
    - (b) a person must not recover any fee or remuneration in any court in respect of the provision of the service unless, at the time the service was provided, the person was a registrant of the college or a corporation entitled to provide the services of a registrant of the college.
  - (3) If a regulation under section 12 (2) (f) prescribes a service that may only be provided by or under the supervision of a registrant of a particular college,
    - (a) a person other than a registrant of the college must not provide the service unless he or she does so under the supervision of such a registrant, and
    - (b) a person other than a registrant of the college or a corporation entitled to provide the services of a registrant of the college must not recover any fee or remuneration in any court in respect of the provision of the service unless, at the time the service was provided, the person providing the service was supervised by such a registrant.
  - (4) [Repealed 2008-29-8]

**Exceptions to prohibitions**

**14** Despite section 13, nothing in this Act, the regulations or the bylaws prohibits a person from

- (a) practising a profession, discipline or other occupation in accordance with this or another Act, or ~~or~~
  - (a.1) providing assistance to a person by prayer or spiritual means in accordance with the tenets of the religion of the provider of the assistance without pretending a knowledge of a health profession, or
- (b) providing or giving first aid or temporary assistance to another person in case of emergency if that aid or assistance is given without gain or reward or hope of gain or reward.

[en. 2003-57-3]

**Responsibility of registrants not affected by incorporation**

- 14.1**
- (1) The liability of a registrant for professional negligence is not affected by the fact that the registrant practises the designated health profession as an employee of a corporation.
  - (2) The relationship of a registrant to a corporation, whether as a shareholder, director, officer, agent, trustee, contractor or employee of the corporation, does not affect, modify or diminish the application to the registrant of this Act, the regulations and the bylaws.
  - (3) Nothing in this Act affects, modifies or limits any law that applies to the fiduciary, confidential or ethical relationships between a registrant and a person receiving the professional services of the registrant.
  - (4) The relationship between a corporation and a person receiving services provided by the corporation is subject to all applicable law relating to the fiduciary, confidential and ethical relationships that exist between a registrant and the registrant's client.

**Health profession college established**

- 15**
- (1) A college is established for a health profession on designation of the health profession under section 12 (1).
  - (2) A college established under subsection (1) is a corporation consisting of
    - (a) the members of the board appointed under section 17 (2) (a), until the first election to the board referred to in section 17 (3), and
    - (b) the persons who are registrants of the college.
  - (3) For the purposes of exercising its powers and performing its duties under this Act, a college has the powers and capacity of a natural person of full capacity, including the power to acquire and dispose of property.
  - (3.1) [Repealed 2008-29-9]
  - (4) The *Business Corporations Act* does not apply to a college unless the minister, by regulation, provides that specified provisions of that Act apply to the college, in which case the specified provisions apply.

**Colleges continued**

- 15.1** (1) The British Columbia College of Chiropractors continued under the *Chiropractors Act* is continued as a college under this Act under the name College of Chiropractors of British Columbia.
- (2) The College of Dental Surgeons of British Columbia continued under the *Dentists Act* is continued as a college under this Act.
- (3) The College of Physicians and Surgeons of British Columbia continued under the *Medical Practitioners Act* is continued as a college under this Act.
- (4) The College of Pharmacists of British Columbia continued under the *Pharmacists, Pharmacy Operations and Drug Scheduling Act* is continued as a college under this Act.
- (5) This Act applies to a college continued under this section as though the college was established under section 15 (1).

[en. 2006-23-7, am. 2008-29-79;  
 subs. (1), (5) eff. Mar. 1/09, BC Reg. 420/2008;  
 subs. (2) eff. Apr. 3/09, BC Reg. 421/2008;  
 subs. (3) eff. Jun. 1/09, BC Reg. 423/2008;  
 subs. (4) eff. Apr. 1/09, BC Reg. 420/2008]

**Duty and objects of a college**

- 16** (1) It is the duty of a college at all times
- (a) to serve and protect the public, and
  - (b) to exercise its powers and discharge its responsibilities under all enactments in the public interest.
- (2) A college has the following objects:
- (a) to superintend the practice of the profession;
  - (b) to govern its registrants according to this Act, the regulations and the bylaws of the college;
  - (c) to establish the conditions or requirements for registration of a person as a member of the college;
  - (d) to establish, monitor and enforce standards of practice to enhance the quality of practice and reduce incompetent, impaired or unethical practice amongst registrants;
  - (e) to establish and maintain a continuing competency ~~continuing competency~~ quality assurance [en. 2008-29-10] program to promote high practice standards amongst registrants;
  - (f) to establish, for a college designated under section 12 (2) (h), a patient relations program to seek to prevent professional misconduct of a sexual nature;
  - (g) to establish, monitor and enforce standards of professional ethics amongst registrants;
  - (h) to require registrants to provide to an individual access to the individual's health care records in appropriate circumstances;

- (i) to inform individuals of their rights under this Act and the *Freedom of Information and Protection of Privacy Act*;
- (i.1) to establish and employ registration, inquiry and discipline procedures that are transparent, objective, impartial and fair;
- (j) to administer the affairs of the college and perform its duties and exercise its powers under this Act or other enactments;
- (k) in the course of performing its duties and exercising its powers under this Act or other enactments, to promote and enhance the following:
  - (i) collaborative relations with other colleges established under this Act, regional health boards designated under the *Health Authorities Act* and other entities in the Provincial health system, post-secondary education institutions and the government;
  - (ii) interprofessional collaborative practice between its registrants and persons practising another health profession;
  - (iii) the ability of its registrants to respond and adapt to changes in practice environments, advances in technology and other emerging issues.

#### **Board for health profession college**

- 17** (1) For each college established under section 15, there is a board.
- (2) The minister must, by order,
- (a) appoint persons to the first board for a college, who hold office until the time at which the board members referred to in subsection (3) (a) and (a.1) are first elected, and
  - (b) specify the date on or before which the first election referred to in paragraph (a) must be held.
- (3) Following the first election referred to in subsection (2) respecting a college, the board for the college consists of the following:
- (a) not fewer than 3 registrants elected in accordance with the bylaws;
    - (a.1) the certified non-registrants elected in accordance with the bylaws;
    - (a.2) the certified non-registrants appointed by the board in accordance with the bylaws;
  - (b) not fewer than 2 persons appointed by order of the minister.
- (4) The number of persons appointed under subsection (3) (b)
- (a) must not be less than 1/3 of the total board membership, and
  - (c) must not be more than the total number of persons elected or appointed under subsection (3) (a) to (a.2).
- (5) A member of a board who has resigned or whose appointment or term of office has expired may, even if a successor is appointed or elected, continue to serve as a member of

a committee established under section 19 (1) (t) to complete work of the committee that began before the resignation or expiry.

- (6) Persons appointed by the minister under subsection (2) (a) or (3) (b) need not be registrants or eligible to be registrants.

#### **Election validation**

- 17.1** (1) Immediately after an election the registrar must
- (a) certify the person who is elected as a member of the board, and
  - (b) specify in the certificate the dates the member's term of office begins and ends.
- (2) Subject to this section, a certificate under subsection (1) is conclusive evidence that the person named in the certificate has been elected a member of the board.
  - (3) A registrant may question a certificate under subsection (1) by petition to the Supreme Court within 30 days of the certificate being issued by the registrar setting out the grounds on which the registrant questions the certificate.
  - (4) A petition must be served on the registrar and on the person certified to be elected.
  - (5) A petition must be heard in a summary way.
  - (6) The court may give directions on procedure and on persons to be served with the petition.
  - (7) The court may decide that a person was elected or may order a new election and give directions.
  - (8) A decision of the court is not subject to appeal and the college and all other persons must be governed by it.
  - (9) Subsection (1) applies and subsection (3) does not apply to a new election held under subsection (7).

#### **Oath of office**

- 17.11** (1) Before taking office, a person elected or appointed as a member of a board for a college must take and sign, by oath or solemn affirmation, an oath of office prescribed by the minister,
- (a) in the case of a person elected as a member of the board by vote or acclamation, within 45 days after the date the registrar issues the certificate required under section 17.1, or
  - (b) in the case of a person appointed as a member of the board, within 45 days after the effective date of the appointment.
- (2) An oath of office under subsection (1) must be taken before a judge of the Court of Appeal, Supreme Court or Provincial Court, a justice of the peace or the registrar of the college, and the person taking the oath must obtain the completed oath or a certificate of it from the person administering it.

- (3) A person appointed or elected as a member of a board must present the completed oath of office required by subsection (1) or a certificate of it to the registrar of the college within the applicable time limit under subsection (1) (a) or (b) and before the person takes office on the board, and the registrar must retain for the college records the completed oath or certificate or a copy of it.
- (4) If a person appointed or elected as a member of a board does not take and sign the oath of office or comply within the time limits required under this section, the office to which that person was appointed or elected is vacant and the vacancy
  - (a) may be filled by appointment by the minister, if the person was a person referred to in section 17 (2) (a) or (3) (b), or
  - (b) must be filled
    - (i) by election in accordance with the bylaws of the college, if the person was a person referred to in section 17 (3) (a) or (a.1), or
    - (ii) by appointment by the board for the college in accordance with the bylaws of the college, if the person was a person referred to in section 17 (3) (a.2).
- (5) A board may, by resolution passed by at least 2/3 of the board members voting on the resolution, reprimand, suspend or remove a member of the board elected under section 17 (3) (a) or (a.1) or appointed under section 17 (3) (a.2), after reasonable notice to the member, if the board is satisfied that the member has contravened a term of the oath of office required under subsection (1) of this section.
- (6) If a person is suspended from a board under subsection (5), the person may not act as a member of the board unless the suspension is lifted.
- (7) If a person is removed from a board under subsection (5), the person ceases to be a member of the board, the office to which that person was elected or appointed is vacant and the vacancy must be filled
  - (a) by election in accordance with the bylaws of the college, if the person was a person referred to in section 17 (3) (a) or (a.1), or
  - (b) by appointment by the board for the college in accordance with the bylaws of the college, if the person was a person described in section 17 (3) (a.2).

### **Executive committee**

- 17.2** (1) A board may appoint an executive committee to exercise the powers and perform the duties of the board that are specified in the bylaws, subject to any limits or conditions specified in the bylaws.
- (2) An executive committee must be composed of members of the board and at least one third of the members of the executive committee must be persons referred to in section 17 (3) (b).
  - (3) A reference in this Act, the regulations or the bylaws to a board includes reference to its executive committee if the board has specified under subsection (1) that the executive committee is to exercise the power or perform the duty covered by the reference.

**Responsibilities of board**

- 18**
- (1) A board must govern, control and administer the affairs of its college in accordance with this Act, the regulations and the bylaws.
  - (2) A board must submit an annual report respecting its college, in the form and containing the information required by regulation of the minister, to the minister not later than 120 days after the end of the fiscal year for the college.
  - (3) A board must ensure that a website that is accessible to the public free of charge is established and maintained by or on behalf of its college, subject to the regulations of the minister.

**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) 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.
  - (3) For the purposes of an inquiry under this section, a person appointed under subsection (1) 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*.
  - (4) A person appointed under subsection (1) must comply with any term of reference the minister may establish 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) On the completion of an inquiry under section 18.1, the minister may issue a directive to the board concerning which the inquiry was conducted.
  - (2) A directive under subsection (1)
    - (a) may require the board to exercise the powers or perform the duties of the board under this Act to address the issues that were the subject of the inquiry under section 18.1,
    - (b) despite paragraph (a), must not require the board to
      - (i) adopt a standard, limit or condition under section 19 (1) (k), (1) or (1.3) in a form specified by the directive, or

- (ii) do anything under section 20 or Part 3 concerning a specific registrant as defined in section 26, and
  - (c) 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.
- (3) A board must comply with a directive issued to it under this section.

#### **Bylaws for college**

- 19** (1) A board may make bylaws, consistent with the duties and objects of a college under section 16, that it considers necessary or advisable, including bylaws to do the following:
- (a) establish the number of members of the board to be elected under section 17 (3) (a);
  - (b) establish the time, manner and procedure for the election of registrants to the board under section 17 (3) (a), and authorize the registrar for the college to establish additional election procedures consistent with the bylaws;
  - (c) regulate the time, place, calling and conduct of meetings of the board and general meetings of registrants;
  - (d) establish the quorum for meetings of the board, resolutions of the board and general meetings of registrants;
  - (e) establish the terms of office of elected members of the board, the grounds and procedures for removing elected members of the board before their terms of office have expired and the manner by which vacancies on the board may be filled;
  - (f) establish forms for the purposes of the bylaws and require use of the forms by registrants;
  - (g) provide for the appointment, removal, powers and duties of the registrar, deputy registrars or other officers of the college;
  - (h) [Repealed 2003-57-9]
  - (i) establish a class or classes of registrants, including, if authorized in accordance with section 12 (2) (g.3), a class of restricted or provisional registrants for the purposes of section 20 (4.2) or (4.3), respectively, and specify if members of a class are eligible to vote in an election referred to in section 17 (3) (a) or to be elected under section 17 (3) (a);
  - (j) [Repealed 2008-29-17]
  - (j.1) specify information required to be entered and maintained on the college's register for the purposes of section 21 (2) (f);
  - (j.2) subject to the regulations of the minister, establish procedures for the removal of information respecting a person from the register, and authorize the registrar to establish additional procedures for that purpose consistent with the bylaws;

- (k) establish standards, limits or conditions for the practice of the designated health profession by registrants;
- (k.1) establish aspects of practice that a registrant either may or must not
  - (i) delegate to a non-registrant to provide or perform, or
  - (ii) authorize a non-registrant to provide or perform under the supervision of a registrant;
- (k.2) establish a quality assurance program, subject to the regulations of the minister;
- (k.3) provide for the recognition of registrants as specialists in a field of the health profession;
- (k.4) specify the manner by which registrants may hold themselves out as specialists in a field recognized under a bylaw made under paragraph (k.3);
- (k.5) establish the obligations that a registrant whose registration is suspended must discharge
  - (i) in referring patients to another registrant,
  - (ii) in allowing another registrant 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;
- (l) establish standards of professional ethics for registrants, including standards for the avoidance of conflicts of interest;
- (l.1) establish a class or classes of non-registrants to whom registrants may delegate aspects of practice or who may be authorized to provide or perform aspects of practice in accordance with a bylaw made under paragraph (k.1);
- (l.2) establish conditions or requirements, including training or education requirements, for the certification by the college of non-registrants described in paragraph (l.1);
- (l.3) establish standards, limits or conditions respecting the aspects of practice which may be provided or performed by certified non-registrants;
- (l.4) establish conditions or requirements for renewal, suspension, cancellation and reinstatement of the certification of certified non-registrants, and provide for the suspension or cancellation of the certification of certified non-registrants for late payment or non-payment of fees;
- (l.5) [Repealed 2008-29-17]
- (l.6) establish fees payable to the college by certified non-registrants;

- (1.7) specify that Part 3 applies to certified non-registrants, and former such certified non-registrants, as though they were registrants;
- (1.8) establish the number of members of the board
  - (i) to be elected under section 17 (3) (a.1), and
  - (ii) to be appointed under section 17 (3) (a.2)and specify whether or not members in each category are to have voting rights on the board;
- (1.9) establish the time, manner and procedure for
  - (i) the election of certified non-registrants to the board under section 17 (3) (a.1), and authorize the registrar to establish additional election procedures consistent with the bylaws, and
  - (ii) the selection and appointment of certified non-registrants to the board under section 17 (3) (a.2);
- (1.91) specify whether members of a class of certified non-registrants established under paragraph (1.2) are eligible
  - (i) to vote in an election referred to in section 17 (3) (a.1),
  - (ii) to be elected under section 17 (3) (a.1), and
  - (iii) to be appointed under section 17 (3) (a.2);
- (1.92) establish forms for the purposes of the bylaws and require use of the forms by certified non-registrants;
  - (m) establish conditions or requirements for the registration of a person as a member of the college, including the following:
    - (i) standards of academic or technical achievement;
    - (ii) competencies or other qualifications;
    - (iii) requirements for providing evidence of good character;
  - (m.1) specify academic or technical programs that are recognized by the college as meeting a standard established under paragraph (m) (i);
  - (m.2) provide for the examinations that may be required, used or relied on by the registration committee in satisfying itself under section 20 that a person meets the conditions or requirements for registration as a member of the college;
  - (m.3) establish conditions or requirements for eligibility to take examinations referred to in paragraph (m.2) and procedures respecting the conduct of examinations, and authorize a committee established under paragraph (t) or the registrar to establish additional examination procedures consistent with the bylaws;
  - (m.4) confer discretion on the registration committee, in satisfying itself under section 20 that a person meets the conditions or requirements for registration as a member of the

- college, to consider whether the person's knowledge, skills and abilities are substantially equivalent to the standards of academic or technical achievement and the competencies or other qualifications established under paragraph (m), and to grant registration on that basis;
- (n) establish requirements for continuing education and for continuing competence for registrants;
  - (o) establish requirements respecting maintenance of professional liability insurance coverage by registrants;
  - (p) establish fees payable to the college by registrants;
  - (q) provide for special fees levied under the bylaws to be payable by registrants;
  - (q.1) provide for payment by registrants, to the college as the agent for a health profession association or similar organization, of an amount equivalent to the fees of the association or organization, whether or not the registrant is a member of the association or organization;
  - (r) establish conditions or requirements for renewal, suspension, cancellation and reinstatement of the registration of persons practising the designated health profession, including providing for the suspension or cancellation of the registration of a registrant for late payment or non-payment of fees;
  - (s) regulate and prohibit advertising and marketing or types of advertising and marketing by registrants;
  - (t) establish a registration committee, a quality assurance committee, an inquiry committee, a discipline committee, a patient relations committee and other committees the board determines are necessary or advisable;
  - (u) in respect of a committee established under paragraph (t), provide for the following:
    - (i) subject to the regulations, the composition of the committee and the appointment and removal of committee members;
    - (i.1) the establishment of panels of the committee and the composition of the panels;
    - (ii) procedures to be followed by the committee or a panel of the committee including the quorum for the committee or a panel of the committee;
    - (iii) the duties and powers of the committee or a panel of the committee;
    - (iv) the delegation of a duty or power of the board to the committee;
    - (v) the delegation of a duty or power of the committee to panels of the committee;
  - (u.1) specify the powers and duties of the board that an executive committee appointed under section 17.2 (1) may exercise or perform on behalf of the board, and any limits or conditions on the exercise of those powers and performance of those duties;
  - (v) provide for remuneration of the members of the board and of committees established under paragraph (t);

- (v.1) establish a tariff of costs to partially indemnify for the expenses incurred by the college for investigations under section 33;
- (w) establish the maximum fine that the discipline committee may impose under section 39 (2) (f);
- (w.1) establish a tariff of costs to partially indemnify parties for their expenses incurred in the preparation for and conduct of hearings under section 38, other than for investigations under section 33;
- (x) establish educational requirements and guidelines for registrants respecting their relations with patients;
- (x.1) establish requirements concerning
  - (i) collection of personal health information,
  - (ii) creation of health care records containing personal health information, and
  - (iii) creation of administrative and accounting records;
- (y) establish rules concerning access to health care records;
- (y.1) establish rules concerning the retention, disclosure, storage and destruction by registrants of
  - (i) health care records, and
  - (ii) administrative and accounting records;
- (y.2) allow the board
  - (i) [Repealed 2006-23-9]
  - (ii) to act under section 39 (2) to (8) as if it were the discipline committee;
- (y.3) allow a committee other than the inquiry committee to make a determination under section 33 and to assume all of the powers and duties of the inquiry committee set out in sections 27 to 37;
- (y.4) allow a committee other than the discipline committee to act under section 39;
- (y.5) elect that sections 20.2 and 20.3 apply respecting its college;  
[rep. 2008-29-17; eff. Mar 16/09, BC Reg. 396/2008]
- (y.6) if the board elects under paragraph (y.5) that sections 20.2 and 20.3 apply respecting its college, establish
  - (i) procedures for an application for review under section 20.2, and
  - (ii) the practice and procedure for proceedings before the board under section 20.2, which may provide for oral or written hearings;  
[rep. 2008-29-17; eff. Mar 16/09, BC Reg. 396/2008]
- (y.7) establish procedures for the review of a decision of the registrar or a committee established under paragraph (t), other than a decision to which Part 4.2 applies, and

- authorize the registrar to establish additional review procedures consistent with the bylaws;
- (y.8) subject to the regulations of the minister under section 12 (2) (b.1), establish limits or conditions respecting the use by registrants of the following:
- (i) titles describing the work of registrants, including titles prescribed under section 12 (2) (b);
  - (ii) terms to which section 52.1 applies, including abbreviations of those terms or equivalents of those terms in another language;
  - (z) provide for the general administration and operation of the college.
- (1.1) A board may only do the things described in subsection (1), except subsection (1) (k), (l) or (z), or section 25.5 (1) [en. 2006-23-10; eff. Jun. 1/09, BC Reg. 423/2008] by bylaw.
- (1.2) A bylaw made under subsection (1) (u) or (u.1) must not delegate to a committee the power to make bylaws.
- (1.3) A tariff of costs established under subsection (1) (v.1) must not provide for recovery of the remuneration paid to inspectors or members of the inquiry committee.
- (1.4) A tariff of costs established under subsection (1) (w.1) must not provide for recovery of the remuneration paid to members of the discipline committee.
- (2) Provisions in a bylaw under subsection (1) may be different for
- (a) different classes of registrants, or
  - (b) different classes of certified non-registrants.
- (2.1) A bylaw under subsection (1) (f) or (1.92) may authorize the registrar to establish, by bylaw, forms for the purposes of the bylaws, and to require the use of the forms by registrants or certified non-registrants, as the case may be.
- (3) A bylaw under subsection (1) has no effect unless it is filed with the minister.
- (3.1) A bylaw under subsection (1) comes into force on the date that falls on the day that is the number of days, prescribed by the minister, after the date the bylaw is filed under subsection (3) unless
- (a) the minister disallows the bylaw under subsection (3.2) (a) or (4),
  - (b) the minister declares, under subsection (3.2) (b), that the bylaw comes into force on an earlier date, or
  - (c) the board withdraws the bylaw under subsection (3.3).
- (3.2) If the minister considers it necessary or advisable to do so, the minister may, by order, within the period prescribed for the purposes of subsection (3.1),
- (a) disallow the bylaw or a portion of the bylaw, except for a bylaw or a portion of a bylaw made under subsection (1) (k), (l) or (1.4), or

- (b) declare that the bylaw or a portion of the bylaw comes into force on a specified date that is earlier than the date it would otherwise come into force under subsection (3.1).
- (3.3) A board may, by written notice delivered to the minister, withdraw a bylaw or a portion of a bylaw filed under subsection (3) at any time before it otherwise would come into force or is disallowed.
- (4) The minister must disallow a bylaw made under subsection (1) if the minister is not satisfied that appropriate provision has been made respecting the following:
  - (a) the election of registrants to the board under section 17 (3) (a);
  - (b) each of the objects referred to in section 16.
- (5) The minister may request a board to amend or repeal an existing bylaw for its college or to make a new bylaw for its college if the minister is satisfied that this is necessary or advisable.
- (6) If a board does not comply with a request under subsection (5) within 60 days after the date of the request, the minister may, by order, amend or repeal the existing bylaw for the college or make the new bylaw for the college in accordance with the request.
- (6.1) A bylaw under subsection (1) (k), (l) or (l.3) must not be altered under subsection (6).
- (6.2) A bylaw under subsection (1), other than a bylaw under subsection (1) (b), (c), (d), (f), (g), (k), (l), (l.6), (l.9), (l.92), (p), (q), (u.1), (v.1), (w.1) or (z), may not be made, amended or repealed unless
  - (a) notice of the proposed bylaw, amendment or repeal is given by the board to the minister and the college of each health profession prescribed by the minister for the purposes of this subsection
    - (i) at least 3 months before the proposed bylaw, amendment or repeal is filed with the minister, or
    - (ii) within a shorter period the minister specifies as appropriate in the circumstances, and
  - (b) the proposed bylaw, amendment or repeal is, for the period referred to in paragraph (a),
    - (i) made available by the board for inspection by any person, free of charge, at the office of the college at all reasonable times during regular business hours, and
    - (ii) posted by the board on the college website.
- (7) A bylaw may not be made, amended or repealed under subsection (6) unless
  - (a) notice of the proposed bylaw, amendment or repeal is given by the minister to the college of each health profession prescribed by the minister for the purposes of this subsection
    - (i) at least 3 months before the proposed bylaw, amendment or repeal comes into force, or

- (ii) within a shorter period the minister specifies as appropriate in the circumstances, and
  - (b) the proposed bylaw, amendment or repeal is, for the period referred to in paragraph (a), posted by the minister on a website maintained by or on behalf of the ministry and that is accessible to the public free of charge.
- (8) A registrant must not practise a designated health profession except in accordance with the bylaws of the college.
- (9) A board must
- (a) maintain a complete and accurate record of the bylaws that are in effect for its college and provide a copy of those bylaws to each registrant,
  - (b) make those bylaws available for inspection by any person, free of charge, at the office of the college at all reasonable times during regular business hours, and
  - (c) post those bylaws on the college website.

#### **Registration of person in college**

- 20** (1) The registration committee is responsible for granting registration, including reinstatement of registration, of a person as a member of its college.
- (2) The registration committee must grant registration as a member of its college to every person who, in accordance with the bylaws,
- (a) applies to the college for registration,
  - (b) satisfies the registration committee that he or she meets the conditions or requirements for registration in a class of registrants, and
  - (c) pays the required fees, if any.
- (2.1) Despite subsection (2), the registration committee may refuse to grant registration, may grant registration for a limited period specified for the registrant by the registration committee, or grant registration and impose limits or conditions on the practice of the designated health profession by the person, if the registration committee determines, after giving the person an opportunity to be heard, that
- (a) the person's entitlement to practise a health profession has been cancelled or suspended at some time in British Columbia or in another province or a foreign jurisdiction,
  - (b) an investigation, review or other proceeding is under way in British Columbia or in another province or a foreign jurisdiction that could result in the person's entitlement to practise a health profession being cancelled or suspended,
- (b.1) the person's entitlement to practise a health profession has been voluntarily relinquished in British Columbia, another province or a foreign jurisdiction with the effect of preventing the commencement or completion of an investigation, review or other proceeding that could have resulted in the person's entitlement to practise the

health profession in that other province or foreign jurisdiction being suspended or cancelled, or

(c) the person has been convicted of an indictable offence.

(2.2) If a person applying for registration has been convicted of an indictable offence, the registration committee must not make a decision under subsection (2.1) unless the registration committee is satisfied that the nature of the offence or the circumstances under which it was committed give rise to concerns about the person's competence or fitness to practise the designated health profession.

(3) Despite subsection (2), if a person applying for registration fails to authorize a criminal record check under the *Criminal Records Review Act* or the deputy registrar under that Act has determined that a person applying for registration presents a risk of physical or sexual abuse to children and that determination has not been overturned by the registrar under that Act, the registration committee must take the failure or the determination into account when deciding whether to grant registration to the person or whether to impose limits or conditions on the practice of the designated health profession by the person.

(4) [Repealed 2008-29-19]

(4.1) A person whose application for registration as a member of a college is

(a) refused under subsection (2.1) or (3),

(b) granted under subsection (2.1) for a limited period or with limits or conditions imposed on the practice of the designated health profession by the person, or

(c) granted under subsection (3) with limits or conditions imposed on the practice of the designated health profession by the person

may appeal the decision of the registration committee to the Supreme Court, and, for those purposes, the provisions of section 40 respecting an appeal from a decision of the discipline committee apply to an appeal under this subsection.

(4.2) If a bylaw under section 19 (1) (i) establishes a class of restricted registrants for the purposes of this subsection, the registration committee may

(a) grant registration in the class, and

(b) impose limits or conditions on the practice of the designated health profession by the registrant.

(4.3) If a bylaw under section 19 (1) (i) establishes a class of provisional registrants for the purposes of this subsection, the registration committee may

(a) grant registration in the class for a limited period specified for the registrant by the registration committee,

(b) require the registrant to complete, within the period specified under paragraph (a), any examinations or upgrading of knowledge, skills or abilities the registration committee considers necessary for the registrant, and

- (c) impose limits or conditions on the practice of the designated health profession by the registrant.
- (4.4) Limits or conditions imposed in accordance with subsection (2.1), (3), (4.2) or (4.3) may be different for different registrants within a class of registrants.
- (5) A person must not apply for registration or continue to be registered as a member of a college if that person knows that he or she does not meet the conditions or requirements for registration as a member of the college.
- (6) In this section, “**registration committee**” includes
  - (a) the board, if the registration committee has referred an application for registration or reinstatement to the board for decision, and
  - (b) except in subsections (2.1) and (2.2), the registrar if the registration committee has authorized the registrar in writing to act.
- (7) If the registration committee decides, under this section,
  - (a) to refuse a person's application for registration, or
  - (b) to grant a person registration for a limited period or with limits or conditions imposed on the practice of the designated health profession by the person,the registration committee must, within 30 days of making its decision, deliver written notice to the person respecting the decision and advising of the person's right to apply for a review of the decision under section 50.54 or to appeal the decision to the Supreme Court, as applicable.

**Notice to applicant for certification**

**20.01** If a college has established one or more classes of certified non-registrants and the person or committee authorized under the bylaws of the college to certify persons as certified non-registrants refuses an application for certification, the person or committee must, within 30 days of making that decision, deliver written notice to the applicant respecting the decision and advising of the applicant's right to request a review of the decision under section 50.54.

[en. 2008-29-20; eff. Mar 16/09, BC Reg. 396/2008]

**Application of sections 20.2 and 20.3** [rep. 2008-29-21; eff. Mar 16/09, BC Reg. 396/2008]

**20.1** Sections 20.2 and 20.3 only apply respecting a college if they are made applicable by a bylaw in force under section 19 (1) (y.5).

**Review on the record** [rep. 2008-29-21; eff. Mar 16/09, BC Reg. 396/2008]

- 20.2**
- (1) An applicant for registration may apply in writing to the board for a review on the record if their application for registration under section 20 (2) is refused by the registration committee.
  - (2) An application must be made under subsection (1) within 30 days of the day on which the person received notice of the refusal by the registration committee.

- (3) On receipt of an application under subsection (1), the board must conduct a review on the record.
- (4) If, in the opinion of the board, there are special circumstances, the board may hear evidence that is not part of the record.
- (5) After a hearing under this section, the board may
  - (a) confirm the decision of the registration committee under review,
  - (b) substitute a decision that could have been made by the registration committee in the matter, or
  - (c) send the matter back to the registration committee with directions.
- (6) [Repealed 2006-23-13]

**Appeal from a review on the record** [rep. 2008-29-21; eff. Mar 16/09, BC Reg. 396/2008]

- 20.3**
- (1) An applicant for registration who is aggrieved or adversely affected by the board's action under section 20.2 (5) may appeal to the Supreme Court.
  - (2) An appeal under this section must be brought within 30 days after written notice of the board's action under section 20.2 (5) is received by the person bringing the appeal.
  - (3) Section 40 (3) to (10) applies to an appeal under this section as though the board's action were the decision of the discipline committee referred to in section 40.

**Interjurisdictional cooperation**

- 20.4**
- (1) In this section, "**governing body**" means a body in another province or a foreign jurisdiction, that regulates a health profession in that other jurisdiction.
  - (2) A board may promote cooperation with governing bodies for a corresponding health profession by doing one or more of the following with the prior approval of the minister:
    - (a) entering into agreements with one or more governing bodies respecting
      - (i) the interjurisdictional practice of the health professions,
      - (ii) the recognition of another governing body's procedures for and results from the assessment and verification of the credentials, competencies or other qualifications of persons educated or trained in another province or a foreign jurisdiction,
      - (iii) the implementation of a trade agreement, as it relates to labour mobility, prescribed by the minister, or
      - (iv) any other matter related to the labour mobility of health professionals;
    - (b) entering into information-sharing agreements, as defined in section 69 (1) of the *Freedom of Information and Protection of Privacy Act* to allow the release of information about a registrant or certified non-registrant to a governing body, including information about practice restrictions, complaints, competency and discipline.

**Registrar and register for college**

- 21** (1) A board must appoint a registrar and may appoint one or more deputy registrars for its college, who hold office during the pleasure of the board.
- (1.2) If a board appoints a deputy registrar or deputy registrars under subsection (1), the board may, by bylaw, authorize the deputy registrar or deputy registrars to perform the duties and exercise the powers of the registrar set out in the bylaws, subject to any limits or conditions specified in the bylaws.
- (2) The registrar must maintain a register setting out, for every person granted registration under this Act, the following:
- (a) the person's name, whether the person is a registrant or a former registrant, and, if the person is a registrant, the person's business address and business telephone number;
  - (b) the class of registrants in which the person is or was registered;
  - (c) if the person is a registrant, any limits or conditions imposed under this Act on the practice of the designated health profession by the registrant;
  - (d) a notation of each cancellation or suspension of the person's registration, including any cancellation or suspension that
    - (i) occurred or was recorded before the coming into force of this subsection, or
    - (ii) was imposed by the governing body for a health profession under a former enactment regulating the health profession;
  - (e) any additional information required under the regulations of the minister;
  - (f) any additional information required under the bylaws of the college;
  - (g) any additional information specified under subsection (5) by the registration committee, inquiry committee or discipline committee.
- (3) The registrar must cancel the registration of a registrant in the register if
- (a) the registrant requests or gives written consent to the cancellation,
  - (b) the registrant has failed to pay a fee for renewal of registration or another fee within the required time,
  - (c) notification is received of the registrant's death, or
  - (d) the registration of the registrant has been cancelled under section 33 (2) or 39 (2) (e).
- (4) [Repealed 2003-57-13]
- (5) Subject to subsection (6),
- (a) the registration committee, in making a decision under section 20 to grant registration to a person, or
  - (b) the inquiry committee or discipline committee, in disposing of a matter under Part 3 respecting a person granted registration under this Act,

may specify information regarding the person that must be entered on the register referred to in subsection (2).

- (6) Information required to be entered on the register in accordance with subsection (5) may be entered only after the final disposition of a matter when no further review or appeal is available under this Act.

#### **Inspection of register**

- 22** (1) Subject to subsection (2), the register of a college must be open to inspection by any person free of charge at all reasonable times during regular business hours.
- (2) The registrar must or may, as required or authorized under regulations of the minister, refuse a person access to the register of the college or to any information set out in the register.
- (3) If access is refused under subsection (2), the registrar may disclose information from the register that the board or the registrar, if authorized by the board, determines is appropriate in the circumstances.

#### **Repealed**

**22.1** [Repealed 2008-29-25]

#### **Certificate as evidence**

- 23** A certificate signed by the registrar or by a member of a board is proof, in the absence of evidence to the contrary, of the matters stated in the certificate that relate to the records of its college.

#### **Immunity for acts or omissions in good faith**

- 24** (1) No action for damages lies or may be brought against a member of a board or a person acting on behalf of or under the direction of a board or college because of anything done or omitted in good faith
- (a) in the performance or intended performance of any duty under this Act, or
- (b) in the exercise or intended exercise of any power under this Act.
- (2) Subsection (1) does not absolve a college from vicarious liability for an act or omission for which it would be vicariously liable if this section were not in force.

#### **Repealed**

**25** [Repealed 2003-57-16]

## **PART 2.1 – MEDICAL PRACTITIONERS**

#### **Definitions for Part**

**25.1** In this Part:

**“board”** includes the executive committee of the board if the board has authorized the executive committee to act for it;

**“college”** means the college continued under section 15.1 (3);

**“registrant”** means a person who is granted registration under section 20 as a member of the college.

### Investigation of skill

- 25.2** (1) The board or executive committee may appoint an investigating committee of one or more persons who, for the purpose of investigating whether a registrant has and applies adequate skill and knowledge to practise medicine, may require the registrant
- (a) to undergo clinical or other examinations considered appropriate by the investigating committee or the board, and
  - (b) to permit inspection, by the investigating committee, of the clinical records of the registrant and other documents relating to the subject matter of the investigation.
- (2) An investigating committee may not be appointed under subsection (1) solely on the grounds that a registrant practises complementary medicine or uses non-traditional therapies.
- (3) If a registrant fails after reasonable notice
- (a) to permit an inspection under subsection (1), or
  - (b) to appear before an investigating committee,
- the board may suspend the registrant from practice for a period it considers appropriate.
- (4) On the completion of its investigation, an investigating committee must promptly submit its written report to the board.
- (5) The board may, if it considers the suspension is desirable to protect the public, and without hearing the registrant or considering anything other than a report on the registrant received under subsection (4), suspend the registrant from practice, until the conclusion of a hearing under subsection (6).
- (5.1) In the case of a suspension under subsection (3) or (5), section 39.3 applies as if
- (a) the suspension were an action specified in section 39.3 (1), and
  - (b) the board were the inquiry committee.
- (6) If a report has been submitted to the board under subsection (4) and the board, at least 14 days before the date set for a hearing on the report, serves on the registrant a copy of the report and notice of the place and time of the hearing, the board may, after giving the registrant an opportunity to be heard
- (a) decide that the registrant has and applies adequate skill and knowledge to practise medicine, or

(b) act under section 39 (2) (b) to (e) and (8).

- (6.1) For the purpose of subsection (6) (b), sections 39 (2) (b) to (e), (3), (8) and (9), 39.3 and 40 apply as if the board were the discipline committee.
- (7) The board may, for the purpose of sampling or monitoring the standards of registrants' practice and assisting registrants in their practice, require a registrant to allow evaluation of the registrant's professional performance and inspection of the registrant's clinical records by one or more registrants designated by the board.

#### **Absence from British Columbia**

- 25.3** (1) If a registrant leaves British Columbia and practises medicine or surgery during the registrant's absence, the registrant must not resume the practice of medicine or surgery in British Columbia until the registrant provides the registrar with a certificate of professional conduct or an equivalent document satisfactory to the registrar, from every place the registrant has practised medicine or surgery during the absence.
- (2) The board may waive the requirements of this section.

#### **Alternative medicine**

- 25.4** The 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.

#### **Bylaws**

- 25.5** (1) A bylaw for the college may be made under section 19 (1) or 49 as follows:
- (a) specifying the relationship between the college and the Medical Council of Canada;
  - (b) providing a program for registrants who prescribe methadone so that they have the education, guidance and ability to become authorized to prescribe methadone under the *Controlled Drugs and Substances Act* (Canada) and including in this program the criteria under which the college may recommend to the federal minister responsible for that Act
    - (i) the registrants who should be authorized to prescribe methadone,
    - (ii) the restrictions, if any, which should be placed on the authorization of a registrant to prescribe methadone, and
    - (iii) the registrants who should not be authorized to prescribe methadone or that should have their authorization to prescribe methadone suspended or cancelled;
  - (c) providing for an advisory committee on prescription review to guide registrants in the prescription of narcotics, mood altering drugs and other medications;
  - (d) providing for a diagnostic facilities accreditation program;

(e) providing for the inspection and accreditation of private medical surgical facilities in British Columbia by a committee established under section 19 (1) (t).

(2) [Repealed 2008-29-61]

#### **Medical examination to assess whether curtailment of practice should be ordered**

**25.6** (1) In this section:

**“medical examination”** means a medical examination ordered under this section to assess whether the continued practice of medicine by the registrant may constitute a danger to the public;

**“report”** means a report referred to in subsection (2) (a).

- (2) If the registrar or the executive committee has reasonable grounds to believe that a registrant may be suffering a physical or mental ailment, an emotional disturbance or an addiction to alcohol or drugs that impairs his or her ability to practise medicine and causes the continued practice of medicine by the registrant to constitute a danger to the public, the registrar or executive committee may
- (a) appoint one or more other registrants to conduct a medical examination respecting the registrant and to report, as soon as practicable, their conclusions, with reasons in writing, to the executive committee,
  - (b) require the registrant to undergo the medical examination referred to in paragraph (a), and
  - (c) for the period necessary to allow the registrar or the executive committee to make an appointment under paragraph (a) and to allow the executive committee to receive, consider and act under this section on the report,
    - (i) impose limits or conditions on the practice of medicine by the registrant, or
    - (ii) suspend the registration of the registrant.
- (3) Section 26.2, except section 26.2 (3) (c), applies
- (a) to each person involved in the preparation and receipt of a report as though the person were a quality assurance committee, and
  - (b) to a report as though it were a record described in section 26.2 (4).
- (4) If the executive committee receives a report concluding that
- (a) the continued practice of the registrant constitutes a danger to the public,
  - (b) the registrant is prepared to take remedial measures, and
  - (c) there is a reasonable prospect that these remedial measures will allow the registrant to resume practice and not constitute a danger to the public,
- the executive committee may
- (d) impose limits or conditions on the practice of medicine by the registrant, or
  - (e) suspend the registration of the registrant

- and the limits, conditions or suspension apply until the registrant satisfies the executive committee that it should act under subsection (6) (a).
- (5) The executive committee must not act under subsection (4) (d) or (e) unless it has first given the registrant an opportunity to respond to the proposed limits or conditions on practice or suspension of registration.
  - (5.1) In the case of an action taken under subsection (2) (c) or (4) (d) or (e), section 39.3 applies as if
    - (a) the action were an action specified in section 39.3 (1), and
    - (b) the registrar or executive committee, as the case may be, were the inquiry committee.
  - (6) If action has been taken under subsection (4) concerning a registrant, the executive committee may
    - (a) cancel or amend a limit or condition or cancel the suspension to allow the registrant to resume practice if satisfied on the registrant's application that the registrant can resume practice without constituting a danger to the public, or
    - (b) order that the inquiry committee cease or delay undertaking an investigation under section 33 of a complaint arising out of the same circumstances that resulted in the action under subsection (4) being taken.
  - (6.1) If the executive committee orders under subsection (6) (b) that the inquiry committee cease an investigation under section 33,
    - (a) the order is considered to be a disposition, under section 33 (6) (b), by the inquiry committee of a complaint, and
    - (b) section 34 and Part 4.2 apply as if the executive committee were the inquiry committee.
  - (6.2) If the executive committee orders under subsection (6) (b) that the inquiry committee delay undertaking an investigation under section 33,
    - (a) the executive committee, must, no later than 30 days after the order is made, deliver written notice of and written reasons for the delay to the complainant, and
    - (b) section 50.55 (2) to (6) does not apply.
  - (6.3) If an investigation is delayed in accordance with subsection (6) (b) and the inquiry committee does not dispose of the complaint within the time prescribed by the minister,
    - (a) section 50.53 (1) (b) applies as if the inquiry committee has not disposed of the complaint within the time required under section 50.55,
    - (b) the inquiry committee must, no later than 30 days after the expiry of the prescribed time, deliver to the complainant written notice that the complaint has not been disposed of, the reasons for the delay and the right to request a review under section 50.57,

- (c) section 50.56 applies as if the date of expiry of the prescribed time were the new expected date of disposition which would have been set out in a notice otherwise required under section 50.55 (4), and
  - (d) section 50.57 (1) applies as if the date on which the notice under paragraph (b) is delivered to the complainant were the date by which a notice under section 50.55 (6) would otherwise have been required to have been delivered.
- (7) The executive committee may act under section 35 respecting a registrant if it considers this necessary to protect the public and
- (a) it has received a report concluding that
    - (i) the continued practice of the registrant constitutes a danger to the public, and
    - (ii) subsection (4) (b) or (c) does not apply to the registrant in the circumstances, or
  - (b) the registrant has refused to undergo a medical examination ordered under subsection (2) (b).
- (8) For the purpose of subsection (7),
- (a) sections 35 (1), (2), (4) and (5) and 39.3 apply as if the executive committee were the inquiry committee, and
  - (b) it is not necessary that an investigation is being conducted under sections 33 or that a hearing of the discipline committee is pending concerning the registrant.

[en. 2003-57-17, am. 2006-23-23, 24, am. 2008-29-60, 61, 62, 63; eff. Jun. 1/09, BC Reg. 423/2008]

## PART 2.2 – PHARMACISTS

### Definitions for Part

**25.8** In this Part:

**“college”** means the college continued under section 15.1 (4);

**“device”** has the same meaning as in section 1 of the *Pharmacy Operations and Drug Scheduling Act*;

**“dispense”** has the same meaning as in section 1 of the *Pharmacy Operations and Drug Scheduling Act*;

**“drug”** has the same meaning as in section 1 of the *Pharmacy Operations and Drug Scheduling Act*;

**“hospital”** has the same meaning as in section 1 of the *Pharmacy Operations and Drug Scheduling Act*;

**"interchangeable drug"** means a drug that contains the same amount of the same active ingredients, possesses comparable pharmacokinetic properties, has the same clinically significant formulation characteristics and is to be administered in the same way as the drug referred to in a prescription;

**"personal health information"** means recorded personal health information about an identifiable individual;

**"pharmacist"** means a person who is currently registered under section 20 as a member of the college;

**"pharmacy"** has the same meaning as in section 1 of the *Pharmacy Operations and Drug Scheduling Act*;

**"practice of pharmacy"** means the services or restricted activities described in section 12 (2) (c) to (g.2) that may be provided or performed by a pharmacist;

**"practitioner"** has the same meaning as in section 1 of the *Pharmacy Operations and Drug Scheduling Act*;

**"prescription"** has the same meaning as in section 1 of the *Pharmacy Operations and Drug Scheduling Act*;

**"sale"** or **"sell"** has the same meaning as in section 1 of the *Pharmacy Operations and Drug Scheduling Act*;

**"support person"** has the same meaning as in section 1 of the *Pharmacy Operations and Drug Scheduling Act*;

**"therapeutic interchange program"** has the same meaning as in section 1 of the *Pharmacy Operations and Drug Scheduling Act*.

### Objects of the college

**25.9** In addition to the objects set out in section 16 (2), the college has the following objects:

- (a) subject to the *Food and Drugs Act* (Canada), to establish the terms and conditions of sale for drugs and devices;
- (b) to ensure that the public is protected from the unauthorized or inappropriate sale of drugs and devices;
- (c) to superintend the operation of pharmacies;
- (d) to establish, maintain and promote standards for pharmacies, including for the ownership and operation of pharmacies.

### Interchangeable drugs

**25.91 (1)** If a practitioner indicates in a prescription that

- (a) only the drug of a specified manufacturer, or
- (b) no interchangeable drug

is to be dispensed, a pharmacist must not dispense an interchangeable drug.

- (2) If a practitioner has not made the indication described in subsection (1), a pharmacist may dispense an interchangeable drug, provided its price to the purchaser does not exceed that of the drug referred to in the prescription.
- (3) An indication under subsection (1) from a practitioner must be made by the practitioner to a pharmacist either
  - (a) orally, or
  - (b) in writingat the time a prescription is issued.
- (4) No action for damages or any other proceeding may be brought against a pharmacist solely because an interchangeable drug was dispensed in accordance with this section.

### Terms of a prescription

- 25.92** (1) A pharmacist must not dispense a drug or device referred to in a prescription in a manner or quantity that is not authorized in the prescription unless the change is permitted by subsection (2) or section 25.91.
- (2) A pharmacist may renew a prescription, or dispense a drug or device contrary to the terms of a prescription,
- (a) in the case of dispensing a drug or device contrary to the terms of a prescription, if the prescription quantity of the drug or device does not conform to available package sizes,
  - (b) if the renewal or contrary dispensing is within the specifications established under one of the following that has been approved by the governing body of a hospital or by the board for the college:
    - (i) a therapeutic interchange program;
    - (ii) a protocol intended to optimize the therapeutic outcome of treatment with the drug or device referred to in the prescription, or
  - (c) if the renewal or contrary dispensing is permitted for professional reasons described in the bylaws.
- (3) In this section, "**bylaws**" means
- (a) bylaws as defined in section 1 of the *Pharmacy Operations and Drug Scheduling Act*, or
  - (b) bylaws as defined in section 1 of this Act.

### Misrepresentation

- 25.93** (1) A pharmacist must not knowingly make a misleading or untruthful statement about a drug or device.
- (2) A pharmacist must not dispense or sell or permit the dispensing or sale of

- (a) a thing represented to be a drug or device if the thing is not the drug or device represented, or
  - (b) a particular drug or device if it is not the particular drug or device represented.
- (3) If a pharmacist is alleged to have contravened subsection (2), the onus is on the pharmacist to prove that the thing dispensed or sold was the particular drug or device represented.
- (4) This section does not preclude the dispensing or use of placebos by pharmacists or practitioners in drug research or medical treatment if done in accordance with protocols established in the bylaws.
- (5) In this section, “**bylaws**” means
- (a) bylaws as defined in section 1 of the *Pharmacy Operations and Drug Scheduling Act*, or
  - (b) bylaws as defined in section 1 of this Act.

**Disclosure of patient record information—~~patient record information~~ personal health information**

- 25.94** (1) Subject to subsections (2) and (3) and to section 16 (1) of the *Pharmacy Operations and Drug Scheduling Act*, if the bylaws specify that particular patient record information ~~patient record information~~ personal health information must not be disclosed, a pharmacist must not disclose, or allow a support person, a registrant who is not a pharmacist, or another employee to disclose, the patient record information ~~patient record information~~ personal health information to a person other than the person who is the subject of that record.
- (2) Subject to the bylaws, a pharmacist, on request, must disclose patient record information ~~patient record information~~ personal health information to
- (a) the person who is the subject of the record, or
  - (b) a person authorized in writing, by the person who is the subject of the record, to receive the information.
- (3) Subject to the bylaws, a pharmacist, on request, must disclose relevant patient record information ~~patient record information~~ personal health information to
- (a) another pharmacist for the purpose of dispensing a drug or device,
  - (b) another pharmacist or a practitioner for the purpose of monitoring drug use,
  - (c) a federal or Provincial government payment agency or an insurer that makes reimbursement for the cost of prescribed drugs, devices or pharmacy services for the purpose of claims or payment administration, including the performance of audits, or
  - (d) the college for the purpose of monitoring the practice of pharmacy.

- (4) Despite the *Personal Information Protection Act* and subject to the bylaws, a pharmacist must not disclose patient record information ~~patient record information~~ ~~personal health information~~ for the purpose of market research.
- (5) In this section, “**bylaws**” means
- (a) bylaws as defined in section 1 of the *Pharmacy Operations and Drug Scheduling Act*, or
  - (b) bylaws as defined in section 1 of this Act.

### Exceptions

**25.95** Nothing in this Part prevents

- (a) a practitioner from directly dispensing a drug to the practitioner’s patient or to the owner, or an agent of the owner, of an animal for which the drug has been prescribed,
- (b) a person on the Faculty of Pharmaceutical Sciences at the University of British Columbia from providing instruction in the practice of pharmacy,
- (c) a person holding a teaching appointment at an institution designated under the *College and Institute Act* from providing instruction to a person who will become a support person, or
- (d) a person enrolled in a pharmacy program in the Faculty of Graduate Studies at the University of British Columbia from engaging in clinical training in a pharmacy under the supervision of a member of the Faculty of Pharmaceutical Sciences at the University of British Columbia.

[en. 2003-73-1, am. 2004-33-19, am. 2006-23-30, ~~am. 2007-19-18, 19 (not in force)~~, am. 2008-29-75, 76, 77, 78; eff. Apr. 1/09, BC Reg. 419/2008, except 2007-19-18, 19]

## PART 3 – INSPECTIONS, INQUIRIES AND DISCIPLINE

### Definition for Part

**26** In this Part:

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

“**registrant**” includes a former registrant and a certified non-registrant or former certified non-registrant to whom this Part applies;

“**serious matter**” means a matter which, if admitted or proven following an investigation under this Part, would ordinarily result in an order being made under section 39 (2) (b) to (e);

“**unprofessional conduct**” includes professional misconduct.

**Quality assurance program**

- 26.1** (1) The quality assurance committee must administer a quality assurance program in accordance with the bylaws. [en. 2003-57-19, am. 2008-29-64]
- (2) If the bylaws provide for assessment of the professional performance of a registrant, the quality assurance committee or an assessor appointed by that committee may
- (a) assess the professional performance of a registrant, and
  - (b) inspect the records, including patient records, of the registrant that are related to professional performance.
- (3) If the quality assurance committee concludes after assessing 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 recommend that the registrant
- (a) undertake further education or training,
  - (b) undergo clinical or other examinations, or
  - (c) undertake other remedial activities
- that the quality assurance committee considers will assist the registrant to remedy the deficiency.
- (4) The quality assurance committee may appoint assessors for the purposes of a quality assurance program.

**Confidential information**

- 26.2** (1) Subject to subsections (2) to (6), a quality assurance committee, an assessor appointed by a quality assurance committee and a person acting on its behalf must not disclose or provide to another committee or person
- (a) records or information that a registrant provides to the quality assurance committee or an assessor under the quality assurance program, or
  - (b) a self assessment prepared by a registrant for the purposes of a continuing competence program.
- (2) Despite subsection (1), a quality assurance committee or an assessor appointed by it may disclose information described in that subsection to show that the registrant knowingly gave false information to the quality assurance committee or assessor.
- (3) If a quality assurance committee has reasonable grounds to believe that a registrant
- (a) has committed an act of professional misconduct,
  - (b) has demonstrated professional incompetence,
  - (c) has a condition described in section 33 (4) (e), or
  - (d) as a result of a failure to comply with a recommendation under section 26.1 (3), poses a threat to the public,

the quality assurance committee must, if it considers the action necessary to protect the public, notify the inquiry committee which must treat the matter as if it were a complaint under section 32.

- (4) Records, information or a self assessment obtained through a breach of subsection (1) may not be used against a registrant except for the purposes of subsection (2).
- (5) Subject to subsection (2), records, information or a self assessment prepared for the purposes of a quality assurance program or continuing competence program may not be received as evidence
  - (a) in a proceeding under this Act, or
  - (b) in a civil proceeding.
- (6) Subsection (1) applies despite the *Freedom of Information and Protection of Privacy Act*, other than section 44 (2) or (3) of that Act.

### Inspectors

- 27 (1) The inquiry committee may appoint persons as inspectors for the college.
- (2) The registrar is an inspector.

### Powers and duties of inspectors

- 28 (1) During regular business hours, an inspector may, subject to any limits or conditions imposed on the inspector by the inquiry committee, investigate, inquire into, inspect, observe or examine one or more of the following without a court order:
  - (a) the premises, the equipment and the materials used by a registrant to practise the designated health profession;
  - (b) the records of the registrant relating to the registrant's practice of the designated health profession and may copy those records;
  - (c) the practice of the designated health profession performed by or under the supervision of the registrant.
- (2) The inquiry committee may direct an inspector to act under subsection (1) or undertake any aspect of an investigation under section 33.
- (3) If an inspector acts under this section as a consequence of a direction given under subsection (2), the inspector must report the results of those actions in writing to the inquiry committee.

### Search and seizure under court order

- 29 (1) A person authorized by the inquiry committee may apply to the Supreme Court for an order that authorizes a person named in the order
  - (a) to enter into the premises or land of the person named in the order at any reasonable time and conduct an inspection, examination or analysis,

- (b) to require the production of any record, property, assets or things and to inspect, examine or analyze them, and
  - (c) on giving a receipt, to seize and remove any record, property, assets or things inspected, examined or analyzed under paragraph (a) or (b) for further inspection, examination or analysis.
- (2) Unless the court otherwise directs, an application under subsection (1) may be made without notice to any person and may be heard in private.
- (3) On application under subsection (1), the court may make an order under this section if satisfied on oath that there are reasonable grounds for believing that evidence may be found
  - (a) that a person who is not a registrant has contravened this Act, the regulations or the bylaws, or
  - (b) that a person who is a registrant
    - (i) has contravened this Act, the regulations or the bylaws,
    - (ii) has failed to comply with a standard, limit or condition imposed under this Act,
    - (iii) has acted in a manner that constitutes professional misconduct,
    - (iv) is not competent to practise the designated health profession, or
    - (v) is suffering from a physical or mental ailment, an emotional disturbance or an addiction to alcohol or drugs that impairs the person's ability to practise the designated health profession.
- (4) In an order under this section, the court
  - (a) must identify the premises or land to be entered and must generally describe any thing to be searched for and examined, audited or seized,
  - (b) may include any limitations or conditions the court considers proper including the time of entry, the disposition of things seized and the access by any person to the things seized, and
  - (c) may direct that section 30 does not apply to a thing specified in the order
    - (i) if all limitations and conditions included under paragraph (b) are met, and
    - (ii) unless, within 21 days of the seizure of the thing, a person who owned or controlled the thing at the time of the seizure requests by registered mail addressed to the inquiry committee that section 30 apply to the thing seized.
- (5) A person who, while conducting or attempting to conduct an entry or search under this section, finds any thing not described in the order that the person believes on reasonable grounds will provide evidence in respect of a contravention of this Act, the regulations or the bylaws may seize and remove that thing.

**Detention of things seized**

- 30** (1) For the purposes of subsection (2), the person who makes a seizure under section 29 must report the seizure as soon as practicable to a judge of the Supreme Court, who must be the judge who issued the order under which the seizure was made unless this is not practicable.
- (2) On receiving a report under subsection (1), the judge must
- (a) order the thing that was seized returned to its owner or other person entitled to it unless satisfied that an order under paragraph (b) should be made, or
  - (b) order the thing detained if satisfied that the detention is required for the purposes of this Act.
- (3) An inspector may make one or more copies of any record detained under subsection (2).
- (4) A document purporting to be certified by a representative of the inquiry committee to be a true copy made under the authority of subsection (3) is evidence of the nature and content of the original document.
- (5) Subject to an order under section 29 (4) (b), the person from whom any thing is seized under this section or the owner of the thing, if he or she is a different person, is entitled to inspect that thing at any reasonable time and, in the case of a record, to obtain one copy of the record at the expense of the board.
- (6) A record must not be detained under this section for a period longer than 3 months from the time of its seizure unless, before the expiration of the period, either
- (a) the person from whom it was seized agrees to its continued detention, or
  - (b) the Supreme Court, on application and after being satisfied that its continued detention is justified, orders its continued detention for a specified period of time.

**Prohibition against obstructing inspection or search**

- 31** (1) A person must not obstruct an inspector in the lawful performance of duties or the lawful exercise of powers under this Act.
- (2) A person must not obstruct a person acting under section 29 or 30 or under an order made under those sections.

**Complaints to be made to registrar for delivery**

- 32** (1) A person who wishes to make a complaint against a registrant must deliver the complaint in writing to the registrar.
- (2) As soon as practicable after receiving a complaint, the registrar must deliver to the inquiry committee a copy of the complaint, an assessment of the complaint and any recommendations of the registrar for the disposition of the complaint.
- (3) Despite subsection (2), the registrar, if authorized by the board, may dismiss a complaint, or request that the registrant act as described in section 36 (1), without reference to the inquiry committee if the registrar determines that the complaint
- (a) is trivial, frivolous, vexatious, or made in bad faith,

- (b) does not contain allegations that, if admitted or proven, would constitute a matter subject to investigation by the inquiry committee under section 33 (4), or
  - (c) contains allegations that, if admitted or proven, would constitute a matter, other than a serious matter, subject to investigation by the inquiry committee under section 33 (4).
- (4) If a complaint is disposed of under subsection (3), the registrar must deliver a written report to the inquiry committee about the circumstances of the disposition.
- (5) A disposition under subsection (3) is considered to be a disposition by the inquiry committee and takes effect 30 days after the delivery of the written report described under subsection (4) unless, within that 30 day period, the inquiry committee gives the registrar written direction to proceed under subsection (2).

#### **Definition for sections 32.2 and 32.3**

**32.1** In sections 32.2 and 32.3, “**other person**” means a person who is a registrant in one of the colleges and is believed to be

- (a) not competent to practise the designated health profession, or
- (b) suffering from a physical or mental ailment, an emotional disturbance or an addiction to alcohol or drugs that impairs his or her ability to practice the designated health profession.

#### **Duty to report registrant**

**32.2** (1) A registrant must report in writing to the registrar of an other person’s college if the registrant, on reasonable and probable grounds, believes that the continued practice of a designated health profession by the other person might constitute a danger to the public.

(2) If a person

- (a) terminates the employment of an other person,
- (b) revokes, suspends or imposes restrictions on the privileges of an other person, or
- (c) dissolves a partnership or association with an other person

based on a belief described in subsection (1), the person must report this in writing to the registrar of the other person’s college.

- (3) If a person intended to act as described in subsection (2) (a), (b) or (c) but the other person resigned, relinquished their privileges or dissolved the partnership or association before the person acted, the person must report this in writing to the registrar of that other person’s college.
- (4) On receiving a report under subsection (1), (2) or (3), the registrar must
- (a) act under section 32 (2) as though the registrar had received a complaint under section 32 (1), or

- (b) with the prior approval of the inquiry committee, enter into an agreement with the other person
  - (i) to impose limits or conditions on the practice of the designated health profession by the other person, or
  - (ii) to suspend the registration of the other person in order that continued practice by the other person does not constitute a danger to the public.
- (5) Subject to the registrar's approval, the other person, if ordered under this section to cease or restrict practice as a registrant of the college, may employ another registrant of the college to carry on the practice.

#### **Duty to report respecting hospitalized registrant**

- 32.3** (1) If an other person is a registrant in a college prescribed by the minister for the purposes of this section and because of admission to a hospital or a private hospital as defined in the *Hospital Act*, for psychiatric care or treatment, or for treatment for addiction to alcohol or drugs the other person is unable to practise, the chief administrative officer of the hospital, or someone acting in that capacity, and the medical practitioner who has the care of the other person must promptly report the admission in writing to the registrar of the other person's college.
- (2) The medical practitioner who has care of the other person must, no later than the date of that other person's discharge from the hospital, provide the registrar of the other person's college with a written report of the diagnosis, particulars of treatment, prognosis and an opinion as to whether the other person is fit to continue to practise the other person's health profession.
  - (3) On receipt of the report, or if the registrar does not receive a report within one week of the other person's discharge but is informed of the discharge, the registrar must
    - (a) act under section 32 (2) as though the registrar has received a complaint under section 32 (1), or
    - (b) with the prior approval of the inquiry committee, enter into an agreement with the other person
      - (i) to impose limits or conditions on the practice of the designated health profession by the other person, or
      - (ii) to suspend the registration of the other person in order that continued practice by the other person does not constitute a danger to the public.
  - (4) Subject to the registrar's approval, the other person, if ordered under this section to cease or restrict practice as a registrant of the college, may employ another registrant of the college to carry on the practice.

**Duty to report sexual misconduct**

- 32.4** (1) If a registrant has reasonable and probable grounds to believe that another registrant has engaged in sexual misconduct, the registrant must report the circumstances in writing to the registrar of the other registrant's college.
- (2) Despite subsection (1), if a registrant's belief concerning sexual misconduct is based on information given in writing, or stated, by the registrant's patient, the registrant must obtain, before making the report, the consent of
- (a) the patient, or
  - (b) a parent, guardian or committee of the patient, if the patient is not competent to consent to treatment.
- (3) On receiving a report under subsection (1), the registrar must act under section 32 (2) as though the registrar had received a complaint under section 32 (1).

**Immunity**

- 32.5** No action for damages lies or may be brought against a person for making a report in good faith as required under section 32.2, 32.3 or 32.4.

**Investigations by inquiry committee**

- 33** (1) If a complaint is delivered to the inquiry committee by the registrar under section 32 (2), the inquiry committee must investigate the matter raised by the complainant as soon as possible.
- (2) If a registrant fails to authorize a criminal record check under the *Criminal Records Review Act* or the deputy registrar under that Act has determined that the registrant presents a risk of physical or sexual abuse to children and that determination has not been overturned by the registrar under that Act, the inquiry committee must take the failure or the determination into account, investigate the matter and decide whether to impose limits or conditions on the practice of the designated health profession by the registrant or whether to suspend or cancel the registration of the registrant.
- (3) A registrant against whom action has been taken under subsection (2) may appeal the decision to the Supreme Court and, for those purposes, the provisions of section 40 respecting an appeal from a decision of the discipline committee apply to an appeal under this section.
- (4) The inquiry committee may, on its own motion, investigate a registrant regarding any of the following matters:
- (a) a contravention of this Act, the regulations or the bylaws;
  - (a.1) a conviction for an indictable offence;
  - (b) a failure to comply with a standard, limit or condition imposed under this Act;
  - (c) professional misconduct or unprofessional conduct;
  - (c.1) [Repealed 2008-29-34]

- (d) competence to practise the designated health profession;
  - (e) a physical or mental ailment, an emotional disturbance or an addiction to alcohol or drugs that impairs his or her ability to practise the designated health profession.
- (4.1) The inquiry committee must not act under subsection (6) (b), (c) or (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 give rise to concerns about the registrant's competence or fitness to practise the designated health profession.
- (5) The inquiry committee must request the registrant who is the subject of an investigation under this section to provide it with any information regarding the matter that the registrant believes should be considered by the inquiry committee.
- (6) After considering any information provided by the registrant, the inquiry committee may
- (a) take no further action if the inquiry committee is of the view that the matter is trivial, frivolous, vexatious or made in bad faith or that the conduct or competence to which the matter relates is satisfactory,
  - (b) in the case of an investigation respecting a complaint, take any action it considers appropriate to resolve the matter between the complainant and the registrant,
  - (c) act under section 36, or
  - (d) direct the registrar to issue a citation under section 37.
- (7) If the inquiry committee acts under subsection (6) (b) to (d), it may award costs to the college against the registrant, based on the tariff of costs established under section 19 (1) (v.1).

### Report and review

- 34** (1) If the inquiry committee decides under section 33 (6) (a), or the registrar decides under section 32 (3) (a) or (b), to take no further action in an investigation, they must
- (a) report to the board the results of the investigation, and
  - (b) if the investigation resulted from a complaint, notify the complainant of its decision and provide to the complainant the conclusions drawn in the investigation respecting the matters alleged in the complaint.
- (2) A complainant who is dissatisfied with the decision referred to in subsection (1) may request the board to review that decision.
- (3) A request for review under subsection (2) must be made within 14 days of the day the complainant receives notice under subsection (1) (b).
- (4) After receiving the inquiry committee's report or after conducting a review that was requested under subsection (2), the board must
- (a) confirm the inquiry committee's decision,
  - (b) direct the inquiry committee to act under section 33 (6),

- (c) direct the inquiry committee to act under section 36, or
- (d) direct the registrar to issue a citation under section 37.

**Report and review**

- ~~34 — (1) If the inquiry committee decides under section 33 (6) (a), or the registrar decides under section 32 (3) (a) or (b), to take no further action in an investigation, they must~~
- ~~(a) report to the board the results of the investigation, and~~
  - ~~(b) if the investigation resulted from a complaint, notify the complainant of its decision and provide to the complainant the conclusions drawn in the investigation respecting the matters alleged in the complaint.~~
- ~~(2) A complainant who is dissatisfied with the decision referred to in subsection (1) may request the board to review that decision.~~
- ~~(3) A request for review under subsection (2) must be made within 14 days of the day the complainant receives notice under subsection (1) (b).~~
- ~~(4) After receiving the inquiry committee's report or after conducting a review that was requested under subsection (2), the board must~~
- ~~(a) confirm the inquiry committee's decision,~~
  - ~~(b) direct the inquiry committee to act under section 33 (6),~~
  - ~~(c) direct the inquiry committee to act under section 36, or~~
  - ~~(d) direct the registrar to issue a citation under section 37.~~

**Notice of disposition**

- 34** If the inquiry committee disposes of a matter under section 32 (5) or 33 (6) (a) or (b), the inquiry committee must, within 30 days of disposition, deliver to the complainant, if any, a written summary of the disposition advising the complainant of the right to apply for a review by the review board under section 50.6.

[rep. and re-en. 2008-29-35; eff. Mar 16/09, BC Reg. 396/2008]

**Extraordinary action to protect public**

- 35** (1) If the inquiry committee considers the action necessary to protect the public during the investigation of a registrant or pending a hearing of the discipline committee, it may, by order,
- (a) impose limits or conditions on the practice of the designated health profession by the registrant, or
  - (b) suspend the registration of the registrant.
- (2) An order of the inquiry committee under subsection (1) must
- (a) be in writing,
  - (b) include reasons for the order,

- (c) be delivered to the complainant, if any, and to the registrant, and
  - (d) advise the registrant of the registrant's right to appeal the order to the Supreme Court.
- (3) A decision under subsection (1) is not effective until the earlier of
- (a) the time the registrant receives the notice under subsection (2), and
  - (b) 3 days after the notice is mailed to the registrant at the last address for the registrant recorded in the register of the college.
- (4) If the inquiry committee determines that action taken under subsection (1) is no longer necessary to protect the public, it must cancel the limits, conditions or suspension and must notify the registrant in writing of the cancellation as soon as possible.
- (5) A registrant against whom action has been taken under subsection (1) may appeal the decision to the Supreme Court and, for those purposes, the provisions of section 40 respecting an appeal from a decision of the discipline committee apply to an appeal under this section.

#### **Reprimand or remedial action by consent**

- 36** (1) In relation to a matter investigated under section 33, the inquiry committee may request in writing that the registrant do one or more of the following:
- (a) undertake not to repeat the conduct to which the matter relates;
  - (b) undertake to take educational courses specified by the inquiry committee;
  - (c) consent to a reprimand;
  - (d) undertake or consent to any other action specified by the inquiry committee.
- (1.1) If a consent or undertaking given under subsection (1) relates to a complaint made under section 32 (1), the inquiry committee must, within 30 days of the consent or undertaking being given, deliver to the complainant a written summary of the consent or undertaking advising the complainant of the right to apply for a review by the review board under section 50.6.
- (2) If a registrant refuses to give an undertaking or consent requested under subsection (1), or if a registrant fails to comply with an undertaking or consent given in response to a request under subsection (1), the inquiry committee may direct the registrar to issue a citation for a hearing by the discipline committee regarding the matter.

#### **Citation for hearing by discipline committee**

- 37** (1) If directed by the inquiry committee or the board, the registrar must issue a citation that
- (a) names the affected registrant as respondent,
  - (b) describes the nature of the complaint or other matter that is to be the subject of the hearing,
  - (c) specifies the date, time and place of the hearing, and

- (d) advises the respondent that the discipline committee is entitled to proceed with the hearing in his or her absence.
- (2) The registrar must have a citation either delivered to the respondent by personal service or sent by registered mail to the respondent at the last address for the respondent recorded in the register referred to in section 21 (2) not fewer than 30 days before the date of the hearing.
- (3) If the subject matter of a citation is a complaint, the registrar must notify the complainant in writing of the date, time and place of the hearing not fewer than 14 days before the date of the hearing.
- (4) The inquiry committee or the board may direct the registrar to cancel a citation that has been issued on its direction if the inquiry committee or board afterwards determines that a hearing by the discipline committee is not required and the registrar must then cancel the citation and notify the respondent and the complainant, if any, of the cancellation.

### Consent orders

- 37.1** (1) The registrant may give the inquiry committee a written proposal at any time before the commencement of a hearing under section 38
- (a) admitting the nature of the complaint or other matter that is to be the subject of the hearing,
  - (b) consenting to the making of an order under section 39 (2) or (8) as set out in the proposal,
  - (c) consenting to indemnify the college for the investigation under section 33 in an amount not to exceed the costs for the inquiry calculated under the tariff of costs established under section 19 (1) (v.1), and
  - (d) if the registrant gives the proposal to the inquiry committee less than 7 days before the hearing is scheduled to commence, consenting to indemnify the college for preparing for the hearing in an amount not to exceed the costs of preparing for the hearing calculated under the tariff of costs established under section 19 (1) (w.1).
- (2) The inquiry committee may accept or reject a proposal received under subsection (1) based on the investigations described in section 33 respecting the complaint.
- (3) If the inquiry committee accepts a proposal received under subsection (1),
- (a) the inquiry committee must make an order consistent with the proposal, and the order is considered to be an order of the discipline committee made under section 39, and
  - (b) [Repealed 2008-29-38]
  - (c) section 38 does not apply to the citation.
- (4) If the inquiry committee rejects a proposal received under subsection (1),
- (a) a hearing of the citation must proceed as though the proposal had not been made, and

- (b) the discipline committee must not consider the admission described in subsection (1) (a) or the consent described in subsection (1) (b) in determining the matter or in making an order under section 39.
- (5) If the hearing under section 38 has commenced
  - (a) the registrant may give to the inquiry committee a written proposal
    - (i) described in subsection (1) (a) to (c), and
    - (ii) consenting to indemnify the college for preparing for and conducting the hearing in an amount not to exceed the costs of preparing for and conducting the hearing calculated under the tariff of costs established under section 19 (1) (w.1), and
  - (b) the inquiry committee may accept or reject the proposal in its discretion.
- (6) If the inquiry committee accepts a proposal under subsection (5), it must make an order consistent with the proposal, the order is considered to be an order of the discipline committee made under section 39, and section 38 has no further application to the complaint or matter that is the subject of the hearing.
- (6.1) Section 39 (3) (a) to (c) applies to an order made under this section as if the order had been made by the discipline committee.
- (7) Subsection (4) applies if the inquiry committee rejects a proposal received under subsection (5).

#### **Discipline committee hearing**

- 38** (1) The discipline committee must hear and determine a matter set for hearing by citation issued under section 37.
- (2) The respondent and the college may appear as parties and with legal counsel at a hearing of the discipline committee.
- (2.1) A complainant may be represented by legal counsel, at the complainant's cost, when the complainant is giving evidence at a hearing of the discipline committee.
- (3) A hearing of the discipline committee must be in public unless
  - (a) the complainant, the respondent or a witness requests the discipline committee to hold all or any part of the hearing in private, and
  - (b) the discipline committee is satisfied that holding all or any part of the hearing in private would be appropriate in the circumstances.
- (4) At a hearing of the discipline committee,
  - (a) the testimony of witnesses must be taken on oath, which may be administered by any member of the discipline committee, and
  - (b) the college and the respondent have the right to cross examine witnesses and to call evidence in reply.

- (4.1) Subject to subsection (4.2), evidence is not admissible at a hearing of the discipline committee unless, at least 14 days before the hearing, the party intending to introduce the evidence provides the other party with
- (a) in the case of documentary evidence, an opportunity to inspect the document,
  - (b) in the case of expert testimony,
    - (i) the name and qualifications of the expert,
    - (ii) a copy of any written report the expert has prepared respecting the matter, and
    - (iii) a written summary of the evidence the expert will present at the hearing if the expert did not prepare a written report in respect of the matter, and
  - (c) in the case of testimony of a witness who is not an expert, the name of that witness and an outline of their anticipated evidence.
- (4.2) The discipline committee may
- (a) grant an adjournment of a hearing,
  - (b) allow the introduction of evidence that is not admissible under subsection (4.1), or
  - (c) make any other direction it considers appropriate
- if the discipline committee is satisfied that this is necessary to ensure that the legitimate interests of a party will not be unduly prejudiced.
- (5) If the respondent does not attend, the discipline committee may
- (a) proceed with the hearing in the respondent's absence on proof of receipt of the citation by the respondent, and
  - (b) without further notice to the respondent, take any action that it is authorized to take under this Act.
- (6) The discipline committee may order a person to attend at a hearing to give evidence and to produce records in the possession of or under the control of the person.
- (7) On application by the discipline committee to the Supreme Court, a person who fails to attend or to produce records as required by an order under subsection (6) is liable to be committed for contempt as if he or she were in breach of an order or judgment of the Supreme Court.
- (8) If the discipline committee considers the action necessary to protect the public between the time a hearing is commenced and the time it makes an order under section 39 (2), the discipline committee may impose limits or conditions on the practice of the designated health profession by the registrant or may suspend the registration of the registrant and, for those purposes, section 35 applies.

#### **Action by discipline committee**

- 39** (1) On completion of a hearing, the discipline committee may, by order, dismiss the matter or determine that the respondent

- (a) has not complied with this Act, a regulation or a bylaw,
  - (b) has not complied with a standard, limit or condition imposed under this Act,
  - (c) has committed professional misconduct or unprofessional conduct,
  - (d) has incompetently practised the designated health profession, or
  - (e) suffers from a physical or mental ailment, an emotional disturbance or an addiction to alcohol or drugs that impairs their ability to practise the designated health profession.
- (2) If a determination is made under subsection (1), the discipline committee may, by order, do one or more of the following:
- (a) reprimand the respondent;
  - (b) impose limits or conditions on the respondent's practice of the designated health profession;
  - (c) suspend the respondent's registration;
  - (d) subject to the bylaws, impose limits or conditions on the management of the respondent's practice during the suspension;
  - (e) cancel the respondent's registration;
  - (f) fine the respondent in an amount not exceeding the maximum fine established under section 19 (1) (w).
- (3) An order of the discipline committee under this section must
- (a) be in writing,
  - (b) include reasons for the order,
  - (c) be delivered to the respondent and to the complainant, if any, and,
  - (d) advise the registrant of the registrant's right to appeal the order to the Supreme Court.
- (4) If the discipline committee dismisses the matter under subsection (1) on the basis that the matter was without merit, it may award costs to the respondent against the college, based on the tariff of costs established under section 19 (1) (w.1).
- (5) If the discipline committee acts under subsection (2), it may award costs to the college against the respondent, based on the tariff of costs established under section 19 (1) (w.1).
- (6) Costs awarded under subsection (4) must not exceed, in total, 50% of the actual costs to the respondent for legal representation for the purposes of the investigation under section 33 and the hearing.
- (7) Costs awarded under subsection (5) must not exceed, in total, 50% of the actual costs to the college for legal representation for the purposes of the hearing.
- (8) If the registration of the respondent is suspended or cancelled under subsection (2), the discipline committee may
- (a) impose conditions on the lifting of the suspension or the eligibility to apply for reinstatement of registration,

- (b) direct that the lifting of the suspension or the eligibility to apply for reinstatement of registration will occur on
    - (i) a date specified in the order, or
    - (ii) the date the discipline committee or the board determines that the respondent has complied with the conditions imposed under paragraph (a), and
  - (c) impose conditions on the respondent's practice of the designated health profession that apply after the lifting of the suspension or the reinstatement of registration.
- (9) If an order under subsection (2) is appealed under section 40 within 30 days after it is made, the discipline committee, on application of the respondent under this section, may, by order,
- (a) stay the order made under subsection (2) pending the hearing of the appeal, and
  - (b) impose limits or conditions on the practice of the designated health profession by the respondent during the stay.
- (10) Before taking action under subsection (2), (5), (8) or (9), the discipline committee may consider whether, in the opinion of the discipline committee, the matter is an appropriate case for a refund to the complainant of all or part of any amount paid by the complainant to the registrant for or related to a service provided by the registrant or another person under the delegation or supervision of the registrant, and if so, whether a refund has been offered or made by the registrant.

**Unprofessional conduct in another jurisdiction or while practising as a registrant of another college**

- 39.1** (1) If the discipline committee learns that
- (a) another college established under this Act or a body in another province or a foreign jurisdiction that regulates a health profession in that province or foreign jurisdiction has found, either before or after the registrant was registered under section 20, that the registrant committed an act that, in the opinion of the discipline committee, constitutes unprofessional conduct under this Act, or
  - (b) the registrant has admitted, either before or after the registrant was registered under section 20, to another college established under this Act or to a body in another province or a foreign jurisdiction that regulates a health profession in that province or foreign jurisdiction, that the registrant committed an act that, in the opinion of the discipline committee, constitutes unprofessional conduct under this Act,
- the discipline committee may, without issuing a citation under section 37 or conducting a hearing under section 38, make an order under section 39 (2) respecting the registrant, and section 39 (3), (5) and (7) to (10) applies as if a determination had been made under section 39 (1) by the discipline committee.
- (2) The discipline committee may take action under subsection (1) only after giving the registrant the following:
- (a) notice of the proposed action, in accordance with the bylaws;

- (b) a copy of the record of the relevant decision or findings made or action taken by the other college or body;
  - (c) an opportunity to be heard, which may be limited to a hearing in writing.
- (3) For the purposes of this section, a certified copy of a record of the decision or findings made or action taken by the other college or body in respect of a registrant is proof, in the absence of evidence to the contrary, of the findings made or the action taken, without proof of the signature of the person purporting to have signed on behalf of that college or body.

#### **Consideration of past action**

- 39.2** (1) Before taking any action respecting a registrant under the following provisions, the registrar, inquiry committee or discipline committee may consider any action previously taken under Part 3 respecting the registrant:
- (a) in the case of the registrar or the inquiry committee, section 32, 32.2 or 32.3;
  - (b) in the case of the inquiry committee, section 33 or sections 35 to 37.1;
  - (c) in the case of the discipline committee, section 38 (8), 39 (2), (5), (8) or (9) or 39.1 (1).
- (2) The registrar, inquiry committee or discipline committee may, in applying subsection (1), consider
- (a) any action under Part 3 respecting the registrant that occurred or was recorded before the coming into force of this section, or
  - (b) any action, similar to an action that may be taken under Part 3, that was taken by the governing body for a health profession under a former enactment regulating the health profession.

#### **Public notification**

- 39.3** (1) Subject to subsections (3) and (4), the inquiry committee or discipline committee, as the case may be, must direct the registrar to notify the public of the information set out in subsection (2) with respect to any of the following actions:
- (a) an action taken under section 32.2 (4) (b), 32.3 (3) (b), 33 (2) or 35 (1);
  - (b) a consent or undertaking given under section 36 (1) in relation to a serious matter;
  - (c) a consent order made under section 37.1;
  - (d) a determination made under section 39 (1);
  - (e) an order made under section 38 (8), 39 (2), (5), (8) or (9), 39.1 or 44 (1) or (2).
- (2) The following information must be included in the notification required under this section:
- (a) the name of the registrant respecting whom or the health profession corporation respecting which the action was taken;

- (b) a description of the action taken;
  - (c) the reasons for the action taken.
- (3) In the following circumstances, the inquiry committee or discipline committee, as the case may be, must direct the registrar to withhold all or part of the information otherwise required to be included in the public notification under this section:
- (a) the inquiry committee or discipline committee considers it necessary to protect the interests of the complainant, if any, in the matter, or another person, other than the registrant, affected by the matter;
  - (b) the complainant, if any, in the matter, or another person, other than the registrant, affected by the matter, has requested that the notification not contain information that could reasonably be expected to identify the complainant or the other person.
- (4) Subject to subsection (5), in the case of
- (a) an admission by a registrant that he or she suffers from a condition described in section 33 (4) (e), or
  - (b) a determination made regarding a registrant under section 39 (1) (e),
- the inquiry committee or discipline committee, as the case may be, must direct the registrar to withhold all or part of the information otherwise required to be included in the public notification under this section if the information could reasonably be expected to identify the registrant or personal health information of the registrant respecting the condition.
- (5) In the case of a determination made regarding a registrant under section 39 (1) (e), information respecting the registrant must not be withheld under subsection (4) unless the discipline committee is satisfied that the privacy interests of the registrant outweigh the public interest in public notification of the information.
- (6) If information respecting a registrant is withheld under subsection (4), the public notification must indicate that information has been withheld.
- (7) The notification required under this section may be made by posting a notice on the college website.

#### **Funding for therapy and counselling**

- 39.4** (1) A board must establish a program for its college to provide funding, in accordance with the regulations, for therapy and counselling for a person who has been psychologically or emotionally harmed as the result of professional misconduct by a registrant while the registrant was providing services to the person.
- (2) A person is eligible for funding under subsection (1) only if
- (a) the discipline committee has made a finding that the registrant committed professional misconduct with respect to the person while the registrant was providing services to that person, and
  - (b) the requirements prescribed by the minister are met.

[en. 2008-29-41]

**Appeal of discipline committee decision to Supreme Court**

- 40** (1) A college, a respondent described in section 38 (2) or a registrant described in section 39.1 (1) aggrieved or adversely affected by an order of the discipline committee under section 39 or 39.1 (1), may appeal the order to the Supreme Court.
- (2) An appeal under this section must be commenced within 30 days after the date of the decision.
- (3) An appeal under this section must be an originating application commenced by filing a petition in any registry of the Supreme Court, and the Rules of Court respecting originating applications apply to the appeal but Rule 49 does not apply.
- (4) The petition commencing an appeal under this section must, within 14 days of its filing in the court registry, be served on
- (a) the college, effected by service on the registrar, if the appellant is a respondent described in section 38 (2) or a registrant described in section 39.1 (1),
  - (b) the respondent or the registrant, if the appellant is the college, and
  - (c) the complainant, if the matter relates to a complaint.
- (5) Only the persons required to be served under subsection (4) (a) and (b) may be parties to an appeal.
- (6) [Repealed 2008-29-42]
- (7) On request by a party to an appeal under subsection (1) and on payment by the party of any disbursements and expenses in connection with the request, the registrar must provide that party with copies of part or all, as requested, of the record of the proceeding before the discipline committee.
- (8) An appeal under subsection (1) must be a review on the record unless the court is satisfied that a new hearing or the admission of further evidence is necessary in the interests of justice.
- (9) On the hearing of an appeal under this section, the court may
- (a) confirm, vary or reverse the decision of the discipline committee,
  - (b) refer the matter back to the discipline committee, with or without directions, or
  - (c) make any other order it considers appropriate in the circumstances.
- (10) A decision of the Supreme Court on an appeal under subsection (1) may be appealed to the Court of Appeal if leave to appeal is granted by a justice of the Court of Appeal.

## PART 4 – HEALTH PROFESSION CORPORATIONS

### Definition

- 40.1** In this Part, “**holding company**” means a corporation described in section 43 (1) (c) (ii) or (1) (d) (i) (B).

### Application of this Part

- 41** This Part applies to a designated health profession only if a regulation under section 50 (2) (a) provides that it applies.

### Health profession corporations

- 42** (1) Subject to this Act, the regulations and the bylaws, no corporation, other than a health profession corporation holding a valid permit under section 43 (1), may carry on the business of providing to the public health profession services that may be provided by the registrants of the college whose board issued or renewed the permit.
- (2) The services referred to in subsection (1) must only be provided by the health profession corporation through one or more persons, each of whom is
- (a) a registrant of the college, or
  - (b) if permitted by the bylaws, an employee of the health profession corporation under the supervision of a registrant of the college.

### Health profession corporation permits to be issued by board

- 43** (1) A board must issue or renew a permit authorizing a corporation to operate as a health profession corporation if satisfied that all the following requirements and conditions have been met:
- (a) the corporation is a company within the meaning of the *Business Corporations Act* and is in good standing under that Act;
  - (b) if a term is prescribed under section 50 (2) (b) for the designated health profession, the name of the corporation includes the term;
  - (c) all voting shares of the corporation are legally and beneficially owned by
    - (i) registrants of the college, or
    - (ii) companies as defined in the *Business Corporations Act*, all the voting shares of which are legally and beneficially owned by registrants of the college and all the non-voting shares of which are legally and beneficially owned by persons
      - (A) who are registrants of the college,
      - (B) who are the spouse, children, parents, siblings or other relatives of a shareholding registrant of the college, or
      - (C) who reside with a shareholding registrant of the college;

- (d) all non-voting shares of the corporation are
    - (i) legally and beneficially owned by persons who are
      - (A) described in paragraph (c) (ii) (A) to (C), or
      - (B) companies as defined in the *Business Corporations Act*, all the shares of which are legally and beneficially owned by persons described in paragraph (c) (ii) (A) to (C), or
    - (ii) held in trust by a trustee who is a person resident in Canada and approved by the board, on behalf of a trust
      - (A) that is governed by the laws of British Columbia or another jurisdiction in Canada, and
      - (B) all the beneficiaries of which are persons described in paragraph (c) (ii) (A) to (C);
  - (e) all the directors of the corporation are registrants of the college;
  - (f) all the persons who will be providing the services on behalf of the corporation are registrants of the college or are under the supervision of a registrant of the college;
  - (g) all requirements and conditions established by bylaw under section 49 have been met;
  - (h) all requirements and conditions established by regulation under section 50 have been met.
- (1.1) In subsection (1) (c) (ii) (B), “**spouse**” means a person who
- (a) is married to another person, or
  - (b) is living and cohabiting with another person in a marriage-like relationship, including a marriage-like relationship between persons of the same gender.
- (2) A board may refuse to issue or renew a permit under subsection (1) if
- (a) the health profession corporation has previously had its permit revoked, or
  - (b) 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 permit revoked.
- (3) Despite subsection (1), voting or non-voting shares of a health profession corporation may be vested in
- (a) an executor or administrator of the estate of a deceased registrant to allow the executor or administrator to discharge duties as executor or administrator of the estate, or
  - (b) a trustee in bankruptcy to allow the trustee to discharge duties as trustee in bankruptcy in respect of the corporation or a registrant.

- (4) In this section, “board” includes the registrar if the board has authorized the registrar to act for it under this section.

#### Revocation of corporation permits

- 44** (1) A board, by order, may, after a hearing, revoke a permit issued by it to a health profession corporation if
- (a) in the course of providing services the corporation, its officers, employees or agents does anything that, if done by a registrant, would be professional misconduct,
  - (b) the corporation ceases to comply with a requirement or condition referred to in section 43 (1), or
  - (c) the corporation contravenes section 45.
- (2) As alternatives to revoking a permit, a board, by order, may
- (a) reprimand one or more shareholders of the corporation who are registrants, or
  - (b) impose a fine on the corporation in an amount not exceeding \$10 000.
- (3) A health profession corporation against which or a registrant against whom a decision under subsection (1) or (2) is made may appeal the decision to the Supreme Court and, for those purposes, the provisions of section 40 respecting an appeal from a decision of the discipline committee apply to an appeal under this section.
- (4) If a board revokes a permit for a health profession corporation or refuses to renew a permit for a health profession corporation, it must notify the Registrar of Companies for the purposes of section 29 (5) of the *Business Corporations Act*.

#### Prohibition against carrying on corporate business

- 45** (1) A corporation that has a term prescribed by regulation under section 50 (2) (b) as part of its name must not carry on any business unless it holds a valid permit under section 43 (1).
- (2) A health profession corporation that holds a valid permit under section 43 (1) must not carry on any activities, other than the provision of services referred to in section 42 and services that are directly associated with the provision of those services that would, for the purposes of the *Income Tax Act* (Canada), give rise to income from business.
- (3) 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) or (2).

#### Prohibition against certain voting agreements

- 46** (1) A shareholder of a health profession corporation must not enter into a voting trust agreement, proxy or any other type of agreement that vests in another person who is not a registrant qualified to hold shares in the corporation the authority to exercise the voting rights attached to any or all of the shares of the shareholder.
- (2) A shareholder of a holding company must not enter into a voting trust agreement, proxy or any other type of agreement that vests in another person who is not a registrant qualified to

hold shares in the holding company the authority to exercise the voting rights attached to any or all of the shares of the shareholder.

#### **Obligations to provide evidence respecting health profession corporation**

- 47** A shareholder, director, officer or employee of a health profession corporation may be compelled in a proceeding under this Act, other than a proceeding under section 51 in which the person is a defendant, to give evidence and to produce all files and records in his or her possession or power that are relevant to a matter raised in the proceeding.

#### **Repealed**

- 48** [Repealed 2006-23-20]

#### **Bylaws applicable to health profession corporations**

- 49** (1) The bylaws of a board under section 19 apply to health profession corporations under the board's authority and the board may exercise the powers conferred under this Act to enforce those bylaws against a health profession corporation.
- (2) A board may make bylaws it considers necessary or advisable in relation to health profession corporations under its authority.
- (3) Without limiting subsection (2), a board may make bylaws respecting the following matters:
- (a) the issue and renewal of permits, including the setting of fees and the establishment of procedures for obtaining or renewing permits;
  - (b) procedures for revocation of permits and for hearings respecting revocation of permits under section 44;
  - (c) names and the approval of names, including the types of names, by which a health profession corporation may be known;
  - (d) the disposition of shares in a health profession corporation belonging to a shareholder who ceases to be a registrant or who remains a registrant but is not qualified to practise the designated health profession;
  - (e) requirements for the issuance or renewal of permits and the limits or conditions that may be imposed on permits, including the establishment of amounts of insurance that health profession corporations must carry or must provide to each of their employees for the purpose of providing indemnity against professional liability claims.
- (4) Provisions in a bylaw under this section may be different, at the discretion of the board, for different permit holders.
- (5) Section 19 (3) to (4) and (6.2) applies to bylaws made under this section.

#### **Regulations respecting health profession corporations**

- 50** (1) The minister may make regulations respecting health profession corporations for a designated health profession.

- (2) Without limiting subsection (1), the minister may make regulations respecting the following:
  - (a) the application of this Part to a designated health profession;
  - (b) a term that must be included in the name of a health profession corporation.
- (3) Subject to subsection (4), notice of a proposal to make, amend or repeal a regulation under this section must be given to the college of each health profession prescribed by the minister for the purpose of this subsection at least 3 months before the regulation, amendment or repeal comes into force.
- (4) A notice period of less than 3 months applies for the purposes of subsection (3) if the minister specifies this shorter notice period.

#### **PART 4.1 – RESTRICTED ACTIVITIES**

##### **Repealed**

**50.1** [Repealed 2008-29-66]

##### **Prohibition and limitation – performance of restricted activities**

- 50.2** (1) A person must not perform a restricted activity in the course of providing a service described in, or doing work described by, the definition of “health profession” in section 1, unless
- (a) the person is a registrant of a college whose registrants are authorized by a regulation under section 12 to perform the restricted activity in the course of providing services,
  - (b) the person is delegated to perform the restricted activity, or authorized to perform the restricted activity under supervision, by a registrant described in paragraph (a), and the delegation or supervision is consistent with section 50.3 and any regulations made under section 50.3,
  - (c) the person is exempted, or is a member of a class of persons exempted, by the regulations of the minister from the prohibition against performing the restricted activity, or
  - (d) the restricted activity is performed in the course of an activity exempted by the regulations of the minister.
- (2) Subsection (1) applies to any person, including a person who is not a registrant of any college.

##### **Delegation of restricted activities**

- 50.3** (1) The delegation of a restricted activity by a registrant, or the authorization by a registrant to perform a restricted activity under the supervision of a registrant, must be in accordance with the bylaws of the college of which the registrant is a member.

- (2) A registrant of a college may only
- (a) delegate a restricted activity to a registrant of another college, or
  - (b) authorize a registrant of another college to perform a restricted activity under the supervision of the authorizing registrant or another registrant of the authorizing registrant's college
- if the delegation or authorization is made in accordance with the bylaws of the other college.
- (2.1) The delegation of a restricted activity to a certified non-registrant, or the authorization of a certified non-registrant to perform a restricted activity under the supervision of a registrant, must be in accordance with any bylaws of a college that apply to the certified non-registrant.
- (3) The minister may prescribe
- (a) one or more restricted activities that must not be delegated or for which authorization to perform under supervision must not be given, or
  - (b) limits or conditions that apply to the delegation of a restricted activity or the authorization to perform a restricted activity under supervision.
- (3.1) A regulation under subsection (3) may
- (a) apply generally to all designated health professions or to one or more designated health professions, or
  - (b) be different for different designated health professions.
- (4) Subject to subsection (5), notice of a proposal to make, amend or repeal a regulation under this section must be given to the college of each health profession prescribed by the minister for the purpose of this subsection at least 3 months before the regulation, amendment or repeal comes into force.
- (5) A notice period of less than 3 months applies for the purposes of subsection (4) if the minister specifies this shorter notice period.

### Exceptions

- 50.4** (1) A person's performance of a restricted activity is not a contravention of section 50.2 if the person performs the restricted activity while
- (a) rendering first aid or temporary assistance in an emergency,
  - (b) fulfilling the conditions or requirements for registration as a member of a college whose registrants are authorized by a regulation under section 12 to perform the restricted activity, and the restricted activity is performed under the supervision of a registrant of a college specified for the purposes of this paragraph by the board for the college for which the person is fulfilling the conditions or requirements for registration, or
  - (c) subject to the bylaws, caring for themselves or for a member of their 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.

[en. 2003-57-34, am. 2006-23-26, am. 2008-29-65, 66, 67, 68, 69, 70, 71, 72, 73]

## Part 4.2 — Health Professions Review Board

### Definitions for Part 4.2

**50.5** In this Part:

**"chair"** means the chair of the Health Professions Review Board;

**"registration committee"** includes

- (a) the registrar or board for a college, as the case may be, and
- (b) if a college has established one or more classes of certified non-registrants, the person or committee authorized under the bylaws of the college to certify persons as certified non-registrants;

**"registration decision"** means a decision made by a registration committee

- (a) to refuse to grant an application for registration as a member of a college under section 20, except for a refusal under section 20 (2.1) or (3),
- (b) to grant registration in a class of registrants under section 20 with limits or conditions on the practice of the designated health profession by the registrant, except limits or conditions imposed under section 20 (2.1) or (3), or
- (c) if a college has established one or more classes of certified non-registrants, to refuse an application for certification as a certified non-registrant.

### Health Professions Review Board established

- 50.51** (1) The Health Professions Review Board is established consisting of the members appointed by the Lieutenant Governor in Council.
- (2) The chair of the review board must be a member or former member of the Law Society of British Columbia or a law society of another province of Canada.

- (3) A person may not be a member of the review board if the person is
- (a) a registrant of a college or a certified non-registrant,
  - (b) a member of a body, in another province or a foreign jurisdiction, that regulates a health profession in that other province or foreign jurisdiction,
  - (c) an employee or agent of the government of British Columbia, or
  - (d) an employee or agent of the government of another province or a foreign jurisdiction.

#### **Application of *Administrative Tribunals Act* to the review board**

**50.52** The following sections of the *Administrative Tribunals Act* apply to the review board:

- (a) section 1 [*definitions*];
- (b) section 2 [*chair's initial term and reappointment*];
- (c) section 3 [*member's initial term and reappointment*];
- (d) section 4 [*appointment of acting chair*];
- (e) section 5 [*member's absence or incapacitation*];
- (f) section 6 [*member's temporary appointment*];
- (g) section 7 [*powers after resignation or expiry of term*];
- (h) section 8 [*termination for cause*];
- (i) section 9 [*responsibilities of the chair*];
- (j) section 10 [*remuneration and benefits for members*];
- (k) section 26 [*organization of tribunal*];
- (l) section 27 [*staff of tribunal*];
- (m) section 30 [*tribunal duties*];
- (n) section 55 [*compulsion protection*];
- (o) section 56 [*immunity protection for tribunal and members*].

#### **Powers and duties of review board**

**50.53** (1) The review board has the following powers and duties:

- (a) on application under section 50.54 (2), to review a registration decision;
- (b) on application by a registrant or complainant under section 50.57 (1), to review the failure, by the inquiry committee, to dispose of a complaint made under section 32 (1) or an investigation under section 33 (4) within the time required under section 50.55;
- (c) on application by a complainant under section 50.6, to review a disposition of a complaint made by the inquiry committee under section 32 (3), 33 (6) (a) to (c) or 37.1;

- (d) to develop and publish guidelines and recommendations for the purpose of assisting colleges to establish and employ registration, inquiry and discipline procedures that are transparent, objective, impartial and fair.
- (2) In exercising its powers and performing its duties under subsection (1) (d), the review board may consult with colleges, registrants, members of health profession associations and any other persons that the review board considers necessary or appropriate.

#### Review of registration decisions

- 50.54** (1) In this section, "**applicant**" means
- (a) a person applying for registration as a member of a college who is refused a grant of registration under section 20, except for a refusal under section 20 (2.1) or (3),
  - (b) a registrant who is granted registration in a class of registrants under section 20 (2) with limits or conditions on the practice of the designated health profession by the registrant, except limits or conditions imposed under section 20 (2.1) or (3), or
  - (c) a person applying for certification as a certified non-registrant who is refused certification.
- (2) An applicant may apply to the review board for a review of a registration decision.
  - (3) An application under subsection (2) must be made within 30 days of the day on which written notice of the registration decision is delivered to the applicant.
  - (4) An applicant applying for review under subsection (2) must, within the time period set out in subsection (3), deliver a copy of the application to the college.
  - (5) Only the applicant and the college may be parties to a review under this section.
  - (6) On receipt of an application under subsection (2), the review board must conduct a review of the registration decision.
  - (7) A review under this section is a review on the record.
  - (8) The review board may hear evidence that is not part of the record as reasonably required by the review board for a full and fair disclosure of all matters related to the issues under review.
  - (9) On completion of its review under this section, the review board may make an order
    - (a) confirming the registration decision,
    - (b) directing the registration committee to make a decision that could have been made by the registration committee in the matter, or
    - (c) sending the matter back to the registration committee for reconsideration with directions.

- (10) The review board may make an order under subsection (9) directing the registration committee to grant registration with or without limits or conditions, or certification, as the case may be, only if the review board is satisfied that
- (a) the registration committee failed to act fairly in considering the application for registration or certification,
  - (b) the registration decision
    - (i) was made arbitrarily or in bad faith,
    - (ii) was made for an improper purpose,
    - (iii) was based entirely or predominantly on irrelevant factors, or
    - (iv) failed to take requirements under this Act into account, and
  - (c) the conditions described in subsection (11) (a) or (b) are met.
- (11) The following conditions apply for the purposes of subsection (10) (c):
- (a) in the case of a person applying for registration as a member of the college,
    - (i) the person's knowledge, skills and abilities must be substantially equivalent to the standards of academic or technical achievement and the competencies or other qualifications required for registration in a class of registrants, and
    - (ii) the applicant must meet any other conditions or requirements for registration in the class of registrants;
  - (b) in the case of a person applying for certification as a certified non-registrant,
    - (i) the applicant's knowledge, skills and abilities must be substantially equivalent to the training or educational requirements for certification in a class of certified non-registrants, and
    - (ii) the applicant must meet any other conditions or other requirements for certification in the class of certified non-registrants.
- (12) The review board must, no later than 30 days after making its order under subsection (9), deliver a copy of the order to the parties to the review.

#### **Timeliness of inquiry committee investigations**

- 50.55** (1) In this section and in sections 50.57, 50.58 and 50.6, "**registrant**" means a registrant as defined in section 26.
- (2) If a complaint made under section 32 (1) or an investigation by the inquiry committee under section 33 (4) has not been disposed of under section 32 (3) or 33 (6) within the period prescribed by the minister, the inquiry committee must, not later than 30 days after the expiry of the prescribed period, deliver written notice of that fact and an expected date of disposition to the following:
- (a) the registrant under investigation;

- (b) the complainant, if any.
- (3) The expected date of disposition referred to in subsection (2) must fall within a further period, prescribed by the minister, from the date of the written notice referred to in that subsection.
- (4) If the inquiry committee has not disposed of the complaint or the investigation by the expected date of disposition set out in the notice required under subsection (2), the inquiry committee must, not later than 30 days after that date, deliver written notice of and reasons for the delay, a new expected date of disposition and the right to apply for a review under section 50.57 to the following:
  - (a) the registrant;
  - (b) the complainant, if any;
  - (c) the review board.
- (5) The new expected date of disposition referred to in subsection (4) must not be later than 45 days following the date of the expected date of disposition set out in the notice required under subsection (2).
- (6) If the inquiry committee has not disposed of the complaint or the investigation by the new expected date of disposition set out in the notice required under subsection (4), the inquiry committee must, within 30 days after that date, deliver written notice to that effect to the following:
  - (a) the registrant;
  - (b) the complainant, if any;
  - (c) the review board.

#### **Investigation by inquiry committee suspended**

**50.56** If the inquiry committee has not disposed of a complaint or investigation on or before the new expected date of disposition set out in the notice required under section 50.55 (4), the investigation by the inquiry committee is suspended until the time period to file an application for review under section 50.57 (1) has expired and either

- (a) no application has been filed, or
- (b) an application has been filed and the review board proceeds under section 50.58 (1) (a) or (b).

#### **Review — delayed investigation**

**50.57** (1) A registrant or any complainant may apply to the review board for review of a complaint or investigation described in section 50.53 (1) (b) no later than 30 days after the date on which the notice required under section 50.55 (6) is delivered to the registrant or complainant.

- (2) A person making an application for review under subsection (1) must, within the time period set out in that subsection, deliver a copy of the application

- (a) to the inquiry committee,
- (b) if the person is the registrant, to the complainant, if any, and
- (c) if the person is the complainant, to the registrant.

#### **Duties and powers of review board — review of delayed investigations**

- 50.58** (1) Upon receipt of an application under section 50.57, the review board may
- (a) by order, send the matter back to the inquiry committee, with directions the review board considers appropriate, to continue and complete the investigation and dispose of the matter within the time period directed by the review board, or
  - (b) investigate and dispose of the matter under section 33 (6).
- (2) The review board must, within 30 days of receipt of the application, deliver written notice of the action taken or to be taken by the review board with respect to the matter to
- (a) the inquiry committee,
  - (b) the registrant, and
  - (c) the complainant, if any.

#### **Investigation by inquiry committee terminated**

- 50.59** If the review board investigates a matter under section 50.58 (1) (b),
- (a) the inquiry committee has no further jurisdiction to investigate the matter and must cease all activities related to its investigation, and
  - (b) the review board has all the powers of the inquiry committee with respect to the investigation and disposition of the matter, and may appoint an inspector who has all the powers and duties of an inspector under section 28 as if the inspector were appointed by the inquiry committee under section 27.

#### **Review of inquiry committee decisions**

- 50.6** (1) A complainant may apply to the review board for a review of a disposition described in section 50.53 (1) (c).
- (2) An application under subsection (1) must be made within 30 days of the day on which written notice of the disposition is delivered to the complainant.
- (3) A complainant under subsection (1) must, within the time period set out in subsection (2), deliver a copy of the application to the college and the registrant who is the subject of the complaint.
- (4) Only the complainant, the college and the registrant may be parties to a review under this section.
- (5) On receipt of an application under subsection (1), the review board must conduct a review of the disposition and must consider one or both of the following:

- (a) the adequacy of the investigation conducted respecting the complaint;
  - (b) the reasonableness of the disposition.
- (6) A review under this section is a review on the record.
- (7) The review board may hear evidence that is not part of the record as reasonably required by the review board for a full and fair disclosure of all matters related to the issues under review.
- (8) On completion of its review under this section, the review board may make an order
- (a) confirming the disposition of the inquiry committee,
  - (b) directing the inquiry committee to make a disposition that could have been made by the inquiry committee in the matter, or
  - (c) sending the matter back to the inquiry committee for reconsideration with directions.
- (9) The review board must, no later than 30 days after making an order under subsection (8), deliver a copy of the order to the parties to the review.

#### **Procedural requirements — application for review**

- 50.61** (1) An application for a review under this Part must
- (a) be in writing,
  - (b) identify the decision or investigation or disposition for which a review is being requested,
  - (c) state the relief being sought, and in the case of a decision or disposition, why the decision or disposition should be changed,
  - (d) contain the name, address and telephone number of the applicant, and if the applicant has an agent to act on the applicant's behalf in respect of the review, the name of the agent and the telephone number at which the agent may be reached during regular business hours,
  - (e) include an address for service for the purpose of delivery of any notices in respect of the review, and
  - (f) be signed by the applicant or the applicant's agent.
- (2) An application for a review under this Part must be accompanied by the fee prescribed by the Lieutenant Governor in Council.
- (3) Despite subsections (1) and (2), if an application for review is deficient or if the prescribed fee is outstanding, the chair or the chair's delegate may allow a reasonable period of time within which the application is to be corrected or the fee is to be paid.
- (4) On application, the review board may extend the time for filing an application for review under this Part, even if the time for filing an application has expired, if the review board is satisfied that special circumstances exist.

**Review does not operate as stay**

**50.62** Subject to sections 50.56 and 50.59, the commencement of a review under this Part does not operate as a stay or suspend the operation of the decision, investigation or disposition under review unless the review board orders otherwise.

**Exclusive jurisdiction of review board**

- 50.63** (1) The review board has exclusive jurisdiction to inquire into, hear and determine all those matters and questions of fact, law and discretion arising or required to be determined in a review or an investigation and disposition under this Part and to make any order permitted to be made.
- (2) A decision or order of the review board under this Part on a matter in respect of which the review board has exclusive jurisdiction is final and conclusive and is not open to question or review in any court.

**Application of *Administrative Tribunals Act* to review board for purposes of reviews**

**50.64** The sections of the *Administrative Tribunals Act* set out in Column 1 of the Schedule, as described opposite them in Column 2, apply for the purposes of a review under section 50.54 or 50.6.

**Reports to minister**

- 50.65** (1) The chair must, not later than July 31 in each year, submit to the minister an annual report respecting the activities of the review board in the immediately preceding calendar year, in the form and containing the information required by regulation of the minister.
- (2) The chair may, at any other time the chair considers necessary or appropriate, submit to the minister a report respecting the activities of the review board, or any matters arising from those activities, that the chair considers should be brought to the minister's attention.

[en. 2008-29-48; eff. Mar 16/09, BC Reg. 396/2008]

**PART 5 – GENERAL****Offences**

- 51** (1) A person who contravenes section 12.1 (1), (2) or (3), 13 (1), (2) or (3), 20 (5), 31 (1) or (2), 50.2, 52.1 (1) or 53 (1) or (2) commits an offence.

(1.1) A person who contravenes section 25.94 (1) or (4) commits an offence.

[en. 2003-73-2, am. 2006-23-31; eff. Apr 1/09, BC Reg. 419/2008]

- (2) Section 5 of the *Offence Act* does not apply to this Act, the regulations or any bylaws made under this Act.

- (3) A prosecution of an offence under this Act must not be commenced after the expiration of 2 years from the date of the alleged offence.
- (4) In any 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 by this Act.

#### **Injunction to restrain contravention**

- 52**
- (1) Any person may apply to the Supreme Court for an interim or permanent injunction to restrain a person from contravening any provision of this Act, the regulations or the bylaws.
  - (2) A contravention may be restrained under subsection (1) whether or not a penalty or other remedy has been provided under this Act.

#### **Restriction on use of terms**

- 52.1**
- (1) A person who provides a service described in, or whose work is described by, the definition of "health profession" in section 1 must not use any of the following in association with or as part of a title describing the person's work or in association with a description of the person's work, unless that person is a registrant of a college and uses that term in accordance with any regulations of the minister and any bylaws of the college:
    - (a) the term "regulated", "registered", "licensed" or "certified";
    - (b) an abbreviation of a term set out in paragraph (a);
    - (c) an equivalent in another language of a term listed in paragraph (a).
  - (2) Subject to section 12.1 (3) and despite subsection (1) of this section, a person's use of a term, abbreviation or equivalent referred to in subsection (1) in association with or as part of a title describing the person's work or in association with a description of the person's work is not a contravention of subsection (1) if
    - (a) the person is a member of an organization or a class of persons specified in a regulation of the minister and uses the term, abbreviation or equivalent in accordance with any limits or conditions specified in the regulation, or
    - (b) the person is authorized by a body in another province or a foreign jurisdiction, that regulates a health profession in that other province or foreign jurisdiction, to use the term, abbreviation or equivalent in association with or as part of a title to indicate membership in that body and, in using the term, indicates
      - (i) whether the person is authorized to practise the health profession in the other province or foreign jurisdiction, and
      - (ii) the name of the other province or foreign jurisdiction.
  - (3) A person using a term, abbreviation or equivalent as described in subsection (2) (b) may use the term, abbreviation or equivalent only for the purpose of indicating

whether the person is authorized to practice the health profession in the other province or foreign jurisdiction.

- (4) A regulation under subsection (2) (a) may prescribe limits or conditions on the use of a term, an abbreviation of a term, or an equivalent of a term in another language, as referred to in subsection (1).

[en. 2003-57-37, am. 2006-23-27, rep. and re-en. 2008-29-74]

### Collection and disclosure of health human resources information

- 52.2** (1) In this section and in section 52.4:

**“health human resources information”** means statistical and other information, prescribed by the minister, respecting registrants, persons applying for registration as a member of a college, certified non-registrants and non-registrants applying for certification under the bylaws of a college;

**“health human resources planning and management”** means planning and taking action to ensure the sufficiency and appropriate distribution of health professionals in the Province;

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

- (2) A college must, in accordance with the regulations of the minister,
- (a) collect health human resources information and personal information, as considered necessary or appropriate by the minister for the purposes of health human resources planning and management, directly from
    - (i) registrants,
    - (ii) certified non-registrants,
    - (iii) persons applying for registration as a member of the college, and
    - (iv) non-registrants applying for certification under the bylaws of the college,
  - (b) assign a unique identification number for each person for whom information is collected under paragraph (a), and
  - (c) provide health human resources information to the minister.
- (3) A college must not disclose to the minister or any other person, in individually identifiable form, any personal information collected under this section.

### Obligation of registrants to provide information

- 52.3** A registrant or a certified non-registrant who receives a request for health human resources information and personal information under section 52.2 (2) (a) from the college of which the registrant is a member or by which the certified non-registrant is certified must provide the health human resources information and personal information to the college in accordance with the regulations of the minister.

**Use of health human resources information by government**

- 52.4** The minister may use health human resources information provided by a college under section 52.2 (2) (c) as the minister considers necessary or appropriate for the purposes of health human resources planning and management, including publishing the information for those purposes.

**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 under this Act unless the disclosure is
- (a) necessary to exercise the power or to perform the duty, or
  - (b) authorized as being in the public interest by the board of the college in relation to which the power or duty 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 under Part 2.1 or 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 under Part 2.1 or 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.

**Deemed receipt of documents**

- 54** (1) If a notice or other document is required to be delivered to a person under this Act, it is deemed to have been received by the person 7 days after the date on which it was mailed if it is sent by registered mail,
- (a) in the case of a document to be delivered to a registrant, to the last address for that registrant recorded in the register referred to in section 21 (2), and
  - (b) in other cases, to the last address of that person known to the sender.
- (2) For the purpose of proving deemed receipt of a document referred to in subsection (1), proof of receipt may be made by affidavit as to the date on which the document was sent by registered mail.

**Power to make regulations**

- 55** (1) The minister may make regulations referred to in section 41 of the *Interpretation Act*.

- (2) Without limiting subsection (1), the minister may make regulations
- (a) subject to this Act, prescribing a change in the composition of a committee established under section 19 (1) (t), or of panels of a committee,
  - (b) requiring that a board or a committee established under section 19 (1) (t) open its meetings, subject to section 53, to attendance by
    - (i) the registrants, or
    - (ii) members of the public,
  - (c) in respect of a regulation under paragraph (b), specifying the circumstances in which a board or a committee established under section 19 (1) (t) may exclude registrants or members of the public from meetings of the board or the committee,
  - (d) establishing a deadline for a committee established under section 19 (1) (t) to complete a stage of its work respecting the registration of applicants to a college or the disposal of matters under Part 3 and establishing that the committee must report to the minister, or a person specified by the minister, if the deadline is missed,
  - (d.1) establishing the prescribed number of days for the purposes of section 19 (3.1),
  - (e) prescribing, for the purposes of section 21 (2) (e), the additional information required to be included in the register, the time periods for which information must be kept for the register, and the conditions or requirements for the removal of information from the register,
  - (e.1) specifying, for the purposes of section 22 (2), the circumstances in which the registrar must or may refuse a person access to the register or to any information in the register,
  - (f) [Repealed 2008-29-53]
  - (f.1) specifying the requirements for a college website for the purposes of section 18 (3), including requirements for the information to be posted on the website and the format for posting that information,
  - (g) prescribing activities for the purposes of the definition of “restricted activity” in section 1,
  - (h) exempting a person, or a class of persons, for the purposes of section 50.2 (1) (c),
  - (i) exempting an activity for the purposes of section 50.2 (1) (d),
  - (j) prescribing the oath of office for the purposes of section 17.11,
  - (k) specifying the form and content of an annual report required under section 18 (2),
  - (l) respecting requirements for quality assurance programs established under section 19 (1) (k.2),
  - (m) respecting funding of therapy and counselling for the purposes of section 39.4,
  - (n) prescribing information for the purposes of the definition of “health human resources information” in section 52.2 (1),

- (o) establishing the time periods and form and manner for providing information under sections 52.2 (2) (c) and 52.3,
  - (p) prescribing the time periods for the purposes of section 50.55 (2) and (3),
  - (q) prescribing a health profession for the purposes of sections 12 (3), 19 (6.2) and (7), 50 (3), 50.3 (4) and subsection (3) of this section,
  - (r) specifying the form and content of reports required under section 50.65 (1),
  - (s) prescribing an agreement for the purposes of section 20.4 (2) (a) (iii).
- (3) Subject to subsection (4), notice of a proposal to make, amend or repeal a regulation under this section must be given to the college of each health profession prescribed by the minister for the purpose of this subsection at least 3 months before the regulation, amendment or repeal comes into force.
- (4) A notice period of less than 3 months applies for the purposes of subsection (3) if the minister specifies this shorter notice period.
- (5) A regulation made under subsection (2) (l) may be different for different colleges or different groups of colleges.

#### Regulations of the Lieutenant Governor in Council

- 56** The Lieutenant Governor in Council may make regulations respecting any matter for which regulations by the Lieutenant Governor in Council are contemplated by this Act.

### Schedule

(Section 50.64)

Column 1 <b>Section of <i>Administrative Tribunals Act</i></b>	Column 2 <b>Description</b>
Section 11	<i>[general power to make rules respecting practice and procedure]</i>
Section 12	<i>[practice directives review board must make]</i>
Section 13	<i>[practice directives review board may make]</i>
Section 14	<i>[general power to make orders]</i>
Section 15	<i>[interim orders]</i>
Section 16	<i>[consent orders]</i>
Section 17	<i>[withdrawal or settlement of review]</i>
Section 18	<i>[failure of party to comply with review board orders and</i>

	<i>rules]</i>
Section 19	<i>[service of notice or documents]</i>
Section 20	<i>[when failure to serve does not invalidate proceeding]</i>
Section 21	<i>[notice of hearing by publication]</i>
Section 28	<i>[appointment of person to conduct dispute resolution process]</i>
Section 29	<i>[disclosure protection]</i>
Section 31	<i>[summary dismissal]</i>
Section 32	<i>[representation of parties to a review]</i>
Section 33	<i>[interveners]</i>
Section 34 (3)	<i>[order to give evidence or produce documents]</i>
Section 34 (4)	<i>[application to court by review board for order requiring person to comply]</i>
Section 35	<i>[recording of review board proceedings]</i>
Section 36	<i>[form of review hearing]</i>
Section 37	<i>[reviews involving similar questions]</i>
Section 38	<i>[examination of witnesses]</i>
Section 39	<i>[adjournments]</i>
Section 40	<i>[information admissible in review board proceedings]</i>
Section 41	<i>[hearings open to public]</i>
Section 42	<i>[discretion to receive evidence in confidence]</i>
Section 44	<i>[review board without jurisdiction over constitutional questions]</i>
Section 46.2	<i>[limited jurisdiction and discretion to decline jurisdiction to apply the Human Rights Code]</i>
Section 47	<i>[power to award costs]</i>
Section 48	<i>[maintenance of order at hearings]</i>
Section 49	<i>[contempt proceeding for uncooperative witness or other person]</i>
Section 50	<i>[decisions]</i>

Section 51	<i>[final decision]</i>
Section 52	<i>[notice of decision]</i>
Section 53	<i>[amendment to final decision]</i>
Section 54	<i>[enforcement of review board's final decision]</i>
Section 57	<i>[time limit for judicial review]</i>
Section 58	<i>[standard of review — privative clause]</i>
Section 60	<i>[power to make regulations]</i>
Section 61	<i>[application of Freedom of Information and Protection of Privacy Act]</i>

[en. 2008-29-55; eff. Mar. 16/09, BC Reg. 396/2008]