

## REQUEST

Given the risk of unintended consequences, we hereby request that the Ministry revisit the new *Health Professions & Occupations Act (HPOA)* and undertake further consultation with respect to the proposed new regulatory framework for health regulation.



## OVERVIEW

In our view, the *HPOA* constitutes a dramatic and unnecessary change to the public regulation of the health professions, going well beyond what was contemplated in the 2020 *Recommendations to modernize the provincial health profession regulatory framework*<sup>1</sup>. The *HPOA* has many new provisions and requirements which have not had any significant public or professional input. We did not anticipate the *HPOA* would result in a fundamental reordering of health professions regulation.

The *HPOA* is a significant departure from existing oversight of BC's self-regulating professions. We understand this new legislative framework is unique to BC, effectively ending the principles of "*self-regulation in the public interest*". We object to this change.

Professional practice has been informed by the principles of self-governance where regulated professionals have specialized expertise to develop, promote, and regulate standards. This has been and continues to be the essence of regulation in the public interest. Professional health care practice is demanding, and perfection in professional practice is unattainable; self regulation incorporates specialized expertise into the assessment of such practice. As an organization devoted to the promotion of standards including increased public access to dental care, we believe it is essential that professional regulation continues to be self-governing.

## Regulatory Overreach

We also believe the *HPOA* will result in regulatory overreach which will not serve the public interest. When brought into force, the *HPOA* will create considerable regulatory and legal uncertainty for years to come; there will be a significant increase in regulatory complexity which will give rise to a dramatic increase in the regulatory cost and compliance. These costs will be passed onto registrants, and we believe additional costs may create barriers to new practitioners at a time when the health professions are facing staffing challenges and dramatic increases in overhead. Further, health professions are still recovering from the impact of COVID-19 on their professional and personal lives. We suggest that the province should implement legislative and regulatory reform which eases rather than complicates professional regulation.

## Deterrent to Attracting Health Professionals

There is also the potential to deter health professionals from coming to BC at a time when all provinces are struggling with a shortage of practitioners and are therefore competing for a limited pool of personnel. We suggest that the *HPOA* carries with it the risk that it will both deter health professionals from coming to BC and encourage existing BC practitioners to relocate.

In short, we did not anticipate the degree and scope of change incorporated into the new *HPOA* and for which we feel that there was inadequate consultation.

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<sup>1</sup> BC Government, *Steering Committee on Modernization of Health Professional Regulation*, August 2020.

## SOME NOTABLE AREAS OF CONCERN

### Lack of Clarity Around the Effect of Complaint Dispositions

We are concerned that the *HPOA* creates a framework whereby colleges will be required to issue public notifications related to routine matters. The *HPOA* appears to provide that any signed commitment resulting from a complaint will be publicly posted.

This is a significant departure from the current practice where dispositions are only subject to public notification in respect of disciplinary orders and practice restrictions. This issue requires a significant revision and refinement to ensure consistency; the *HPOA* does not provide this.

### Lack of Clarity Around Investigative Practices

While we anticipated that the new *HPOA* would develop clear guidelines and processes with respect to how colleges investigate complaints, including how the role of the Registrar's office would deal with complaint matters, the processes outlined in the *HPOA* lack clarity.

On close reading of the *HPOA*, we suggest that the relationship between the Registrar and investigation committee is opaque, such that we cannot properly advise our members to what professional regulation will look like under the *HPOA*.

### No Right of Appeal to a Court

Registrants have always had the right to appeal important decisions to the court. Judicial oversight increases transparency and accountability.

While the *HPOA* creates a government oversight body which will hear disciplinary cases and potential challenges to such decisions, this is not the same as a right of appeal to the courts. We strongly believe that the right to challenge a decision before the courts should be preserved.

### Bylaw Consultation Process and Timeline

While the *HPOA* states the need for consultation with those that are affected by a proposed bylaw or rule, it is silent on the process or timeline for consultation.

The current *Health Professions Act* requires a three-month timeframe unless the Minister deems a shorter period.

### New Concept of Discipline for Administrative Matter

The *HPOA* appears to create a summary discipline process that includes the power to suspend in the absence of a hearing or full inquiry.

