CCHPBC Bylaws Parts 5 & 11 Submission

Context & Key Considerations

Thank you to the College for the opportunity to provide input on the draft bylaws. Our comments on Bylaw 5 focus on provisions where issues of interpretation, clarity, or regulatory impact were identified. While the bylaw broadly addresses information governance obligations, several areas would benefit from greater precision and stronger safeguards, particularly regarding disclosure practices, data retention, and the evidentiary use of regulatory records. These are not only administrative concerns but also raise important questions under the *Declaration on the Rights of Indigenous Peoples Act* (DRIPA), which requires all regulatory frameworks to align with the rights affirmed in the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP).

With respect to Bylaw 11, which governs investigations, disciplinary procedures, and regulatory discretion, our comments span the majority of provisions. Given the significant authority these bylaws confer on the College and its officers, it is essential that they be drafted with clarity, enforce procedural fairness, and include protections for licensee rights. Several provisions would benefit from tighter definitions, enhanced accountability mechanisms, and clear thresholds to ensure decisions are made proportionately and transparently. This is particularly important in the context of *In Plain Sight* (2020), which documents the harm that Indigenous professionals can experience when regulatory processes are opaque, stigmatizing, or culturally unsafe. Embedding trauma-informed, culturally competent, and rights-based safeguards is not optional under DRIPA, it is a legal and moral imperative.

It must be emphasized that our feedback is based solely on the sections currently released. Significant portions of the regulatory framework remain unavailable, and when those are made public, they may materially alter how these provisions are interpreted or applied. This piecemeal approach undermines the ability of stakeholders to assess the bylaws in their full context. Compounding this is the limited consultation period: two weeks per section, which is far shorter than the month or more that has been provided by other colleges. This abbreviated timeline has made it virtually impossible to engage our members meaningfully or to hold the kind of thorough discussions these bylaws warrant. We urge the College to align with the more inclusive and transparent consultation practices adopted elsewhere—specifically, by convening a dedicated meeting to review and discuss feedback. Broad, timely, and good-faith consultation is not a procedural nicety; it is essential to achieving effective, trusted, and credible regulation under the new HPOA framework.

Part 5 – College Records and Information

5.3
The Registrar must take reasonable steps to ensure the College's collection, protection, use, disclosure, and retention of personal information complies with the Act, these Bylaws, and other applicable statutes and regulations.

Comment:
The bylaw should include a requirement that licensees be notified in writing when their personal or regulatory information is shared with third parties (e.g., the Superintendent or other regulators), unless exempted by law. Without this, there is a lack of transparency and accountability in how licensee data is used.

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5.6
Subject to section 75 of FOIPPA, the College may charge the fees set out in the "Schedule of Maximum Fees" in the Freedom of Information and Protection of Privacy Regulation (BC Reg. 155/2012) for processing requests for access to records.

Comment:
Section 75(3) of FOIPPA states that an applicant DOES NOT pay fees to access their own personal information.

5.11
In addition to information required or permitted by the Act and Regulations, the Registrar may include the following in the Registry:
(a) Orders and reasons for such Orders under the Act, the Health Professions Act, and other regulatory statutes, including decisions on reconsideration, review, judicial review, or appeal.
(b) Public notices under section 255 or 256 of the Act, or under section 39.3 of the Health Professions Act.

Comments:

- *The term "orders" is undefined in this context. It's unclear whether this refers specifically to orders described under section 390(1)(b).*
- *There is no guidance on how the Registrar will assess when it is appropriate to disclose protected information in order to safeguard the public.*
- *It remains unclear whether undertakings or consents issued under section 36(1) of the Health Professions Act—previously unpublished—will now be made public.*
- *The provision appears to allow publication of all consent-based orders, including those unrelated to serious matters. This may duplicate clause (a), as it also encompasses summary protection orders and citation requests.*
- *The reference to section 255 raises concerns, since subsections (1) to (3) imply that disclosure is intended to occur only upon request, not as a proactive public notice.*
- *The bylaw should include a discretionary mechanism to delay or withhold public disclosure of regulatory actions, particularly when the alleged conduct is minor, technical, or has not been referred to a tribunal.*
- *Blanket publication of all regulatory orders, including those issued by consent or without findings of misconduct, poses a disproportionate risk to all licensees. However, Indigenous licensees are at particular risk when such disclosures fail to consider the social and cultural context of the individual or the nature of the matter involved. This can result in lasting reputational harm and discourage culturally safe engagement with regulatory processes. Under the Declaration on the Rights of Indigenous Peoples Act (DRIPA), section 3, the Province is required to ensure that laws are consistent with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which affirms in Articles 15(2) and 40 the rights of Indigenous peoples to protection from discrimination and to access fair, impartial remedies that respect their customs, traditions, and legal systems. The In Plain Sight report (2020) further identifies how regulatory processes can cause "secondary harm" to Indigenous professionals through public exposure, stigma, and culturally uninformed practices, and recommends the embedding of trauma-informed and culturally competent safeguards across all areas of health regulation. To mitigate this risk and support alignment with DRIPA and In Plain Sight, the College should implement a culturally informed harm assessment process, developed in collaboration with Indigenous partners, to guide*

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decisions about the publication of consent-based orders where no serious risk to the public is established.

5.12
Apart from information which is required to be included in the Registry under the Act and Regulations, the Registrar may remove information or decline to include it in the Registry where the Registrar reasonably believes that disclosure of the information may pose a threat to the safety of a Regulated Health Practitioner or a third party**.**

Comment:
The bylaw should include a sunset clause for non-disciplinary regulatory records. Records of warnings, advice, or other informal outcomes should be removed from the registry after a set period (e.g., five years), unless there is a recurrence or a statutory obligation to retain them longer. This supports rehabilitation and prevents perpetual red flagging.

Section 391 of the Health Professions and Occupations Act (HPOA)- Evidentiary Use of Records

Comment:
The bylaw should require that before issuing a certificate under section 391 of the Act (to be used as legal evidence), the Registrar must ensure the licensee has been notified, given access to the underlying records, and allowed to respond. This provides procedural fairness and helps avoid one-sided use of college-held information.

General Comments on Part 5 of the bylaws:

- *The HPOA provides for a wide range of orders. It is unclear whether the Registry is intended to capture only final orders—such as continuing practice or disciplinary orders—or if procedural orders like capacity evaluations are also included.*
- *Certain orders are explicitly required to be published, including those under section 116 and summary protection orders under section 256.*
- *It is not clear how cancelled citations will be handled, particularly given that section 319(3) states they are not to be retained in a disciplinary record.*

Health Profession Corporations – Omission of Disciplinary Framework

While the HPOA clearly contemplates that health profession corporations will be regulated, the draft bylaws do not currently establish a disciplinary framework or set out expectations specific to these entities. This omission limits the accessibility and completeness of the regulatory scheme. Relying solely on the HPOA without incorporating parallel bylaw provisions risks creating confusion for licensees and stakeholders and may require legal advice simply to interpret applicable procedures. We recommend that the College include clear, accessible bylaws regarding disciplinary procedures for health profession corporations to ensure transparency and alignment with the rest of the regulatory framework.

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Part 11 – Public Protection

11.1
In addition to the applicable requirements in sections 84–87 of the Act, a Regulatory Report must include:
(a) the name and contact information of the person making the report;
(b) if the report is made on behalf of another person, public body, or organization, their name;
(c) the respondent's name, if available, or information to identify the respondent;
(d) the basis for the concerns that triggered the report;
(e) any other information required by the Registrar.

Comment:
Section 86 requires reporting of sexual misconduct, abuse, or discrimination, but the bylaw offers no clarity on what constitutes such behavior or whether it must be connected to the respondent's professional role.

11.2
A Regulatory Complaint under section 120 of the Act must be in writing and delivered to the Registrar.

11.3
A Regulatory Complaint must include:
(a) the complainant's name and contact information;
(b) the respondent's name, if available, or sufficient identifying information;
(c) the specific matters of concern.

11.4
The Registrar must offer reasonable assistance to anyone wishing to make a written complaint who is not readily able to do so.

Comment:
The language is ambiguous. It is not clear whether this refers to individuals who are physically or otherwise unable to submit a written complaint, or what specific forms of assistance the Registrar is expected to provide in such cases.

11.5
The Registrar may vary any complaint requirement if satisfied that doing so:
(a) accommodates the complainant's individual circumstances; and
(b) does not create procedural unfairness for the respondent.

Comments:
- *Section 120(1)(a) of the Act requires complaints to include all information and records specified in the bylaws. It is important that the bylaws explicitly require supporting documentation to ensure that complaints are properly substantiated and can be fairly assessed.*
- *If the Registrar waives the requirement for written complaints, it may impede the Respondent's ability to meaningfully respond. At minimum, the bylaws should require that the complaint be provided to the Respondent in written form, regardless of how it was originally submitted. Where necessary, the Registrar should be obligated to convert non-written complaints into a written format for this purpose.*

11.6
An application for reconsideration under section 240(5) of the Act must be submitted in the Registrar's

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form within 30 days of receiving the Notice of Intent or Termination Order.

11.7
The Registrar is authorized to make Disciplinary Orders under section 270(1)(a), 270(1)(b), 270(2), or 271(1)(a) when disposing of an Administrative Matter under section 109 of the Act.

Comment:
Under sections 109(1)(c) and (d) of the Act, bylaws must authorize the Registrar to make orders affecting practice. It is important that such bylaws also set clear procedural requirements—such as notice, the opportunity to be heard, and consideration of representations—particularly given the significant impact these orders can have on a licensee's ability to practice.

11.8
Unless a lower amount is set by regulation, the maximum monetary penalty for an Administrative Matter under section 109(1)(d) of the Act is $100,000.

Comments:

- *This section seemingly refers to "regulations" that do not yet exist. We are unable to comment properly without understanding these regulations. Moreover, referencing documents that are not publicly available gives the impression that the consultation process may be more procedural than substantive. Without access to the full regulatory framework, stakeholders are left to comment on incomplete information, limiting their ability to provide meaningful feedback. This approach can (however unintentionally) suggest a checkbox exercise rather than a genuine effort to engage stakeholders in shaping effective, transparent, and implementable regulation.*
- *The $100,000 penalty cap appears disproportionately high. A key concern is that the definition of "administrative matter" under the Act includes not only proven breaches but also alleged breaches or contraventions. The bylaws should be amended to clearly state that monetary penalties may only be imposed following a determination of a breach or contravention, and must not apply in cases of unproven allegations*

11.9
A respondent may request a review of a Disciplinary Order under section 109(1)(b), (c), or (d) by submitting the Registrar's form within 30 days of receiving the order.

11.10
The review hearing will be based on written submissions, unless the Investigation Committee determines exceptional circumstances justify another format.

Comment:
Oral submission should be allowable.

11.11
The Board authorizes the Registrar to establish and administer a Monitoring Program.

11.12
A Licensee must comply with all Monitoring Program requests.

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11.13
Monitoring Program requirements may include:
(a) compliance reports or self-assessments;
(b) responding to requests and questions;
(c) providing requested records or files;
(d) attending interviews (may be recorded);
(e) facilitating site visits (in-person or virtual).

Comments:

- *The term "monitoring program" is not defined. Greater clarity is needed on its purpose and scope.*
- *There is no indication of the expected timelines for licensees to comply with requests under the monitoring program.*
- *The bylaw lacks detail regarding how the monitoring program will be implemented, who is subject to it, and what processes will be followed.*

11.14
In accordance with section 132(2)(b) of the Act, an Investigator may order a Competence Assessment to evaluate:
(a) the respondent's knowledge and understanding of regulatory requirements, including practice standards, ethical standards, and anti-discrimination measures; and
(b) any other aspect of the respondent's practice relevant to their competence.

Comments:

- *The provision is overly broad and lacks clarity on what constitutes a "relevant" aspect of practice beyond clinical competence and knowledge of regulatory requirements. Without defined parameters, this could invite inconsistent or overly discretionary assessments.*
- *The College must recognize that competence assessments regarding anti-discrimination measures must be informed by Indigenous-defined standards of cultural safety. In accordance with section 3 of the Declaration on the Rights of Indigenous Peoples Act (DRIPA) and Article 24(1) of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), regulatory bodies have a legal and ethical obligation to ensure that any assessment affecting Indigenous licensees is developed and applied in a manner consistent with Indigenous legal traditions, healing practices, and experiences of systemic racism.*
- *This expectation is echoed in the In Plain Sight report (2020), which recommends that all regulatory processes — including competence assessments — be trauma-informed and grounded in cultural humility and Indigenous self-determination.*

11.15
The Registrar is authorized to exercise the powers and perform the duties of a Capacity Officer.

Comment:

Include language clarifying that the individual conducting a capacity assessment must be a regulated health professional with appropriate and relevant qualifications to perform such assessments.

11.16

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If the Investigation Committee directs a Capacity Evaluation, the Registrar must deliver a written order to the respondent as soon as practicable.

Comment:
What is a reasonable timeline?

11.17
A respondent subject to a Revocation Order may apply for reconsideration by submitting the Registrar's form within 30 days of receipt.

11.18
A respondent subject to a Continuing Practice Order may apply for reconsideration:
(a) within 30 days of receiving the order; or
(b) in accordance with directions or a schedule set or authorized by the Capacity Officer.

Comment:
The bylaw should clearly state that a respondent may make an initial request for reconsideration within 30 days and may also apply on an ongoing basis in accordance with any schedule set by the Capacity Officer—who holds sole authority to make decisions on continuing practice and revocation orders.

11.19
The hearing for reconsideration of a Revocation or Continuing Practice Order will be based on written submissions, unless the Capacity Officer determines exceptional circumstances justify another format.

Comment:
Oral hearings should be allowed, especially for serious matters like revocation.

11.20
The Investigation Committee may issue a Summary Protection Order if it has reasonable grounds to believe that:
(a) a respondent's practice may pose significant risk of harm; or
(b) the respondent is providing false/misleading information that may:
  (i) cause significant risk if acted upon; or
  (ii) constitute a health hazard under the Public Health Act.

Comments:

- *The use of undefined terms such as "reasonable grounds" suggests that no clear criteria or thresholds have been established to guide decision-making.*
- *The bylaw lacks clarity on what specific standards apply. Without defined thresholds, respondents may be left uncertain about what conduct, or circumstances could trigger regulatory action.*
- *The bylaw permits SPOs based on "reasonable grounds," which is a lower threshold than the "necessary to protect the public" standard under the former HPA. This raises due process concerns. The Bylaw should require that SPOs be issued only when immediate action is necessary to prevent serious and imminent harm, and only after considering less restrictive alternatives.*

11.21
In issuing a Summary Protection Order, the Investigation Committee may:
(a) suspend the respondent's Practice Authority; or
(b) impose or vary limits/conditions deemed appropriate to respond to the concerns.

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Comment:
The authority to suspend or impose conditions should be explicitly limited to situations where such actions are necessary to mitigate the identified risk. As written, the clause appears overly broad and grants discretion without clear limitations.

11.22
A respondent may apply for reconsideration by submitting the Registrar's form:
(a) within 30 days of receiving the Order; or
(b) according to directions or schedule set or authorized by the Investigation Committee.

Comment:
Should say "within 30 days" and "in accordance with directions/schedule."

11.23
The hearing for reconsideration will be based on written submissions unless exceptional circumstances justify another format.

Comment:
The bylaw should provide for oral hearings, particularly given that a Summary Protection Order may be imposed without prior notice or an opportunity for the respondent to be heard.

11.24
If the Registrar issues a Summary Dismissal Order under section 258:
(a) the respondent and complainant (if any) must receive a copy and reasons;
(b) the Investigation Committee must receive a summary of the complaint, related information, and a copy of the order within 30 days.

11.25
Such an order must not be issued unless reasonable attempts have been made to obtain necessary information from other sources.

Comment:
The bylaw should clarify that the primary responsibility for providing relevant information rests with the complainant. It is also unclear how investigations will proceed if no alternative sources of information are available.

11.26
Before making an order under section 158 of the Act, the respondent must provide written consent.

11.27
If the Registrar makes an order under section 158:
(a) a copy of the order and the reasons must be provided to the respondent and, if applicable, the complainant;
(b) the Investigation Committee must receive a summary of the complaint, all related information, and a copy of the order within 30 days.

11.28
If the Investigation Committee issues orders under section 157 (restorative processes), but later finds the

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respondent failed to comply in good faith, it may direct the Registrar to take further action under section 136(2).

Comment:
Should read: "orders under section 157(1)" to specify the clause.

11.29
If the Committee proposes orders under section 158 (disposition with consent) and the respondent does not consent, it may direct the Registrar to take further action under section 136(2).

Comment:
The bylaws require all consent orders to be posted publicly, regardless of severity. To reduce unnecessary reputational harm, especially for minor or administrative issues, the bylaw should allow discretion to withhold, delay, or anonymize such disclosures when publication is not clearly in the public interest.

11.30
A Licensee whose Practice Authority is suspended must:
(a) not provide services of any Designated Health Profession regulated by the College;
(b) not use protected titles or hold themselves out as entitled to practise;
(c) not serve as a Board Member;
(d) not serve on any College Committee;
(e) not act as a College officer or representative;
(f) not schedule appointments with clients;
(g) not communicate with clients directly or indirectly, except to:
  (i) inform them of the suspension and its duration;
  (ii) advise them that another Licensee will provide care or refer them accordingly;
(h) remove their name and signage from the premises they control;
(i) display a notice of suspension (approved by the Registrar) in a prominent place;
(j) continue to pay any fees required to remain a Licensee;
(k) not receive any refund of fees or assessments.

Comments:
- *The term "Board Member" appears to refer to a member of the College's governing board, but this should be explicitly defined to avoid ambiguity.*
- *Similar clarification is needed for the roles referenced in clauses (d) and (e), as it is unclear what positions or responsibilities these encompass.*

11.31
During suspension, a Licensee may allow another Licensee to use their premises only if:
(a) they receive no financial benefit, unless:
  (i) it is rent from property they own;
  (ii) the Registrar approves the arrangement in writing;
(b) all evidence of their authorization to practise is removed from the site;
(c) a notice of suspension is prominently displayed in the reception area.

Comments:
- *The practicality of this restriction is questionable when the suspended Licensee is the sole*

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practitioner at the premises. Further guidance is imperative to clarify how such situations should be managed.

- *The bylaw should also recognize scenarios where the Licensee is a lessee and explicitly permit rent payments to a landlord as part of a legitimate financial arrangement.*

11.32
Subject to any maximum amount prescribed and section 273(3) of the Act, investigation expenses must be determined according to Schedule "X".

Comments:

- *It is not possible to assess this provision without access to Schedule "X". Clarity is needed on the types of investigation expenses that may be imposed.*
- *The bylaws must explicitly authorize these costs and provide greater certainty regarding what expenses can be charged and under what conditions.*

11.33
The Registrar, in consultation with the Investigation Committee, may propose the content of a Citation to the Director of Discipline.

11.34
For purposes of a Discipline Hearing under Part 3, Division 16 of the Act, the Registrar is responsible for the College's participation, including retaining and instructing legal counsel.

11.35
The Registrar is responsible for:
(a) deciding whether to apply to the Director of Discipline for a review of a Discipline Panel order;
(b) responding to applications for review from a respondent or complainant;
(c) deciding whether to seek judicial review after a Director of Discipline review or related proceeding;
(d) responding to applications for judicial review.

Comment:
The bylaw framework offers no internal right of appeal, relying solely on judicial review, which addresses only procedural fairness. The College should introduce an internal reconsideration mechanism for major regulatory actions—such as SPOs, complaint dismissals, and consent orders—to provide licensees with a meaningful opportunity for review.

11.36
The Registrar is responsible for establishing a process to enforce orders made under the Act.

Comment:
The bylaws are silent on how enforcement and disciplinary procedures will apply to health profession corporations, despite the HPOA permitting such actions. This omission creates a gap in the accessibility of the regulatory framework and should be addressed in future drafts.

11.37
The Board authorizes the Registrar to establish and administer an Unauthorized Practice Monitoring

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Program.

11.38
This program must monitor and receive reports of Unauthorized Practice or Restricted Activities performed by those purporting to practise Designated Health Professions regulated by the College.

11.39
The Registrar may investigate and dispose of reports of Unauthorized Practice or Unauthorized Title Use.

11.40
In doing so, the Registrar may report to, or seek advice or direction from, the Investigation Committee.

Comment:
The bylaw should clarify whether the Unauthorized Practice Monitoring Program applies to individuals who are not regulated health practitioners. This gap in scope and enforcement should be explicitly addressed.

11.41
The Registrar must not dismiss a matter under section 376(1)(b) or (c) of the Act if they believe it may present a risk to the public, including risk of misleading the public.

11.42
If acting under section 377 of the Act:
(a) and the matter involves a Licensee or Regulated Health Service Provider accountable to another Regulator, the Registrar must report it to that Regulator;

(b) the Registrar may notify the public or other bodies as deemed appropriate.

Comment:
The College should adopt a bylaw requiring that all proposed bylaws be posted for public consultation for at least 30 days, with notice sent directly to licensees. This would fill a transparency gap left by the repeal of the HPA's 90-day posting rule and help ensure meaningful engagement in governance.

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