

## PROPOSED AMENDMENT TO BILL 36

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Honourable Adrian Dix to move, in Committee of the Whole, on

### **Bill 36**

#### ***Health Professions and Occupations Act***

to amend as follows:

**CLAUSE 8, by adding the underlined text as shown and deleting the text shown as struck out:**

#### **Sexual misconduct and sexual abuse**

- 8** (1) Subject to subsections (2) and (3), a regulated health practitioner commits an act of sexual misconduct if the regulated health practitioner does any of the following with respect to a patient or a person within a prescribed class of persons:
- (a) engages with the patient or person in sexual intercourse or another physical act of a sexual nature;
  - (b) touches the patient or person, directly or indirectly, if the touching is of a sexual nature;
  - (c) attempts an act described in paragraph (a) or (b);
  - (d) engages in an act of a sexual nature in the patient's or person's presence;
  - (e) manipulates or exploits the patient or person for sexual purposes, including offering or accepting services in exchange for acts of a sexual nature, whether or not the services are health services;
  - (f) harasses the patient or person, if the harassment is of a sexual nature;
  - (g) engages in communication of a sexual nature with the patient or person, including requesting communication or sharing media containing sexual content;
  - (h) builds a relationship of trust or emotional connection with the patient or person and uses or attempts to use that relationship to abuse, manipulate or exploit the patient or person for sexual purposes;
  - (i) engages in any other activity of a sexual nature with or in relation to the patient or person, whether or not the activity occurs within the health service environment or in the course of providing health services.

- (2) Subject to subsection (3), an act referred to in subsection (1) (a), (b), (c), (d), (g) or (i) is not sexual misconduct for the purposes of this Act if the patient or person is the regulated health practitioner's spouse and that spouse consents to the act.
- (3) A regulated health practitioner commits an act of sexual abuse if the regulated health practitioner engages in an act referred to in
- (a) subsection (1) (a), (b), ~~or (c)~~ or (d) without the patient's or person's consent, whether or not that patient or person is the regulated health practitioner's spouse, ~~or~~
  - (b) subsection (1) (e) or (h).

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**The Honourable Adrian Dix**

## PROPOSED AMENDMENT TO BILL 36

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Honourable Adrian Dix to move, in Committee of the Whole, on

### Bill 36

#### *Health Professions and Occupations Act*

to amend as follows:

**CLAUSE 11, by adding the underlined text as shown and deleting the text shown as struck out:**

#### **Misconduct and actionable conduct**

- 11** (1) Subject to subsection (3), a licensee commits an act of misconduct or a regulated health service provider commits an act of actionable conduct if the regulated health practitioner does any of the following:
- (a) fails to comply with an order or contravenes a provision of
    - (i) this Act, the regulations, a bylaw or a rule, or
    - (ii) an enactment that is prescribed or identified in a bylaw or rule for the purposes of this section;
  - (b) commits an act of sexual abuse or sexual misconduct;
    - ~~(i) sexual abuse, or~~
    - ~~(ii) sexual misconduct against a patient or a person within a prescribed class of persons;~~
  - (c) commits an act of discrimination;
  - (d) commits an act of neglect of a patient or an act of physical abuse, emotional abuse or financial abuse of a patient or a person within a prescribed class of persons, in
    - (i) the practice of a designated profession or occupation, or
    - (ii) the carrying out of business, professional or other activities related to the practice of a designated profession or occupation;
  - (e) engages in conduct that causes the regulated health practitioner to be
    - (i) determined to be a risk under the *Criminal Records Review Act*, or
    - (ii) convicted of a relevant offence;
  - (f) engages in conduct that causes the regulated health practitioner to be subjected to the imposition of a limit or condition on, or a suspension or revocation of,

- (i) the person's practice authority, or
  - (ii) the person's authority, in any jurisdiction, to practise a health profession or health occupation, if the conduct is in the nature of misconduct or actionable conduct;
- (g) engages in a prescribed type of conduct.
- (2) Without limiting subsection (1) and subject to subsection (3), a licensee commits an act of misconduct if the licensee engages in conduct that
  - (a) may bring the practice of a designated health profession into disrepute,  
or
  - (b) is conduct unbecoming a licensee.
- (3) A licensee does not commit an act of misconduct solely because the licensee lacks capacity or is subject to a continuing practice order or a revocation order.

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**The Honourable Adrian Dix**