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The BC Naturopathic Doctors (BCND) would like to formally acknowledge and extend our gratitude to our colleagues at the Physiotherapy Association of BC (PABC) for their work and collaborative efforts in the developing and sharing aspects of this document. Their collaboration, openness, and willingness to share resources are deeply appreciated and exemplify the strong, collaborative partnerships that have been cultivated among British Columbia's health professional associations. Each of these FAQs, and the Executive Summary has also been reviewed by a legal professional with knowledge of the Act. We continue to seek out legal review and will update this document routinely.

Executive Summary: Overview of the HPOA*

Health Professions and Occupations Act (HPOA) is a legislative framework that regulates health professionals and occupations in British Columbia (BC) and is replacing the Health Professions Act (HPA).

According to the government, the purpose of introducing the HPOA is to strengthen the regulation of health professions and occupations by improving the accountability, transparency and public safety through modernization of the overall regulatory framework.

This change is noted, by government, as the result of increasing public pressure for accountability of healthcare legislation, economic need for more streamlined healthcare regulation and political pressure to reform healthcare governance.

Key Provisions of the HPOA

According to the government the key provisions of the HPOA include:

- Enhanced Public Safety Measures – The HPOA aims to prioritize patient safety by strengthening public oversight and giving regulatory bodies more authority to act against healthcare professionals who pose a risk to the public, including the issuance of “summary protection orders”.
- Creation of the Superintendent of Professional Governance – The HPOA will establish the Office of the Superintendent which will oversee the regulatory college with the outlined goal of ensuring consistency and public accountability across all health professions and occupations.
- Greater Public Oversight – The HPOA has the potential to increase public transparency and accountability through increased public representation on the regulatory college board, creation of the Superintendent of Professional Governance, opening of disciplinary hearings to the public and increased public reporting of regulatory actions, decisions and outcomes.
- Amalgamation of Regulatory Colleges – Smaller regulatory bodies will consolidate to a single regulatory college, the College of Complementary Health Professionals of BC, reportedly to allow streamlining of the regulatory bodies and administration.
- Flexibility for New and Emerging Professions – The HPOA aims to include mechanisms to regulate new and evolving health professions. This reportedly will allow regulations to adapt to modern health care needs.
- Anti-discrimination Measures - The HPOA has a stronger focus on cultural competence and aims to improve care for diverse populations through regulatory policies.
- Improve professional mobility – According to the government, the HPOA will simplify the licensing process for foreign trained and out of province professionals to enter the workforce.

Areas of Potential Concern

The HPOA introduces “summary protection orders” in place of HPA’s Section 35. This allows the regulatory college or registrar to immediately restrict or suspend a healthcare professionals ability to practice without notice. There must be “reasonable grounds” to believe there is a concern, however, this is a lower standard of proof than the previous Section 35 which was only evoked if the registrant posed an immediate risk to the public and while required notice to be given.

The HPOA establishes a new process for appealing disciplinary decisions. If a registrant disagrees with a decision by the regulatory college, they can request a judicial review. A judicial review examines if the decision-making process was lawful and fair but does not evaluate the merit of the decision. Registrants cannot request a statutory appeal which allows an individual to challenge both the merits of a decision and the process by which it was made. This means

registrants have limited means to contest decisions and gives regulatory bodies more authority over professional discipline and licensing decisions.

The HPOA provides the Regulatory College and Superintendent the ability to notify the public on investigations and disciplinary proceedings including if a regulatory complaint has been received or a citation has been issued. This could lead to several consequences for the registrant including financial loss, reputation damage and legal burdens.

The HPOA makes discrimination an offence that can lead to disciplinary action. Registrants are required to follow anti-discrimination measures in their practice and must report other registrants if there is reason to believe they've committed an act of discrimination. Steps to becoming compliant have not yet been specified.

Under the HPOA, college board members are appointed by the Minister of Health and are no longer elected. This could result in loss of professional representation, reduced influence over governance and potential for political influence.

It is unclear how the HPOA allows for more streamlined licensing as this involves the provincial colleges and federal government.

Implementation

The HPOA has not yet come into effect. It received Royal Assent on November 24, 2022 and the official in-force date will be determined by cabinet in 2025.

The government has stated that detailed regulations will be developed under the HPOA to outline specific processes, standards and operational guidelines for healthcare professionals and regulatory colleges including clarity on issues such as compliance with anti-discrimination policies and new disciplinary measures.

The Office of the Superintendent of Professional Governance will likely issue guidelines to help the regulatory college transition from the HPA to the HPOA. The Regulatory College, Superintendent of Professional Governance and the Lieutenant Governor in Council will be responsible to enforce this legislation.

Conclusion

The current government plans to introduce the HPOA which will replace the current HPA and is planned to come in-force in 2025, although timing remains unclear as of January 2025. The government's stated goal of introducing the HPOA is to enhance public safety and transparency in the regulation of healthcare professionals through several key provisions.

While the HPOA includes several changes from the previous HPA, it is unclear in some cases how certain provisions will be implemented or the exact requirements of the registrant. This document has implications for all health care professionals and occupations governed by this new Act. Both the professions and occupations governed by this Act as well as professional associations have some concerns about the introduction of the HPOA and are awaiting further clarification prior to the in-force date.

**Disclaimer: This executive summary is an overview of what is being presented in the new Health Professions and Occupations Act (HPOA) and is meant to accompany the frequently asked questions shown below. The goal of this document is to help naturopathic physicians in British Columbia to interpret the HPOA.*

Frequently Asked Questions

1. What is BCND's position on the HPOA?

BCND recognizes the importance of ensuring clarity and proper consultation in the implementation of the Health Professions and Occupations Act (HPOA). Without thorough engagement and transparency on key provisions, we believe it is difficult to fully support legislation that leaves significant questions unanswered for those regulated by the Act.

2. What aspects of the HPOA is BCND most concerned about?

In the case of the HPOA we have significant concerns that this legislation was too rushed, with minimal communication around the changes that would be made with the health professions and occupations implicated by it. There have been few details and overall insufficient information provided with no efforts by the government to provide clarity. There are also numerous aspects of the Act which are of concern. These include:

- The discipline and complaints process.
- Privacy and human rights issues as they pertain to the complaints and discipline process.
- Costs of the HPOA and if those will be passed on to the professions.
- The composition of Boards and Committees and how naturopathic doctors will be represented at both the Board and Committee level.
- The protection of titles as are currently in use.
- Ethical implications of mandatory vaccinations.
- Concerns that regulatory overreach will erode self-regulation.

3. What is the Health Professions and Occupations Act (HPOA)?

The HPOA is legislation that governs the regulation, licensing, and oversight of health professionals and occupations to ensure public safety. It outlines the roles of regulatory bodies, sets practice standards, and provides mechanisms for discipline and accountability. It will be replacing the Health Professions Act (HPA) and removes much of the self-governance that was allowed to healthcare professions under the HPA.

4. How does the HPOA differ from the Health Professions Act (HPA)?

The HPOA differs from the HPA with regards to its regulatory framework.

Key differences include:

- Broader inclusion of health occupations, with flexibility for new professions
- Consolidation of regulatory colleges into one, with minister-appointed board members
- Strengthened disciplinary measures for greater public protection potentially to the detriment of registrants
- Increased transparency and accountability through public representation, open hearings, and public reporting
- Introduction of anti-discrimination measures

5. How does the HPOA impact my scope of practice?

The introduction of the HPOA does not inherently change your scope of practice but may influence it in future. The HPOA removes the previous 90-day consultation period required by the HPA for any bylaws. By not explicitly stating what consultation is required or how long a consultation period is required it is possible that the regulatory college could change scope or make other decisions with minimal opportunity for registrants to provide input or argue against the change.

6. What are the disciplinary processes under HPOA?

There are separate disciplinary procedures under the HPOA for administrative matters and regulatory complaints. The disciplinary procedure for matters of an administrative nature are entirely under the purview of the registrar. The disciplinary for regulatory complaints start under the purview of the registrar, but following an investigation may move to a hearing overseen by an independent discipline panel.

The Registrar receives all complaints. They can dispose of the complaint without referring it to the investigation committee if there is no reasonable grounds for the complaint, provided the complaint did not allege the respondent lacks capacity or committed an act of sexual abuse.

If a complaint moves forward, the investigation is carried out by an investigation committee (who may have investigators working on the investigation). The investigation committee is established by the college, and it is up to the college who is appointed to this committee. In urgent cases, a summary protection order can be issued to immediately restrict or suspend a registrant's practice if they pose a serious risk of harm to the public.

During the investigation the health professional can voluntarily agree to specific actions, conditions or penalties to avoid a full hearing. In this case "orders by consent" are granted which streamlines the disciplinary process and may result in reprimands, educational requirements or practice restrictions.

If the investigation is serious and goes to a full hearing, the Registrar would request the Director of Discipline to issue a citation (i.e. set the matter down for a hearing). The Director of Discipline is appointed by the Minister and is a member or former member of a Canadian law society. The Director of Discipline, if satisfied, would then issue a citation and there would then be a hearing in front of a discipline panel. The disciplinary panel members would be appointed by the Director of Discipline and for a particular citation must be comprised of 3 discipline panel members, including at least one licensee from the designated health profession as the respondent and one representative of the public.

Members of the discipline panel are chosen from the Discipline Tribunal which is an overarching body established within the Office of the Superintendent, responsible for overseeing the discipline process across regulated health professions. This tribunal is tasked with maintaining procedural standards, directing disciplinary actions, and setting policies across panels to ensure consistency. The Discipline Tribunal must include a member from each designated health profession, and is composed of people who represent diversity, have expertise in assisting people who have experienced sexual misconduct, sexual abuse or discrimination, have expertise in mitigating any potential trauma that may arise from an adversarial process, and have other relevant experience and qualifications.

7. What are the possible penalties I could face if I'm found guilty under the disciplinary process?

Following a disciplinary proceeding you may be required to pay a penalty. The maximum penalty has not yet been disclosed.

8. Does the HPOA provide protection for registrants?

This legislation was established with the primary purpose of safeguarding the public, ensuring accountability, and promoting transparency in the healthcare professions. Its role was not to protect registrants, however, BCND and our colleagues in health associations are concerned that the HPOA has adopted a punitive approach, potentially overshadowing the support and fairness that registrants also require.

9. What is a summary protection order (SPO)?

A summary protection order is an urgent, temporary measure that allows regulatory bodies to immediately restrict or suspend a health professional's ability to practice if they pose a serious risk to public safety. These orders can be issued quickly, often without a full hearing, to protect the public while an investigation or disciplinary process is underway. The order remains in place until the regulatory body determines further action, such as a formal disciplinary hearing or the lifting of restrictions.

10. Under what circumstances can a summary protection order be issued against a registrant?

A summary protection order can be issued against a registrant under the HPOA when there is evidence that the registrant poses a serious risk of harm to a person. This could include

- Serious misconduct or unethical behaviour that poses a risk of harm to a person e.g. Sexual abuse or misconduct
- Incompetence or physical or mental incapacity to safely perform professional duties
- Criminal activity
- Substance abuse or other impairments that affects the registrant's judgement or actions

11. What rights do I have if a summary protection order is issued or may be issued against me?

With respect to SPOs, a registrant has several rights including:

1. Right to procedural fairness and due process prior to a SPO being issued. This entitles a registrant in all but extraordinary cases to notice in writing with reasons prior to a SPO being issued and an opportunity to make submissions prior to a SPO being issued.
2. Right to Reconsideration – the registrant has the right to submit evidence against or challenge the SPO and has the right to request the investigation committee reconsider the SPO if they feel it's based on insufficient evidence
3. Right to Legal Representation – the registrant has the right to be represented by legal counsel at any stage of the process
4. Right to Appeal – (see FAQ #12)

12. What can I do to appeal a summary protection order?

Registrants can request that the investigation committee reconsider the summary protection order. If the registrant is dissatisfied with the decision of the investigation committee, they can apply to the Supreme Court of British Columbia for a judicial review. Registrants will no longer be able to make an appeal to the Supreme Court of British Columbia under the HPOA. The judicial review would focus on the decision-making process and is not a reconsideration of the summary protection order decision.

13. Can I continue to practice under a summary protection order?

Whether you can continue to practice under a summary protection order depends on the terms of the order issued by the regulatory body under the HPOA. In some cases, a complete suspension will be issued and in other cases there may be specific restrictions to your practice.

14. What is the duration of a summary protection order

A summary protection order is usually temporary and will remain in place while the regulatory conducts a full investigation or completes a disciplinary process.

15. Are summary protection orders, disciplinary orders and citations made public?

Yes, the registrar must publish a copy of each summary protection order, disciplinary order and request for citation.

16. How is a judicial review in the BC Supreme Court different from an appeal in the BC Supreme Court?

An appeal focuses on the decision itself, whereas a judicial review examines whether the process followed by the regulatory body was legally valid and complied with principles of fairness. As such, there is no opportunity to appeal the decision, even if you think it was inappropriate or has caused you permanent harm.

17. When can I request a judicial review?

You can request a judicial review if you believe the regulatory body made an error in the process, acted outside its legal authority, or if the decision was unreasonable or unfair. This will not change the decision that was made, but the regulatory body will have to review its process and “redo” the disciplinary process using a fairer approach.

18. Can I continue practicing while the judicial review is pending

Whether a registrant can continue practicing while a judicial review is pending depends on the specific circumstances of the case and the type of disciplinary action or summary protection order (SPO) issued by the regulatory college under the HPOA.

19. What are the new anti-discrimination measures under the HPOA?

The HPOA includes provisions that focus on promoting cultural competence and preventing discrimination in healthcare practices. These measures aim to ensure equitable treatment for all.

20. Am I required to complete specific anti-discrimination training?

At this time, it is not clear what steps registrants will need to take to be compliance with this provision. We expect that the College of Complementary Health Professionals of BC will provide further guidance prior to the HPOA being in-force. As an Association, we encourage all physical therapists to consider taking anti-discrimination training such as San'Yas, the University of Alberta, etc.

21. What happens if I am accused of discriminatory behavior?

If a complaint of discrimination is made against you, it will be investigated by the regulatory college. Disciplinary actions may follow if discriminatory behavior is proven.

Discrimination includes any conduct prohibited conduct under the BC Human Rights Code and must pertain to the person's practice of their designated profession.

Something can be discrimination even if it was not intended to be discriminatory or intended to cause harm.

22. Why will college board members no longer be elected and instead be appointed by the Minister of Health?

According to the government, this change was made to enhance public accountability and transparency by increasing public oversight, reducing conflict of interest that may arise when board members are elected by the same professionals they are regulating, ensuring a consistent standard of governance and to ensure diverse representation.

23. How will board members be appointed by the Minister of Health?

The Minister of Health will select board members based on specific criteria that they claim aims to ensure public accountability and effective governance. Individuals must have relevant qualifications, experience and skill. Some positions may be filled by open applications or nomination process from which the minister will then select.

24. Who is the Superintendent and how will they be used to make decisions on behalf of government?

Sherri Young is the new Superintendent of the Superintendent's office. Sherri previously served as the public service commissioner in the Yukon and has worked in both the Northwest Territories and Yukon with the departments of Indian and Northern Affairs Canada, and Environment Canada

The role of the Superintendent is to provide oversight with respect to regulatory colleges.

The Superintendent establishes performance standards that colleges are expected to abide by for the conduct of their governance activities. They can also conduct reviews of colleges with respect to: college's governance activities and documents, oversight complaints made about colleges, audit colleges to determine whether they abide by the performance standards, and review the regulatory performance of the college and the state of the regulation of a health profession.

In an oversight review, the Superintendent may give advice and recommendations to the college, request the board of the college to report back on steps taken/explain why steps were not taken. The Superintendent can give recommendations to the Minister following an oversight review. If they are going to make recommendations, the college has to be notified and given the opportunity to respond.

The Minister may require the college to act on a recommendation of the Superintendent.

25. Under emergency orders can the provincial Public Health Officer (PHO) make decisions about licensing?

Emergency orders can only be made during a public health emergency. They are time limited, though can be extended. During this time, the PHO can make emergency orders.

Before making an emergency order, the minister and the PHO must first give notice to and make reasonable efforts to consult with the superintendent, Health Professions Review Board and any affected colleges.

Emergency orders can either be administrative orders or scope of practice orders. To make a scope of practice order it must be necessary for reasons, including:

1. Health regulation adversely affects the timely provision of health services, the scope of health services that can be provided, or the efficient and effective use of health human resource; or
2. Health human resources in one or more areas are insufficient to meet public interest; or another reason in the public interest.

They cannot force you to take any action, but they can permit a regulated health professional to take certain actions that they may otherwise not be authorized to take.

26. What implications does changing the consultation period have on registrants?

The HPOA removes the previous 90-day consultation period required by the HPA for any bylaws. By not explicitly stating what consultation is required or how long a consultation period is required it is possible that the regulatory college could change scope or make other decisions with minimal opportunity for registrants to provide input or argue against the change.

27. If there is something in the Act I disagree with, is there any opportunity to advocate against it?

There are currently no formal consultation avenues for registrants to advocate against the HPOA. If there are elements you disagree with or have concerns about the following options are available to voice your concerns

- Engage with BCND. BCND represents the collective interests of its members and can engage with government officials, policy members, association colleagues and regulatory bodies on your behalf.
- Direct lobbying of government officials – Registrants can write formal letters to government officials including their Member of Legislative Assembly (MLA) or the Minister of Health outlining specific concerns with the HPOA.

ⁱ Last updated January 14, 2025.