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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

Interpretation

1. In this Act

"board" means the board established under section 16 (1) for a college;

"bylaw" means a bylaw for a college made under section 18 or 48;

"college" means, in respect of a designated health profession, its college established under section 15 (1);

"council" means the Health Professions Council established under section 2 (1);

"designated health profession" means a health profession designated for the purposes of this Act under section 12 (1);

"discipline committee" means the discipline committee for a college as established by a bylaw under section 18 (1) (r);

"health profession" means a profession in which a person exercises skill or judgment or provides a service related to

(a) the preservation or improvement of the health of individuals, or

(b) the treatment or care of individuals who are injured, sick, disabled or infirm;

"health profession association" means a society, as defined in the *Society Act*, whose members are persons practising a health profession;

"health profession corporation" means a corporation to which a permit has been issued under section 42;

"inquiry committee" means the inquiry committee for a college as established by a bylaw under section 18 (1) (r);

"inspector" means an inspector for a college under section 26;

"registrant" means, in respect of a designated health profession, a person who is granted registration as a member of its college in accordance with section 19;

"registrar" means the person appointed as registrar for a college under section 20 (1);

"registration committee" means the registration committee for a college as established by a bylaw under section 18 (1) (r).

PART 1

HEALTH PROFESSIONS COUNCIL

Council established

2. (1) The Health Professions Council is established consisting of 3 members appointed by the Lieutenant Governor in Council.
- (2) An appointment under subsection (1) shall be for a term not exceeding 3 years.
- (3) A member of the council may be reappointed to the council.

- (4) The Lieutenant Governor in Council may designate a chair and a vice chair from among the members of the council.

Responsibilities of council

3. The council shall

- (a) consider applications for designation of a health profession received under section 7, and directions to investigate regarding designation of a health profession made under section 8, in accordance with sections 9 and 10,
- (b) consider matters referred to it by the minister under section 24 in accordance with that section, and
- (c) carry out other duties that the minister or Lieutenant Governor in Council may, by order, direct.

Conduct of council

4. (1) The council shall meet

- (a) as the chair considers necessary, or
- (b) on the request of a majority of the members of the council.

- (2) Subject to subsection (1), the council may make rules governing the calling and conduct of meetings of the council, quorum and any other matters relating to the business of the council.

Remuneration and reimbursement of council members

5. The members of the council may be paid, at rates in accordance with general directives of the Treasury Board,

- (a) remuneration as fixed by the Lieutenant Governor in Council, and
- (b) their reasonable and necessary travelling and out of pocket expenses incurred in carrying out their duties under this Act.

Immunity for acts or omissions in good faith

6. (1) No action for damages lies or shall be brought against a member of the council or a person acting on behalf of or under the direction of the council because of anything done or omitted in good faith

- (a) in the performance or intended performance of any duty under this Act or the regulations, or
- (b) in the exercise or intended exercise of any power under this Act or the regulations.

- (2) Subsection (1) does not absolve the government from vicarious liability for an act or omission for which it would be vicariously liable if this section were not in force.

PART 2**DESIGNATED HEALTH PROFESSIONS****Application by health profession association for designation**

- 7.** (1) A health profession association seeking designation of its health profession under this Act shall apply to the council.
- (2) An application under subsection (1) must be in the form and contain the information required by the council and must be submitted with the prescribed fee.
- (3) On receipt of an application under subsection (1), the council may
- (a) refuse the application without investigation,
 - (b) in accordance with section 10, recommend without investigation that the health profession be designated under this Act, or
 - (c) conduct an investigation as it considers necessary to determine whether the health profession should be designated under this Act.

Reference by minister regarding possible designation

- 8.** The minister may, in the absence of an application under section 7 (1), direct the council to investigate a health profession to determine whether it should be designated under this Act.

Investigation regarding possible designation

- 9.** (1) Where the council decides to conduct an investigation under section 7 (3) (c) or is directed to conduct an investigation under section 8 to determine whether a health profession should be designated under this Act, it shall give public notice of the investigation in the Gazette.
- (2) Without limiting an investigation under this Act, the council may do one or more of the following for the purposes of the investigation:
- (a) require the health profession association to provide further information specified by the council;
 - (b) examine the directors and officers of the health profession association;
 - (c) seek the advice of other associations, organizations or persons;
 - (d) where the council considers the action to be in the best interests of the health profession association or the public, hold hearings the council considers necessary in a manner it determines;
 - (e) ascertain what services practitioners of the health profession provide to persons who require care and treatment within the scope of that health profession;
 - (f) evaluate the degree of risk to the health or safety of the public from incompetent, unethical or impaired practice of the health profession;
 - (g) evaluate the degree of supervision that may be necessary or desirable for a person practising the health profession;

- (h) assess the degree of supervision that a person practising the health profession receives or is likely to receive with respect to that practice;
 - (i) ascertain what educational programs exist in the Province or elsewhere for the proper education and training of persons with respect to the practice of the health profession and evaluate the content of those programs;
 - (j) do such other things as it considers necessary and incidental to the consideration of the application or matter before it.
- (3) Where the council holds a hearing under subsection (2) (d), it may order a person to attend at the hearing to give evidence and to produce records in the possession of or under the control of the person.
 - (4) On application by the council to the Supreme Court, a person who fails to attend or to produce records as required by an order under subsection (3) shall be liable to be committed for contempt as if in breach of an order or judgment of the Supreme Court.
 - (5) Subject to the regulations, the minister may charge to a health profession association part of the costs, including the administrative costs, incurred by the council to conduct an investigation regarding the health profession association's application under section 7 (1).

Council recommendation to minister

10. (1) Where the council receives an application under section 7 (1) or a direction under section 8, the council shall determine whether it would be in the public interest to designate a health profession under this Act, having regard to the information obtained in any investigation conducted by the council and in accordance with the prescribed criteria, if any.
- (2) Where the council determines that it would not be in the public interest to designate a health profession under this Act, the council shall
- (a) recommend to the minister that the health profession not be designated under this Act, and
 - (b) notify the health profession association of the recommendation, stating the council's reasons.
- (3) Where the council determines that it would be in the public interest to designate a health profession under this Act, the council
- (a) shall recommend to the minister that the health profession be designated under this Act, and
 - (b) may recommend to the minister
 - (i) a name for the college established under section 15 (1) for the health profession,
 - (ii) one or more titles to be used exclusively by registrants,
 - (iii) services that may be performed by registrants,
 - (iv) limitations on the performance of services by registrants,

- (v) services that shall only be performed by registrants or performed by or under the supervision of registrants, and
- (vi) services that may be performed by a registrant notwithstanding a limitation or prohibition under another Act.

Regulations respecting applications for designation

- 11.** The Lieutenant Governor in Council may make regulations respecting the following:
- (a) fees, or rates or levels of fees, to be submitted with an application under section 7 (1);
 - (b) limits on the minister's authority to charge costs under section 9 (5);
 - (c) criteria to be applied by the council under section 10 (1) in determining whether it would be in the public interest to designate a health profession under this Act.

Designation of a health profession

- 12.** (1) The Lieutenant Governor in Council may, by regulation, designate a health profession.
- (2) In respect of a designated health profession, the Lieutenant Governor in Council may, by regulation, prescribe the following:
- (a) the name of the college established under section 15 (1) for the health profession;
 - (b) one or more titles to be used exclusively by registrants;
 - (c) services that may be performed by registrants;
 - (d) limitations on the performance of services by registrants;
 - (e) services that shall only be performed by registrants or performed by or under the supervision of registrants;
 - (f) services that may be performed by a registrant notwithstanding a limitation or prohibition under another Act.
- (3) A regulation under this section may not be amended or repealed unless notice of the proposed amendment or repeal is published in the Gazette at least 3 months before the amendment or repeal comes into force.

Prohibitions regarding practice of designated health profession

- 13.** (1) Where a regulation under section 12 (2) (d) limits the services that may be performed in the course of practice of a designated health profession, a registrant shall limit his or her practice of that designated health profession in accordance with the regulation.
- (2) Where a regulation under section 12 (2) (e) prescribes a service that shall only be performed by a registrant of a particular college,
- (a) no person other than a registrant of the college shall perform the service, and

- (b) no person shall recover any fee or remuneration in any court in respect of the performance of the service unless, at the time of performance, he or she was a registrant entitled to perform the service.
- (3) Where a regulation under section 12 (2) (e) prescribes a service that shall only be performed by or under the supervision of a registrant of a particular college,
 - (a) no person other than a registrant of the college shall perform the service unless he or she does so under the supervision of such a registrant, and
 - (b) no person other than a registrant of the college shall recover any fee or remuneration in any court in respect of the performance of the service unless, at the time of performance, he or she was supervised by such a registrant.
- (4) No person other than a registrant of a college shall use a name, title, description or abbreviation in any manner that expresses or implies that he or she is a registrant of the college.

Exceptions to prohibitions

14. Notwithstanding section 13, nothing in this Act prohibits a person from
- (a) practising a profession, discipline or other occupation in accordance with this or another Act, or
 - (b) providing or giving first aid or temporary assistance to another person in case of emergency if that aid or assistance is given without gain or reward or hope of gain or reward.

Health profession college established

15. (1) On designation of a health profession under section 12 (1), a college is established for the purpose of regulating the practice of the health profession.
- (2) A college established under subsection (1) shall be a corporation consisting of
- (a) the members of the board appointed under section 16 (2) (a), until the first elections to the board referred to in section 16 (3) (a), and
 - (b) the persons who are registrants of the college.
- (3) For the purposes of this Act, the regulations and its bylaws, a college may acquire, hold and dispose of land and other property.
- (4) The *Company Act* does not apply to a college unless the Lieutenant Governor in Council, by order, provides that specified provisions of that Act shall apply to the college, in which case the specified provisions apply.

Board for health profession college

16. (1) For each college established under section 15, there shall be a board.
- (2) The minister shall

- (a) appoint persons to the first board for a college, who shall hold office until the time at which the board members referred to in subsection (3) (a) are first elected, and
 - (b) specify the date on or before which the first election referred to in paragraph (a) shall be held.
- (3) Following the appointment of persons to the first board under subsection (2), the board for a college shall consist of
- (a) not fewer than 3 registrants elected in accordance with the bylaws, and
 - (b) not fewer than 2 persons appointed by the minister.
- (4) The number of persons appointed under subsection (3) (b) shall not exceed the number of persons to be elected under subsection (3) (a).
- (5) Persons appointed by the minister under subsection (2) (a) or (3) (b) need not be registrants or eligible to be registrants.

Responsibilities of board

17. (1) A board shall govern, control and administer the affairs of its college in accordance with this Act, the regulations and the bylaws.
- (2) A board shall submit an annual report respecting its college, including information that the Lieutenant Governor in Council may prescribe, to the minister not later than 90 days after the end of the fiscal year for the college.

Bylaws for college

18. (1) A board may, by bylaw for its college, do the following:
- (a) establish the number of members of the board to be elected under section 16 (3) (a);
 - (b) establish the time, manner and procedure for the election of registrants to the board under section 16 (3) (a);
 - (c) regulate the time, place, calling and conduct of meetings of the board and general meetings of registrants;
 - (d) establish the quorum for meetings of the board and general meetings of registrants;
 - (e) establish the terms of office of elected members of the board and the manner in which the vacancies on the board may be filled;
 - (f) establish forms for the purposes of the bylaws and require use of the forms by registrants;
 - (g) provide for the appointment, removal, functions, duties and remuneration of officers, employees and agents of the college;
 - (h) establish classes of registrants;
 - (i) establish requirements for the registration of persons practising the designated health profession;

- (j) establish standards, limits or conditions for the practice of the designated health profession by registrants;
 - (k) establish standards of professional ethics for registrants,
 - (l) establish standards of education for registrants;
 - (m) establish requirements for continuing education for registrants;
 - (n) establish requirements for maintenance of professional liability insurance coverage by registrants;
 - (o) establish fees payable to the college by registrants;
 - (p) establish requirements for renewal, suspension, cancellation and reinstatement of the registration of persons practising the designated health profession, including providing for the suspension or cancellation of the registration of a registrant for late payment or non-payment of fees;
 - (q) regulate and prohibit advertising or types of advertising by registrants;
 - (r) establish a registration committee, an inquiry committee, a discipline committee and such other committees as the board determines are necessary or advisable;
 - (s) in respect of a committee established under paragraph (r), provide for the following:
 - (i) the appointment and removal of committee members;
 - (ii) procedures to be followed by the committee;
 - (iii) the duties and powers of the committee;
 - (iv) the delegation of a duty or power of the board to the committee;
 - (v) the delegation of a duty or power of the committee to panels of the committee;
 - (t) provide for remuneration of the members of the board and of committees established under paragraph (r).
- (2) Provisions in a bylaw under subsection (1) may be different for different classes of registrants.
- (3) A bylaw under subsection (1) has no effect until it is approved by the Lieutenant Governor in Council.
- (4) The Lieutenant Governor in Council shall not approve a bylaw under subsection (1) unless satisfied that appropriate provision has been made respecting the following:
- (a) the election of registrants to the board under section 16 (3) (a);
 - (b) the registration of persons practising the designated health profession;
 - (c) the establishment of a registration committee, an inquiry committee and a discipline committee.

- (5) The minister may request a board to amend or repeal an existing bylaw for its college or to make a new bylaw for its college if the minister is satisfied that this is necessary or advisable.
- (6) Where a board does not comply with a request under subsection (5) within 60 days after the date of the request, the Lieutenant Governor in Council may amend or repeal the existing bylaw for the college or make the new bylaw for the college in accordance with the request.
- (7) A registrant shall not practise a designated health profession except in accordance with the bylaws of the college.
- (8) A board shall maintain a complete and accurate record of the bylaws that are in effect for its college and shall provide a copy of these bylaws to each registrant.

Registration of person in college

19. (1) The registration committee shall be responsible for granting registration of a person as a member of its college.
- (2) The registration committee shall grant registration in its college to every person who, in accordance with the requirements of the bylaws,
- (a) applies to the college for registration,
 - (b) satisfies the registration committee that he or she is qualified to be a registrant, and
 - (c) pays the required fees, if any.
- (3) A person whose application for registration as a member of a college is refused by the registration committee may appeal the refusal to the Supreme Court and, for this purpose, the provisions of section 39 respecting an appeal from a decision of the discipline committee apply to an appeal under this section.
- (4) No person shall apply for registration or continue to be registered as a member of a college if that person knows that he or she is not qualified to be a registrant.

Registrar and register for college

20. (1) A board shall appoint a registrar for its college, who shall hold office during the pleasure of the board.
- (2) The registrar shall maintain a register and shall enter in it the name and address of every person granted registration under section 19.
- (3) The registrar shall cancel the registration of a registrant in the register if
- (a) the registrant requests or gives written consent to the cancellation,
 - (b) the registrant has failed to pay a fee for renewal of registration or another fee within the required time,
 - (c) notification is received of the registrant's death, or

(d) the registration of the registrant has been cancelled under section 38 (1) (e).

- (4) A board may, on grounds the board considers sufficient, cause the registration of a former registrant to be restored to the register on payment to the board of any fees or other sums in arrears and owing by the person to the board and of any reinstatement fee required by the bylaws.

Inspection of register

21. (1) Subject to subsection (2), the register and bylaws of a college shall be open to inspection by any person free of charge at all reasonable times during regular business hours.
- (2) The registrar or another person authorized by the board may refuse a person access to the register if the registrar or the authorized person, as the case may be, reasonably believes that the person seeking access is doing so for commercial purposes.

Certificate as evidence

22. Every certificate signed by the registrar or by a member of a board is proof, in the absence of evidence to the contrary, of the matters stated in the certificate that relate to the records of its college.

Immunity for acts or omissions in good faith

23. (1) No action for damages lies or shall be brought against a member of a board or a person acting on behalf of or under the direction of a board or college because of anything done or omitted in good faith
- (a) in the performance or intended performance of any duty under this Act, the regulations or the bylaws, or
- (b) in the exercise or intended exercise of any power under this Act, the regulations or the bylaws.
- (2) Subsection (1) does not absolve a college from vicarious liability for an act or omission for which it would be vicariously liable if this section were not in force.

Reference to council regarding health profession

24. (1) The minister may refer any matter respecting a health profession or a college to the council for consideration.
- (2) The council shall investigate and make recommendations to the minister regarding any matter referred to it under subsection (1) and, for these purposes, the council has the powers that it has under section 9 (2) to (4) and, in respect of a designated health profession, has the same powers respecting the college that it has under section 9 (2) respecting a health profession association.

PART 3

INSPECTIONS, INQUIRIES AND DISCIPLINE

Interpretation

- 25.** In this Part "registrant" includes a former registrant.

Inspectors for health profession

- 26.** (1) The inquiry committee may appoint persons as inspectors for the college.
- (2) The registrar is an inspector.

Powers and duties of inspectors

- 27.** (1) At any reasonable time, an inspector may, without a court order, do one or more of the following:
- (a) inspect the premises in which and the equipment and materials with which a registrant practises the health profession;
 - (b) inspect and copy the records of the registrant relating to the registrant's practice of the health profession;
 - (c) observe the practice of the health profession performed by or under the supervision of the registrant.
- (2) The inquiry committee may direct an inspector to undertake any aspect of an investigation under section 32.
- (3) An inspector who is directed to investigate under subsection (2) shall report the results of the investigation in writing to the inquiry committee.

Search and seizure under court order

- 28.** (1) A member of the inquiry committee or the registrar may apply, without notice to any person who may be affected by the application, to a judge of the Supreme Court for an order that authorizes any person named in the order to enter any receptacle, building or place and to search for and examine, audit or seize a thing referred to in subsection (2) (b).
- (2) On an application under subsection (1), the judge may make an order under this section if satisfied on oath
- (a) that there are reasonable grounds for believing
 - (i) that a person who is not a registrant has contravened this Act or the regulations, or
 - (ii) that a person who is a registrant
 - (A) has contravened this Act, the regulations or the bylaws,
 - (B) has failed to comply with a limit or condition imposed under this Act, the regulations or the bylaws,
 - (C) has committed professional misconduct,

- (D) is not competent to practise the designated health profession, or
 - (E) is suffering from a physical or mental ailment, an emotional disturbance or an addiction to alcohol or drugs that impairs his or her ability to practise the designated health profession, and
- (b) that there are reasonable grounds for believing that a thing which may afford evidence relevant to the contravention, misconduct, incompetence or impairment is likely in that receptacle, building or place.
- (3) In an order under this section, the judge
- (a) shall identify the receptacle, building or place to be entered and shall generally describe any thing to be searched for and examined, audited or seized, and
 - (b) may include any limitation or conditions the court considers proper including, without limiting the generality of this, the time of entry, the disposition of things seized and the access by any person to things seized.
- (4) A person who, while conducting or attempting to conduct an entry or search under this section, finds anything not described in the order that the person believes on reasonable grounds will provide evidence in respect of a contravention of this Act, the regulations or the bylaws may seize and remove that thing.

Detention of things seized

- 29.** (1) For the purposes of subsection (2), the person who makes a seizure under section 28 shall report the seizure as soon as practicable to a judge, who shall be the judge who issued the order under which the seizure is made unless this is not practicable.
- (2) On receiving a report under subsection (1), the judge shall
- (a) order the thing that was seized returned to its owner or other person entitled to it unless satisfied that an order under paragraph (b) should be made, or
 - (b) order the thing detained if satisfied that the detention is required for the purposes of an investigation or proceeding relating to a matter referred to in section 28 (2) (a).
- (3) An inspector may make or cause to be made one or more copies of any record ordered detained under subsection (2).
- (4) A document purporting to be certified by the registrar to be a true copy made under the authority of subsection (3) is evidence of the nature and content of the original document.
- (5) The person from whom any thing is detained under this section or the owner of the thing, if different, is entitled to inspect the thing at any reasonable time and, in the case of a record, to obtain one copy of the record at the expense of the board.

- (6) No record shall be detained under this section for a period longer than 3 months from the time of its seizure unless, before the expiration of the period, either
- (a) the person from whom it was seized agrees to its continued detention, or
 - (b) a judge, on application and after being satisfied that its continued detention is justified, orders its continued detention for a specified period of time.

Prohibition against obstructing inspection or search

- 30.** (1) No person shall obstruct an inspector in the lawful performance of duties or the lawful exercise of powers under this Act or the regulations.
- (2) No person shall obstruct a person in the lawful exercise of powers under section 28 or 29.

Complaints to be made to registrar for delivery

- 31.** (1) A person who wishes to make a complaint against a registrant shall deliver the complaint in writing to the registrar.
- (2) As soon as practicable after receiving a complaint, the registrar shall deliver to the inquiry committee a copy of the complaint, an assessment of the complaint and any recommendations of the registrar for the disposition of the complaint.

Investigations by inquiry committee

- 32.** (1) Where a complaint is delivered to the inquiry committee by the Registrar under section 31 (2), the inquiry committee shall investigate the matter raised by the complaint.
- (2) The inquiry committee may on its own motion investigate a registrant regarding any of the following matters:
- (a) a contravention of this Act, the regulations or the bylaws;
 - (b) a failure to comply with a limit or condition imposed under this Act, the regulations or the bylaws;
 - (c) professional misconduct;
 - (d) competence to practise the designated health profession;
 - (e) a physical or mental ailment, an emotional disturbance or an addiction to alcohol or drugs that impairs his or her ability to practise the designated health profession.
- (3) The inquiry committee shall request the registrant who is the subject of an investigation under this section to provide it with any information regarding the matter which the registrant believes should be considered by the inquiry committee.
- (4) After considering any information provided by the registrant, the inquiry committee may

- (a) take no further action if the inquiry committee is of the view that the matter is trivial, frivolous, vexatious or made in bad faith or that the conduct or competence to which the matter relates is satisfactory,
- (b) in the case of an investigation respecting a complaint, take any action it considers appropriate to resolve the matter between the complainant and the registrant,
- (c) act under section 35, or
- (d) direct the registrar to issue a citation under section 36.

Report to be made where no remedial or disciplinary action taken

- 33.** (1) Where the inquiry committee does not direct the registrar to issue a citation regarding a matter investigated under section 32, it shall
- (a) report to the board regarding its decision and the results of its investigation, and
 - (b) in the case of an investigation respecting a complaint, notify the complainant in writing of its decision.
- (2) A complainant who is dissatisfied with a decision of the inquiry committee referred to in subsection (1) may appeal the decision to the board within 14 days after receiving notification of that decision.
- (3) On an appeal under subsection (2), the board may
- (a) refuse the appeal,
 - (b) direct the inquiry committee to act under section 35, or
 - (c) direct the registrar to issue a citation under section 36.
- (4) The board may, on its own motion after considering a report of the inquiry committee under subsection (1) (a),
- (a) direct the inquiry committee to act under section 35, or
 - (b) direct the registrar to issue a citation under section 36.

Extraordinary action to protect public

- 34.** (1) If the inquiry committee considers the action necessary to protect the public during the investigation of a registrant regarding a matter referred to in section 32 (2) or pending a hearing of the discipline committee regarding such a matter, it may
- (a) set limits or conditions on the practice of the designated health profession by the registrant, or
 - (b) suspend the registration of the registrant.
- (2) Where the inquiry committee takes action under subsection (1), it shall notify the registrant in writing of its decision, of the reasons for the decision and of the registrant's right to appeal the decision to the Supreme Court.
- (3) A decision under subsection (1) shall not be effective until

- (a) the time the registrant receives the notice under subsection (2), or
- (b) 3 days after the notice is mailed to the registrant at the last address for that person recorded in the register referred to in section 20 (2),
whichever is earlier.
- (4) Where the inquiry committee determines that action taken under subsection (1) is no longer necessary to protect the public, it shall reverse the action taken and shall notify the registrant in writing of this decision as soon as possible.
- (5) A registrant against whom action has been taken under subsection (1) may appeal the inquiry committee's decision to the Supreme Court and, for these purposes, the provisions of section 39 respecting an appeal from a decision of the discipline committee apply to an appeal under this section.

Reprimand or remedial action by consent

- 35.** (1) In relation to a matter investigated under section 32, the inquiry committee may request the registrant to do one or more of the following:
- (a) undertake not to repeat the conduct to which the matter relates;
 - (b) undertake to take educational courses specified by the inquiry committee;
 - (c) consent to a reprimand;
 - (d) undertake or consent to any other action specified by the inquiry committee.
- (2) Where a registrant refuses to give an undertaking or consent requested under subsection (1), or where a registrant fails to comply with an undertaking or consent given in response to a request under subsection (1), the inquiry committee may direct the registrar to issue a citation for a hearing by the discipline committee regarding the matter.

Citation for hearing by discipline committee

- 36.** (1) Where directed by the inquiry committee or the board, the registrar shall issue a citation that
- (a) names the affected registrant as respondent,
 - (b) describes the nature of the complaint or other matter that is to be the subject of the hearing, including the particulars of any evidence in support of that subject matter,
 - (c) specifies the date, time and place of the hearing, and
 - (d) advises the respondent that the discipline committee is entitled to proceed with the hearing in his or her absence.
- (2) The registrar shall have a citation either delivered to the respondent by personal service or sent by registered mail to the respondent at the last address for that person recorded in the register referred to in section 20 (2) not fewer than 30 days before the date of the hearing

- (3) Where the subject matter of a citation is a complaint, the registrar shall notify the complainant in writing of the date, time and place of the hearing not fewer than 14 days before the date of the hearing.
- (4) The inquiry committee or the board may direct the registrar to cancel a citation that has been issued on its direction if the inquiry committee or board afterwards determines that a hearing by the discipline committee is not required and the registrar shall then cancel the citation and notify the respondent and the complainant, if any, of the cancellation.

Discipline committee hearing

37. (1) The discipline committee shall hear and determine a matter set for hearing by citation issued under section 36.
- (2) The respondent, the college and the complainant, if any, may appear as parties and with counsel at a hearing of the discipline committee.
- (3) A hearing of the discipline committee shall be in public unless
 - (a) the complainant or the respondent requests the discipline committee to hold the hearing in private, and
 - (b) the discipline committee is satisfied that a private hearing would be appropriate in the circumstances.
- (4) At a hearing of the discipline committee,
 - (a) the testimony of witnesses shall be taken on oath, which may be administered by any member of the discipline committee, and
 - (b) there shall be a full right to cross examine witnesses and call evidence in defence and reply.
- (5) Where the respondent does not attend, the discipline committee may
 - (a) proceed with the hearing in the respondent's absence on proof of receipt of the citation by the respondent, and
 - (b) without further notice to the respondent, take any action that it is authorized to take under this Act, the regulations or the bylaws
- (6) The discipline committee may order a person to attend at a hearing to give evidence and to produce records in the possession of or under the control of the person.
- (7) On application by the discipline committee to the Supreme Court, a person who fails to attend or to produce records as required by an order under subsection (6) shall be liable to be committed for contempt as if in breach of an order or judgment of the Supreme Court.
- (8) Where the discipline committee considers the action necessary to protect the public between the time a hearing is commenced and the time it makes an order under section 38 (1), the discipline committee may set limits or conditions on the practice of the designated health profession by the registrant or may suspend the registration of the registrant and, for these purposes, section 34 applies.

Action by discipline committee

- 38.** (1) On completion of a hearing, the discipline committee may, by order, do one or more of the following:
- (a) dismiss the matter;
 - (b) reprimand the respondent;
 - (c) impose limits or conditions on the practice of the designated health profession by the respondent;
 - (d) suspend the registration of the respondent;
 - (e) cancel the registration of the respondent;
 - (f) assess costs or part of the costs of the hearing against the respondent.
- (2) An order of the discipline committee under subsection (1) shall be in writing and shall be delivered to the respondent and to the complainant, if any

Appeal of discipline committee decision to Supreme Court

- 39.** (1) A person aggrieved or adversely affected by an order of the discipline committee under section 38 (1) may appeal or the board may appeal the order to the Supreme Court.
- (2) An appeal under this section must be commenced within 30 days after the date of the decision.
- (3) An appeal under this section shall be an originating application commenced by filing a petition in any registry of the Supreme Court, and the Rules of Court respecting originating applications apply to the appeal but Rule 49 does not apply.
- (4) The petition commencing an appeal under this section must be served on the college, effected by service on the registrar, within 14 days of its filing in the court registry.
- (5) The petition commencing an appeal under this section must also be served on the parties to the discipline committee proceeding in which the order being appealed was made and, if the matter relates to a complaint, on the complainant.
- (6) The persons required to be served under subsection (4) or (5) may be parties to an appeal under subsection (1).
- (7) On request by a party to an appeal under subsection (1) and on payment by the party of any disbursements and expenses in connection with the request, the registrar shall provide that party with copies of part or all, as requested, of the record of the proceeding before the discipline committee.
- (8) An appeal under subsection (1)
- (a) shall be a new hearing if there is no transcript of the proceeding in which the decision being appealed was made, or

- (b) shall be a review of the transcript and proceeding if there is a transcript, unless the court is satisfied that a new hearing or the admission of new evidence is necessary in the interests of justice.
- (9) On the hearing of an appeal under this section, the court may
 - (a) confirm, vary or reverse the decision of the discipline committee,
 - (b) refer the matter back to the discipline committee, with or without directions, or
 - (c) make any other order it considers appropriate in the circumstances.
- (10) A decision of the Supreme Court on an appeal under subsection (1) may be appealed to the Court of Appeal if leave to appeal is granted by a justice of the Court of Appeal.

PART 4

HEALTH PROFESSION CORPORATIONS

Application of this Part

- 40.** This Part applies to a designated health profession only if a regulation under section 49 (2) (a) provides that it applies.

Health profession corporations

- 41.** (1) Subject to this Act, the regulations and the bylaws, a health profession corporation holding a valid permit under section 42 (1) may carry on the business of providing to the public health profession services that may be performed by the registrants of the college whose board issued or renewed the permit.
- (2) The services referred to in subsection (1) shall only be provided by the health profession corporation through one or more persons, each of whom is
- (a) a registrant of the college, or
 - (b) if permitted by the bylaws, an employee of the health profession corporation under the direct supervision of a registrant of the college.

Health profession corporation permits to be issued by board

- 42.** (1) A board shall issue or renew a permit authorizing a corporation to operate as a health profession corporation if satisfied that all the following requirements and conditions have been met:
- (a) the corporation is incorporated under the *Company Act* and is in good standing under that Act;
 - (b) where a term is prescribed under section 49 (2) (b) for the designated health profession, the name of the corporation includes the term;
 - (c) all voting shares of the corporation are legally and beneficially owned by registrants of the college;
 - (d) all non-voting shares of the corporation are legally and beneficially owned by persons

- (i) who are registrants of the college,
 - (ii) who are the spouse of a shareholding registrant of the college,
 - (iii) who live as husband or wife with, although not married to, a shareholding registrant of the college and who have lived as such for a period of not fewer than 2 years,
 - (iv) who are children, as defined in the *Family Relations Act*, of a shareholding registrant of the college, or
 - (v) who are otherwise relatives of a shareholding registrant of the college and who reside with the registrant;
- (e) all the directors of the corporation are registrants of the college;
 - (f) all the persons who will be providing the services on behalf of the corporation are registrants of the college or are under the direct supervision of a registrant of the college;
 - (g) all requirements and conditions established by bylaw under section 48 have been met;
 - (h) all requirements established by regulation under section 49 have been met.
- (2) A board may refuse to issue or renew a permit under subsection (1) if
 - (a) the health profession corporation has previously had its permit revoked, or
 - (b) a shareholder, director or officer of the health profession corporation was a shareholder, director or officer of a health profession corporation that previously had its permit revoked.

Revocation of corporation permits

- 43. (1) A board may, after a hearing, revoke a permit issued by it to a health profession corporation if
 - (a) in the course of providing services the corporation does anything that, if done by a registrant, would be professional misconduct,
 - (b) the corporation ceases to comply with a requirement or condition referred to in section 42 (1), or
 - (c) the corporation contravenes section 44.
- (2) As alternatives to revoking a permit, a board may
 - (a) reprimand one or more shareholders of the corporation who are registrants, or
 - (b) impose a fine on the corporation in an amount not exceeding \$10 000
- (3) A health profession corporation against which or a registrant against whom a decision under subsection (1) or (2) is made may appeal the decision to the Supreme Court and, for these purposes, the provisions of section 39 respecting an appeal from a decision of the discipline committee apply to an appeal under this section.

- (4) Where a board revokes a permit for a health profession corporation or refuses to renew a permit for a health profession corporation, it shall notify the Registrar of Companies for the purposes of section 18 (1.5) of the *Company Act*.

Prohibition against carrying on corporate business

44. (1) A corporation that has a term prescribed by regulation under section 49 (2) (b) as part of its name shall not carry on any business unless it holds a valid permit under section 42 (1).
- (2) A health profession corporation that holds a valid permit under section 42 (1) shall not carry on any activities, other than the provision of services referred to in section 41 and services that are directly associated with the provision of those services that would, for the purposes of the *Income Tax Act* (Canada), give rise to income from business.
- (3) No act of a corporation, including a transfer of property to or by the corporation, is invalid by reason only that the corporation contravenes subsection (1) or (2).

Prohibition against certain voting agreements

45. No shareholder of a health profession corporation shall enter into a voting trust agreement, proxy or any other type of agreement that vests in another person who is not a registrant qualified to hold shares in the corporation the authority to exercise the voting rights attached to any or all of the shares of the shareholder.

Obligations to provide evidence respecting health profession corporation

46. A shareholder, director, officer or employee of a health profession corporation may be compelled in a proceeding under this Act, other than a proceeding under section 50 in which the person is a defendant, to give evidence and to produce all files and records in his or her possession or power that are relevant to a matter raised in the proceeding.

Responsibility of registrants not affected by incorporation

47. (1) The liability for professional negligence of a registrant is not affected by the fact that the registrant practises the designated health profession as an employee of a health profession corporation.
- (2) The relationship of a registrant to a health profession corporation, whether as a shareholder, director, officer or employee of the corporation, does not affect, modify or diminish the application to the registrant of the provisions of this Act, the regulations and the bylaws.
- (3) Nothing in this Act affects, modifies or limits any law applicable to the fiduciary, confidential or ethical relationships between a registrant and a person receiving the professional services of a registrant.
- (4) The relationship between a health profession corporation and a person receiving services provided by the corporation is subject to all applicable law relating to the fiduciary, confidential and ethical relationships that exist between a registrant and the registrant's client.

Bylaws applicable to health profession corporations

- 48.** (1) The bylaws of a board under section 18 apply to health profession corporations under the board's authority and the board may exercise the powers given by this Act, the regulations and the bylaws to enforce those bylaws against a health profession corporation.
- (2) A board may make bylaws it considers necessary or advisable in relation to health profession corporations under its authority.
- (3) Without limiting the generality of subsection (2), a board may make bylaws respecting the following matters:
- (a) the issue and renewal of permits, including the setting of fees and the establishment of procedures for obtaining or renewing permits;
 - (b) procedures for revocation of permits and for hearings respecting revocation of permits under section 43;
 - (c) names and the approval of names, including the types of names, by which a health profession corporation may be known;
 - (d) the disposition of shares in a health profession corporation belonging to a shareholder who ceases to be a registrant or who remains a registrant but is not qualified to practise the designated health profession;
 - (e) requirements for the issuance or renewal of permits and conditions that may be attached to permits, including the establishment of amounts of insurance that health profession corporations must carry or must provide to each of their employees for the purpose of providing indemnity against professional liability claims.
- (4) Provisions in a bylaw under this section may be different, at the discretion of the board, for different permit holders.
- (5) A bylaw under this section has no effect until it is approved by the Lieutenant Governor in Council

Regulations respecting health profession corporations

- 49.** (1) The Lieutenant Governor in Council may make regulations respecting health profession corporations for a designated health profession.
- (2) Without limiting the generality of subsection (1), the Lieutenant Governor in Council may make regulations respecting the following:
- (a) the application of this Part to a designated health profession;
 - (b) a term that shall be included in the name of a health profession corporation.

PART 5

GENERAL

Offences

- 50.** (1) A person who contravenes section 13 (1), (2), (3) or (4), 19 (4) or 30 (1) or (2) commits an offence.
- (2) Section 5 of the *Offence Act* does not apply to this Act, the regulations or any bylaws made under this Act.
- (3) No prosecution of an offence under this Act shall be commenced after the expiration of 2 years from the date of the alleged offence.
- (4) In any prosecution under this Act, it is sufficient to prove that the accused has done or committed a single act of unauthorized practice or has committed on one occasion any of the acts prohibited by this Act.

Injunction to restrain contravention

- 51.** (1) A board may apply to the Supreme Court for an interim or permanent injunction to restrain a person from contravening any provision of this Act, the regulations or its bylaws.
- (2) A contravention may be restrained under subsection (1) whether or not a penalty or other remedy has been provided by this Act, the regulations or the bylaws.

Confidential information

- 52.** Any person who, in the course of carrying out his or her duties under this Act, the regulations or the bylaws, obtains information that is given or records that are submitted in accordance with a request or obligation under this Act, the regulations or the bylaws shall not disclose the information or records to any person other than for the purposes of carrying out his or her duties under this Act, the regulations or the bylaws or where required by law.

Deemed receipt of documents

- 53.** (1) Where a notice or other document is required to be delivered to a person under this Act, the regulations or the bylaws, it shall be deemed to have been received by the person 7 days after the date on which it was mailed if it is sent by registered mail,
- (a) in the case of a document to be delivered to a registrant, to the last address for that person recorded in the register referred to in section 20 (2), and
- (b) in other cases, to the last address of that person known to the sender.
- (2) For the purpose of proving deemed receipt of a document referred to in subsection (1), proof of receipt may be made by affidavit as to the date on which the document was sent by registered mail.

Regulations

54. The Lieutenant Governor in Council may make regulations.

Consequential Amendments***Company Act***

55. Section 18 of the *Company Act*, R.S.B.C. 1979, c. 59, is amended by adding the following subsection.

(1.5) Where a board, as defined in the *Health Professions Act*, notifies the registrar that the permit under section 42 (1) of that Act for a company has been revoked or has not been renewed, the registrar shall order the company, in writing and giving reasons, to change its name to one that does not include any term that is prescribed under section 49 (2) (b) of that Act in respect of the designated health profession

Medical Practitioners Act

56. Section 73 of the *Medical Practitioners Act*, R.S.B.C. 1979, c. 254, is amended by striking out "or" at the end of paragraph (l), by adding "; or" at the end of paragraph (m) and by adding the following paragraph
- (n) practises a designated health profession while registered as a member of its college under the *Health Professions Act*.

Commencement

57. This Act comes into force by regulation of the Lieutenant Governor in Council.