Context & Considerations

BCND would like to thank those who have undertaken the significant task of drafting and reviewing these bylaws. It is recognized that this represents a considerable amount of work, both in preparing a comprehensive framework under the Health Professions and Occupations Act (HPOA) and in carefully reviewing each provision. BCND's comments are offered in the spirit of collaboration and constructive scrutiny, with the goal of strengthening the fairness, transparency, and effectiveness of the regulatory framework.

In reviewing the draft bylaws under the Health Professions and Occupations Act (HPOA), it is essential to situate these provisions against the historical framework of the Health Professions Act (HPA). The HPA represented a model of regulated self-governance: colleges were governed by elected boards, standards were developed with direct input from registrants, and statutory rights of appeal provided meaningful checks on regulatory decisions. The HPA, while not without flaws, embedded self-governance through elected boards, peer accountability, and statutory rights of appeal.

The HPOA marks a decisive departure from that model. All college boards are now minister-appointed, consultation timelines have been curtailed or removed, and appeal rights have been replaced with judicial review limited to questions of process. These structural changes matter deeply, because bylaws that once derived their legitimacy from elected self-regulation are now imposed by boards and registrars who are not directly accountable to licensees.

We compare each bylaw provision against both the HPOA and HPA to highlight how collegial self-regulation has shifted toward compliance management under centralized, politically appointed oversight. Doing so demonstrates the depth of the shift: bylaws that may appear technical or administrative take on new weight when enacted in a system where licensee voice, transparency, and avenues of recourse are diminished. What was once collegial self-regulation risks becoming compliance management under centralized, politically appointed oversight.

Across the draft bylaws, three systemic concerns emerge:

- Erosion of professional autonomy: Under the HPA, standards, QA processes, and fees were shaped by elected boards with accountability to registrants. Under the HPOA, these are determined by appointed boards and registrars, reducing peer influence and increasing the risk of top-down imposition.
- Expanded discretion and reduced fairness: Many provisions confer broad, undefined powers on registrars or assessors (for example, "non-random selection" for QA, or "uncodified expectations" for standards). Without clear limits or consultation requirements, licensees face greater uncertainty and weaker protections.
- Financial and reputational risk: Provisions on special fees, high interest rates, and public disclosure combine with the loss of appeal rights to expose licensees to heavier burdens with fewer safeguards. The shift from collegial remediation to punitive oversight in QA exemplifies this trend.

By systematically highlighting these contrasts, our comments underscore that the issue is not only the text of each bylaw but also the regulatory environment in which it operates. What might once have been a manageable or even routine clause under the HPA may carry very different implications under the HPOA's centralized, compliance-driven framework.

Our intent in responding, even where provisions do not directly affect naturopathic doctors, is to highlight these systemic shifts and their consequences for all health professions. The precedent set in one profession's bylaws today can readily be extended to others tomorrow. It is therefore vital to critically assess how these bylaws function in practice under the HPOA, and to advocate for transparency, fairness, and professional voice wherever possible.

8.0 Professional Responsibilities

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8.1 Practice Standards and Ethics Standards

Comments:

- The bylaw imposes a blanket duty to comply with "Practice Standards and Ethics Standards," but it does not define where these standards are located, who creates them, or how they are updated. This could allow the College or Board to incorporate external or future standards without consultation or notice.
- Under the HPOA, licensees already have a statutory duty to practise ethically and in accordance with professional standards. Without clarification, this bylaw may duplicate existing duties, or worse, expand them by reference to unspecified standards.
- The open-ended bracket "[Standard #1]" suggests placeholders. Unless finalized and published in the bylaw itself or a linked schedule, licensees cannot know what obligations are enforceable. This risks undermining procedural fairness if discipline is based on unpublished or evolving standards.
- Under the HPA, professional standards were generally adopted through transparent bylaw-making processes with registrant awareness. Under the HPOA, where minister-appointed boards control bylaw content and consultation timelines are no longer fixed, the potential exists for standards to be imposed with little notice or accountability.
- For enforceability and fairness, the bylaw should either reproduce the standards directly or clearly reference the specific source documents (e.g., "as set out in Schedule X" or "published on the College website, effective as of [date]").
- Consultation is inadequate if the content of these standards is not provided for review. Licensees cannot meaningfully participate when only placeholders appear.
- Bylaw 8.1 should explicitly cross-reference 8.2, since profession-specific standards are layered on top of the general standards. Without that link, scope and applicability remain unclear.

8.2 Practice Standards and Ethics Standards (cont)

Comments:

- This provision creates profession-specific obligations layered on top of the general duty in 8.1. It is unclear whether these standards will be set in the bylaws, in a schedule, or through policy documents. Without clarity, licensees may face discipline for standards that are not formally enacted.
- The placeholder "[Profession]" and "[Standard #1]" signals that this section will be replicated for each profession amalgamated into CCHPBC. Unless fully enumerated, it risks inconsistency in drafting and confusion about which standards apply to which profession.
- Under the HPOA, boards may adopt bylaws setting professional standards, but the lack of licensee governance or fixed consultation periods raises legitimacy concerns if these standards are imposed without meaningful input.
- Compared to the HPA, where professional colleges developed their own standards through registrant-elected boards, this represents a shift to minister-appointed boards determining profession-specific obligations. This loss of self-regulation may impact licensees' trust and compliance.
- For transparency, the bylaw should directly set out the standards (or clearly incorporate by reference a published schedule), rather than leaving placeholders or delegating to unspecified documents.

8.3. Practice Standards and Ethics Standards (cont)

Comments:

- This is a transitional clause intended to bridge older standards written under the HPA with the new HPOA framework. It acknowledges that many standards were drafted in reference to the HPA and avoids making them unenforceable simply because of outdated citations.
- The wording "equivalent terms or processes" is vague and leaves the College with wide interpretive discretion. Determining what is "equivalent" could be contested, especially given that some HPOA provisions are not functionally the same as those under the HPA (e.g., loss of statutory appeals, shift to judicial review only).

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- This clause may inadvertently validate substantive changes in meaning by treating them as "equivalent" when they are not. For example, references to Section 35 orders under the HPA would now map to Summary Protection Orders under the HPOA, which use a lower threshold and can be issued without notice.
- While transitional alignment is necessary, this bylaw risks undermining procedural fairness by collapsing meaningful legal distinctions. Licensees may be disciplined for breaching standards that assume HPA-level protections, when under the HPOA their rights are narrower.
- A more transparent approach would be to update the standards themselves with correct HPOA references, rather than leaving it to interpretation through a blanket equivalence clause.
- The bylaw should expressly state that undefined terms are to take their meaning directly from the HPOA, rather than leaving it to presumption.

8.4 Practice Standards and Ethics Standards (cont)

Comments:

- This provision codifies the common-law negligence standard of care, aligning professional obligations with what courts already apply in malpractice claims. It reinforces that discipline may follow if care falls below what a reasonably competent peer would provide.
- The HPOA already imposes a statutory duty on licensees to be "fit to practise" and to practise ethically. This bylaw restates that obligation but narrows it to skill and care, which may create overlap or confusion with broader statutory duties.
- Compared to the HPA, which left standard-of-care determinations primarily to discipline committees and case law, this is a more explicit codification. That could help clarify expectations but also risks rigid application by regulators.
- The phrase "reasonably competent Licensee" may be interpreted against the backdrop of amalgamation: with multiple professions regulated under one College, clarity is needed that the comparator is a peer in the same profession, not across professions.
- Without additional guidance, the standard remains open-ended, giving wide discretion to investigators, committees, and tribunals in defining "competence." This could expose licensees to inconsistent or overly strict interpretations.

8.5. Practice Standards and Ethics Standards (cont)

Comments:

- Subsection (a) restates the duty in 8.1, but subsection (b) introduces significant uncertainty by requiring compliance with "uncodified expectations and requirements." This could make licensees subject to discipline for vague, unpublished, or evolving norms.
- 8.5(b) is particularly concerning. The idea that licensees must comply with "uncodified" expectations that are "generally accepted" is absurd from an administrative law perspective. Licensees should know in advance the standard of conduct they will be held to.
- The phrase "generally accepted" is subjective and open to interpretation by investigators or tribunals, potentially leading to inconsistent application across professions or cases.
- Based on review of existing practice and ethics standards in the College's bylaws, there is currently no reliance on uncodified rules — expectations are set out in bylaws. If this has not been necessary before, there is no justification for introducing uncodified standards now. This looks like a way to allow the College to introduce new expectations and requirements without going through the bylaw process.
- Under the HPOA, misconduct must be tied to defined obligations. By layering uncodified standards into enforceable duties, the bylaw risks undermining procedural fairness because licensees cannot know in advance what conduct may be sanctioned.
- This provision appears to create a new, undefined category of enforceable obligations, "uncodified expectations", that does not exist in the HPOA framework. It is unclear whether these are intended to be treated

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as practice standards, ethics standards, or something else entirely. This ambiguity expands disciplinary exposure without statutory basis.

- The HPA framework historically relied on bylaws and published standards, not open-ended unwritten norms, which provided greater predictability. This shift increases regulatory discretion and may chill professional judgment or innovation.
- It also appears to subvert the Board's obligations under the HPOA (e.g., s. 70(2) and 72(3)) to make bylaws on practice standards and ethics standards. If those obligations exist, licensees should not be disciplined for failing to comply with uncodified rules that bypass that legislative requirement.
- If retained, subsection (b) should be narrowed to require that any uncodified expectations be "reasonable, demonstrable, and consistent with established professional consensus," and ideally transitioned into published standards to ensure transparency.

8.6 Practice Standards and Ethics Standards (cont)

Comments:

- This clause echoes the "marked departure" test used in criminal negligence and professional misconduct case law, but it is broad and undefined here. It effectively sets a disciplinary threshold without clarifying how "marked" will be measured.
- The standard overlaps with 8.4 (reasonably competent Licensee) and 8.5 (compliance with standards and expectations). Having multiple, overlapping duties creates risk of inconsistent enforcement and uncertainty for licensees.
- Because the reference point is "conduct expected" in the profession, this may rely heavily on tribunal interpretation, expert evidence, or evolving cultural norms. Without published criteria, licensees may be disciplined on the basis of subjective judgments.
- Under the HPOA, misconduct is explicitly defined and tied to statutory duties. By creating an additional "marked departure" standard in bylaws, the College may be expanding the scope of disciplinary exposure beyond what is set in legislation.
- Compared to the HPA, where misconduct was tied to established definitions like "conduct unbecoming", this language is less predictable and risks being applied as a catch-all provision.
- For fairness, the bylaw should clarify whether "marked departure" is meant to cover gross negligence, unethical behavior, or both, and provide illustrative examples to guide licensees.

8.7 Duty to Respond

Comments:

- This clause is very broad and risks capturing even informal or administrative communications as mandatory. "Any College communication requiring a response" could include routine reminders or unclear notices, exposing licensees to discipline for minor delays or misunderstandings.
- The HPOA already imposes duties to cooperate with investigations and provide information. This bylaw appears duplicative but extends further, potentially lowering the threshold by removing the focus on regulatory processes.
- Unlike the HPA, which tied cooperation duties specifically to investigations or inquiries, this version sweeps in all College communications, which is disproportionate.
- The phrase "promptly and fully" is vague. Without defined timelines or criteria for adequacy, licensees could face sanction for subjective judgments of delay or incompleteness.
- A fairer approach would be to limit this duty to communications issued under statutory authority (e.g., notices of investigation, audit, or hearing), with clear timelines specified in the request.
- This language resembles s. 75 of the HPOA, but the bylaw weakens it by failing to specify response timelines. For predictability, the bylaw should codify explicit timelines (e.g., 14 or 30 days) instead of leaving "prompt" undefined.

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8.8 Permitted Uses of Reserved Titles

Comments:

- This provision ties the use of reserved titles to both regulation and bylaws, but does not clarify what happens if there is inconsistency between the two. Since bylaws can be amended more easily than regulations, Licensees may face shifting standards without clear statutory authority.
- The HPOA already prohibits unauthorized use of reserved titles and sets out exceptions. This bylaw may duplicate that prohibition unless it is intended to set out additional College-specific limits or conditions.
- The reference to the "Complementary Health Professionals Regulation" needs precision. Licensees should know exactly which regulation is being invoked, as multiple designations could fall under different regulatory frameworks.
- Compared to the HPA, which specified unauthorized use and exceptions directly in legislation, this bylaw shifts enforcement partly into College control, raising concerns about transparency and consistency across professions.
- For clarity, the bylaw should either restate the reserved titles and permitted uses directly or explicitly incorporate the relevant regulation by name and section, rather than relying on a generic reference.

8.9 Use of Reserved Titles by Non-Practising Licensees

Comments:

- This is a transitional restriction, but it is unclear why the permission expires in 2027. If the intent is to phase out non-practising title use altogether, that should be made explicit to avoid confusion.
- The bylaw allows non-practising Licensees to retain professional identity, but requiring the "(Non-Practising)" qualifier may still create public misunderstanding. Members of the public may not recognize or understand the qualifier, especially in casual settings.
- Under the HPOA, unauthorized use of titles is already prohibited. This clause provides an exception but only temporarily. It effectively creates a grace period that could expose non-practising Licensees to discipline after March 2027 if they continue the same usage.
- Under the HPA, many colleges allowed limited use of titles with modifiers such as "retired" or "non-practising." This bylaw signals a departure from that tradition and could be viewed as eroding professional identity for those who remain connected to their profession but are not in active practice.
- The bylaw would be clearer if it explained what happens after March 31, 2027, whether the use of reserved titles by non-practising Licensees will be entirely prohibited or replaced with another permitted modifier.

8.10 Use of Reserved Titles by Non-Practising Licensees (cont)

Comments:

- This provision makes explicit that after the transition period, non-practising Licensees lose the right to use reserved titles altogether. This is a significant departure from the HPA model, where non-practising or retired classes often retained limited title use with modifiers (e.g., "retired" or "non-practising").
- The change affects professional identity. Non-practising Licensees, including those retired after long careers, will no longer be able to publicly identify with their professional title, which could be viewed as diminishing recognition of their professional contribution.
- While the restriction may be aimed at preventing public confusion about who is authorized to practise, it risks over-correcting by erasing reasonable, transparent uses of titles with clear qualifiers.
- Under the HPOA, unauthorized title use is already prohibited, so this bylaw goes further by stripping recognition rights that previously existed under self-regulation.
- The bylaw may create enforcement challenges, particularly with long-standing members who continue to identify with their profession after retirement. It could also generate public friction if respected professionals are suddenly prevented from using titles they have held for decades.

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8.11 Use of Reserved Titles by Licensees in the Designated Health Profession of Traditional Chinese Medicine and Acupuncture

Comments:

- Although this section is directed at Traditional Chinese Medicine and Acupuncture (TCM) licensees, it raises broader systemic concerns for all regulated health professions under the HPOA. By tying title use to prescriptive educational programs and equivalency determinations, it sets a precedent for restricting entry and professional recognition in ways that may later be applied to other professions.
- The requirement that a licensee must have been entitled to use the title "immediately prior to the In-Force Date" creates a grandfathering model. While this protects existing practitioners, it also signals a gatekeeping shift where government-appointed boards and external criteria define who may hold titles, weakening professions' ability to self-determine standards.
- We may be missing some context and history behind this clause. Without a definition of "Reserved Title" in the material provided, it is unclear whether the intent is to address specific titles (such as "doctor") or the broader category of exclusive titles used under regulations. Greater clarity is needed before the impact can be fully assessed.
- If read literally, 8.11 appears to prohibit new TCM registrants from using reserved titles, allowing only those who were already entitled immediately before the in-force date to do so. If the intention is instead to require new registrants to meet additional education or proof requirements before using these titles, the current drafting is misleading and overly restrictive.
- There is no timeline specified for when new education or exam requirements must be completed in order to qualify for reserved title use. It should be clarified whether compliance must occur before the in-force date or whether post-registration completion is permitted.
- While existing College bylaws (e.g., s. 7.5) already require certain education to use specific titles in TCM practice, those provisions do not outright prohibit new practitioners from qualifying. The change here suggests a narrowing, with reserved titles locked to current practitioners. This raises the question: why introduce this change now, and why prohibit new TCMs from using titles that have historically been available with the right education?
- Reliance on equivalency determinations introduces discretionary power. Under the HPOA, such assessments may be centralized and politically influenced, raising concerns about fairness, transparency, and cultural bias, particularly for internationally trained practitioners.
- Compared with the HPA era, when colleges developed entry-to-practice standards within a framework of self-regulation, this represents further erosion of professional autonomy. The loss of elected boards and the shift to minister-appointed governance amplifies the risk that education and examination standards are imposed without meaningful practitioner input.
- For groups like BCND, even though this clause does not apply directly, responding is important to highlight the systemic precedent: once restrictive title-use conditions are embedded for one profession, they can easily be extended to others. The broader issue is that the HPOA framework increasingly defines professional identity and public recognition through rigid, government-controlled criteria rather than profession-led standards.

10.0 Quality Assurance

10.1 QA Program, Policies and Procedures

Comments:

- The bylaw should consistently use the full term "Quality Assurance Program" rather than "QA Program," to align with HPOA wording and avoid drafting ambiguity.
- This clause centralizes responsibility for the QA Program in the Registrar, bypassing any role for elected peers or even a QA committee. Under the HPA, QA committees played a direct role; here, the Registrar (an appointed administrator) assumes sole control.

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- The HPOA already requires colleges to establish QA programs. This bylaw adds no new safeguards, but confirms that implementation will be administrative, not collegial.
- This reflects the broader pattern of removing peer-driven oversight from QA, turning it into an arm of regulatory enforcement rather than a profession-led quality improvement process.

10.2 QA Program, Policies and Procedures (cont)

Comments:

- On its face, this is protective, ensuring QA assessments do not interfere excessively with service delivery. However, the phrase "minimal disruption" is vague and unenforceable without concrete benchmarks (e.g., timelines, limits on assessor demands).
- Without clear criteria, Licensees have no way to hold the College accountable if QA assessments do in fact cause significant disruption.
- This provision may be more symbolic than substantive: it promises restraint but leaves interpretation entirely to the College.

10.3 QA Program, Policies and Procedures (cont)

Comments:

- This provision requires the Registrar to build lists of courses, evaluations, and resources that QA Assessors may use. While intended as a supportive measure, it gives the Registrar substantial influence over what counts as valid education, cultural safety training, or professional development.
- The lists are "non-exhaustive," meaning Assessors may go beyond them, again creating uncertainty for Licensees about what training or remediation may be imposed.
- By centralizing authority in the Registrar to determine which cultural safety and anti-racism resources are "recognized," there is a risk that such resources reflect government or administrative priorities rather than community-validated standards.
- While the focus on Indigenous cultural safety and anti-racism aligns with DRIPA and In Plain Sight, the implementation risk is top-down imposition without genuine co-development with Indigenous communities.
- This reflects how HPOA structures give appointed administrators discretion over professional development, rather than leaving it in the hands of professions themselves.
- For fairness and predictability, the lists should be exhaustive or formally updated through bylaw amendment. Leaving them "non-exhaustive" exposes Licensees to arbitrary or shifting requirements.

10.4 QA Program, Policies and Procedures (cont)

Comments:

- This is an open-ended delegation of authority. It allows the Registrar to unilaterally expand QA requirements without bylaw amendment, consultation, or ministerial oversight.
- Under the HPA, QA programs were typically governed by bylaws passed with licensee consultation and oversight. Under the HPOA, minister-appointed boards already have sweeping power and this clause goes further by enabling the Registrar alone to shape QA rules.
- This raises serious concerns about transparency, accountability, and procedural fairness, since Licensees may be subject to new obligations that are neither published in bylaws nor subject to debate.
- This is another example of how quality assurance is being transformed from a collegial, improvement-oriented process into an administrative enforcement tool concentrated in the hands of a single appointed officer.

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1.0 Quality Assurance Assessors – Qualifications

Comments:

- The numbering "1.0" appears out of sequence with the rest of Part 10. This likely reflects a drafting or formatting error and should be corrected for clarity, otherwise it may cause confusion in interpreting or citing the bylaws.
- Requiring licensure "without limits or conditions" excludes Licensees who may have minor conditions (e.g., supervision requirements, scope modifications) but who still have valuable expertise. This could unnecessarily narrow the pool of qualified assessors.
- The clause does not specify whether "licensure" must be current and practising, or whether a non-practising but fully qualified Licensee could serve as an assessor. Without clarification, this could create inconsistencies in appointments.
- The requirement for "training, experience, or expertise" in clinical practice or peer review is vague. It sets no minimum standard for what constitutes adequate training or expertise, leaving discretion to the College without transparency.
- Under the HPA, QA assessors were typically peers selected with a degree of profession-led oversight. Under the HPOA, appointments are ultimately controlled through minister-appointed boards, reducing peer-driven quality assurance and increasing risk of politically influenced appointments.
- This reflects the broader HPOA trend of concentrating authority in appointed administrators rather than elected peers, weakening the collegial and educational character of quality assurance.
- The qualification should specify that Assessors are appointed for a particular Designated Health Profession. Without this, there is a risk of cross-professional assessments that undermine validity.
- The term "peer review" is not defined. Without clarity, it could be interpreted inconsistently or extend beyond accepted QA practices.

10.5 Grounds for a Quality Assurance Assessment

Comments:

- This section significantly expands the grounds for QA Assessments beyond those listed in HPOA s. 99(1). It creates new avenues for Licensees to be pulled into assessment, including non-random targeting, Registrar recommendations, and program-defined grounds that are not specified in the bylaws themselves.
- Subsection (a) authorizes "non-random selection" while still presenting the process as periodic and universal. This undermines the fairness associated with random selection, since Licensees may perceive targeted or punitive use of QA assessments.
- Subsection (c) references "any grounds set out in the QA Program," but the QA Program is not incorporated here. This means key triggers for assessment are left undefined, giving the College broad discretion without the safeguards of bylaw publication and consultation.
- Subsection (d) grants the Registrar power to trigger assessments "on any basis" except those explicitly prohibited in s. 98(2). Given the Registrar's central role under the HPOA and lack of licensee accountability, this introduces an almost unlimited discretionary power.
- Under the HPA, QA assessments were guided by published, peer-driven policies, often emphasizing remediation over discipline. This bylaw shifts toward an administratively driven, discretionary model, reinforcing the trend of weakening collegial, profession-led quality assurance.
- This is a prime example of how the HPOA framework erodes transparency: by moving grounds for significant regulatory intervention into programs and Registrar discretion, Licensees face reduced predictability and limited ability to challenge the basis for assessments.
- Subsection (c) is ambiguous. Referring to "any grounds set out in the QA Program" is meaningless without incorporating the program itself into the bylaws. This leaves Licensees unable to know in advance what triggers may apply.

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10.6 Methods of Quality Assurance Assessment

Comments:

- This provision significantly expands the investigative tools available to QA Assessors beyond what is set in the HPOA itself (s. 99(2)(a)–(c)). It allows broad collection of third-party documentation, historical practice reviews, and mandatory clinical skills testing.
- Clause (a) — "third-party documentation and records" — is very broad, potentially extending to hospitals, insurers, labs, or employers. Without limits, this may result in over-collection of private or sensitive information.
- Clause (b) authorizes deep dives into practice history and patterns, effectively granting QA Assessors powers similar to those of investigators in complaints or discipline processes. This blurs the line between collegial quality assurance and punitive investigation.
- Clause (d) — mandatory clinical skills testing — can be resource-intensive and stressful. The bylaw does not set criteria for when such testing is appropriate, leaving the decision entirely to assessor discretion.
- Compared with the HPA, where QA assessments tended to emphasize education and remediation, this reflects a shift toward surveillance and enforcement, aligning QA more closely with discipline.
- The authority to collect information should be limited and proportional. As drafted, subsections (b)–(d) expand far beyond the Act without parameters. At minimum, disclosure should be tied to 10.6(a) and constrained to defined circumstances.
- Terminology should consistently use "Quality Assurance Assessor," to align with the Act and avoid ambiguity.

10.7 Methods of Quality Assurance Assessment (cont)

Comments:

- This is unusually broad: it obligates uninvolved Licensees to provide information or records at the request of an Assessor, with no limits or safeguards.
- This creates risks for confidentiality and professional obligations (e.g., patient privacy, employer-employee boundaries). Licensees may be compelled to share sensitive records without clear statutory protection.
- Under the HPA, duties to cooperate were tied to being the subject of an inquiry or investigation. Extending this duty to all Licensees expands exposure and may create conflicts with other legal obligations.
- The bylaw provides no right to refuse, no requirement for formal notice, and no assurance that requests will be proportionate. This leaves Licensees vulnerable to open-ended information demands.
- This shows how QA under the HPOA is being transformed into a compliance and surveillance mechanism, where every Licensee becomes a potential data source for oversight, even outside of direct investigation.

10.8 Conduct of Assessments

Comments:

- This is a positive safeguard: it recognizes that QA Assessors, often peers, may have personal or professional relationships that could compromise fairness.
- However, the bylaw does not specify what constitutes a conflict of interest, how checks will be conducted, or whether Licensees have the right to raise conflict concerns. Without transparency, this safeguard risks being purely administrative.
- Under the HPOA, QA assessors hold substantial authority, including triggering Registrar reports. Weak conflict protections may undermine trust in the assessment process.

10.9 Conduct of Assessments (cont)

Comments:

- This section sets out disclosure obligations during QA assessments but frames them largely in terms of the Assessor's powers, not the Licensee's rights.

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- Subsection (a) highlights the Assessor's ability to escalate to the Registrar if they deem a Licensee "interfering." Without defining interference, this grants wide discretion and may chill legitimate questions or hesitation by the Licensee.
- Subsections (b) and (c) emphasize the limits of confidentiality, which could undermine Licensee confidence in QA processes. While the HPOA does contain confidentiality provisions, the focus here is on exceptions, not protections.
- Under the HPA, QA was structured to be educational and confidential, with information largely shielded from discipline. The HPOA (and this bylaw) weaken that firewall by making it easier for QA findings to move into regulatory or disciplinary channels.
- These provisions demonstrate the cultural shift of QA under the HPOA: from supportive peer review to compliance-driven monitoring, with heightened emphasis on reporting and surveillance.
- The bylaw should mirror the wording of HPOA s. 103(1), requiring that the Assessor be "of the opinion" that interference has occurred. Leaving "interfering" undefined gives Assessors excessive discretion and departs from statutory language.

10.10 Report Under Section 101 of the Act

Comments:

- This provision is narrow but important: it directs Quality Assurance Assessor reports to the Registrar, consolidating oversight power in that office. Under the HPOA, Registrars are appointed administrators who already hold significant discretion, so routing all QA reports directly to them heightens centralization.
- Section 101 of the HPOA authorizes QA Assessors to trigger remedial or disciplinary processes when they find a Licensee's practice deficient. By making the Registrar the sole recipient, the bylaw removes checks and balances (e.g., direct reporting to a QA committee).
- Under the HPA, QA reports were typically reviewed by a Quality Assurance Committee comprised partly of elected peers, which added a measure of professional self-regulation. That mechanism is absent here, replaced with Registrar-level control under an appointed board structure.
- The bylaw does not require the Assessor to notify the Licensee of the report, which undermines transparency. Licensees may not know a report has been escalated until disciplinary processes are already underway.
- This illustrates a pattern under the HPOA: professional quality assurance is being shifted from peer-led remediation toward administrative oversight, weakening collegial approaches and increasing exposure to formal discipline.

13.0 General

13.1 Special Fees

Comments:

- It is unclear whether special fees would apply equally across all classes of licensees, including provisional or non-practising classes. Without clarity, these groups could be unfairly burdened despite differing levels of practice or income.
- "Special fee" is not defined. Without definition, the Board could impose open-ended new costs on licensees.
- The HPOA already grants regulatory colleges authority to set fees for programs and operations. This bylaw risks duplication unless it clarifies what is unique about a "special" fee.
- The only safeguard is Board approval by Special Resolution. Because all Board members are minister-appointed under the HPOA, licensees have no direct say, unlike under the HPA where elected boards held this power.
- The lack of process surrounding the implementation of special fees is concerning. At minimum, licensees should receive advance notice that the Board intends to pass a special resolution, and the content of that meeting should be disclosed in the notice. Any special resolution on fees should be passed in an open meeting that licensees can attend.

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- The loss of the HPA's 90-day consultation period for bylaws compounds this issue. Special fees could be introduced quickly and without meaningful licensee input.
- To reduce risk of arbitrary assessments, the bylaw should define the term "special fee," identify the exceptional circumstances that justify it, and set limits to ensure predictability and fairness.

13.2 Special Fees (cont)

Comments:

- The drafting is confusing because clause "1.0" appears to be intended as part of 13.2 but is formatted differently. It should be clarified whether this is a subsection or a standalone rule.
- Subsection (a) imposes equal contributions within a profession, while subsection (b) apportions fees across professions by license fee size. These two approaches may conflict, and it is unclear how they are meant to operate together.
- The "unless the Board directs otherwise" language undermines predictability by allowing the Board to override both allocation rules, effectively making the limits discretionary.
- The 35% ceiling gives some protection, but it is still high compared to ordinary license fees. Combined with the Board's ability to waive proportionality, licensees could face significant additional levies without input.
- There is no clarity on what happens if a licensee does not pay a special fee. Are they simply subject to interest, or do they cease to be in good standing as registrants? The licensure bylaws are not yet available, leaving this a major gap.
- Financial hardship risks are significant. While a licensee can choose not to renew an annual license and thereby avoid the next year's fees, special fees are imposed mid-year without any opt-out mechanism. A registrant may not have the ability to resign in time to avoid liability once the fee is imposed.
- Under the HPA, fee-setting authority was exercised by elected boards with registrant accountability. Under the HPOA, minister-appointed boards impose these fees, creating legitimacy and fairness concerns when high or unequal assessments are possible.

13.3 Special Fees (cont)

Comments:

- This provision prevents double-charging licensees licensed in multiple professions, which is fair in principle, but requiring payment of the "highest" fee could still create disproportionate burdens.
- The clause assumes fee structures are uniform across professions, yet special fees may vary widely depending on Board allocation. A multi-licensed licensee could be unfairly penalized simply because of membership in a profession with higher fees.
- There is no guidance on how the licensee chooses which profession's special fee applies, or whether the Board designates it. Lack of clarity could lead to inconsistent application or disputes.
- The absence of procedural safeguards compounds the risk of hardship. There are no rules about when a special fee may be imposed, how much notice must be given before it becomes due, or when interest begins to accrue. Without such rules, licensees may find themselves bound to pay a new levy without the practical ability to resign in advance.
- Under the HPOA, minister-appointed boards have discretion to impose and structure special fees. Without licensee representation or mandated consultation, the "highest fee" rule could become a hidden deterrent to multi-professional practice.
- Consider whether equity across professions is better achieved by proportional apportionment rather than a blanket "highest fee" rule.

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13.4 Rates of Interest

Comments:

- A fixed 12% annual rate is high by current standards and may appear punitive rather than compensatory. This could compound licensees' financial hardship, especially when costs already arise from lengthy investigations or hearings.
- This is not a loan situation where interest compensates a lender's lost opportunity cost. Here, the rate is purely punitive and disproportionate.
- The bylaw does not specify when interest begins to accrue, particularly for refunds. Clarity is needed on whether this runs from the date of client payment, the date of order, or only after default.
- The clause does not distinguish between amounts owed by licensees to the College (penalties, costs, refunds to clients) and amounts owed by the College to licensees (refunds). If applied equally, the College would also owe 12% interest on refunds, which may not be the intent.
- Refunds are particularly concerning: if a licensee is ordered to repay a client, it is unclear when interest begins. Does it accrue from the date the client paid for the service, or from the date of judgment? If it is the former, the financial burden could be excessive and unjust.
- The HPOA gives broad authority for orders imposing costs and penalties, but it does not mandate a fixed interest rate. By setting one in bylaws, the Board narrows its own discretion but also risks challenge if the rate is out of line with prevailing court or statutory interest rates.
- Compared to the HPA, which did not contain an explicit interest provision for disciplinary costs, this represents a new and heavier financial consequence for licensees.
- The Court Order Interest Act provides a fairer model: much lower interest rates, with different rules for pre-judgment and post-judgment interest. Post-judgment interest is tied to the prime lending rate of the banker to government; pre-judgment interest may be lower, reflecting disputed liability. By contrast, a flat 12% creates a risk that a licensee will owe interest far beyond what would apply in a court context.
- The bylaw would be clearer if it specified whether interest accrues only after default or from the date of assessment, and if it aligned the rate with existing statutory benchmarks (e.g., the Court Order Interest Act).

13.5 Rates of Interest (cont)

Comments:

- Extending the 12% rate to all late fees makes this a blanket penalty provision across licensing and administrative fees, not just disciplinary costs. This could disproportionately affect licensees facing temporary financial difficulty.
- The "unless specified elsewhere" wording creates uncertainty, since it is unclear where or how separate late payment fees would be set. This opens the possibility of compounding penalties (both a late fee and high interest).
- Compared with standard statutory or commercial interest rates, 12% compounded monthly is onerous and could quickly escalate minor late payments into substantial debts.
- Renewal fees raise a particular concern: while a licensee can choose not to renew their registration and avoid the next year's annual fee, they cannot opt out of special fees imposed mid-year by the Board. Those fees, and the 12% interest that accrues if unpaid, attach automatically to registrants. This creates the risk of significant and unavoidable financial hardship. A registrant's only "exit" would be to resign from the profession entirely.
- The HPOA does not require a specific interest rate on late fees; this level of financial penalty is a Board choice without licensee input, given the loss of elected governance. Under the HPA, fee bylaws were still subject to licensee accountability mechanisms, so the imposition of such a high rate carried more legitimacy.
- A clearer approach would be to tie the interest rate to a recognized benchmark (e.g., the Court Order Interest Act or Bank of Canada prime rate plus a fixed margin) rather than a flat 12%. This would ensure proportionality and reduce the appearance of arbitrariness.

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13.6 Fees for Other Services

Comments:

- The reference to Schedule "___" is incomplete and should not only identify but also provide a specific schedule for review and consultation to avoid ambiguity or later disputes.
- "Other services" is undefined and could cover a wide range of activities beyond licensing or disciplinary matters. Without limits, this provision allows the College to create fees for virtually any service it chooses.
- Under the HPOA, the College has authority to charge fees for regulatory programs and operations. This bylaw may be redundant unless it clarifies which additional services are meant to be covered (e.g., document copies, letters of standing, verification of registration).
- Transparency is essential: licensees should be able to see the fee schedule published with the bylaws to ensure predictability. Given the loss of the HPA's 90-day consultation requirement, the absence of defined limits on "other services" creates a risk of arbitrary fee-setting without meaningful input.
- The bylaw would be more defensible if "other services" were exhaustively listed or explicitly tied to operational functions that benefit licensees, rather than left open-ended.

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