

**MINISTRY OF HEALTH  
INFORMATION BRIEFING NOTE**

Cliff #1031776

**PREPARED FOR:** Honourable Terry Lake, Minister – **FOR INFORMATION**

**TITLE:** Dentists Treating Spouses in BC

**PURPOSE:** To discuss the existing prohibition on dentists treating spouses

**BACKGROUND:**

There are currently 26 regulated health professions in British Columbia, 25 of which are regulated by 22 colleges. Each of these colleges, including the College of Dental Surgeons of BC (the College) is in turn regulated by the *Health Professions Act* (HPA), and associated regulations. Each college is a self-regulating body with a legal duty to act in the public interest at all times. The duties and objects of all colleges are set out in s. 16(2) of the HPA and include:

- s. 16(2)(a) to superintend the practice of the profession;
- s. 16(2)(d) to establish, monitor and enforce standards of practice to enhance the quality of practice and reduce incompetent, impaired or unethical practice;
- s. 16(2)(f) to establish...a patient relations program to seek to prevent professional misconduct of a sexual nature.

“Professional misconduct of a sexual nature” is not defined in either the HPA or its regulations. Similarly, neither the HPA nor its regulations specifically address a professional treating their spouse or other family members. Rather, considerable discretion is left to the colleges in addressing these matters, which they do through their by-laws, standards and guidelines.

Each of the colleges has approached this issue separately, although they are guided by model by-laws posted by the Province (Appendix A – highlights added). These model by-laws are considered to be guidelines, and the colleges are not generally required to use exactly the same language in their own by-laws. These model by-laws contain a definition of ‘professional misconduct of a sexual nature:’

- a) sexual intercourse or other forms of physical sexual relations between the registrant and the patient,
- b) touching, of a sexual nature, of the patient by the registrant, or
- c) behaviour or remarks of a sexual nature by the registrant towards the patient; but does not include touching, behaviour and remarks by the registrant towards the patient that are of a clinical nature appropriate to the service being provided.

Several colleges, including the College of Physicians and Surgeons of BC, the College of Optometrists of BC, the College of Chiropractors of BC, the College of Naturopathic Physicians of BC, the College of Podiatric Surgeons of BC, the College of Registered Nurses of BC, and the College of Dental Surgeons of BC have adopted this definition in their by-laws.

The Board of the College of Dental Surgeons has devoted considerable time and effort to their deliberations on this matter, the results of which are reflected in their position statement (Appendix B).

Over the last few years, a number of individual dentists, and the BC Dental Association, have actively lobbied government to allow dentists to treat their spouses as patients. These groups have also expressed concern that the existing language unnecessarily uses 'sexual misconduct' as the basis for the prohibition.

In response, government has consistently indicated that it is unacceptable for regulated health professionals to engage in sexual relationships with their patients, and that an exception for dentistry is not being contemplated.

Ontario changed its legislation in 2013, granting each regulatory college the individual discretion to establish an exception for a member's sexual activity with a patient if (a) the patient is the member's spouse and (b) the member is not engaged in the practice of the profession at the time the conduct, behaviour or remark occurs.

Prior to this change, Ontario's legislation included a mandatory five year suspension for any proven instance of non-compliance. This mandatory suspension approach led to considerable political lobbying on the part of the profession, which resulted in a shift of direction by the Ontario government. BC's approach has never included this type of mandatory level of discipline. Rather, in BC, colleges have considerable discretion to assess disciplinary action appropriate to individual circumstances.

Colleges in BC do not support the current Ontario approach that allows practitioners to treat their spouses or family members.

#### **DISCUSSION:**

This issue encompasses two separate, but related concepts: sexual misconduct, and the ethics of practitioners treating spouses and family members. Both aspects are reflected in the concerns that have been raised with government.

In relation to the first concept, there is some agreement amongst the colleges and those raising concerns. Both suggest that defining the relationship between a practitioner and their spouse as potentially qualifying as professional misconduct of a sexual nature is unnecessarily stigmatizing.


Where the groups differ in their views is whether, regardless of how it is described, it is appropriate for a practitioner to treat their spouse and other family members. The strongly held view of the colleges is that treatment of spouses and family members is, from a medical ethics/conflict of interest perspective, not appropriate.

#### **ADVICE:**

There may be some merit in exploring ways to 'de-sexualize' the issue by focusing on the ethical/conflict of interest perspective. The Ministry should not, however, attempt to direct one or more colleges to make exceptions respecting the treatment of spouses or other family members.

---

**Program ADM/Division:** Ted Patterson, ADM, Health Sector Workforce  
**Telephone:** 250 952-3465  
**Program Contact (for content):** Mark MacKinnon, Executive Director, Professional Regulation & Oversight  
**Drafter:** Melissa Murdock  
**Date:** April 23, 2015



**Guidelines for developing bylaws  
under the  
*Health Professions Act***

DRAFT -- February, 2004

*Copyright © 2004, Province of British Columbia  
All rights reserved*

# Table of Contents

## PART A: INTRODUCTION AND COMMENTARY

1. Purpose of these Guidelines
2. Synopsis of Model Bylaws
3. Drafting notes
4. Duties of the board
5. Conflict of interest
6. Summary of Part 3 of the *Health Professions Act* (inspections, inquiries and the disciplinary process)
7. Summary of key provisions of the *Freedom of Information and Protection of Privacy Act*
8. Patient Records, Confidentiality, Disclosure, and the *Personal Information Protection Act*
9. Safe storage of records
10. Bylaw approval process
11. Labour mobility and health profession bylaws
12. Sample documents
  - Sample board resolution making or amending bylaws
  - Sample authorization for registrar to deal with complaints under section 32(3) of the *Health Professions Act*

## PART B: MODEL BYLAWS

### Model Bylaws

## PART C: TABLE OF CONCORDANCE

## PART A: INTRODUCTION AND COMMENTARY

### 1. Purpose of these Guidelines

The Ministry of Health Services is providing these Guidelines to colleges established under the *Health Professions Act* for several purposes. The Guidelines incorporate Model Bylaws which may be used as a working precedent by new boards in the drafting process to enable these colleges to become operational as soon as possible. Many provisions of the Model Bylaws are intended to provide guidance only and may be modified to reflect the particular requirements and circumstances of each profession. In a number of instances, for example, the Model Bylaws suggest administrative provisions which are not essential from the perspective of the Ministry of Health but which may assist in the administration of the college. A college may also wish to examine the bylaws of other self-governing professional bodies both within and outside British Columbia to obtain other precedents.

The Model Bylaws also indicate certain essential elements which must be included in order for any proposed bylaws to obtain government approval. For example, the *Health Professions Act* provides that no bylaw will be approved unless appropriate provision is made for the election of registrants to the board and for the duties and objects listed in section 16 of the Act. Other essential provisions are those which ensure that the interests of registrants, board members, consumers, complainants and the general public are protected. Commentary has been added throughout these revised Model Bylaws to provide additional information regarding government policy in these areas.

In addition to the Model Bylaws, these Guidelines contain discussions of the duties of the board, of conflicts of interest, and of the bylaw approval process. The Guidelines also provide a summary outlining the disciplinary process under the *Health Professions Act*, a summary of key provisions of the *Freedom of Information and Protection of Privacy Act*, a reproduction of portions of a government report detailing methods for the safe storage of records and sample board resolutions approving or amending bylaws.

#### Note to the 2004 edition

A number of amendments relevant to the Model Bylaws were made by the *Health Professions Amendment Act, 2003*. Among these changes are streamlining of the bylaw approval process, so that some bylaws no longer require the approval of the Lieutenant Governor in Council, but may take effect upon deposit with the Minister. In other areas, more flexibility has been given to deal with certain matters other than by bylaw (e.g. the appointment of an auditor, or of employees). Provision has been made for increased flexibility in the inquiry and discipline processes, including the ability to authorize the registrar to resolve some types of complaints, enhanced statutory authority for settlement agreements as an alternative to formal disciplinary hearings, and the ability to delegate

inquiry or disciplinary committee functions to other committees. Authority has been provided for bylaws regulating delegation and supervision of assistants or other non-registrants, and to provide for specialties. Provision has been made to establish a tariff of costs for investigations and hearings. A quality assurance program must now be established in the bylaws, and provision is made to authorize the appointment of assessors for such a program.

The Model Bylaws guidelines have been revised to reflect the changes made by *Health Professions Amendment Act, 2003*, and the introductory material, notes to sections, and some Model Bylaws themselves have been amended accordingly. New Parts 5 and 9 have been added to the Model Bylaws. These are described more fully below.

The *Health Professions Amendment Act, 2003* removed the requirement for prior Cabinet approval of a number of bylaws; however, bylaws which do not require Cabinet approval are required to be deposited with the Minister. The Model Bylaws continue to provide examples of bylaws in both categories.

As provided by section 19(1.1), it is no longer necessary for a college to include in its bylaws standards of practice, standards of professional ethics and conflicts of interest, and matters of the general administration and operation of the college. This will permit colleges greater flexibility in these areas, and enable them to more quickly respond to arising issues.

Transparency and certainty will continue to necessitate that colleges publish the documentation of these standards in a way that is accessible to members and the public, for example, through the college's website. The authority to make bylaws in these areas, if the board so chooses, remains under sections 19(1)(k), (l) and (z) of the *Health Professions Act*.

The changes made by the *Health Professions Amendment Act, 2003*, have resulted in a number of changes to the Model Bylaws, both in the commentary and in the notes themselves. Among these revisions are provisions related to:

- ability to create voting and non-voting classes of registrants
- a new Certificate of Election form
- provisions regarding a Quality Assurance Program and assessors appointed by the Quality Assurance Committee (new Part 5)
- authority for the registrar to deal with certain complaints
- delegation of the functions of the inquiry or disciplinary committees to other committees
- provisions regarding the practice of a registrant under suspension
- introductory material regarding investigation, inquiries and hearings is updated to reflect changes to the Act
- costs of disciplinary hearings and investigations
- review of the record, in cases of denial of registration
- delegation and supervision of assistants or other non-registrants (new Part 9)
- specialists
- ethical standards and conflicts of interest (new Schedule A).

In addition, the *Personal Information Protection Act* came into force on January 1, 2004, and affects the collection, use and disclosure of personal information by registrants.



## 2. Synopsis of Model Bylaws

The Model Bylaws provide for the operation of colleges established under the *Health Professions Act*. Part 1 of the Model Bylaws sets out the composition of the college board and its various committees, including the registration committee, the inquiry committee, the discipline committee, the quality assurance committee and the patient relations committee. A college may also wish to establish an executive committee and a finance and administration committee. This part of the Model Bylaws also provides for the election of board members, the conduct of board meetings and for the remuneration of board and committee members.

Part 2 governs the general operation and administration of the college. The duties of the auditor and the fiscal responsibilities of the board are established and provision is made for a college seal and for the board to obtain legal advice. Suggested rules for the conduct of general meetings of registrants are also provided.

Part 3 provides for matters relating to college records which are not already covered by the *Freedom of Information and Privacy of Protection Act*.

Part 4 provides for the registration of college members. Categories of registration include full registration, limited registration, non-practising registration, student registration, temporary registration and honorary registration. A college may also wish to establish a category of grandparented registration to provide for a one-time entry into the profession by experienced persons currently practising in a capacity substantially equivalent to a full registrant. The entry level requirements for each class of registration are established and provision is made for the registration committee to set and conduct examinations.

Part 5 is a new Part which deals with quality assurance, including the quality assurance program, the approval of courses for the purpose of the quality assurance program, and assessment of professional performance for quality assurance purposes. The former bylaw concerning continuing education has been relocated to this Part.

Part 6 sets out several procedural matters pertaining to inspections, investigations and disciplinary hearings which are not already covered by the *Health Professions Act*.

Part 7 contains provisions dealing with health records retained by registrants, including provisions relating to the creation, use, disclosure, storage, retention and disposal of and patient access to these records and the personal information they contain.

Part 8 provides for matters relating to health profession corporations which are not already covered by the *Health Professions Act*. These matters include the application process for obtaining a health profession corporation permit and the procedural requirements to be followed by the board during a permit revocation hearing.

Part 9 contains provisions relating to delegation, authorization and supervision. This includes sections on authorization for the delegation and supervision of aspects of practice, limitations on such delegation and supervision, and the ability of registrants to accept delegation and authorization from other colleges.

Part 10 contains miscellaneous sections. These include requirements to comply with the profession's Code of Ethics and Standards of Practice, requiring registrants to obtain adequate liability insurance and restricting the advertising of professional services by registrants. A review process is also established to resolve any billing disputes between patients and registrants.

A number of Schedules and Forms are appended. These include Schedule A, which contains provisions dealing with ethical standards and conflict of interest. This includes a non-exhaustive list of standards pertaining to ethical conduct and conflict of interest that a college may apply or use as a starting point in developing its own specific standards

### 3. Drafting notes

College staff are strongly encouraged to consult with staff from the Ministry of Health Services from the initial drafting stages to avoid any difficulties that may arise regarding policy issues when the bylaws are presented to Cabinet for approval. Boards should also note that, although these Model Bylaws were drafted by Ministry staff, they are provided primarily to provide guidance on policy issues rather than on legal issues. Therefore, it is recommended that boards draft their bylaws in consultation with a lawyer to ensure that there is statutory authority for each provision. Obtaining the advice of a lawyer will reduce the likelihood of possible legal challenges to the bylaws in the future.

The *Health Professions Act* is the governing legislation under which regulations and the bylaws are made. **It is important that the bylaws do not duplicate or paraphrase the provisions of the Act or regulations as any differences in wording may imply that the provisions have different meanings and may raise difficult questions of interpretation.** For educational purposes, colleges may wish to prepare and provide to their members annotated copies of the bylaws referencing the Act and regulations.

The Model Bylaws are one of many sources of information that may be used in the drafting process. For example, the bylaws of other health professions both within and outside British Columbia may provide a valuable range of precedents. Useful sources of information regarding procedures at meetings include the most recent edition of *Robert's Rules of Order*<sup>1</sup> and the *British Columbia Society Act*. The *Society Act* also contains Model Bylaws which may provide model provisions respecting the general administration of the college. In addition, reference may be made to texts on administrative law or on the regulation of professions in Canada<sup>2</sup>. Note that numbers or dates in square brackets within the Model Bylaws indicate that the quantity or time limit is variable and has only been arbitrarily set in the text.

Colleges are specifically bound by several provincial statutes, which are referenced in the Model Bylaws, including the *Freedom of Information and Protection of Privacy Act*, the *Criminal Records Review Act*, and the *Personal Information Protection Act*. Copies of these Acts may be obtained from Crown Publications Inc. at 521 Fort Street, Victoria, BC V8W 1E7 (tel: (250) 386-4636, fax: (250) 386-0221).

---

<sup>1</sup> *Robert's Rules of Order*, (Jove Books; New York, 1988).

<sup>2</sup> See for example, Robert W. MacCauley, Q.C., *Practise and Procedure Before Administrative Tribunals* (Carswell; Scarborough, Ontario, 1991), Keith R. Hamilton, *Self-Governing Professions: Digests of Court Decisions* (Canada Law Book Company), and James T. Casey, *The Regulation of Professions in Canada* (Carswell; Scarborough, Ontario, 1994).

## 4. Duties of the board

The *Health Professions Act* requires that the first set of bylaws not be approved by Cabinet unless appropriate provision has been made for each of the duties and objects of the board. These duties and objects are set out in section 16 of the Act, reproduced below:

### Duties and objects of a college

- 16 (1) It is the duty of a college at all times
- (a) to serve and protect the public, and
  - (b) to exercise its powers and discharge its responsibilities under all enactments in the public interest.
- (2) A college has the following objects:
- (a) to superintend the practice of the profession;
  - (b) to govern registrants according to this Act, the regulations and the bylaws of the college;
  - (c) to establish standards of academic and technical achievement and the qualifications for registration as a member of the college;
  - (d) to establish, monitor and enforce standards of practice to enhance the quality of practice and reduce incompetent, impaired or unethical practice amongst registrants;
  - (e) to establish and maintain a continuing competency program to promote high practice standards amongst registrants;
  - (f) to establish, for a college designated under section 12(2)(h), a patient relations program to seek to prevent professional misconduct of a sexual nature;
  - (g) to establish, monitor and enforce standards of professional ethics amongst registrants;
  - (h) to require registrants to provide to an individual access to the individual's health care records in appropriate circumstances;
  - (i) to inform individuals of their rights under this Act, the regulations and the bylaws of the college and the *Freedom of Information and Protection of Privacy Act*;
  - (j) to administer the affairs of the college and perform other duties through the exercise of the powers conferred by this Act, the regulations or the bylaws.

Section 16 of the *Health Professions Act* constitutes the most important provision with respect to the governance of the profession by the college. This section is fundamental to board operations and should govern all continuing activities of the board.

In addition to the obligations created by the *Health Professions Act*, the board must be cognizant of and operate in accordance with other relevant legislation, and the principles of openness and accountability at common law.

Board members are obligated to act in the public interest and to avoid conflict of interest, as discussed in the next section.

## 5. Conflict of interest

Issues respecting conflict of interest raise a number of exceedingly important considerations for colleges. When one has a duty to protect another person, the possibility arises for one's own personal interests to create a conflict that might prejudice the protected person's interests. Legal principles have been developed as safeguards to prevent such situations from occurring. These principles ensure confidence is maintained that the protector will carry out his or her duties impartially in regard to actual conflicts of interest, and also situations which might reasonably be viewed as apparent conflicts of interest.

It is obvious that colleges of health professions, as protectors of the health and safety of the public, have a particular obligation to ensure that public confidence is maintained by avoiding actual or apparent conflicts of interest.

The term "conflict of interest" has been variously defined. A useful definition is that a conflict of interest arises in any situation in which one's personal interests (or the interests of a close friend, family member, business associate, corporation or partnership in which one holds a significant interest, or a person to whom one owes an obligation) may prevent one from acting in the best interests of the college, or from acting on behalf of the college in a way that is fair, impartial and without bias.

**It is incumbent on all persons involved in the college – registrants, board members, and officers -- to arrange their private affairs, and to conduct themselves, so as to avoid a conflict of interest, or the appearance of a conflict of interest.**

Section 19(1)(l) of the *Health Professions Act*, as amended by *Health Professions Amendment Act, 2003*, specifically provides authority for "standards for the avoidance of conflicts of interest" to be established in the bylaws. However, as a consequence of section 19(1.1), a board may choose to establish such standards other than in its bylaws. Schedule A of these Model Bylaws provides suggestions for bylaws concerning ethical conduct and conflicts of interest, if the board chooses to make bylaws in these areas.

*Guidelines for conduct and conflict of interest have been formulated for government appointees and are published on the web page of the Board Resourcing and Development Office. Colleges may find these may be adapted for use by registrants, board members and officers of the college. They may be found at:*

*<http://www.fin.gov.bc.ca/abc/infopages/guidecond.htm>*

## **6. Summary of Part 3 of the *Health Professions Act* (inspections, inquiries and the disciplinary process)**

Part 3 of the *Health Professions Act* provides for the investigation of complaints made against a registrant and for the conduct of inquiries and disciplinary hearings. The *Health Professions Amendment Act, 2003* made a number of changes to the Act in respect of these processes. Bylaws may supplement the provisions of the Act by dealing with additional matters not already covered in the Act, but care should be taken not to duplicate the provisions of the Act in the bylaws. A brief summary of these provisions is provided below. Among the changes made by the *Health Professions Amendment Act, 2003* in regard to inspections, inquiries and discipline are:

- extended ability to regulate the conduct of assistants and other non-registrants who may act under delegation or supervision by a registrant;
- ability for the board to authorize the registrar to deal with certain types of complaints;
- the ability to authorize committees other than the inquiry or discipline committees to deal with some complaints;
- creation of a statutory duty to report dangerous practice, sexual misconduct, or hospitalization in regard to psychiatric care or treatment for addiction;
- provision for awarding costs based on a tariff approved by the board.

### **Quality assurance program**

As amended by the *Health Professions Amendment Act, 2003*, Part 3 of the Act requires the quality assurance committee to establish a quality assurance program, which may appoint assessors to assess the professional performance of a registrant and inspect related records (s. 26.1). The committee may make recommendations, or, where it has reasonable grounds to believe that the situations listed in section 26.2(3) exist, it must notify the inquiry committee, who will treat the matter as a complaint (s. 26.2).

In the Model Bylaws, previous and new sections relevant to quality assurance have been collected in a new Part 5.

### **Complaints and investigations**

The *Health Professions Act* provides that a person may make a complaint by delivering the complaint in writing to the registrar. The registrar then assesses the complaint and refers it to the inquiry committee with any recommendations (s. 32).

Under the amendments made by the *Health Professions Amendment Act, 2003*, section 32(3) permits the board to authorize the registrar to deal with certain complaints without referring them to the inquiry committee. This includes complaints which the registrar determines to be trivial, frivolous, vexatious, or made in bad faith, or complaints which allege conduct which

would not be a matter subject to investigation by the inquiry committee. In addition, the registrar, if authorized by the board, may deal with complaints on allegations that, if proven, would not constitute a “serious matter” as defined in Section 26.

Acting under the authority of section 32(3), the registrar may dismiss a complaint, or make a request that the registrant do any of the things which an inquiry committee could request of a registrant under section 36(1), without referring the matter to the inquiry committee. The registrar must report to the inquiry committee, and the inquiry matter may nonetheless request that the matter be referred to it (sections 32(4) and (5)).

The inquiry committee may commence an investigation upon receipt of a referral by the registrar (s. 32) or on its own motion (s. 33). Complaints may also be received from the quality assurance committee in regard to the matters set out in section 26.2(3), or from persons having a duty to report dangerous practice, sexual misconduct, or hospitalization for psychiatric care or addiction treatment (sections 32.1 to 32.5).

As part of the investigation, the inquiry committee requests the registrant to provide information regarding the matter which the registrant believes should be considered by the inquiry committee and may also direct an inspector to observe the registrant's practice or to inspect the registrant's premises and records (ss. 28-30, 33). Inspectors are appointed by the inquiry committee and their powers and duties are specified in the Act (ss. 27-28). It should be noted that the inquiry committee has a general duty under administrative law to act as expeditiously as possible to conclude the investigation.

### **Inquiries**

After gathering sufficient information, the inquiry committee may decide that the matter does not warrant further action or may attempt to resolve the matter informally (s. 33).

Alternatively, the inquiry committee may decide to request the registrant to consent to a reprimand or to provide certain undertakings. If the matter is of a more serious nature, the inquiry committee will direct the registrar to initiate a disciplinary hearing (ss. 33, 36).

### **Review of inquiry committee decision by the board**

If the inquiry committee (or the registrar if authorized by the board to deal with certain complaints) decides to take no further action, they must report to the board and notify the complainant. The complainant may request the board to review the decision, and the board may, after review, confirm the decision, direct the inquiry committee to act, or direct the registrar to initiate a disciplinary hearing (s. 34).

### **Consent order**

At this point the registrant may give the inquiry committee a written proposal, which the inquiry committee is free to accept or reject, admitting the nature of the complaint and

consenting to an order under section 39 as set out in the proposal. If the proposal is rejected, the hearing proceeds, and the discipline committee may not consider any admission made in the proposal (s. 37.1).

### **Disciplinary hearings**

If a disciplinary hearing is required, the registrar provides notice of the hearing to the complainant and to the registrant. After conducting a public hearing, the discipline committee may dismiss the matter, or make a determination as set out in s. 39(1)(b) to (e). If a determination is made, the discipline committee may under section 39(2), reprimand the respondent, impose a fine, impose limits on the respondent's practice or its management, or suspend or cancel the registrant's registration. These decisions may be appealed to the Supreme Court by the college or the respondent (s. 40).

### **Costs**

The *Health Professions Amendment Act, 2003* amends the Act to provide that the discipline committee may award costs to the college or the respondent, based on a tariff of costs established by bylaw (s. 39(4) to (6)). Costs may also be included in a consent order, for the costs of the inquiry (s.37.1(1)(c)).

### **Extraordinary action**

Note that the inquiry and discipline committees have the power to take extraordinary action to protect the public at various stages of the process. This extraordinary action may consist of imposing a limit on or a suspension of the registrant's right to practise pending a hearing of the discipline committee. The registrant has the right to appeal such a decision to the Supreme Court (ss. 35, 40).

### **Injunctions**

As a result of amendments made by the *Health Professions Amendment Act, 2003*, a college may investigate and discipline its own registrants and former registrants, and also has the jurisdiction to investigate and discipline certain non-registrants. In addition, the college may obtain injunctions to prevent any person from providing services that may only be provided by registrants (s. 52).

### **Administrative law**

The evolving field of administrative law will have implications for colleges' investigation and disciplinary processes. Accordingly, colleges are encouraged to review with their legal advisors the requirements of fairness and natural justice as these affect these processes.



## **7. Summary of key provisions of the *Freedom of Information and Protection of Privacy Act***

The purpose of the *Freedom of Information and Protection of Privacy Act (FOIPPA)* is to provide the public with a right of access to records retained by public bodies, which include self-governing professional colleges, while at the same time protecting the privacy of individuals. Therefore, whenever a college collects, uses or discloses information of a personal nature, it must do so in accordance with the *FOIPPA*. The following is a summary of some key provisions of the *FOIPPA* as they relate to professional colleges. Note that Part 3 of the Model Bylaws provides for additional matters relating to college records which are not already covered under the *FOIPPA*.

### **Collection, use and disclosure of personal information**

The *FOIPPA* provides that, in general, a college may only collect personal information where the information is necessary for an operating activity of the college, for the purposes of an investigation or where required by statute (s. 26). The college must take reasonable steps to ensure that the information is accurate and that the information is collected in an authorized manner (ss. 26 - 29). A college may only use personal information or disclose it to others for the purpose for which it was obtained, for a use consistent with that purpose or where the individual has provided consent (s. 32). There are certain exceptions to this rule including the disclosure of the information for the purposes of an investigation leading to law enforcement proceedings (s. 33).

### **Information requests**

Any person may make a request for information which is in the custody of the college, including a record including personal information about the applicant (s. 5). The "head" of the college for the purposes of administering the *FOIPPA* or other designated person must respond to the request without delay and no later than 30 days after the request is received (s. 7). Generally, the "head" of the college must allow the applicant to examine or copy the information unless one of the exceptions set out in the *FOIPPA* applies. For example, a request must be denied where the disclosure could unreasonably invade a third person's personal privacy. A request may also be denied where the disclosure could harm individual or personal safety or the financial interests of the college (Part 2).

Note that certain types of information are exempted from the *FOIPPA* including a record of an examination question or a draft decision of a person acting in a quasi judicial capacity -- for example, a member of the discipline committee (s. 3). Where a record containing personal information about the applicant contains information excepted from disclosure, that information may be severed from the record before the record is provided to the applicant.

## **Administering the *FOIPPA***

College boards must designate a person or committee as the "head" of the college for the purposes of administering the *FOIPPA* [s. 77(a)]. Other persons may also be designated by the board to perform any duty or exercise any function of the "head" of the college (s.77(b)). Duties of the "head" of the college are set out below:

### *Handling request for access to information (Part 2)*

- deciding on severing a record (s.4)
- deciding on duty to create a record (s.6)
- deciding on content of response (s.8)
- deciding how access will be given (s.9)
- extending time limit for up to 30 days (s.10)
- requesting commissioner's permission to extend for longer period [s.10(1)]
- transferring a request (s.11)
- determining whether any exception applies (Part 2, Division 2)
- providing third party notice (s.23)
- providing notice of decision (s.24)

### *Protection of privacy*

- handling request for correction of personal information (s. 29)
- ensuring that there is no unauthorized access, collection, use, disclosure or disposal of personal information by college members or staff (Part 3),
- providing notice of disclosure (s. 33(p))

### *Reviews and complaints*

- making representations to the Commissioner during a review (s.56)
- providing disclosure on the order of the Commissioner (s.58)

### *General*

- recording and notify the Minister of any use or disclosure for an unlisted purpose
- providing copies of directory, index of records and policy manuals to the public (ss.69-71)
- charging or waiving service fees for information requests (s.75)

Current copies of the *FOIPPA* may be obtained from Crown Publications at 521 Fort St., Victoria, B.C., V8W 1E7 (tel: (250) 386-4636).

## **8. Patient Records, Confidentiality, Disclosure, and the *Personal Information Protection Act***

Although the *Freedom of Information and Protection of Privacy Act (FOIPPA)* applies to health professions colleges and the colleges' records, it does not apply to registrants and their records. In the absence of legislation specifically dealing with registrants' records, the previous edition of the Model Bylaws contained provisions modelled on the *FOIPPA* but adapted to registrants and patient records.

In 2003, legislation was passed which affects such records:

- the *Personal Information Protection Act (PIPA)*, which came into force on January 1, 2004, and governs the collection, use and disclosure of personal information by organizations that do not fall under the *FOIPPA*, and
- the *Health Professions Amendment Act, 2003*, introduced new provisions in the *Health Professions Act* dealing with confidentiality and disclosure of information in certain situations.

Part 7 of the Model Bylaws remains unchanged. The ministry has consulted with the Ministry of Management Services (which deals with *PIPA*) which considers that the bylaws modelled on the *FOIPPA* will also meet the requirements of *PIPA*. However, as the field of personal privacy is an emerging one, colleges may wish to review this material with their legal advisors to satisfy themselves that their proposed bylaws will meet requirements of *PIPA*, as well as placing any additional protections on patients' personal information which the college may wish to apply.

The Information and Privacy Commissioner for British Columbia is responsible for monitoring how *PIPA* is administered, and may conduct investigations, inform the public, comment on various aspects of the protection of personal information, and carry out a range of other duties under the legislation. The commissioner has issued a number of publications concerning *PIPA*, including summaries of the legislation and its impacts and a 52 page *Guide for Businesses and Organizations to British Columbia's Personal Information Protection Act*. The web site for these publications is:

<http://www.oipcbc.org/private/>

The Ministry of Management Services through its Corporate Privacy and Information Access Branch also provides information about *PIPA*, including a summary pamphlet *Guide to the Personal Information Protection Act*. The web site is:

[http://www.msar.gov.bc.ca/foi\\_pop/Privacy/](http://www.msar.gov.bc.ca/foi_pop/Privacy/)

The amendments made by the *Health Professions Amendment Act, 2003*, introduce new provisions which impact confidentiality requirements. These include:

- the duty of the quality assurance committee and its assessors to maintain the confidentiality of material it gathers (except to show that false information was knowingly provided) [section 26.2]
- statutory duties to report information about a registrant in circumstances that might constitute a danger to the public, in regard to hospitalization for psychiatric care or substance abuse, and for sexual misconduct [sections 32.1 to 32.4]. Section 32.5 of the Act provides immunity for persons making such reports in good faith.

In addition to the requirements of *PIPA* and the *Health Professions Act*, registrants will continue to be bound by their standards of practice and of professional ethics. Inappropriate disclosure of personal information may in some cases constitute a breach of these standards and could lead to disciplinary action.

## 9. Safe storage of records

It is recommended that the board draft written policies which detail methods of safe storage for physical records and records stored by electronic means. These policies may be drafted to ensure the safe storage of college and registrant records pursuant to sections 42 and 83 of the Model Bylaws. These records may contain personal information which is subject to statutory duties under the *Freedom of Information and Protection of Privacy Act* (in the case of college records) or under the *Personal Information Protection Act* (in the case of records kept by registrants).

Chapter 8 of the *Review of the Storage and Disposal of Health Care Records*, report of Dr. Shaun Peck, Deputy Provincial Health Officer, to the Minister of Health and Minister Responsible for Seniors, (Province of British Columbia, July 1995, pp. 12-15) is reproduced below as it may serve as a useful reference in drafting these policies.

### Chapter 8 Security of Health Care Records

The Privacy Commission in New Zealand published a health information and privacy code in 1994. The following detailed recommendations for the security of health care records have been adapted from this code and are provided here because of the excellent specificity of details that need to be identified by health care agencies for their health care records management.

#### Physical Security

Appropriate arrangements are needed for the adequate physical security of health records while in use and when in storage. The following suitable operational procedures are recommended:

- Physically secure areas storing health records;
- Take simple precautions with respect to paper records, such as locking filing cabinets, locking unattended rooms, etc.;
- Allow access to areas where health records are stored only to authorized personnel;
- Maintain control over the storage, availability and use of all computer storage media (disks, tapes etc.);
- Control access to areas where fax machines are located;
- Require all access keys, cards, passwords etc., to computer systems or networks to be physically secure or subject to well-defined and strictly enforced security procedures;
- Restrict access to documentation about installations and computer systems to authorized personnel;
- Position terminals and personal computers used for entering or manipulating health records so that they cannot be seen by unauthorized personnel;
- Use software programs which automatically blank the screen if the computer remains unused for a set period;
- Take precautions to protect paper records and computer equipment and data

- from fire, deterioration and other hazards;
- Enhance security awareness. Steps taken in this respect, such as policies to challenge unrecognized and unaccompanied visitors, will have added benefits with respect to controlling theft and promoting staff and patient safety.

### **Operational Security**

Appropriate arrangements are needed for the adequate operational security of health records. The following suitable operational procedures are recommended:

- Enhance security awareness. Steps taken in this respect, such as policies to challenge unrecognized and unaccompanied visitors, will have added benefits with respect to controlling theft and promoting staff and patient safety;
- When contracting with all persons involved in the creation, collection, use and disclosure of health records, require compliance with the *Code of Practice for Ensuring the Confidentiality and Security of Health Records in British Columbia*, the *Freedom of Information and Protection of Privacy Act*, and outline responsibilities with respect to health records privacy and access;
- Withhold, as far as practical, access to health information from manufacturers or maintenance staff (this applies both to paper and electronic records);
- Make records anonymous for health education purposes and use fictitious records for training individuals in the use of systems;
- Change passwords at frequent and irregular intervals;
- Require persons making entries on health records to sign those entries;
- Keep health records, whether paper records, computer disks or tapes, on the agency's premises. Where staff are authorized to take health records off the premises they should be kept secure, for example, in a locked file or case;
- Maintain formal procedures for dealing with employees who are leaving the agency relating to such matters as reclaiming identity badges, passes, keys, etc. and the cancellation of passwords.

It may be practical and appropriate, e.g. in health research projects, to remove names from some records while in use and to use an identifier to ensure that identification of individuals is possible only by reference to a cross index.

For large computer installations, the following operational procedures are recommended:

- Maintain a list of personnel who are authorized to use the system;
- Check computer logs or system management output to detect unauthorized access;
- Develop rules as to levels of access and take steps to ensure that access to different categories of information in health records is available only to authorized users.

### **Technical Security**

Appropriate arrangements are needed for the adequate technical security of health records. The following suitable operational procedures are recommended:

- Ensure data protection, back-up intervals and methods, disaster recovery plans, etc. are in place;
- Automatically validate, as far as possible, all data entered on systems to ensure accuracy;
- Validate software used for recording, processing, storage and retrieval of health records through detailed audit, and certify software is suitable for the uses to which it is put;
- Ensure that confidentiality measures are in place, when storing backup disks and tapes away from the main computer system, ideally in another building, to prevent loss;
- Adopt procedures to ensure data cannot be passed between computers or discrete systems within the same computer without authority;
- Take reasonable steps before a computer interface is established with a system to ensure the arrangement does not increase the risk of unauthorized access.

### **Security of Transmission**

Appropriate arrangements are needed for adequate security in transmitting health records. Suitable operational procedures should be adopted which might include establishing guidelines controlling the use of mail, faxes, and E-mail, Internet, etc., for transmitting health records.

Facsimiles pose special problems in privacy, and special care is needed for transmitting confidential information. Where appropriately used, and subject to appropriate security safeguards, fax transmissions can provide a quick, effective and satisfactory means of communication. Problems primarily arise because transmissions can easily be sent to the wrong recipient in error. Often faxes are received at unattended machines. There is a risk of transmitting to the wrong machine at a large hospital or omitting to note that a health practitioner has changed their phone number or location.

Some of the following may be appropriate for the fax security policy for a health agency:

- Controls on types of information which may be sent by fax;
- Production and distribution of an official and regularly updated list of fax numbers assigned to clinics within a hospital (with a clear expiry date for each edition) to ensure fax numbers used are current and accurate;
- Regular checking of accuracy of pre-programmed numbers;
- Technical safeguards (from simple locks through to encryption facilities);
- Retention of fax activity history reports to check unauthorized transmissions, etc.;
- Careful checking of fax confirmation reports to ensure correct transmissions (and to enable rapid action if there is an incorrect transmission);
- Use of fax only by authorized staff with secure delivery to intended clinical staff;
- Use of unique identifiers or code numbers for the report to ensure that transmission of confidential information about identifiable individuals does not

- occur;
- Locating fax machines out of public areas with controlled access;
- Making telephone calls before transmissions.

### **Accountability for Security**

Policies must show who is responsible for the security of the information (responsible keepers). Audit trails (either electronic, in the case of computer records, or paper, in case of manual records) must show who accessed the information.

The key to protecting personal privacy in the health care context can be summarized in one word: **auditing** for compliance with fair information practices (see section 11 for a discussion on fair information practices). There are two elements to auditing: the power to construct a data trail to follow all instances of access to a database for particular information, and the human capacity to conduct site investigations which can delve more deeply into the reasons for a particular request.

In each case, the deterrent effect will be the same: users of the health care information system will know in advance that their actions can be electronically traced and may well be randomly audited for compliance in any event.

The following is an example of auditing for automated patient records:

As a result of an allegation that staff had been inappropriately accessing certain patient records in a hospital, "The hospital's security task force had discovered that inappropriate access had occurred through a special audit trail of access by staff to the records of high-profile patients and of hospital staff who were patients. The hospital's computer system provides a clear record of who has had access and when. The security committee was able to determine who had accessed the record in the course of their staff duties and who had been "browsing." As a result of the audit, the hospital is reviewing the levels of access granted to various categories of staff. In addition, as part of a larger hospital-wide educational approach, the screens of the computer system feature messages advising users that usage of the system is being audited on a regular basis. These messages appear at random on screens." (Information and Privacy Commissioner of British Columbia. Investigation Report P95-005, March 31, 1995)

A copy of Dr. Peck's full report entitled *Review of the Storage and Disposal of Health Care Records* may be obtained by contacting the Office of the Provincial Health Officer of the Ministry of Health Services at 952-1330.



## 10. Bylaw approval process

There are a series of steps which are taken in the bylaw approval process once the bylaws have been formally submitted by a board to the Minister of Health Services. Staff from the Legislation and Professional Regulation Division consult with other branches within the Ministry and with other Ministries, including the Ministry of Advanced Education, regarding the substantive aspects of the bylaws. Related health professions, health organizations, practitioner associations, educational institutions and consumer groups are often also consulted with regard to these substantive issues.

The length of these consultations will vary depending on the issues raised and the extent to which the board and Ministry staff have engaged in discussions with these groups prior to the formal submission of the bylaws. Unforeseen delays may be eliminated if there have been advance consultations with the Ministry and if other health professions have been provided with information at an early opportunity.

As a result of amendments made by the *Health Professions Amendment Act, 2003*, it is no longer necessary to obtain Cabinet approval for all bylaws. However, it is necessary that bylaws be deposited with the Minister even if Cabinet approval is not required for a particular bylaw.

Bylaws which deal with the following matters continue to require Cabinet approval:

- number of elected board members [*Health Professions Act*, section 19(1)(a)]
- terms of office, removal, and vacancies of elected board members [section 19(1)(e)]
- classes of voting and non-voting registrants [section 19(1)(i)]
- requirements for registration [section 19(1)(j)]
- aspects of practice that may be delegated or performed under supervision [section 19(1)(k.1)]
- quality assurance program [section 19(1)(k.2)]
- specialists [sections 19(1)(k.3), (k.4)]
- registrants under suspension [section 19(1)(k.5)]
- certification of non-registrants, and training, standards of practice and other matters relating to them [sections 19(1)(l.1) to (l.5)]
- standards of academic and technical achievement, and programs meeting these [sections 19(1)(m), (m.1)]
- continuing education and continuing competence [section 19(1)(n)]
- professional liability insurance [section 19(1)(o)]
- renewal, suspension, cancellation and reinstatement of registration [section 19(1)(r)]
- advertising [section 19(1)(s)]
- establishment of registration, quality assurance, inquiry, discipline, patient relations and other committees [section 19(1)(t)]

- composition, procedures, duties, delegation, remuneration and other matters respecting committees and their members [section 19(1)(u)]
- maximum fine imposed by discipline committee [section 19(1)(w)]
- patient relations educational requirements and guidelines [section 19(1)(x)]
- collection of personal health information and creation of records [section 19(1)(x.1)]
- access to health care records [section 19(1)(y)]
- retention, disclosure, storage and destruction of records [section 19(1)(y.1)]
- reviews on the record, and board acting as discipline committee [section 19(1)(y.2)]
- authorizing another committee to act as the inquiry or discipline committee [section 19(1)(y.3), (y.4)]
- general administration and operation of the college [section 19(1)(z)]

Bylaws dealing with the following matters do not require Cabinet approval, but must be deposited with the Minister:

- time, manner and procedure for board elections [section 19(1)(b)]
- time, place, calling and conduct of meetings [section 19(1)(c)]
- quorums [section 19(1)(d)]
- forms [section 19(1)(f)]
- appointment, removal, functions and duties of officers [section 19(1)(g)]
- standards, limits and conditions for practice [section 19(1)(k)]
- standards of professional ethics, and conflicts of interest [section 19(1)(l)]
- fees for non-registrants [section 19(1)(l.6) and registrants [section 19(1)(p), (q)]
- tariff of costs for investigations, and inquiry and discipline committee hearings [section 19(1)(v.1), (w.1)]

As noted above, as a consequence of section 19(1.1), a board need not act by bylaw to establish standards of practice or standards of professional ethics and conflicts of interest, or to administer and operate the college. However, if bylaws are made in these areas, they are subject to the approval or deposit requirements as noted.

Note that the *Health Professions Act* requires that health professions be provided with three months notice of new, amended, or repealed bylaws, except for those bylaws which do not require Cabinet approval. The three month notice period may be shortened by the Minister in the appropriate circumstances. This notice is now provided electronically by the Legislation and Professional Regulation Division of the Ministry of Health Services by posting on its web site at <http://www.healthplanning.gov.bc.ca/leg/>.

The ministry expects that colleges and their legal advisors will, prior to submission of bylaws for Cabinet approval, have reviewed the bylaws to ensure that the bylaws conform to principles of administrative law and natural justice, fall within the authority of enabling

legislation, and adequately reflect the Canadian Charter of Rights and Freedoms. This review will facilitate the subsequent review, by the Minister's legal advisors and Legislative Counsel, prior to submission to Cabinet. Government may, in future, require specific certification by the college or its legal advisors that these issues have been considered and addressed through an appropriate review.

The Minister forwards the bylaws requiring Cabinet approval to Cabinet along with his or her recommendations for approval. Cabinet makes the final decision regarding whether or not to approve the bylaws (or portions of the bylaws), and this decision is given legal force and effect by an Order in Council signed by the Lieutenant Governor in Council. Although Cabinet generally meets on a weekly basis to review Orders in Council, including health professions bylaws, there are times where Cabinet meets less frequently and therefore the timing of the final approval of the bylaws may be dependent on Cabinet's schedule.

Once the initial bylaws are approved by Cabinet, the board may wish to make amendments to the bylaws from time to time. Generally, three months notice of any amendments requiring Cabinet approval must be provided to other health professions in the same manner as the first set of bylaws, although here again the time period may be shortened by the Minister in appropriate circumstances.

Section 19(3.2) of the *Health Professions Act*, as amended by the *Health Professions Amendment Act, 2003*, requires bylaws be made available for inspection by registrants and electronically on the college's website. Many colleges have already begun to publish bylaws on their websites.

## **11. Labour mobility and health profession bylaws**

As a consequence of British Columbia's participation in the *Agreement on Internal Trade* (AIT), it is necessary that the bylaws of health professions meet the provisions of that agreement concerning labour mobility.

The Province of British Columbia, along with all other Canadian governments, is a signatory to the AIT, chapter 7 of which deals with labour mobility. The purpose of this chapter is to enable any worker qualified for an occupation in the territory of a party to the Agreement to be granted access to employment opportunities in the territory of any other Party, as provided in the Chapter (Article 701).

Generally speaking the AIT requires the Province to ensure that College bylaws meet specified criteria, as those bylaws pertain to applicants who received training or who were previously registered outside of British Columbia. In this respect registration requirements must:

- relate principally to competence;
- be published or otherwise readily accessible;
- not result in unnecessary delays in the provision of examinations, assessments, licenses, certificates, registration or other services that are occupational prerequisites for workers of any other Party; and
- except for actual cost differentials, not impose fees or other costs that are more burdensome than those imposed British Columbia registrants.

The AIT delineates a process for the resolution of complaints that may arise between the Parties regarding the provisions of the Agreement respecting labour mobility.

The Ministry of Advanced Education is responsible for ensuring compliance with the Labour Mobility Chapter of the AIT within British Columbia. Proposed bylaws will be reviewed by that Ministry to ensure compliance with Chapter 7 of the Agreement.

## 12. Sample documents

In this section, a number of sample documents are presented for the board's consideration:

- Sample board resolution for making or amending bylaws
- Sample authorization for registrar to deal with complaints under section 32(3) of the *Health Professions Act*

## **Sample board resolution making or amending bylaws (resolution and schedule)**

RESOLUTION OF THE BOARD OF THE COLLEGE OF  
OF BRITISH COLUMBIA MADE  
THE DAY OF , 20\_\_, [AT VANCOUVER,  
BRITISH COLUMBIA] [or] [BY TELECONFERENCE]

RESOLVED THAT, in accordance with the authority established in section 19(1)  
of the *Health Professions Act*, and subject to the approval of the  
Lieutenant Governor in Council, where required by the *Health Professions Act*,  
the Board [make or amend] the Bylaws of the College of  
of British Columbia, as indicated in the Schedule attached to this Resolution.

CERTIFIED A TRUE COPY

\_\_\_\_\_  
[Chair] [Registrar]

## SCHEDULE

The Bylaws made by the College of \_\_\_\_\_ of British Columbia under the authority of the *Health Professions Act* are amended as follows:

1. Section 14(4) is amended by striking out " . . . " and substituting " . . . " .
2. Section 40 is repealed. [or "Section 40(2) is repealed."]
3. Section 44 is repealed and the following substituted:  
44. . . . .
4. Section 50 is amended by adding the following subsection after subsection (4):  
(4.1) . . . . .
5. The following section is added after section 55:  
55.1 . . . . .
6. Section 60 is amended
  - (a) in subsection (1) by . . . ; and
  - (b) by repealing subsection (3).
7. Section 66 is amended
  - (a) by renumbering it as section 66(1); and
  - (b) by adding the following subsection:  
(2) . . . . .

(Note that the section numbers used in this draft schedule are for demonstration purposes only and do not pertain to the Model Bylaws.)

**Sample authorization for registrar to deal with  
complaints under section 32(3) of the *Health Professions  
Act***

RESOLUTION OF THE BOARD OF THE COLLEGE OF  
OF BRITISH COLUMBIA MADE  
THE DAY OF , 20\_\_, [AT VANCOUVER,  
BRITISH COLUMBIA] [or] [BY TELECONFERENCE]

RESOLVED THAT, in accordance with the authority established in section 32(3)  
of the *Health Professions Act*, the Board authorizes the registrar to deal with  
complaints as specified in sections 32(3) to (5) of the Act, in the manner therein  
set out.

CERTIFIED A TRUE COPY

---

[Chair] [Registrar]



# PART B. MODEL BYLAWS

## Model Bylaws for colleges established under the *Health Professions Act*

### Contents

Section

1. Definitions

#### PART 1

##### COLLEGE BOARD, COMMITTEES AND PANELS

- |     |                                    |     |                                      |
|-----|------------------------------------|-----|--------------------------------------|
| 1.1 | First board                        | 14. | Extraordinary board meetings         |
| 2.  | Composition of the board           | 15. | Registration committee               |
| 3.  | Electoral districts                | 16. | Inquiry committee                    |
| 4.  | Voting and non-voting registrants  | 17. | Discipline committee                 |
| 5.  | Notice of election                 | 18. | Quality assurance committee          |
| 6.  | Nomination procedure               | 19. | Patient relations committee          |
| 7.  | Election procedure                 | 20. | Executive committee                  |
| 8.  | Terms of office                    | 21. | Finance and administration committee |
| 9.  | Removal of elected board member    | 22. | Committees                           |
| 9.1 | First election and terms of office | 23. | Committee panels                     |
| 10. | Vacancy                            | 24. | Meetings of a committee or panel     |
| 11. | Remuneration of board members      | 25. | Remuneration of committee members    |
| 12. | Chair and vice-chair               |     |                                      |
| 13. | Board meetings                     |     |                                      |

#### PART 2

##### COLLEGE ADMINISTRATION

- |     |                          |     |                                     |
|-----|--------------------------|-----|-------------------------------------|
| 26. | Seal                     | 34. | Legal counsel                       |
| 27. | Deputy registrar         | 35. | General meetings                    |
| 28. | Fiscal year              | 36. | Notice of general meetings          |
| 29. | Banking                  | 37. | Resolutions proposed by registrants |
| 30. | Payments and commitments | 38. | Proceedings at general meetings     |
| 31. | Borrowing powers         | 39. | Voting by proxy                     |
| 32. | Investments              | 40. | Notice to public representatives    |
| 33. | Auditor                  |     |                                     |

**PART 3**  
COLLEGE RECORDS

- |  |   |
|--|---|
| 41. Body responsible for administering the <i>Freedom of Information and Protection of Privacy Act</i> | 44. Disclosure of annual report   |
| 42. Fees for information requests  | 45. Disclosure of registration status                                     |
| 43. Protection of personal information   | 46. Manner of disposal of college records containing personal information |

**PART 4**  
REGISTRATION

- |                                 |  |
|---------------------------------|--|
| 47. Classes of registrants      | 57. Use of terms                                       |
| 48. Full registration           | 58. Examinations                                       |
| 49. Grandparented registration  | 59. Registration renewal                               |
| 50. Limited registration        | 60. Reinstatement                                      |
| 51. Student registration        | 61. Reinstatement following non-payment of fees        |
| 52. Non-practising registration | 62. Notification of change of registration information |
| 53. Temporary registration      |  |
| 54. Honorary registration       |  |
| 55. Certificate of registration |  |
| 56. Specialties                 |  |

**PART 5**  
QUALITY ASSURANCE

- 63. Quality Assurance Program
- 64. Approval of courses
- 65. Assessment of professional performance

**PART 6**  
INSPECTIONS, INQUIRIES AND DISCIPLINE

- |   |   |
|---|---|
| 66. Inspections   | 73. Notice of disciplinary decision                                   |
| 67. Investigations by inquiry committee                       | 74. Retention of disciplinary committee and inquiry committee records |
| 68. Delegation of inquiry or disciplinary committee functions | 75. Registrant under suspension                                       |
| 69. Consent orders  | 76. Fines   |
| 70. Mediation   | 77. Costs   |
| 71. Citation for disciplinary hearing                         | 78. Review of Record  |
| 72. Hearings of discipline committee                          |   |

**PART 7**  
REGISTRANT RECORDS

- |   |  |
|---|--|
| 79. Definitions   | 89. Definition of consistent purpose                 |
| 80. Purpose for which personal information may be collected | 90. Disclosure for research and statistical purposes |
| 81. Source of personal information                          | 91. Storage and retention of personal information    |
| 82. Collection of personal information                      | 92. Manner of disposal of records                    |
| 83. Manner of collection of personal information            | 93. Registrant ceasing to practice                   |
| 84. Confidentiality of personal information                 | 94. Protection of personal information               |
| 85. Accuracy of personal information                        | 95. Contracts for handling personal information      |
| 86. Right to request correction of personal information     | 96. Remediating a breach of security                 |
| 87. Use of personal information by a registrant             | 97. Patient access to personal information           |
| 88. Disclosure of personal information by a registrant      |  |

**PART 8**  
HEALTH PROFESSION CORPORATIONS

- |  |   |
|--|---|
| 98. Application for health profession corporation permit | 102. Change of health profession corporation name |
| 99. Issuance of health corporation permit                | 103. Health profession corporation advertising    |
| 100. Renewal of health corporation permit                | 104. Disposition of shares                        |
| 101. Health profession corporation name                  | 105. Hearings respecting revocation of permits    |

**PART 9**  
DELEGATION, AUTHORIZATION AND SUPERVISION

- |  |  |
|--|--|
| 106. Classes of non-registrants to whom this Part applies                      | 110. Limits and conditions   |
| 107. Educational and training requirements                                     | 111. Ability of registrants to accept delegation from and act under supervision of registrants of other colleges |
| 108. Definition and supervision of aspects of practice                         | 112. Holding out   |
| 109. Aspects of practice which may not be performed other than by a registrant | 113. Investigation, inquiry and discipline   |

**PART 10**  
GENERAL

- |  |                                     |
|--|-------------------------------------|
| 114. Codes of ethics and standards of practice | 117. Interjurisdictional agreements |
| 115. Liability Insurance                       | 118. Marketing                      |
| 116. Review of an account charged to a patient |                                     |

### SCHEDULES AND FORMS

Schedule "A"	Code of Ethics and Conflict of Interest
Schedule "B"	Standards of Practice
Schedule "C"	Electoral Districts
Schedule "D"	Maximum fees for information requests
Schedule "E"	Approved training programs
Schedule "F"	Fees for examinations and registration
Schedule "G"	Specialties
Schedule "H"	Order to attend hearing of discipline committee
Schedule "I"	Costs
Schedule "J.1"	Delegation of aspects of practice
Schedule "J.2"	Supervision of aspects of practice
Form 1	Statutory declaration
Form 2	Certificate of registration
Form 3	Certificate of election

## Definitions

1. In these bylaws,

"Act" means the *Health Professions Act*;

"appointed board member" means a person appointed to the board under section 17(3)(b) of the *Act*;

"board" means the board of the College;

"board member" means an appointed board member or an elected board member;

"chair" means the chair of the board elected under section 11;

"Code of Ethics" means the Code of Ethics set out in Schedule "A";

*Pursuant to section 19(1.1) of the Health Professions Act, as amended by the Health Professions Amendment Act, 2003, it is not necessary that standards of professional ethics be established in bylaws. Colleges may choose to incorporate these in other instruments, such as written policies, and ensure their availability to registrants and the public by publication on the colleges' web site or other means. The Model Bylaws continue to assume the Code of Ethics will be included in the bylaws, but colleges who take a different approach will wish to amend the above definition.*

"college" means the College of [ ] of British Columbia established by the regulation;

"deliver", with reference to a notice or other document, includes mail to or leave with a person, or deposit in a person's mailbox or receptacle at the person's residence or place of business;

"elected board member" means a person elected to the board under section 17(3)(a) of the *Act*;

"examination" means a theoretical examination, given orally or in writing, or a practical examination, or any combination of these, and includes a supplemental examination;

"personal information" means "personal information" as defined in Schedule 1 of the *Freedom of Information and Protection of Privacy Act*;

*"Personal information" is defined in the Freedom of Information and Protection of Privacy Act as follows:*

**"personal information"** means recorded information about an identifiable individual, including

(a) the individual's name, address or telephone number,

(b) the individual's race, national or ethnic origin, colour, or religious or political beliefs or associations,

(c) the individual's age, sex, sexual orientation, marital status or family status.

"public representative" means a person who is not a registrant or former registrant or who has no close family or business relationship with a registrant or former registrant and includes an appointed board member;

"record" means a "record" as defined in Schedule 1 of the *Freedom of Information and Protection of Privacy Act*.

*"Record" is defined in the Freedom of Information and Protection of Privacy Act as follows:*

**"record"** includes books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which information is recorded or stored by graphic, electronic, mechanical or other means, but does not include a computer program or any other mechanism that produces records."

"regulation" means the [ ] Regulation deposited under B.C. Reg. [xxx]/[yy];

"respondent" means a registrant named in a citation under section 37 of the

*Health Professions Act* [or a health profession corporation named in a notice of permit revocation hearing under section 97 of these bylaws];

"special resolution" is a resolution which requires a  $\frac{3}{4}$  vote of those persons present and eligible to vote at a meeting;

"Standards of Practice" means the Standards of Practice set out in Schedule "B";

*As is the case with standards of professional ethics, the amendments made by the Health Professions Amendment Act, 2003 to section 19(1.1) of the Health Professions Act mean that it is no longer necessary that standards of practice be established in bylaws. However, the Model Bylaws continue to assume their inclusion in Schedule "B" for colleges who choose to use this model. Insofar as the term "Standards of Practice" is used in the bylaws, colleges who promulgate these standards in some other form should amend the above definition accordingly.*

"vice-chair" means the vice-chair of the board elected under section 11.

## PART 1 COLLEGE BOARD, COMMITTEES AND PANELS

*Part 1 provides for the composition of the college board and its various committees and establishes the decision making processes of these bodies. This part of the Model Bylaws also provides for the election of board members and for the remuneration of board and committee members. The authority for these provisions is found in s. 19 (1) (a), (b), (e), (g), and (v) of the Health Professions Act.*

*There are several different ways to structure these bodies and their decision-making processes and a college board may wish to tailor these model provisions to suit its own requirements. However, note that this part of the bylaws must satisfy the requirements of the Health Professions Act including s. 17 which sets out the limitations on the composition of the board. In addition, the registration committee, inquiry committee, discipline committee, quality assurance committee and*

### First board

- 1.1 (1) Despite section 1, for the purposes of Part 1 of these bylaws,
  - (a) "appointed board member" includes a person appointed under section 17(2)(a) of the *Act*, to represent the public on the first board, and
  - (b) "elected board member" includes a person appointed under section 17(2)(a) of the *Act* to represent the health profession on the first board.
- (2) This section is repealed 90 days following the first election referred to in section 17(2)(a) of the *Act*.

*Note that certain provisions are numbered with a decimal so that they may be removed from the bylaws at the appropriate time without the need to renumber the remaining bylaws*

### Composition of the board

2. The board consists of [6] elected board members and the appointed board members.



### **Electoral districts**

3. (1) The province of British Columbia is divided into [4] electoral districts whose boundaries are defined by [the map attached as OR the metes and bounds descriptions contained in] Schedule "C".
  - (2) The number of elected board members from each electoral district is:
    - (a) for [name of district][#],
    - (b) for [name of district][#],
    - (c) for [name of district][#], and
    - (d) for [name of district][#].
  - (3) The board may change the boundaries of an electoral district by a special resolution.

*This section defining electoral districts is optional and is only included in the model for the convenience of those colleges that do not favour province-wide elections.*

### **Voting and non-voting registrants**

4. The following classes of registrants are eligible to vote, or to be elected, in an election under section 17(3)(a) of the Act:

[specify classes of voting registrants]

*This provision is optional, for those colleges who wish to create classes of voting and non-voting registrants under section 19(1)(i) of the Act, as amended by the Health Professions Amendment Act, 2003. Typically, non-voting registrants may include honorary registrants or other classes of registrants who are not intended to participate fully in college affairs through voting.*

#### **Notice of election**

5. (1) The registrar must notify every registrant of an election by delivering notice at least [120] days prior to the expiry of the term of office.
- (2) The notice must contain information about the nomination procedure and the election procedure.

#### **Nomination procedure**

6. (1) Any registrant may nominate for office a maximum of [2] registrants in good standing for each vacant position [from his or her electoral district], by delivering such nomination and election to the registrar, together with a letter of consent from the person nominated, at least [90] days prior to the expiry of the term of office.
- (2) A person nominated under subsection (1) must declare in writing that he or she will observe the provisions of the *Act*, the regulations and these bylaws and the procedures related to the election and the conduct of the election.

#### **Election procedure**

7. (1) The registrar must prepare and deliver to each registrant an election ballot not less than [60] days prior to the expiry of the term of office.
- (2) Each registrant will be entitled to one ballot and may vote in favour of 1 candidate for each vacant position to be elected on such ballot [or for each vacant position in his or her electoral district].
- (3) The registrar must not count a ballot unless it is received by the registrar at least [30] days prior to the expiry of the term of office and is contained in an envelope

on which the registrant's name and signature appears.

- (4) The person or persons receiving the most votes on the return of the ballots is elected.
- (5) In the case of a tie vote, the registrar must select the successful candidate by random draw.
- (6) The registrar must supervise and administer all board elections and may establish procedures, consistent with these bylaws, for that purpose.
- (7) The registrar may determine any dispute or irregularity with respect to any nomination, ballot or election.
- (8) Where the number of persons nominated under section 5(2) is less than or equal to the number of positions at the close of nominations, the nominees are elected by acclamation.
- (9) The registrar must use Form 3 to certify newly elected members of the board pursuant to section 17.1(1) of the Act.

*The process for questioning a certification of election is set out in subsections 17.1(2) to 17.1(9) of the Health Professions Act.*

#### **Terms of office**

8. (1) The term of office for an elected board member is [2] years.
  - (2) An elected board member may serve a maximum of [3] consecutive terms.
  - (3) An elected board member may resign at any time by delivering a notice in writing to the registrar and the resignation is effective upon receipt by the registrar.

### **Removal of elected board member**

9. (1) An elected member of the Board ceases to hold office if he or she ceases to become a member in good standing.
- (2) An elected member of the board may be removed special resolution of the board or the registrants at a general meeting in accordance with the provisions of section 38.

### **First election and terms of office**

- 9.1. (1) The first election of elected board members will be held during [month, year] and the successful candidates will assume their positions effective [month, day, year].
- (2) Despite section 6, the first term of office of the first elected board members is
  - (a) 1 year for [2] designated positions,
  - (a) 2 years for [2] designated positions, and
  - (a) 3 years for [2] designated positions.
- (3) This section is repealed [4] years after the coming into force of this section.

*This provision regarding the terms of office is optional but is recommended to promote continuity in board operations by ensuring that there is minimal turnover in board membership at any one time.*

### **Vacancy (Option 1)**

10. Any vacancy of an elected board position may be filled by a registrant selected by the board [from the same electoral district as the outgoing board member] for the remainder of the term for that position by special resolution of the board.

#### **Vacancy (Option 2)**

10. (1) Any vacant position of an elected board member may be filled by a registrant [from the same electoral district as the outgoing board member] for the period of time until the next scheduled board election by special resolution.
- (2) An election must be held at the next scheduled board election to fill any vacant position of an elected board member for the remainder of the outgoing member's term where the time remaining is greater than [3] months.

*Note that there is a carry-over provision in the Act which permits a person who resigned or whose appointment or term of election has ended, even if a successor is appointed or elected, to continue to serve as a member of a committee established under section 19(1)(t) of the Act to complete work of the committee that began before the resignation or end of term [s. 17(5)]. ”*

#### **Remuneration of board members**

11. (1) A board member is entitled to be
  - (a) paid an honorarium of \$[200] per day spent on business of the college, and
  - (b) reimbursed by the college for reasonable expenses necessarily incurred in connection with the business of the college.
- (2) A board member who spends less than [4] hours on business of the college is entitled to be paid an honorarium for the time spent at an hourly rate proportional to the per diem rate.

*Privileges and responsibilities of persons who serve on the board, including remuneration and opportunities to participate in various capacities, must normally be the same for all members regardless of whether they are elected or appointed board members. The board should develop policies regarding the remuneration and payment of the expenses of board members.*

#### **Chair and vice-chair**

12. (1) The members of the board must elect a chair and a vice-chair by a majority vote for a [1] year term.
- (2) The chair must
  - (a) preside at all meetings of the college and board and is an ex officio member of all committees,
  - (b) sign all certificates, diplomas and other instruments executed on behalf of the college as required,
  - (c) sign the minutes of each meeting after they are approved by the board, and
  - (d) act generally in accordance with the requirements of his or her office for the proper carrying out of the duties of the board.
- (3) The vice-chair will perform the duties of the chair in the absence of the chair.
- (4) In the absence of both the chair and the vice-chair, an acting chair for a board meeting must be elected by a majority vote of the board members present.

#### **Board meetings**

13. (1) The board must meet at least [4] times in each fiscal year and must provide reasonable notice of board meetings to registrants.
- (2) Meetings of the board must be called by the registrar at the request of either the chair or any [3] board members.

- (3) The registrar must provide the following to members of the public on request:
  - (a) details of the time and place of a board meeting,
  - (b) a copy of the agenda, and
  - (c) a copy of the minutes of any preceding meeting.
- (4) Subject to subsection (5), meetings of the board must be open to registrants and to the public.
- (5) The board may exclude any person from any part of a meeting if it is satisfied that
  - (a) financial or personal or other matters may be disclosed of such a nature that the desirability of avoiding public disclosure of them in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that meetings be open to the public,
  - (b) a person involved in a criminal proceeding or civil suit or proceeding may be prejudiced,
  - (c) personnel matters or property acquisitions will be discussed,
  - (d) the contents of examinations will be discussed,
  - (e) communications with the Office of the Ombudsman will be discussed, or
  - (f) instructions will be given to or opinions received from legal counsel for the college, the board, or committees.
- (6) If the board excludes any person from a part of a meeting, it must have its reasons for doing so noted in the minutes of the meeting.
- (7) The registrar must ensure that minutes are taken at each meeting and retained on file.
- (8) A majority of the board constitutes a quorum.
- (9) No resolution proposed at a meeting need be seconded and the chair of a meeting may move or propose a resolution.
- (10) In case of an equality of votes the chair shall not have a casting or second vote in

addition to the vote to which he or she is entitled as a board member and the proposed resolution shall not pass.

- (11) The board may meet and conduct business using video-conference or tele-conference connections when some or all board members are unable to meet in person.
- (12) Except as otherwise provided in the *Act*, the regulations, or these bylaws, the most recent edition of *Robert's Rules of Order* governs the procedures at meetings of the board.

#### **Extraordinary board meetings**

14. (1) A written resolution signed by all board members is valid and binding and of the same effect as if such resolution had been duly passed at a meeting of the board.
- (2) Despite section 12(1), the registrar or the chair may call a meeting of the board without providing notice to the registrants where necessary to conduct urgent business.

#### **Registration committee**

15. (1) The registration committee is established consisting of [6] persons appointed by the board.
- (2) The registration committee must include at least [2] public representatives, at least 1 of whom must be an appointed board member.

*There must be a ratio of at least 1/3 public representatives on all major committees. Major committees include those named in the Act, plus others considered appropriate by the board. Public representatives may be either appointed board members or other public representatives, although there should be at least 1 appointed board member on each of these major committees. All other committees must include at least 1 public representative.*

#### **Inquiry committee**

16. (1) The inquiry committee is established consisting of [6] persons appointed by the board.
- (2) The inquiry committee must include at least [2] public representatives, at least 1



of whom must be an appointed board member.

### **Discipline committee**

17. (1) The discipline committee is established consisting of [6] persons appointed by the board.
- (2) The discipline committee must include at least [2] public representatives, at least 1 of whom must be an appointed board member.

*The duties of the registration committee, the inquiry committee and the discipline committee are set out in Part 4 and 6 of these bylaws and Parts 2 & 3 of the Health Professions Act.*

### **Quality assurance committee**

18. (1) The quality assurance committee is established consisting of [6] persons appointed by the board.
- (2) The quality assurance committee must include at least [2] public representatives, at least one of whom must be an appointed board member.
- (3) The quality assurance committee is responsible for
  - (a) reviewing the standards of practice to enhance the quality of practice and to reduce incompetent, impaired or unethical practice among registrants,
  - (b) establishing and maintaining a quality assurance program to promote high standards of practice among registrants,
  - (c) assessing the professional performance of registrants, and
  - (d) recommending courses to the board for approval under section 57.

*Section 26.1 of the Act, enacted by the Health Professions Amendment Act, 2003, requires the quality assurance committee to establish a program of quality assurance in accordance with the bylaws. The quality assurance committee may assess the professional performance of a registrant, appoint assessors, and make recommendations to registrants. The bylaws in relation to quality assurance should provide for only those matters not specified in the Act.*

#### **Patient relations committee**

19. (1) The patient relations committee is established consisting of [6] persons appointed by the board.
- (2) The patient relations committee must include at least [2] public representatives, at least 1 of whom must be an appointed board member.
- (3) The patient relations committee must
  - (a) establish and maintain procedures by which the college deals with complaints of professional misconduct of a sexual nature,
  - (b) monitor and periodically evaluate the operation of procedures established under paragraph (a),
  - (c) develop and coordinate, for the college, educational programs on professional misconduct of a sexual nature for members and the public as required,
  - (d) establish a patient relations program to prevent professional misconduct, including professional misconduct of a sexual nature,
  - (e) develop guidelines for the conduct of registrants with their patients, and
  - (f) provide information to the public regarding the college's complaint and disciplinary process.
- (4) For the purposes of this section, "professional misconduct of a sexual nature" means

- (a) sexual intercourse or other forms of physical sexual relations between the registrant and the patient,
- (b) touching, of a sexual nature, of the patient by the registrant, or
- (c) behaviour or remarks of a sexual nature by the registrant towards the patient;

but does not include touching, behaviour and remarks by the registrant towards the patient that are of a clinical nature appropriate to the service being provided.

*The report of the Committee on Physician Sexual Misconduct entitled Crossing the Boundaries may assist the patient relations committee in developing guidelines for the conduct of registrants towards their patients. This report is now out of print. However, copies of this report may be located at most public and hospital libraries as well as the medical library of the College of Physicians and Surgeons of British Columbia at 400 - 858 Beatty Street, Vancouver, British Columbia V6B 1C1.*

### **Executive Committee**

20. (1) The executive committee is established consisting of [3] board members appointed by the board, at least [1] of whom must be appointed board members.
- (2) The executive committee may act on any matter related to the ongoing administration of the college and may exercise all the powers of the board except when the board is in session.
- (3) Acts of the executive committee, if within the scope of its authority, are effective as the acts of the board until varied or rescinded by the board.
- (4) The executive committee must take minutes of its proceedings and submit them to the board at the next board meeting.

*Section 17.2 of the Act, as amended by the Health Professions Amendment Act, 2003, requires that at least one third of the members of the executive committee are persons appointed by the Minister. The bylaws may specify the duties and functions of the board that may be exercised by the executive committee, but this may not include the power to make bylaws.*

#### **Finance and administration committee**

21. (1) The finance and administration committee is established consisting of at least [3] board members appointed by the board and must include at least 1 appointed board member.
- (2) The finance and administration committee is responsible for
- (a) managing the college's system of financial administration, including
    - (i) accounting practices and systems, including classification of accounts, internal control and auditing systems,
    - (ii) financial planning,
    - (iii) budgetary control,
    - (iv) ensuring the safekeeping of college assets, including assets held in trust,
    - (v) managing college revenues, including receipt, recording and control of funds and deposit to accounts maintained by the board,
    - (vi) producing financial reports for the use of the board, and submitting a financial statement to the auditor immediately after the close of each fiscal year,
  - (b) advising the board on the needs of the college in regard to financial administration, and the financial implications of board decisions,

- (c) advising the board on the application of legislative, regulatory and other financial requirements to the college,
- (d) developing, establishing and administering, for the approval of the board, financial policies, systems and procedures essential to the financial administration of the college, and
- (e) overseeing the organization, staffing and training of financial staff of the college.

*The Health Professions Act does not require college boards to establish an executive committee or a finance and administration committee; these sections are optional and are only included in the model for the convenience of those college boards wishing to structure their administration along these lines. Where a college board does not establish a finance and administration committee, the board may wish to add a provision to Part II stating that the registrar or the board is responsible for the duties set out in 20 (2) above. Additional special committees may also be established and their duties, functions and composition should be set out here.*

## **Committees**

- 22. (1) A person appointed to a committee established under these bylaws
  - (a) must serve a term determined by the board not exceeding [2] years, and
  - (b) is eligible for reappointment but may not serve more than [3] consecutive terms.
- (2) A committee member may be removed by a majority vote of the board.
- (3) The board must designate a committee chair and a committee vice-chair from among the members of the committee.
- (4) Each committee must annually submit a report of its activities to the board.
- (5) The registrar is an ex officio member of every committee.

### **Committee panels**

23. (1) The discipline committee, the inquiry committee, the registration committee and [the patient relations committee] may meet in panels of 3 persons which must include at least 1 board member and 1 public representative.
- (2) The chair of a committee referred to in subsection (1) must appoint the members of a panel and must designate a chair of the panel.
- (3) A panel of a committee referred to in subsection (1) may exercise any power, duty, or function of that committee.

### **Meetings of a committee or panel**

24. (1) A majority of a committee or panel constitutes a quorum.
- (2) All members of a panel constitute a quorum.
- (3) The provisions of section 12(2) to (6) and (8) to (12) apply to a committee or a panel as if it were the board.

### **Remuneration of committee members**

25. (1) A committee member is entitled to be
- (a) paid an honorarium of \$[200] per day spent on business of the college, and
- (b) reimbursed by the college for reasonable expenses necessarily incurred in connection with business of the college.
- (2) Where a committee member spends less than [4] hours on business of the college, he or she may be paid for the hours spent at an hourly rate proportional to the per diem rate.

*The board should develop policies for the remuneration and expenses of committee members.*

## **PART 2 COLLEGE ADMINISTRATION**

*Part 2 provides for the general operation and administration of the college. The duties of the auditor, the duties of the deputy registrar, if any, and the fiscal responsibilities of the board are set out. Provision is made for a college seal, for the board to obtain legal advice and for the conduct of general meetings of registrants. The authority for these provisions is found in section 19 (1) of the Health Professions Act. Another source of precedent provisions in addition to these Model Bylaws is the Society Act of British Columbia. The board, in fulfilling its obligations, must act within the constraints of the Health Professions Act, regulations, bylaws, and the law relevant to board conduct.*

### **Seal**

26. (1) A seal for the college must be approved by the board.
- (2) The seal of the college must be affixed, by those persons designated by the board, to certificates of registration and such other documents as the board may direct by resolution.

### **Deputy registrar**

27. (1) The board may appoint a person to act as deputy registrar.
- (2) The deputy registrar
- (a) must perform any duties assigned by the registrar, and
- (b) in the event of the registrar's absence or inability to act for any reason, may exercise the powers and perform the duties of the registrar.
- (3) The deputy registrar has the same authority as the registrar when he or she is acting on behalf of the registrar.

*There is no bylaw provision appointing the registrar of the college. The registrar is appointed under s. 21 of the Health Professions Act and is responsible for maintaining the register, receiving complaints, referring complaints to the inquiry committee with recommendations and initiating disciplinary hearings upon the direction of the board or the inquiry committee (ss. 21, 32 and 37). The registrar is an inspector under the Act (s. 27) and is an ex-officio member of every committee under s. 21 of these bylaws. The registrar may also, if authorized in writing by the board, deal with certain complaints as described in section 32(3) of the Act. This is described more fully in Part A.6 of this document, and a model instrument of authorization is included in Part A.2.*

#### **Fiscal year**

28. The fiscal year of the college commences on [April 1] and ends on [March 31] of the following year.

#### **Banking**

29. The board must establish and maintain such accounts with a chartered bank, trust company or credit union as the board determines necessary from time to time.

#### **Payments and commitments**

30. (1) The registrar [or finance and administration committee] may approve payments and commitments for the purchase of goods and services up to \$[1,000].
- (2) Subject to subsection (2), all payments and commitments by the college in excess of \$[1,000] must be approved by the registrar and 1 board member designated by the board.
- (3) The board must not purchase personal or real property or enter contracts for services in excess of \$[100,000] without a special resolution approved by the registrants of the college at a general meeting.

#### **Borrowing powers**

31. (1) The board may raise money, or guarantee or secure the payment of money in the name of the college, in any manner determined by the board, in order to carry out the purposes of the college.
- (2) The board must not enter into any security obligation in excess of \$[50,000] without a special resolution approved by the registrants of the college at a



general meeting.

- (3) The registrants may, by special resolution at a general meeting, restrict the borrowing powers of the board.

### **Investments**

32. The board may invest funds of the college in any investments authorized under section 15 of the *Trustee Act* in the name of the college and may change those investments.

*The board should consider establishing policies and procedures recommended by the finance and administration committee for the expenditure of funds, receipt of revenues and control of assets.*

### **Auditor**

33.
  - (1) The board must appoint a chartered accountant or a certified general accountant to be the auditor.
  - (2) The registrar must submit the financial statement to the auditor within [30] days of the end of the fiscal year.
  - (3) A copy of the auditor's report must be included in the annual report.

*Note that the requirement to appoint an auditor by bylaw has been removed from the Health Professions Act. Some colleges may nevertheless wish to include the above bylaw.*

#### **Legal counsel**

34. The board or, with the approval of the board, a committee or panel, may retain legal counsel for the purpose of assisting the board, committee or panel in carrying out any power or duty under the *Act*, the regulations or these bylaws.

#### **General meetings**

35. (1) A general meeting of the registrants must be held in British Columbia at a time and place determined by the board.
- (2) The first annual general meeting of the registrants must be held not more than [15] months after the date the bylaws are approved by the Lieutenant Governor in Council and after that an annual general meeting must be held at least once in every calendar year and not more than [15] months after the holding of the last preceding annual general meeting.
- (3) The following matters must be considered at an annual general meeting
- (a) financial statements,
  - (b) the report of the board, and
  - (c) the report of the auditor, if any.
- (4) Every general meeting, other than an annual general meeting, is an extraordinary general meeting.
- (5) The board

- (a) may convene an extraordinary general meeting by resolution of the board, and
- (b) must convene an extraordinary general meeting within [60] days after receipt by the registrar of a request for such a meeting signed by at least [10] percent of all registrants.

### **Notice of general meetings**

36. (1) The board must deliver notice of an annual or extraordinary general meeting to every registrant at least [45] days prior to the meeting.
- (2) Notice of a general meeting must include
- (a) the place, day and time of the meeting,
  - (b) the general nature of the business to be considered at the meeting,
  - (c) any resolutions proposed by the board, and
  - (d) any resolutions proposed by the registrants under section 36 and delivered to the registrar prior to the mailing of the notice.
- (3) The accidental omission to deliver notice of a meeting to, or the non-receipt of a notice by, any registrant or board member entitled to receive notice does not invalidate proceedings at that meeting.

### **Resolutions proposed by registrants**

37. (1) Any [10] registrants may deliver a written notice to the registrar at least [30] days prior to the date of an annual or extraordinary general meeting requesting the introduction of a resolution.
- (2) On receipt of a notice specified in subsection (1) and at least [14] days prior to the date of that meeting, the registrar must deliver a notice and a copy of the resolution to each registrant.
- (3) A registrant may propose a resolution at a general meeting from the floor and any such resolution will be noted by the chair of the meeting and placed at the end of the agenda to be debated if time permits.

### **Proceedings at general meetings**

38. (1) A quorum is [45] registrants. -- OR -- A quorum is [10] percent of total registrants.
- (2) No business, other than the adjournment or termination of the meeting, may be conducted at a general meeting at a time when a quorum is not present.
- (3) If at any time during a general meeting there ceases to be a quorum present, business then in progress shall be suspended until there is a quorum present.
- (4) If within [30] minutes from the time appointed for the commencement of a general meeting or from any time during a general meeting when a quorum is not present, the meeting must be adjourned.
- (5) In the absence of both the chair and the vice-chair of the board, an acting chair for a meeting must be elected by a majority vote of the registrants present.
- (6) A general meeting may be adjourned from time to time and from place to place, but no business may be transacted at an adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (7) When a meeting is adjourned in accordance with subsection (4) or by motion, notice of the rescheduled meeting must be delivered as in the case of the original meeting.
- (8) No motion proposed at a meeting need be seconded and the chair of a meeting may propose a motion.
- (9) A registrant present at a meeting is entitled to one vote and the chair of the meeting, where the chair is a registrant, is entitled to one vote.
- (10) Voting must be conducted by ballot.
- (11) In case of a tie vote, the proposed resolution must not pass.
- (12) Except as these bylaws otherwise provide, the most recent edition of *Robert's Rules of Order* governs the procedures at an annual or extraordinary general meeting.

### **Voting by proxy**

39. (1) Every registrant entitled to vote at a general meeting may, by proxy, appoint in writing another registrant as his or her proxy holder to attend and act at the general meeting in the manner, to the extent and with the power conferred by the proxy.
- (2) Every proxyholder has the same rights as the registrant who appointed him or her to speak at the meeting.
- (3) Every proxy ceases to be valid following the general meeting specified in the proxy.
- (4) Every proxy must contain
- (a) the date it is executed, and
  - (b) the name of the proxyholder.
- (5) Every proxy may be revoked by the registrant in writing.

*The procedures relating to general meetings must be fair, must provide for reasonable notice, and must allow for adequate representation and participation by registrants.*

**Notice to public representatives**

40. Every notice or mailing provided to the general membership of the college must also be provided to a public representative serving on the board or a committee.

### **PART 3 COLLEGE RECORDS**

*Part 3 provides for those matters relating to college records which are not already covered by the Freedom of Information and Protection of Privacy Act (FOIPPA). This Act has detailed provisions which address many aspects of the right of access to records kept by public bodies (which include professional colleges) as well as restrictions on the collection, use and disclosure of personal information. It is important to avoid overlap and duplication between the two enactments as this may pose unnecessary difficulties in interpreting these provisions in the future.*

*The bylaws should designate a person or committee as the "head" of the college for administering the FOIPPA and should establish the service fees that may be charged for an information request. The bylaws should also make the board accountable for the protection of personal information (in*

#### **Body responsible for administering the *Freedom of Information and Protection of Privacy Act***

41. (1) The [registrar OR \_\_\_\_\_ committee ] is the "head" of the college for the purposes of the *Freedom of Information and Protection of Privacy Act*.
- (2) The [registrar OR \_\_\_\_\_ committee] may authorize a deputy registrar, a person employed by the college or a person who has contracted to perform services for the college to perform any duty or exercise any function of the [registrar OR \_\_\_\_\_ committee] that arises under the *Freedom of Information and Protection of Privacy Act*.
- (3) The board is responsible for ensuring that the [registrar OR \_\_\_\_\_ committee] fulfils its duties under the *Freedom of Information and Protection of Privacy Act*.
- (4) The [registrar OR \_\_\_\_\_ committee] must report [quarterly] to the board regarding the steps it has taken to fulfil its duties under the *Freedom of Information and Protection of Privacy Act*.

*The college board must designate a person or committee as the "head" of the college for the purposes of administering the FOIPPA (s. 77(a), FOIPPA). The registrar may be an appropriate person to exercise this function. Some of the duties of the "head" include handling requests for access to information (Part 2, FOIPPA) and ensuring that there is no unauthorized access, collection, use, disclosure or disposal of personal information by college members or staff (s. 30, FOIPPA). For a more detailed list of duties and functions please refer to the summary of key provisions of the FOIPPA provided at page ix of the Guidelines.*

### **Fees for information requests**

42. Subject to section 75 of the *Freedom of Information and Protection of Privacy Act*, an applicant who requests access to a college record under section 5 of the *Freedom of Information and Protection of Privacy Act* must pay the fees set out in Schedule "D" for services required to comply with the information request.

*Although the "head" of the college may charge fees for services required to comply with the information request, fees may not be charged where the request is for the applicant's own personal information or for the first three hours spent locating and retrieving a record (FOIPPA, s. 75). The board may establish its own fees or may choose to adopt by reference the "Maximum Schedule of Fees" established in the *Freedom of Information and Protection of Privacy Regulation*, B.C. Reg. 323/93. Schedule "D" reflects the fees which are currently specified under this regulation.*

### **Protection of personal information**

43. (1) The board must take all reasonable measures to ensure that the collection, use, and disclosure of personal information occurs in accordance with the *Freedom of Information and Protection of Privacy Act*.
- (2) The board must take reasonable measures to ensure that, where personal information is sent to any person or service organization for processing, storage or destruction, a contract is made with that person or organization which includes an undertaking by the person or organization that confidentiality will be maintained.

*The board should establish a written policy which details methods of safe storage for physical records and records stored by electronic methods and should ensure that all college staff are familiar with this policy. Chapter 8 of the "Review of the Storage and Disposal of Health Care Records", Report of Dr. Shaun Peck, Deputy Provincial Health Officer, to the Minister of Health and Minister Responsible for Seniors, Province of British Columbia, July, 1995, may serve as a useful reference and is included in Part A.9 of this document.*

#### **Disclosure of annual report**

44. The college must make its annual report available electronically on the college website, and must notify every registrant that it is available, and provide a copy to any person on request.

#### **Disclosure of registration status**

45. (1) Where an inquiry about the registration status of a person is received by the board or the registrar, the registrar must disclose, in addition to the matters required by section 22 and 22.1 of the Act,
- (a) whether or not the person is a registrant or a former registrant,
  - (b) whether or not the discipline committee has ever issued an order relating to the person under section 39 of the *Act* and the details of the order,
  - (c) whether or not the person has ever signed a consent order under section 36 of the *Act*, and
  - (d) the details of a consent order pertaining to a change in the person's registration status or a restriction on the practice of the profession of the registrant.
- (2) Except with the consent of the person affected, the registrar must not release the names of complainants, patients, or their families or information which might otherwise enable a person inquiring about the status of a registrant to establish the identity of complainants, patients or their families.



*Sections 22 and 22.1 of the Health Professions Act, as a result of amendments made by the Health Professions Amendment Act, 2003, set out requirements to permit or deny access to the register of the college and the required contents of the register. The board may choose to supplement these provisions with specific or additional bylaws similar to the above.*

**Manner of disposal of college records containing personal information**

46. The board must ensure that a college record containing personal information is disposed of only by
- (a) effectively destroying a physical record by utilizing a shredder or by complete burning,
  - (b) erasing information recorded or stored by electronic methods on tapes, disks or cassettes in a manner that ensures that the information cannot be reconstructed,
  - (c) returning the record to the person the information pertains to, or
  - (d) returning the record to the registrant who compiled the information.

*Note that information used to make a decision that directly affects an individual must be retained for at least one year so that the individual has a reasonable opportunity to obtain access to the information (s. 31, FOIPPA).*

## PART 4 REGISTRATION

*Part 4 provides for the registration of college members and establishes several categories of registration including full registration, student registration and non-practising registration. A college may also wish to have categories of grandparented registration, limited registration, temporary registration and honorary registration. This part of the bylaws should establish the minimum criteria for acceptance into each class of registrants, including any examinations set by the registration committee. This part should also establish fees for examinations, for initial applications, and for renewal of registration. The authority for these provisions is found in ss. 19(1),(i),(j),(p),(q),(r) and s. 19(2) of the Health Professions Act.*

*The entry level requirements should reflect the minimum knowledge skills and abilities required to provide the professional services in a competent manner. They should be introduced where they*

### Classes of registrants

47. The following classes of registrants are established:

- (a) full registration,
- (b) [grandparented registration],
- (c) [limited registration],
- (d) student registration,
  
- (e) non-practising registration
- (f) [temporary registration], and
- (g) [honorary registration].

### Full registration

48. (1) For the purposes of section 20(2) of the *Act*, the requirements for full registration are

- (a) graduation from a(n) [academic, technical, or vocational training program

listed in Schedule "E"],

- (b) [successful completion of the examinations required by the registration committee],
  - (c) [list experience requirements or period of supervised practice, if any],
  - (d) evidence satisfactory to the registration committee of the good character of the person consistent with the responsibilities of a registrant and the standards expected of a registrant, and
  - (e) receipt by the registrar of
    - (i) a signed application for full registration in a form approved by the registration committee,
    - (ii) the application fee specified in Schedule "F",
    - (iii) a notarized copy, or other evidence satisfactory to the registration committee, of his or her degree [or diploma] and evidence satisfactory to the registration committee that he or she is the person named therein,
    - (iv) a statutory declaration in Form 1,
    - (v) [the fee for the examination], and
    - (vi) a signed criminal record check authorization form.
- (2) An applicant who does not meet the requirements established in subsection (1) may be granted full registration by the registration committee where the applicant
- (a) has a combination of knowledge, skills and abilities which are, in the opinion of the registration committee, substantially equivalent to the requirements established in subsections (1)(a) and (c),
  - (b) [has successfully completed the examinations and any upgrading programs required by the registration committee], and
  - (c) meets the requirements set out in subsections (1)(d) and (e).

*Section 19 of the Health Professions Act provides the registration committee with the authority to grant registration according to the bylaws. Colleges must require applicants for all classes of registration to deliver a signed criminal record check authorization form to ensure compliance with the Criminal Records Review Act.*

*Information and forms may be obtained from: Criminal Records Review Program, Ministry of Public Safety and Solicitor General, PO Box 9217 Stn Prov Govt, Victoria BC V8W 9J1, tel: (250) 387-6981 (in Victoria), (604) 660-2421 (in Vancouver), fax: 250 387-5367, and from the program's website at:*

*<http://www.pssg.gov.bc.ca/criminal-records-review/index.htm>*

### **Grandparented registration**

49. (1) An applicant who does not meet the requirements established in section 47 may be granted grandparented registration by the registration committee where the applicant
- (a) has been practising in British Columbia, in a capacity substantially equivalent to a registrant, [at any time during the 2 years] before the effective date of this section,
  - (b) has never been qualified, and does not at the time of application, qualify under section 48,
  - (c) has successfully completed the examinations required by the board,
  - (d) satisfies the registration committee concerning the good character of the person consistent with the responsibilities of a registrant and the standards expected of a registrant, and
  - (e) has delivered to the registrar
    - (i) a signed application for grandparented registration in a form approved by the registration committee,
    - (ii) the application fee specified in Schedule "F",
    - (iii) a notarized copy, or other evidence satisfactory to the registration committee, of his or her degree [or diploma] and evidence satisfactory to the registration committee that he or she is the person named therein,

- (iv) a statutory declaration in Form 1,
  - (v) [the fee for the examination], and
  - (vi) a signed criminal record check authorization form.
- (2) No person shall apply for registration under this section [2] years after it comes into force.

*A grandparenting provision may be employed by a college which has been recently designated as a self-regulating profession. The purpose of a grandparenting provision is to provide an initial route of entry into the category of full registration for persons who are currently practising in a capacity substantially equivalent to a registrant. While these applicants do not have the formal qualifications required for full registration under section 48, they have an equivalent combination of knowledge and experience. The ability to apply under this section is generally limited in time to the first few years after the college is established.*

#### **Limited registration**

50. (1) An applicant who does not meet the requirements established in section 47 may be granted limited registration by the registration committee for a period of up to [1] year where the applicant
- (a) [may, in the opinion of the registration committee, be reasonably expected to satisfy the educational requirements established in section 48(1)(a) by completing upgrading courses or may, in the opinion of the registration committee, be reasonably expected to satisfy the experience requirements set out in section 48(1)(c) by completing a period of supervised practice],
  - (b) may, in the opinion of the registration committee, practice as a limited registrant without any risk to public health and safety, and
  - (c) has delivered to the registrar
    - (i) a signed application for limited registration in a form approved by the registration committee,
    - (ii) the application fee specified in Schedule "F",

- (iii) a notarized copy, or other evidence satisfactory to the registration committee, of his or her degree [or diploma] and evidence satisfactory to the registration committee that he or she is the person named therein,
  - (iv) a statutory declaration in Form 1,
  - (v) [the fee for the examination], and
  - (vi) a signed criminal record check authorization form.
- (2) The registration of a person who has been granted limited registration under subsection (1) may be renewed by the registration committee once for a period of up to [1] year.
- (3) Full registration may be granted by the registration committee to a person who has been granted limited registration under subsection (1) and who
- (a) completes the required [upgrading courses or period of supervised practice], and
  - (b) meets the requirements of section 48.
- (4) A person who has been granted limited registration under subsection (1) may only perform the following services of a full registrant [under the general supervision of a practitioner and upon any limits or conditions set by the registration committee]
- (a) [specify those limits or conditions pertaining to this class of registrants and those services that may be performed by this class of registrants].

*A college may establish a category of limited registration to provide the opportunity for a qualified professional from another country or jurisdiction to continue to practise in a limited capacity while obtaining the necessary upgrading courses or language training required to become a full registrant. Note that the Act permits the board to establish, by bylaw, standards, limits or conditions on the practice of the profession by registrants [s.19(1)(k)]. The Act does not provide the authority for the board or for a committee to impose limits or conditions on individual registrants on a case by case basis. Note that a former registrant or non-practising registrant who has been out of practice for over [3] years may also be granted limited registration under section 50.*

## Student registration

51. (1) An applicant may be granted student registration by the registration committee where the applicant
- (a) is enrolled, or was enrolled during the [6] months previous to making an application under paragraph (b), as a student in a training program approved by the board,
  - (b) satisfies the board concerning the good character of the person consistent with the responsibilities of a registrant and the standards expected of a registrant, and
  - (c) has delivered to the registrar
    - (i) a signed application for registration in a form approved by the registration committee,
    - (ii) the application fee specified in Schedule "F",
    - (iii) a notarized statement, or other evidence satisfactory to the registration committee, of his or her name, date of birth and educational standing,
    - (iv) a statutory declaration in Form 1, and
    - (v) a signed criminal record check authorization form.
- (2) A person to whom subsection (1) applies must be registered under this section before undertaking a period of practical training involving direct patient care.
- (3) A student registrant may only provide the following services under the general supervision of a full registrant
- (a) [specify those services that may be performed].
- (4) A student registrant may provide the following services under the direct supervision of a full registrant
- (a) [specify those services that may be performed].
- (5) A student registrant may not provide the following services
- (a) [specify those services that may not be performed].

### **Non-practising registration**

52. (1) A full or grandparented registrant may be granted non-practising registration by the registration committee where the registrant has delivered to the registrar
- (a) a signed application for non-practising registration in a form approved by the registration committee
  - (b) the application fee specified in Schedule "F", and
  - (c) a statutory declaration that he or she will not provide the services of [ ] while registered under this section.
- (2) A non-practising registrant may not provide the services of the profession of [ ] specified in the regulation.

### **Temporary registration**

53. (1) An applicant may be granted temporary registration by the registration committee for a period of up to [90] days where the applicant
- (a) is a registrant in good standing of a regulatory body governing the practice of [ ] in a jurisdiction approved by the board, and
  - (b) has delivered to the registrar
    - (i) a signed application for temporary registration in a form approved by the registration committee,
    - (ii) the application fee specified in Schedule "F",
    - (iii) a notarized copy, or other evidence satisfactory to the registration committee, of his or her registration status in a regulatory body specified in paragraph (a) and evidence satisfactory to the registration committee that he or she is the person named therein,
    - (iv) a statutory declaration in Form 1, and
    - (v) a signed criminal record check authorization form.



- (2) The registration of a person who has been granted temporary registration under subsection (1) may be renewed by the registration committee once for an additional period of up to [90] days.
- (3) A person who has been granted temporary registration under subsection (1) may perform the following services of a full registrant
  - (a) [specify those services that may be performed by this class of registrants].
- (4) A temporary registrant must not
  - (a) serve on the board or on any of its committees,
  - (b) vote in an election of board members, or
  - (c) vote at a general meeting of registrants.

*A college may wish to establish a category of temporary registration to provide the opportunity for a qualified professional from another country or jurisdiction who is in British Columbia on a temporary basis to continue to practise (perhaps in a limited capacity) during that period of time. This category of registration may be created to accommodate visiting professionals who are in the province for the purposes of taking or teaching a course, travelling with an athlete or participating in an exchange program.*

#### **Honorary registration**

- 54. (1) The board may award honorary registration to any person other than a registrant who has made a substantial contribution to the profession of [     ].
- (2) An honorary registrant may not provide the services of the profession of [     ] specified in the regulation.

#### **Certificate of registration**

- 55. (1) The registrar must issue a certificate in Form 2 to any person who is granted full, grandparented, limited, student, non-practising or temporary registration and the

certificate must specify the limits or conditions that apply to that category of registrants.

- (2) A certificate of full, grandparented, or non-practising registration or any renewal of such certificate, is valid until not later than the following [March 31].
- (3) A certificate of limited or temporary registration is valid until the date shown on the certificate.
- (4) A certificate of student registration, or any renewal of a certificate of student registration, is valid until the earlier of
  - (a) the following [March 31], or
  - (b) [6 months] after the date the registrant graduates or is last enrolled as a student in a training program approved by the board.

### **Specialties**

56. (1) The college recognizes the specialties set out in column 1 of Schedule G.
  - (2) A registrant may apply to the registration committee to have a specialty entered in the register in relation to the registrant's name.
  - (3) The registration committee must enter in the register a designation of the specialty for which the registrant applies, if the registrant satisfies the registration committee that the registrant
    - (a) meets the requirements set out in Column 2 of Schedule G, and
    - (b) pays the fee set out in Schedule F.
  - (4) The registration committee may remove from the register a registrant's specialty designation if the registrant fails to continue to meet the requirements of subsection (c).
  - (5) A registrant who has had a specialty entered into the register in respect of his or her practice may, in relation to that specialty, use the terms set out in column 3 of Schedule G that pertain to that specialty.
  - (6) A registrant who has had an application for designation of the specialty refused or has had a specialty designation removed from the register may

appeal that decision to the board.

*If no specialties are designated then this bylaw is not required.*

#### **Use of terms**

57. (1) A registrant using a title protected in the regulation may use, in connection with that title the term “registered/certified/license

d”.

- (2) A registrant who has been granted a specialty designated under section 54.1 may use, in connection with that specialty designation, the term “registered/certified/licensed”.
- (3) Despite subsection (1), no person registered under section(s) [ ] may use the term “registered/certified/licensed”.

*Under section 52.1 of the Act, the terms “registered”, “licensed” and “certified” may not be used in connection with a health profession unless authorized by the regulation or a bylaw. The above bylaw permits the discretionary use of such terms by registrants, unless some classes of registrants are prohibited from such use by subsection (3). Such terms might be used in connection in relation to a specialty under section 56. An alternative to this bylaw would be to incorporate the selected terms into the specific sections establishing the categories of registrant.*

#### **Examinations**

58. (1) All examinations required to be taken under these bylaws must be prepared by or under the direction of the registration committee [and approved by the board].
- (2) The registration committee must
  - (a) determine the time and place for the holding of an examination, designate invigilators and determine the procedures for the conduct of the examinations,
  - (b) review the results of the examination or re-examination for each applicant

and make a determination as to that applicant's qualification for registration, and

- (c) notify the applicant of the results of the examination or re-examination as soon as is practicable.
- (3) An applicant who fails the initial examination is entitled to [2] opportunities to repeat the examination.
- (4) Where the invigilator has reason to believe that applicant has engaged in improper conduct during the course of an examination, the invigilator must make a report to the registration committee and may recommend that the registration committee take one or more of the following courses of action
  - (a) fail the applicant,
  - (b) pass the applicant,
  - (c) require the applicant to rewrite the examination, or
  - (d) disqualify the applicant from participating in any examination for a period of time.
- (5) After considering a report made under subsection (4), the registration committee may take one or more of the courses of action specified in subsection (4).
- (6) An applicant disqualified under subsection 4(d) must be provided with written reasons for the disqualification.

### **Registration renewal**

59. (1) To be eligible for a renewal of registration, a full, grandparented, limited, student, non-practising or temporary registrant must
- (a) apply to the registrar,
  - (b) pay the registration renewal fee specified in Schedule "F",
  - (c) pay any other outstanding fee, debt or levy owed to the college,
  - (d) attest that he or she is in compliance with the *Act*, the regulations, and these bylaws, and is in compliance with any limits or conditions imposed under

section 39(1)(b) and (d) of the *Act*, and

- (e) provide proof of having completed any requirements of the quality assurance program under section 63.
- (2) Notice of the fees must be delivered to each registrant no later than [February 10] and must describe the consequences of late payment and non-payment of fees.
- (3) Each registrant must pay to the college the registration renewal fee on or before [March 31].
- (4) The annual registration renewal fee may be paid in advance instalments where approved by the board.
- (5) On payment of the registration renewal fee, and any arrears, the registrar must issue to the registrant making payment a receipt bearing the seal of the college and stating that the registrant is, subject to his or her compliance with the *Act*, the regulations, and the bylaws, entitled to practise the profession of [ ] in the Province of British Columbia as a registrant of the college.
- (6) Where a registrant fails to pay a registration renewal fee on or before [March 31], he or she ceases to be registered.

*Section 21 of the Health Professions Act provides the authority for the registrar to maintain a register and to cancel registration in certain circumstances, including the non-payment of fees.*

### **Reinstatement**

60. (1) A former registrant or a non-practising registrant whose registration is not suspended or cancelled under section 39 of the *Act* and who has been out of practice for less than [1] year may be restored to the full register or to the grandparented register by the registration committee where the registrant

- (a) [provides proof of any continuing education courses required under section 63], and
  - (b) has delivered to the registrar
    - (i) a signed application for reinstatement in a form approved by the registration committee, and
    - (ii) the [registration renewal fee specified in Schedule "F"].
- (2) A former registrant or a non-practising registrant whose registration is not suspended or cancelled under section 39 of the *Act* and who has been out of practice for more than [1] year but less than [3] years may be restored to the full register or to the grandparented register by the registration committee where the registrant
- (a) [provides proof of any continuing education courses required under section 63]
  - (b) [successfully completes an examination required by the board], and
  - (c) has delivered to the registrar
    - (i) a signed application for reinstatement in a form approved by the registration committee, and
    - (ii) the [registration renewal fee specified in Schedule "F"].

- (3) A former registrant or a non-practising registrant whose registration is not suspended or cancelled under section 39 of the *Act* and who has been out of practice for more than [3] years may be granted limited registration by the registration committee where the registrant
  - (a) [provides proof of any continuing education courses required under section 63],
  - (b) [successfully completes an examination required by the board],
  - (c) may, in the opinion of the registration committee, practice as a limited registrant without any risk to public health and safety, and
  - (d) has delivered to the registrar
    - (i) a signed application for reinstatement in a form approved by the registration committee, and
    - (ii) the [registration renewal fee specified in Schedule "F"].
- (4) The registration of a person who has been granted limited registration under subsection (3) may be renewed annually by the registration committee.
- (5) A person who has been granted limited registration under subsection (3) may only perform the services of a full registrant [under the general supervision of a practitioner and upon the following limits or conditions]
  - (a) [specify those limits or conditions pertaining to this class of registrants].
- (6) A person who has been granted limited registration under subsection (3) and who was formerly a full registrant may be restored or reinstated to the full register upon completion of a [1] year period of supervised practice.
- (7) A person who has been granted limited registration under subsection (3) and who was formerly a grandparented registrant may be restored or reinstated to the grandparented register upon completion of a [1] year period of supervised practice.

#### **Reinstatement following non-payment of fees**

61. (1) A former registrant who ceased to be registered under section 59(6) by reason

only of a failure to renew his or her registration is eligible for reinstatement by the board under section 21(4) of the *Act* where the former registrant,

- (a) applies for reinstatement in the form required by the registration committee not later than [3] months following the expiry of his or her registration,
  - (b) is not in contravention of the *Act*, the regulations, or these bylaws,
  - (c) pays the registration renewal fee, and
  - (d) pays a reinstatement fee in an amount equal to [35] percent of the registrant's annual registration renewal fee.
- (2) Despite subsection (1), the board may reinstate a person without charging any fee where the person is able to demonstrate that he or she was unable to comply with section 59 for reasons of undue hardship.

*Section 61 provides for former registrants or non-practising registrants who have been out of practice for less than [3] years to be restored to their former registration status. Former registrants or non-practising registrants who have been out of practice for longer than [3] years may be granted limited registration under this section. Section 61 does not apply to applicants whose registration has been cancelled for disciplinary reasons. These applicants are eligible to submit a new application for full registration under section 48 and must satisfy the good character requirement set out in that section.*

*Note that a former registrant who ceased to be registered by reason only of a failure to renew his or her registration and who does not apply for reinstatement within [3] months following the expiry of his or her registration must apply for reinstatement under section 60.*

#### **Notification of change of registration information**

62. A registrant must immediately notify the registrar of any change of address, name or any other registration information previously provided to the registrar.



## PART 5 QUALITY ASSURANCE

*Section 26.1 of the Act, enacted by the Health Professions Amendment Act, 2003, requires the quality assurance committee to establish a program of quality assurance in accordance with the bylaws. The ministry has not, at the time of writing, developed a policy in regard to quality assurance, and it is not anticipated that this amendment will be brought into force until later in 2004.*

*Subject to future policy in this regard, this Part of the bylaws contains bylaws relevant to the quality assurance program. Section 63 will indicate what requirements of the quality assurance program a registrant must meet. At present these consist only of the completion of continuing education requirements, as set out in the former Model Bylaws. Completion of this, or other, requirements is a requirement for renewal of registration as referenced in section 59(1)(e) of the*

### Quality Assurance Program

63. A registrant must fulfil the following requirements of the quality assurance program:
- (a) complete [x hours of continuing education per year OR x hours of continuing education within any 24 month period]
  - (b) [specify other requirements,]

### Approval of courses

64. The board must approve the continuing education courses required under section 63(a).

*Additional similar bylaws may be added if the board is required to approve other aspects of the quality assurance program, such as board approval of specific self-assessment instruments, if these are part of the college's quality assurance program.*

### Assessment of professional performance

65. (1) The quality assurance committee or an assessor appointed by the committee may assess the professional performance of a registrant.
- (2) An assessor must not observe a registrant while the registrant is providing a service to a patient except where
- (a) the consent of the patient being treated has been obtained in advance, or
  - (b) the service is being provided in a public setting.
- (3) Where the quality assurance committee is required to notify the inquiry committee pursuant to section 26.2(3) of the Act, it must deliver notice in writing to the registrar.

*Section 26.1 of the Act, enacted by the Health Professions Amendment Act, 2003, confers specific powers and duties on the quality assurance committee or an assessor appointed by it, if the bylaws provide for the assessment of the professional performance of a registrant. The bylaws may deal with matters not specified in the Act.*

## **PART 6 INSPECTIONS, INQUIRIES AND DISCIPLINE**

*Part 6 provides for matters pertaining to inspections, investigations and disciplinary hearings which are not already covered by the Health Professions Act. A brief synopsis of the Act's provisions is provided at page vii of these Guidelines. It is important that the bylaws do not duplicate or paraphrase the provisions of the Act or regulations as any differences in wording may imply that the provisions have different meanings and may raise difficult questions of interpretation. However, this Part of the bylaws should add procedural safeguards to ensure fairness to all parties involved in the disciplinary process. In addition, these bylaws establish the maximum fine that may be ordered by the discipline committee and require the discipline committee to notify the public of any restrictions placed on a registrant's practice. The authority for these provisions is provided in ss. 19 (1) (t) and (u) of the Health Professions Act.*

### **Inspections**

66. An inspector must not observe a registrant while the registrant is providing a service to a patient except where
- (a) the consent of the patient being treated has been obtained in advance, or
  - (b) the service is being provided in a public setting.

### **Investigations by inquiry committee**

67. (1) The inquiry committee must notify a registrant who is the subject of an investigation and any complainant of the disposition of the investigation and any action taken under section 33(4) of the *Act*.
- (2) Before agreeing to accept an undertaking or consent under section 36 of the *Act*, the inquiry committee may review all previous complaints and disciplinary matters involving the registrant to be satisfied that the proposed undertaking or consent is appropriate in the circumstances.

### **Delegation of inquiry or disciplinary committee functions**

68. (1) Where the Board so directs, one of the following committees can make a determination and exercise all the powers, duties and functions of the inquiry committee under section 33 of the *Act*:

(a) [specify other committees]

(2) Where the Board so directs, one of the following committees can make a determination and exercise all the powers, duties and functions of the inquiry committee under section 39 of the Act:

(a) [specify other committees, other than the inquiry committee]

*This bylaw is optional and is intended for colleges that have established additional committees that might in some cases assume the functions of the inquiry or discipline committee in some cases. This might include, for example, colleges that have an ethics committee, or those that want certain issues to be addressed by the executive committee.*

*Such bylaws should not in any case permit delegating the functions of the discipline committee under section 29 of the Act because of the need to ensure independence and impartiality in disciplinary proceedings.*

### **Consent orders**

69. (1) In this section

"consent order" means the record of an undertaking or a consent given under section 37.1 of the *Act* for the purposes of resolving a complaint.

(2) A consent order must

(a) include any consent to a reprimand or to any other action made by the registrant under section 37.1 of the *Act*,

(b) include any undertaking made by the registrant under section 37.1 of the *Act*,

(c) specify the length of time that an undertaking specified in paragraph (b) is binding on the registrant,

(d) specify the procedure that the registrant may follow to be released from an undertaking specified in paragraph (b), and

(e) specify which terms of the consent order may be disclosed to the public.

## **Mediation**

70. (1) The inquiry committee may recommend under section 33(6)(b) of the *Act* that a complaint be mediated where
- (a) the inquiry committee determines that the issuance of a citation under section 37 of the *Act* is not warranted, and
  - (b) the complainant and the registrant agree to mediation.
- (2) Following a recommendation under subsection (1), the inquiry committee must appoint a mediator who is acceptable to the complainant and the registrant.
- (3) The mediator must conduct the mediation process in accordance with the terms of a written mediation contract executed by the complainant and the registrant.
- (4) Where an agreement between the complainant and the registrant is reached through mediation, the terms of the agreement may be approved by the inquiry committee.
- (5) Where the term of an agreement between the complainant and the registrant reached through mediation requires the registrant to undertake or consent to an action referred to in section 36, the inquiry committee may request the registrant to make such an undertaking or consent where the inquiry committee considers the undertaking or consent to be appropriate in the circumstances.
- (6) Where an agreement is approved by the inquiry committee under subsection (5), the inquiry committee must report the resolution of the matter to the board and must retain a copy of the agreement on file.
- (7) Where an agreement is not reached through mediation, the mediator must refer the matter back to the inquiry committee and may recommend that the inquiry committee take one or more actions under section 35 of the *Act*.

## **Citation for disciplinary hearing**

71. (1) On the direction of a panel of the discipline committee, the registrar may join one or more complaints or other matters which are to be the subject of a discipline hearing in one citation as appropriate in the circumstances.
- (2) On the direction of a panel of the discipline committee, the registrar may sever one or more complaints or other matters which are to be the subject of a

discipline hearing as appropriate in the circumstances.

- (3) On the direction of a panel of the discipline committee, the registrar may amend a citation issued under section 37 of the *Act*.
- (4) Where a citation is amended under subsection (3) prior to a discipline hearing, the amended citation must be delivered to the respondent by personal service or sent by regular mail to the respondent at the last known address for the person recorded as required in or pursuant to section 21(2) of the *Act* not fewer than [14] days before the date of the hearing.
- (5) Where a citation is amended under subsection (3) prior to a discipline hearing, and the amended citation changes the date, time or place of the hearing, the registrar must notify any complainant of the amendment not fewer than [14] days before the date of the hearing.

#### **Hearings of discipline committee**

72. (1) No person may sit on the discipline committee while he or she is a member of the inquiry committee.
- (2) No member of the discipline committee may sit on the panel hearing a matter in which he or she
  - (a) was involved as a member of the inquiry committee or
  - (b) has had any prior involvement.
- (3) Information about the date, time and subject matter of the hearing must be provided to any person on request.
- (4) The discipline committee must provide notice by registered mail or by personal service to a person who is required to attend a hearing under section 38(6) of the *Act* in the form set out in Schedule "H".
- (5) All discipline hearings shall be recorded and any person may obtain, at his or her expense, a transcript of any part of the hearing which he or she was entitled to attend.
- (6) In determining the penalty to be imposed on a registrant under section 39(2) of the *Act* the discipline committee must, after making a determination on the facts, consider a previous relevant disciplinary decision regarding the registrant or an undertaking or consent to a reprimand given by the registrant under section 36(1)

of the *Act*.

#### **Notice of disciplinary decision**

73. (1) At the conclusion of a disciplinary proceeding, the board must, within a reasonable time, advise every registrant of
- (a) the name of the respondents,
  - (b) the facts of the case,
  - (c) the reasons for the decision, and
  - (d) the disposition of the case, including the nature of any limitation or suspension, and the date it is in effect.
- (2) Where disciplinary proceedings result in the limitation or suspension of a registrant's practice, the registrar must notify the college or associations responsible for the regulation of the profession of [ ] in every other Canadian jurisdiction and, on request, to any other college or association in a jurisdiction inside or outside Canada.

#### **Retention of disciplinary committee and inquiry committee records**

74. Records of the inquiry committee must be retained for not less than [6] years following the conclusion of an investigation and records of the discipline committee must be retained for not less than [6] years following the date a decision is rendered.

#### **Registrant under suspension**

75. (1) During any period of suspension from practice, members shall:
- (a) not engage in the practice of the profession or hold himself or herself out as being a registrant
  - (b) not hold office in the college
  - (c) not make appointments for patients or prospective patients
  - (d) not contact or communicate with patients or prospective patients, except for the following purposes
    - (i) to advise patients or prospective patients of the fact and duration of the suspension; and

- (ii) to advise a patient or prospective patient that another registrant will continue to operate in the suspended registrant's place, or to refer the patient to another registrant in good standing
  - (e) remove from their premises and the building in which the premises are located, their name and any sign relating to their practice;
  - (f) prominently display, a notice of suspension in a form and in an area approved by the registrar, which states the duration and reasons for the suspension;
  - (g) immediately surrender to the registrar their practice certificate;
  - (h) pay any fee or special assessment required by the College when due in order to remain a member;
  - (i) not be entitled to a refund of the annual fee for the portion of the suspension or of any special assessment that the member has paid.
- (2) During the period of suspension, a suspended registrant may permit another registrant in good standing to practice within the suspended member's office, provided that the suspended member complies with the provisions of subsection (1).
- (3) Any communication under subsection (1)(d) may be made in writing in a form approved in advance by the registrar, or by employing office staff, an answering service or other telephonic device specifically for this purpose.

### **Fines**

76. The maximum amount of a fine that may be ordered by the discipline committee under section 39 of the *Act* is \$[35,000].

### **Costs**

77. (1) If following a hearing under section 38 of the *Act* the discipline committee dismisses a complaint under section 39(1) of the *Act*, the committee may pursuant to section 39(4) of the *Act* require the college to pay to the registrant up to [75%] of the total costs incurred by the registrant, subject to the following limitations:
- (a) costs may only be awarded in respect of matters covered by the tariff of costs set out in Schedule I,
  - (b) costs awarded must not exceed the amount set out for that expense in Schedule J



- (2) If following a hearing under section 38 the discipline committee makes an order pursuant to section 39(2) of the Act, the committee may require the registrant to pay to the college costs incurred by the investigating committee and the discipline committee, subject to the following limitations:
- (a) costs may only be awarded in respect of matters covered by the tariff of costs set out in Schedule I, and
  - (b) costs awarded must not exceed the amount set out for that expense in Schedule I.
- (3) If a proposal given to the inquiry committee pursuant to section 37.1 of the Act is accepted by the inquiry committee, the registrant must pay to the college costs incurred by the investigating committee under the terms of the consent given pursuant to section 37.1(c) of the Act, subject to the following limitations:
- (a) costs may only be awarded in respect of matters covered by the tariff of costs set out in Schedule I, and
  - (b) costs awarded must not exceed the amount set out for that expense in Schedule I.

*Schedule I is appended to these bylaws. These costs are based generally on the BC Supreme Court Rule 57 and Appendix B, but have been modified to better correspond with the steps and procedures taken in a disciplinary hearing.*

*The amount that may be awarded under the schedule is further limited by section 39(6) and (7) of the Act, which provides for a maximum of 50% for legal fees that are otherwise recoverable.*

*Colleges may wish to establish their own tariffs of costs. However, in doing so it is necessary to ensure that the rules provide for only partial recovery, and that they do not provide for recovery concerning remuneration paid to inspectors or members of the inquiry committee or discipline committee. (See Health Professions Act section 10(1)(v) and (vi)). In addition, record should*

### **Review of Record**

78. (1) Sections 20.2 and 20.3 of the *Health Professions Act* apply to the college.
- (2) Applications under section 20.2 of the Act must be provided to the Registrar,
  - (3) Where an applicant requests the board to consider additional evidence beyond the record, the applicant must provide or specify the evidence in the application, and

provide written submissions as to why the applicant believes there are special circumstances that warrant consideration of additional information by the board

- (4) The Registrar must present the request to the Board at the next meeting of the Board or, if the application is received less than [14] days before the next board meeting, at the board meeting following the next board meeting
- (5) If the board decides that special circumstances exist that require it to consider evidence that is not on the record, the board must direct the registrar make arrangement for receipt of such information.
- (6) In any case where oral testimony is required, the board must direct consideration of the matter be deferred until arrangements have been made to permit the applicant to make oral representations to the board.
- (7) The Board must provide to the applicant and the registration committee written reasons for its decision on an application under section 20.2 of the Act.

*This section should only be included if the college wishes to allow a college or respondent who is denied registration to request the board conduct a review of the decision. Such a review would generally be based solely on the record of materials before the discipline committee and its decision, and would only involve hearing of additional evidence in exceptional cases.*

## PART 7 REGISTRANT RECORDS

*The Freedom of Information and Protection of Privacy Act (the "FOIPPA") does not apply to registrants who are acting in their individual capacity as practitioners. Therefore, Part 7 of these Model Bylaws contains detailed provisions relating to registrant records so that the principles of confidentiality and protection of personal information and access to personal information contained in the FOIPPA may be extended to patients. The model provisions provided below mirror to some extent the provisions of the FOIPPA to provide for consistency in application. Note that this Part does not limit the information available by law to a party to a proceeding. Note also that, while this Part only applies to personal information which is in recorded form, any inappropriate collection, use or disclosure of unrecorded personal information may still constitute*

### Definitions

79. For the purposes of Part 7 of these bylaws,

"patient representative" means

- (a) a "committee of the patient" under the *Patient's Property Act*,
- (b) the parent or guardian of a patient who is under 19 years of age,
- (c) a representative authorized by a representation agreement under the *Representation Agreement Act* to make or help in making decisions on behalf of a patient,
- (d) a decision maker or guardian appointed under section 10 of the *Adult Guardianship Act*, and
- (e) a temporary substitute decision maker chosen under section 16 of the *Health Care (Consent) and Care Facility (Admission) Act*.

### Purpose for which personal information may be collected

80. No registrant may collect personal information regarding a patient unless

- (a) the information relates directly to and is necessary for providing health care

services to the patient or for related administrative purposes, or

- (b) the collection of that information is expressly authorized by or under an enactment.

#### **Source of personal information**

81. (1) A registrant must collect personal information about a patient directly from the patient.
- (2) Despite subsection (1), a registrant may collect personal information from another person if the registrant has reasonable grounds to believe
- (a) that the patient has been made aware of the matters set out in section 74(1) and has authorized collection of the personal information from another person,
  - (b) that the patient is unable to give his or her authority and the registrant, having made the patient's representative aware of the matters set out in section 74(1), collects the information from the representative or the representative authorizes collection from another person,
  - (c) that compliance with subsection (1) would
    - (i) prejudice the best interests of the patient,
    - (ii) defeat the purpose or prejudice the use for which the information is collected, or
    - (iii) prejudice the safety of any person,
  - (d) that compliance with subsection (1) is not reasonably practicable in the circumstances of the particular case,
  - (e) that the collection is for the purpose of assembling a family or genetic history of a person and is collected directly from that person,
  - (f) that the information is publicly available information,
  - (g) that the information
    - (i) will not be used in a form in which the patient concerned is identified, or

- (ii) will be used for statistical or research purposes and will not be published in a form that could reasonably be expected to identify the patient, or
- (h) that non-compliance with subsection 1 is necessary where the information is about law enforcement or anything referred to in sections 15(1) or (2) of the *Freedom of Information and Protection of Privacy Act*.

### **Collection of personal information**

82. (1) Where a registrant collects personal information directly from the patient, or from the patient's representative, the registrant must take such steps as are, in the circumstances, reasonable to ensure that the patient or patient's representative is aware of
- (a) the fact that the personal information is being collected,
  - (b) the purpose for which the personal information is being collected,
  - (c) the intended recipients of the personal information,
  - (d) whether or not the supply of the personal information is voluntary or mandatory and, if mandatory, the legal authority for collecting the personal information,
  - (f) the consequences, if any, for that patient if all or any part of the requested personal information is not provided,
  - (g) the rights of access to personal information provided in section 89.
- (2) The steps referred to in subsection (1) must be taken before the personal information is collected or, if that is not practicable, as soon as practicable after the personal information is collected.
- (3) A registrant is not required to take the steps referred to in subsection (1) in relation to the collection of personal information from a patient, or the patient's representative, if the registrant has taken those steps in relation to the collection, from the patient or patient's representative, of the same information or information of the same kind for the same or a related purpose, on a recent previous occasion.
- (4) Despite subsection (1), a registrant is not required to comply with subsection (1)

if the registrant believes on reasonable grounds

- (a) that non-compliance is authorised by the patient concerned,
- (b) that compliance would
  - (i) prejudice the interests of the patient concerned, or
  - (ii) defeat the purpose or prejudice the use for which the information is collected,
- (c) that compliance is not reasonably practicable in the circumstances of the particular case, or
- (d) that the information is about law enforcement or anything referred to in sections 15(1) or (2) of the *Freedom of Information and Protection of Privacy Act*.

#### **Manner of collection of personal information**

83. Personal information must not be collected by a registrant:

- (a) by unlawful means, or
- (b) by means that, in the circumstances of the case,
  - (i) are unfair, or
  - (ii) intrude to an unreasonable extent upon the personal affairs of the patient concerned.

#### **Confidentiality of personal information**

84. A registrant must at all times protect and maintain the confidentiality of personal information collected under sections 81, 82 and 83.

#### **Accuracy of personal information**

85. The registrant must make every reasonable effort to ensure that the information is current and is legibly, accurately and completely recorded.

#### **Right to request correction of personal information**

86. (1) A person who believes there is an error or omission in a record containing his or her personal information may request that the registrant having the record in his or her custody or control correct the information.
- (2) If after receiving a request for correction under subsection (1), the registrant disagrees that there is an error or omission in the record, the registrant must note the request in the record with particulars of the correction that was sought.

**Use of personal information by a registrant**

87. (1) A registrant may use personal information only
- (a) for the purpose of providing health care services to the patient or related administrative purpose,
  - (b) for a use or disclosure consistent with a purpose specified in paragraph (a),
  - (c) if the patient has consented to the use, or
  - (d) for a purpose for which that information may be disclosed by the registrant under sections 88 and 90.

**Disclosure of personal information by a registrant**

88. (1) A registrant must maintain confidentiality of personal information and may disclose relevant personal information only
- (a) if the patient concerned has consented to the disclosure,
  - (b) for the purpose of providing health care services to the patient or related administrative purpose or for a disclosure consistent with either purpose,
  - (c) for the purpose of complying with an enactment of, arrangement or agreement made under an enactment of British Columbia or Canada,
  - (d) for the purpose of complying with a subpoena, warrant or order issued or made by a court, person or body with jurisdiction to compel the production of information,
  - (e) to an employee of, or contractor providing services to, the registrant, if the information is necessary for the performance of the duties of, or for the protection of the health or safety of, the employee or contractor,

- (f) to a lawyer acting for the registrant, for use in civil or criminal proceedings involving the registrant,
- (g) where necessary to comply with the *Coroners Act*,
- (h) where necessary to comply with the *Ombudsman Act*,
- (i) for the purposes of
  - (i) collecting a debt or fine owing by a patient to the registrant, or
  - (ii) making a payment owing by the patient to a registrant,
- (j) to an auditor, the college or any other person or body authorized by law, for audit purposes,
- (k) where the registrant believes on reasonable grounds that there is a risk of significant harm to the health or safety of any person and that the use or disclosure of the information would reduce that risk,
- (l) so that the next of kin or a friend of an injured, ill or deceased individual may be contacted,
- (m) in accordance with sections 90 and 97, or
- (n) as otherwise required by law.

**Definition of consistent purpose**

89. A use or disclosure of personal information is consistent with the purposes of providing health care services to a patient or related administrative purposes under sections 87 and 88 if the use or disclosure has a reasonable and direct connection to either purpose.

**Disclosure for research and statistical purposes**

90. A registrant may disclose personal information for a research purpose, including statistical research, only if
- (a) the research purpose cannot reasonably be accomplished unless that information is provided in individually identifiable form or the research purpose has been approved by the [a recognized ethics committee approved by the board],



- (b) any record linkage is not harmful to the individuals concerned and the benefits to be derived from the record linkage are clearly in the public interest,
- (c) the head of the public body concerned has approved conditions relating to the following
  - (i) security and confidentiality,
  - (ii) the removal or destruction of individual identifiers at the earliest reasonable time, and
  - (iii) the prohibition of any subsequent use or disclosure of that information in individually identifiable form without the express authorization of the [a recognized ethics committee approved by the board], and
- (d) the person to whom that information is disclosed has signed an agreement to comply with the approved conditions, these bylaws and any of the policies and procedures of the [recognized ethics committee approved by the board] relating to the confidentiality of personal information.

**Storage and retention of personal information**

91. (1) A registrant must ensure that all records
- (a) pertaining to his or her practice, and
  - (b) containing personal information are safely and securely stored.
- (2) Personal information must be retained for a period of [10] years.

*The board should establish a written policy which details methods of safe storage for physical records and records stored by electronic methods. Chapter 8 of the "Review of the Storage and Disposal of Health Care Records". Report of Dr. Shaun Peck, Deputy Provincial Health Officer to the Minister of Health and Minister Responsible for Seniors, Province of British Columbia, July, 1995, may serve as a useful precedent and is included in Part A.9 of this document. The board may wish to obtain legal advice regarding the time period for retention of health records. Note that the Limitation Act extends the time period during which litigation may be commenced in some circumstances, most notably when a minor sues for damages after he or she becomes an adult.*

### **Manner of disposal of records**

92. A registrant must ensure that records are disposed of only by
- (a) transferring the record to another registrant or with the consent of the patient, to another health care agency or health care practitioner,
  - (b) effectively destroying a physical record by utilizing a shredder or by complete burning,
  - (c) erasing information recorded or stored by electronic methods on tapes, disks or cassettes in a manner that ensures that the information cannot be reconstructed, or
  - (d) transferring the record to the patient.

### **Registrant ceasing to practise**

93. (1) A registrant who ceases to practise for any reason must dispose of personal information in accordance with this part, notify the college, and provide the college with a written summary of the steps he or she has taken to dispose of the personal information.
- (2) A registrant must make appropriate arrangements to ensure that, in the event that the registrant dies or becomes unable to practise for any reason and is unable to dispose of the personal information, the personal information will be safely and securely transferred to another registrant.
- (3) A registrant who receives personal information transferred in accordance with subsection (2) or section 92(a) must notify the patient concerned of the transfer.

### **Protection of personal information**

94. (1) A registrant must protect personal information by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal.
- (2) A registrant must take reasonable measures to ensure that a third party, including a volunteer, employee of or contractor of the registrant or a health professions corporation or a student practitioner under the supervision of the registrant, does not access, collect, use, disclose, store or dispose of personal information except

in accordance with the requirements of this Part.

**Contracts for handling personal information**

95. A registrant must ensure that, where personal information is transferred to any person or service organization for processing, storage or disposal, a contract is made with that person which includes an undertaking by the recipient that confidentiality and physical security will be maintained.

**Remedying a breach of security**

96. A registrant must take appropriate measures to remedy any unauthorized access, use, disclosure or disposal of personal information under this part as soon as possible after the breach is discovered, including
- (a) taking steps to recover the personal information or to ensure its disposal if it cannot be recovered,
  - (b) taking steps to ensure that any remaining personal information is secured,
  - (c) notifying
    - (i) anyone affected by the unauthorized access including patients and other health care providers,
    - (ii) the college, and
    - (iii) law enforcement officials, where criminal action may have contributed to the unauthorized action, and
  - (d) modifying existing security arrangements to prevent a re-occurrence of the unauthorized access.

**Patient access to personal information**

97. (1) For the purposes of this section, "access to" means the opportunity to examine or make copies of the original record.
- (2) If a patient or a patient representative makes a request for access to personal information about the patient, the registrant must comply as soon as practicable but not more than [45 days] following the request by
- (a) providing access to the patient or patient's representative,
  - (b) providing access to the remainder of the personal information where that information excepted from disclosure under subsection (3) can reasonably be severed, or
  - (c) providing written reasons for the refusal of access to the personal information or to any portion of the health records.
- (3) The registrant may refuse to disclose personal information to a patient or patient representative
- (a) where there is a significant likelihood of a substantial adverse effect on the physical, mental or emotional health of the patient,
  - (b) where there is a significant likelihood of harm to a third party, or
  - (c) if the disclosure could reasonably be expected to disclose personal information regarding another individual.
- (4) Where a registrant provides access and the patient or patient representative requests a copy of the personal information, a copy must be provided if it can reasonably be reproduced.
- (5) A registrant may charge a reasonable fee for the reproduction of personal information which does not exceed the fee established in Schedule "D".
- (6) Subject to subsection (3), a patient under 19 years of age may have access to a record where, in the opinion of the registrant, the patient is capable of understanding the subject matter of the record.
- (7) Except where authorized by the patient, a registrant must not provide access to the records of a patient who is under 19 years of age to the guardian or parent of

the patient where the subject matter of the record is health care which was provided without the consent of a parent or guardian in accordance with the requirements of section 15 of the *Infants Act*.

*In 1992, the Supreme Court of Canada held that, while medical records are owned by the physician who compiled the records, the patient is entitled to reasonable access to examine and copy the information contained in the records [McInerney v. MacDonald, (1992), 93 D.L.R. (4th) 415 S.C.C.]. The court also held that, in exercising this right, the patient must pay a reasonable fee for the preparation and reproduction of the records. It is expected that this same principle would apply to all health records compiled by health care practitioners.*

## PART 8 HEALTH PROFESSION CORPORATIONS

*Part 8 applies to professions for which there is a specific regulation permitting corporations to provide the services of the profession. This part provides for matters relating to health profession corporations which are not already covered by the Health Professions Act. These matters include the application process for obtaining a health profession corporation permit and the procedural requirements to be followed by the board during a permit revocation hearing. The authority for these provisions is contained in sections 43 and 44 of the Act.*

*The Health Professions Act (Part 4) provides that the board may issue a permit to a health profession corporation if it is incorporated under the Company Act and has an appropriate share structure. All directors and voting shareholders must be registrants and non-voting shareholders must be registrants or close relatives of a registrant. Generally, only registrants may provide*

### Application for health profession corporation permit

98. (1) A corporation incorporated under the *Company Act* may apply to the board for a permit to carry on the business of providing the services of [ ] to the public by delivering to the board
- (a) a completed permit application in a form approved by the board,
  - (b) a true copy of the certificate of incorporation of the company, and
  - (c) a permit fee in the amount of \$[ ].
- (2) The president of a corporation incorporated under the *Company Act* or his or her designate must promptly advise the board in writing of any change to the information contained in the permit application.

### Issuance of health corporation permit

99. (1) The board may require the health profession corporation to provide liability insurance for each of its employees in the amount of at least \$[1,000,000] per occurrence as a condition of the permit.
- (2) A permit is valid from the issue date shown until the next [April 1].

### Renewal of health profession corporation permit

100. (1) A health profession corporation which intends to continue to provide the services of [ ] to the public must, before its permit expires, apply for a renewal of the permit by delivering to the board
- (a) a completed permit renewal application in a form approved by the board, and
  - (b) a permit renewal fee in the amount of \$[ ].
- (2) A renewal permit is valid until the next [March 31].
- (3) The health profession corporation must promptly advise the board in writing of any change to the information contained in the most recent permit renewal application.

**Health profession corporation name**

101. A health profession corporation must not use a name which
- (a) is identical to that under which another health profession corporation holds a valid permit issued under this part,
  - (b) so closely resembles the name of another health profession corporation which holds a valid permit issued under this part that it is likely to confuse or mislead the public, or
  - (c) contravenes section 118 of these bylaws.

**Change of health profession corporation name**

102. (1) A health profession corporation which intends to change its name must apply to the board, in a form approved by the board, for a certificate that the college does not object to the intended name of the health profession corporation.
- (2) Section 101 applies to an application under subsection (1).
- (3) The board must issue a new permit to a health profession corporation which

- (i) has received a certificate that the college does not object to the intended name change, and
  - (ii) delivers to the board a true copy of the certificate of the Registrar of Companies showing the change of name and the date it is effective.
- (4) A permit issued under subsection (3) is valid until the date on which the permit it replaces would have expired.

#### **Health profession corporation advertising**

103. A health profession corporation which carries on the business of providing the services of [ ] to the public must disclose on all letterhead and business cards, and in all other advertisements, that the services of [ ] are being provided by a health profession corporation.

#### **Disposition of shares**

104. The articles of the corporation must provide for the disposition of the shares of a shareholder who dies, ceases to be a registrant or who ceases to be qualified to practise the profession.

*Instead of requiring the articles to provide for the disposition of shares, this provision may set out the specific manner for their disposition.*

#### **Hearings respecting revocation of permits**

105. (1) The powers and duties of the board set out in section 44 of the *Act* are delegated to the discipline committee.
- (2) A permit revocation hearing may be consolidated with a hearing conducted under section 38 of the *Act* where there is a similarity of subject matter between



the two hearings.

- (3) The discipline committee may conduct an oral hearing or a hearing by written submission to determine if a health corporation permit should be revoked.
- (4) The discipline committee may conduct a hearing on the receipt of a written complaint or on its own motion.
- (5) The registrar must provide notice of a permit revocation hearing by personal service or by registered mail to the registered office of the health profession corporation not less than [30] days before the date of the hearing.
- (6) The notice of permit revocation hearing must
  - (a) name the health profession corporation as respondent,
  - (b) describe the matter that is to be the subject of the hearing, including the particulars of any evidence in support of that subject matter,
  - (c) where the hearing is to be an oral hearing,
    - (i) specify the date, time and place of the hearing,
    - (ii) advise the respondent that the discipline committee is entitled to proceed with the hearing in the absence of representatives of the health profession corporation, and
    - (iii) advise the respondent that the respondent and the college may appear as parties and with counsel at a hearing,
  - (d) where the hearing will be conducted by written submission
    - (i) specify the date of the hearing, and
    - (ii) advise the respondent that the respondent is entitled to submit a written submission no later than [14] days prior to the date of the hearing.
- (7) At an oral permit revocation 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.

- (8) 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 the *Act*, the regulation or the bylaws.
- (9) The discipline committee may order a person to attend an oral permit revocation hearing to give evidence and to produce records in the possession of or under the control of the person.
- (10) The discipline committee must provide notice by registered mail or by personal service to a person who is required to attend an oral permit revocation hearing under subsection (9) in the form set out in Schedule "H".
- (11) The board must provide written reasons for its decision.
- (12) Where the board decides to revoke a permit, the board must publish a notice containing
  - (a) the name of the respondent,
  - (b) the reasons for the decision, and
  - (c) the date of the permit revocation.

*A college may choose to set out additional or alternate procedures for the revocation of permits and for the revocation hearings.*

## PART 9 - DELEGATION, AUTHORIZATION AND SUPERVISION

*Amendments made by the Health Professions Amendment Act, 2003, provide flexibility for a broad range of approaches for the regulation of assistants, the delegation of aspects of practice, and the activities of assistants or other non-registrants performing aspects of practice under the supervision of a registrant. Bylaws in this regard are made under the authority of sections 19(1)(k.1) and (l.1) to (l.8) of the Act. In addition, the persons so regulated may be made subject to the inspection, inquiries and discipline procedures under Part 3 of the Act.*

*The Act provides a framework in which classes of non-registrants may be established. While the term "assistant" is not used in the Act, colleges may wish to use this or other terms in the bylaws to designate a class of non-registrant who is to be made subject to the bylaws and the Act. It should be noted that in this context the classes of "non-registrants" may include, for the purposes*

### Classes of non-registrants to whom this Part applies

106. For the purposes of this Part of these bylaws, the following classes of non-registrant are established:

- (a) [name of class, e.g. [name of profession] assistant]
- (b) . . .

*A variety of approaches may be taken to "enrolling" individuals in the classes of non-registrants established under the above section.*

*Although these individuals will not be registrants, one approach may be to have a "quasi-registration" approach with detailed bylaws mirroring the bylaws for registration of registrants. Such bylaws would specify not only the educational and training requirements for the established classes of non-registrants, but also deal with the documentation to be provided by applicants, "certification" with the college, fees to be paid, and provisions for renewal, suspension, cancellation and reinstatement of a person as a member of an established class of non-registrant.*

*A college may also, as an alternative to the bylaws for non-registrants under this part, choose to*

### Educational and training requirements

107. A registrant must not, in regard to a person in a class established under section 106, delegate any aspect of practice to that person or allow that person to perform any aspect of practice under the supervision of the registrant, unless the registrant has ensured that that person has the following education and training:

- (a) for a [name of class of non-registrant], [graduation/completion/enrolment in]

[name of institution, program or course] and [specify any additional requirements, e.g. experience required in regard to certain activities];

- (b) for a [name of class of non-registrant], ...

*The following bylaws authorize or limit the aspects of practice which particular classes of non-registrants may or may not perform under delegation or supervision of a registrant. Special consideration should be given to any limitations on delegation or supervision of reserved actions, if such delegation or supervision is permitted by the regulation.*

### **Delegation and supervision of aspects of practice**

108. For each class of non-registrants established under section 106,

- (a) a registrant may delegate to a non-registrant in a class listed in Column 1 of Schedule J.1, those aspects of practice listed in the corresponding Column 2 of Schedule J.1
- (b) a registrant may supervise a non-registrant in a class listed in Column 1 of Schedule J.2, in regard to those aspects of practice listed in the corresponding Column 2 of Schedule J.2, and supervised according to the supervision requirements set out in the corresponding Column 3 of Schedule J.2.

### **Aspects of practice which may not be performed other than by a registrant**

109. (1) A registrant may not delegate the following aspects of practice:

(a) [specify aspect of practice]

(b)

(2) A registrant may not allow to be performed under supervision the following aspects of practice:

(a) [*specify aspect of practice*]

(b)

**Limits and conditions**

110. (1) Despite section 108, a registrant may not delegate to or supervise the activity of a non-registrant authorize another person to perform in regard to an aspect of practice of the registrant unless the registrant has and maintains liability insurance in accordance with section 115 that is applicable to the actions of the assistant or non-registrant.
- (2) If a non-registrant in a class established under section 106 is registered in another college established under the Act, nothing in this section authorizes that person to perform any act that is prohibited by the other college in relation to that person.
- (3) Nothing in this part authorizes a registrant to perform a reserved act that the person is prohibited from performing under sections 50.1 to 50.4 of the Act.

**Ability of registrants to accept delegations from and act under supervision of registrants of other colleges**

111. A registrant of this college is entitled to undertake activities outside of the scope of practice of the registrant if such activity is authorized by and undertaken in accordance with the bylaws of the college established under the *Health Professions Act* that has authority to regulate the matter in question [except in respect of the following acts:]
- (a) [Insert if present college wishes to impose any restrictions in this regard]

*The optional text noted in brackets is intended to allow the registrant's college to limit the registrant's ability to undertake activities outside his or her scope of practice, even if another college is prepared to allow delegation to or authorization of such activity by the registrant.*

### **Holding out**

112. (1) A person must not act or hold themselves out as a [name of class of non-registrant established in section 106] unless they have met the requirements of and are acting in accordance with this Part.

(2) A registrant must not allow, enable, assist or encourage a person employed or supervised by that registrant to act as or hold themselves out as a [name of class established in section 106] in relation to the registrant's practice, except where that person acts in accordance with this Part.

### **Investigation, inquiry and discipline**

113. Part 3 of the *Health Professions Act* applies to non-registrants who are members or former members of a class of non-registrant established under section 101.1.

*The above section, pursuant to section 19(1)(1.7) of the Act, makes the quality assurance, investigation, inquiry and discipline provisions set out in Part 3 of the Act applicable to non-registrants in the classes established under section 106. Colleges may choose to limit the application of Part 3 to some or all of the specified classes of non-registrants. If Part 3 does not apply, the college would not be able to discipline such persons directly, but could still, in appropriate cases, discipline the registrant who delegates to or supervises the non-registrant. Where a registrant delegates or authorizes an assistant or other class of non-registrant to perform aspects of practice under this Part, the registrant remains responsible for the actions of the assistant or non-registrant, as though the activities of the assistant or non-registrant were those of the registrant.*

## **PART 10 GENERAL**

*Part 10 of the bylaws contains several miscellaneous provisions requiring registrants to obtain adequate liability insurance and placing restrictions on the marketing of professional services by registrants. The authority for these provisions is found in section 19(1),(o) and (s) of the Health Professions Act.*

### **Codes of ethics and standards of practice**

114. (1) Board members and officers must at all times conduct themselves in a manner that is in keeping with the public interest and the ethical standards of the profession.
- (2) Registrants must at all times conduct their practice in a manner that is in keeping with the ethical standards of the profession.
- (3) Registrants, board members and officers must conduct themselves in accordance with the Code of Ethics and Conflicts of Interest in Schedule 1, and the Standards of Practice in Schedule 2.
- (4) Registrants must take reasonable steps to ensure that other registrants, assistants, students, and non-registrants employed by or supervised by the registrant, are aware of and act in accordance with to the requirements of the Code of Ethics and Conflicts of Interest in Schedule 1, and the Standards of Practice in Schedule 2, so far as these apply to those persons.

### **Liability insurance**

115. All registrants and their employees must be insured against liability for negligence in an amount of at least \$[1,000,000] per occurrence.

### **Review of an account charged to a patient**

116. (1) A patient may apply for a review of a fee charged by a registrant by delivering a written application to the registrar enclosing a copy of the account.
- (2) The registrar must investigate the matter raised by the application.
- (3) The registrar must request the registrant to provide any information regarding the account which the registrant believes is relevant to the application.
- (4) The registrar must conduct a hearing within [45] days after the date on which the application for review was received by the registrar or within such further period of time as the registrar considers reasonable.
- (5) The registrar may conduct a hearing by reviewing the written submissions only or may require the parties to attend in person.
- (6) Where the fee under review is not in accordance with the range of fees customarily charged at the time the services were provided, the registrar must fix a reasonable fee.
- (7) The registrar must deliver written notice of the decision to the patient and the registrant.
- (8) The registrant must repay forthwith any amount paid by the patient exceeding the fee fixed by the registrar.

### **Interjurisdictional agreements**

117. The board is authorized to enter into agreements with the governing bodies of health professions in other provinces or in foreign jurisdictions, pursuant to section 20.4 of the Act, in regard to the following aspects of interjurisdictional practice:

(a) *[specify aspect of practice for which interjurisdictional agreements are authorized]*.



*Section 20.4 of the Health Professions Act gives the board the authority to enter into interjurisdictional agreements either for information sharing or concerning interjurisdictional practice. The above bylaw may be used by colleges who wish to further limit the aspects of interjurisdictional practice which may be subject to such an agreement.*

## **Marketing**

118. (1) In this part,

"advertisement" means the use of space or time in a public medium, or the use of a commercial publication such as a brochure or handbill, to communicate with the general public, or a segment thereof, for the purpose of promoting professional services or enhancing the image of the advertiser,

"marketing" includes

- (a) an advertisement,
  - (b) any publication or communication in any medium with any patient, prospective patient or the public generally in the nature of an advertisement, promotional activity or material, a listing in a directory, a public appearance or any other means by which professional services are promoted, and
  - (c) contact with a prospective client initiated by or under the discretion of a registrant.
- (2) Any marketing undertaken or authorized by a registrant in respect of his or her professional services must not be
- (a) false,
  - (b) inaccurate,
  - (c) reasonably expected to mislead the public,
  - (d) unverifiable, or

- (c) contrary to the public interest in the practice of the profession.
- (3) Marketing violates subsection (2) if it
- (a) is calculated or likely to take advantage of the weakened state, either physical, mental or emotional, of the recipient or intended recipient,
  - (b) is likely to create in the mind of the recipient or intended recipient an unjustified expectation about the results which the registrant can achieve,
  - (c) implies that the registrant can obtain results
    - (i) not achievable by other registrants,
    - (ii) by improperly influencing a public body or official, or any corporation, agency or person having any interest in the welfare of the recipient,
    - (iii) by any other improper means, or
  - (d) compares the quality of services provided with those provided by
    - (i) another registrant,
    - (ii) a person authorized to provide health care services under another enactment, or
    - (iii) another health profession.
- (4) A registrant must not
- (a) state publicly that he or she speaks on behalf of the college unless he or she has been expressly authorized by the board to state the official position of the college, or
  - (b) endorse or lend himself or herself as a [ ] to the advertisement of any property, investment or service for sale to the public [unless such property, investment or service relates directly to the profession].
- (5) A registrant who, in any advertisement, includes a statement of fees for a specific service

- (a) must ensure that the statement sufficiently describes the fees and services so as to enable the recipient or intended recipient to understand the nature and extent of the services to be provided and the cost to the patient, and
  - (b) must not in the advertisement compare the fees charged by the registrant with those charged by another registrant.
- (6) Unless otherwise authorized by the *Act*, the regulations, these bylaws, or the board, a registrant, unless granted a specialty designation under section 54.1,
  - (a) must not use the title "specialist" or any similar designation suggesting a recognized special status or accreditation on any letterhead or business card or in any other marketing, and
  - (b) must take all reasonable steps to discourage the use, in relation to the registrant by another person, of the title "specialist" or any similar designation suggesting a recognized special status or accreditation in any marketing.
- (7) A registrant must retain for one year after the date of publication or broadcast of any advertisement or brochure, and must provide to the board upon request
  - (a) a copy of any such publication
  - (b) a recording of any such broadcast made by use of any electronic media, including radio, television and microwave transmission, and
  - (c) a written record of when and where the publication or broadcast was made.
- (8) It is the duty of the registrant, when called upon by the discipline committee, inquiry committee, or the board to do so, to verify the statements made in his or her marketing.
- (9) Registrants who limit their practices to certain branches or areas of the profession may state in any marketing the branch or area to which the practice is restricted.

*The Supreme Court of Canada considered the issue of restricting advertising by members of a profession in Rocket v. Royal College of Dental Surgeons of Ontario (1990), 71 D.L.R. (4th) 68, [1990] 2 S.C.R. 232, 73 O.R. (2d) 128n, 40 A.C. 241. In this case, the Supreme Court of Canada held that while the freedom of speech protection contained in the Canadian Charter of Rights and Freedoms includes commercial speech such as advertising, this right must be balanced with the need to protect the public. Therefore, professional regulatory bodies may regulate advertising by their members but the restrictions should impair the right to freedom of expression as little as possible. The court provided further detail by drawing a distinction between restrictions about information on standardized products and restrictions on claims that are inherently not easy to verify. It concluded that regulations aimed at promoting professionalism and preventing irresponsible and misleading advertising on matters not susceptible of verification should clearly*

## **SCHEDULE A Code of Ethics and Conflicts of Interest**

**(section 1)**

*The Code of Ethics and Conflicts of Interest should establish general principles to guide registrants in meeting their duties to the public and to the profession, and in avoiding conflicts of interest. The authority for establishing the Code of Ethics is found in s. 19(1)(l) of the Health Professions Act. Pursuant to section 19(1.1) of the Act, it is not necessary to establish these standards in bylaws, but colleges who choose to establish standards other than in the bylaws should ensure that appropriate measures are taken to document and publish them so that they are available to both the profession and the public. The Model Bylaws continue to provide an example of inclusion of standards in the bylaws.*

*The Code of Ethics for each profession will vary to some extent according to the nature of the*

### **Code of Ethics**

1. (1) Registrants must act with integrity, honesty, respect and fairness in all dealings with clients, the board and other registrants.
- (2) Registrants, in rendering a professional service, must not discriminate on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, marital or family status, disability or age.
- (3) Registrants must comply with the Health Professions Act, the \_\_\_\_\_ Regulation and the bylaws of the college, as well as any other laws applicable to the practice of the profession.
- (4) Registrants must at all times, in both their professional and private affairs, conduct themselves in a manner that is honourable and conducive to public respect for the profession, the college and its registrants.
- (5) Registrants must not provide any advice or treatment for which the member does not possess the necessary degree of training, skill, knowledge and experience to provide the advice or treatment in a safe manner, or for which there is no reasonable prospect of benefit for the client.
- (6) Registrants must not perform any aspect of practice if their judgment is impaired by alcohol, drugs or other reason.
- (7) Registrants must ensure that clients are properly informed about the potential benefits and risks and effectiveness of any treatment before such treatment is

provided, unless the condition of the client makes it impossible to do so and the need for consent is otherwise addressed.

- (8) Registrants must take appropriate steps to advise a client of other health profession services where the registrant believes or ought reasonably to believe that it is in the best interests of the patient to do so.
- (9) Registrants must maintain complete and accurate patient records.
- (10) Registrants must respond promptly to all communication from the college where a response is requested or otherwise required.

### **Conflicts of Interest**

2. (1) Registrants, board members, and officers must ensure that they avoid any situation that may give rise to a conflict of interest or to an appearance of conflict of interest.
- (2) A conflict of interest is deemed to exist in any situation where a registrant, board member or officer has personal interests in a matter that may be reasonably seen to influence their professional advice and conduct
  - (a) in the case of a board member, in relation to a client, or
  - (b) in the case of a board member or officer, in relation to the college or its registrants.
- (3) For the purposes of subsection (2), "personal interests" includes, but is not limited to financial, professional, family and other personal relationships, and includes those situations in which a family member or associate of the registrant has a significant interest in a matter.
- (4) If a registrant discovers that he or she is in a conflict of interest situation, he or she must take immediate steps to remove the conflict of interest.
- (5) If a board member or officer discovers that he or she is in a conflict of interest situation, he or she must:
  - (a) disclose the conflict of interest to the board and the registrar,
  - (b) not vote or exercise his or her duties in regard to the area of conflict of interest, and

(c) take immediate steps to remove the conflict of interest.

**SCHEDULE B   Standards of Practice**  
**(section 1)**

*The purpose of the Standards of Practice is to set out minimum standards to ensure that registrants do not practise in an incompetent manner. The authority for making Standards of Practice is found in section 19(1)(k) of the Health Professions Act. Pursuant to section 19(1.1) of the Act, it is not necessary to establish these standards in bylaws, but colleges who choose to establish standards other than in the bylaws should ensure that appropriate measures are taken to document and publish them so that they are available to both the profession and the public.*

*The Standards of Practice, like entry level requirements, should be designed to reflect the knowledge, skills and abilities required to provide the professional service in a competent manner. The Standards of Practice should not contain any extraneous requirements or anti-competitive*



**SCHEDULE C Electoral Districts**  
**(section 3)**

*The boundaries of any electoral districts established in section 3 of the Model Bylaws may be set out here. These boundaries may be defined by a map or by a metes and bounds description.*

**SCHEDULE D Maximum fees for information requests  
(section 41)**

1 For applicants other than commercial applicants:

(a) for locating and retrieving a record	\$7.50 per 1/4 hour after the first 3 hours,
(b) for producing a record manually	\$7.50 per 1/4 hour,
(c) for producing a record from a machine readable record	\$16.50 per minute for cost of use of central mainframe processor and all locally attached devices plus \$7.50 per 1/4 hour for developing a computer program to produce the record,
(d) for preparing a record for disclosure and handling a record	\$7.50 per 1/4 hour,
(e) for shipping copies	actual costs of shipping by method chosen by applicant,
(f) (i) photocopies and computer printouts	\$.25 per page (8.5 x 11, 8.5 x 14), \$.30 per page (11 x 17),
(ii) floppy disks	\$10.00 per disk,
(iii) computer tapes	\$40.00 per tape, up to 2400 feet,
(iv) microfiche	\$10.00 per fiche,
(v) 16 mm microfilm duplication	\$25.00 per roll,
(vi) 35 mm microfilm duplication	\$40.00 per roll,
(vii) microfilm to paper duplication	\$.50 per page,
(viii) photographs (colour or black and white)	\$5.00 to produce a negative \$12.00 each for 16" x 20" \$9.00 each for 11" x 14" \$4.00 each for 8" x 10" \$3.00 each for 5" x 7",
(ix) photographic print of textual, graphic or cartographic records (8" x 10" black and white)	\$12.50 each,
(x) hard copy laser print, B/W, 300 dots/inch	\$.25 each,
(xi) hard copy laser print, B/W, 1200 dots/inch	\$.40 each,
(xii) hard copy laser print, colour	\$1.65 each,
(xiii) photomechanical reproduction of 105 mm cartographic record/plan	\$3.00 each,
(xiv) slide duplication	\$.95 each,
(xv) plans	\$1.00 per square metre,

(xvi)	audio cassette duplication	\$10.00 plus \$7.00 per 1/4
(xvii)	video cassette (1/4" or 8 mm) duplication	\$11.00 per 60 minute cassette plus \$7.00 per 1/4 hour of recording; \$20.00 per 120 minute cassette plus \$7.00 per 1/4 hour of recording, \$15.00 per cassette plus \$11.00 per 1/4 hour of recording, and
(xviii)	video cassette (1/2" duplication	\$40.00 per cassette plus \$11.00 per 1/4 hour of recording.
(xix)	video cassette (3/4") duplication	the actual cost of providing that service.
2	For commercial applicants for each service listed in item 1	the actual cost of providing that service.

**SCHEDULE E    Approved training programs**  
**[section 48(1)(a)]**

*The training programs approved under section 48 of the Model Bylaws may be set out in this schedule.*

**SCHEDULE F Fees for examinations and registration**  
**(Part 4)**

**1. Application fees are:**

- (a) for full [or grandparented] registration \$[ ]
- (b) for full [or grandparented] registration (part-time) \$[ ]
- (c) for limited registration \$[ ]
- (d) for non-practising registration \$[ ]
- (e) for temporary registration \$[ ]
- (f) for student registration \$[ ]

**2. Examination fees are:**

- (a) for full [or grandparented] registration \$[ ]
- (b) for limited registration \$[ ]
- (c) for re-examinations \$[ ]

**3. Initial registration fees are:**

- (a) for full [or grandparented] registration \$[ ]
- (b) for full [or grandparented] registration (part-time) \$[ ]
- (c) for limited registration \$[ ]
- (d) for non-practising registration \$[ ]
- (e) for temporary registration \$[ ]
- (f) for student registration \$[ ]

**4. Registration renewal fees are:**

- (a) for full [or grandparented] registration \$[ ]
- (b) for full [or grandparented] registration (part-time) \$[ ]
- (c) for limited registration \$[ ]
- (d) for non-practising registration \$[ ]
- (e) for temporary registration \$[ ]
- (f) for student registration \$[ ]

**5. Specialty fees are:**

- (a) for entry of a specialty in the register \$[ ]

6. Fees listed in sections 3 and 4 of this Schedule will be prorated on a [quarterly] basis for a registrant who practises for less than a full year.

7. For the purposes of this Schedule, "part-time" means less than [25] hours per week.

*If the college decides to establish classes of non-registrants pursuant to section 19(1)(1.2) of the Act, it may also establish fees payable by these non-registrants. If so, the above fee schedule should include fees for initial application and annual renewal, as appropriate.*

**SCHEDULE G – SPECIALTIES**  
**(Section 56)**

<b>Column 1 Specialty</b>	<b>Column 2 Requirements</b>	<b>Column 3 Authorized title</b>

**SCHEDULE H Order to attend hearing of discipline committee  
(sections 72 and 105)**

IN THE MATTER OF THE COLLEGE OF [ ] OF  
BRITISH COLUMBIA

and

IN THE MATTER OF A HEARING PURSUANT TO  
[SECTION 37 AND/OR SECTION 44] OF THE *HEALTH PROFESSIONS ACT*  
INTO THE CONDUCT OF [ ]

**ORDER**

TO:

TAKE NOTICE that you are required to attend to testify as a witness at the time, date and place set out below, pursuant to the provisions of [section 38 and/or section 44] of the *Health Professions Act*, S.B.C., c.50. You are also required to bring with you all documents in your possession or power relating to the matters in question in this proceeding.

Please note the provisions of the *Health Professions Act* and the bylaws of the College of [ ] reproduced on the back of this Order.

TIME:

DATE:

PLACE:

Dated:

---

Member, Panel of the Discipline Committee  
responsible for the conduct of the hearing

## **SCHEDULE I – COSTS**

**(section 77)**

### **Interpretation**

1. In this tariff “process” means the drawing, filing, service or delivery of a document and any amendment to it or particulars of it, but does not include an application made with respect to the process or any part of the process.

### **Internal Appeal**

2. This tariff applies to internal appeals to initial discipline committee decision in the same way as with the initial decision.

### **Scale of costs**

3. (1) Where a tribunal has made an order for costs, it may fix the scale, from Scale 1 to 3 in subsection (2), under which the costs will be assessed, and may order that one or more steps in the proceeding be assessed under a different scale from that fixed for other steps.
  - (2) In fixing the scale of costs the tribunal shall have regard to the following principles:
    - (a) Scale 1 is for matters of little difficulty;
    - (b) Scale 2 is for matters of ordinary difficulty or complexity;
    - (c) Scale 3 is for matters of more than ordinary difficulty or complexity.
  - (3) In fixing the appropriate scale under which costs will be assessed, the tribunal may take into account the following:
    - (a) whether a difficult issue of law, fact or construction is involved;
    - (b) whether an issue is of importance to a class or body of persons, or is of general interest;
    - (c) whether the result of the proceeding effectively determines the rights and obligations as between the parties beyond the relief that was actually granted or denied.
  - (4) Where an order for costs has been made, or where, on a settlement, payment of assessed costs has been agreed to, but no scale has been fixed or agreed to, then the costs shall be assessed under Scale 2, unless a party, on application, obtains an order of the tribunal that the costs be assessed under another scale.
  - (5) Where costs may be assessed without order or agreement, the scale of costs shall



be fixed by the tribunal upon the assessment.

#### **Value of units**

4. (1) The value for each unit allowed on an assessment is as follows:
  - (a) Scale 1 – \$40 for each unit;
  - (b) Scale 2 – \$80 for each unit;
  - (c) Scale 3 – \$120 for each unit.
- (2) Where maximum and minimum numbers of units are provided for in an Item in the Tariff, the tribunal has the discretion to allow a number within that range of units.
- (3) In assessing costs where the Tariff indicates a range of units, the tribunal shall have regard to the following principles:
  - (a) one unit is for matters upon which little time should ordinarily have been spent;
  - (b) the maximum number of units is for matters upon which a great deal of time should ordinarily have been spent.

#### **Per diem rates**

5. (1) Where in a Tariff Item a number of units is allowed for each day but the time spent during a day is not more than 4 hours, only 1/2 of the number of units shall be allowed for that day.
- (2) Where in a Tariff Item a number of units is allowed for each day but the time spent during a day is more than 8 hours, the number of units allowed for that day shall be increased by 1/2 of the number.
- (3) Where in a Tariff Item a number of units is allowed for preparation for an attendance but the time spent on the attendance is not more than 4 hours, only 1/2 of the number of units for preparation shall be allowed.
- (4) Where in the Tariff units may be allowed for preparation for an activity, the tribunal may allow units for preparation for an activity that does not take place or is adjourned up to the maximum allowable for one day.

#### **Offer to settle bill of costs**

6. A party to an assessment may deliver to another party an offer to settle the amount of

the bill of costs and, after the assessment has been completed, may produce the offer to the tribunal, and the tribunal shall determine whether the offer should have been accepted and, if so, may disallow items of the Tariff which relate to the assessment to the party presenting the bill, and

- (a) allow, by way of set off, items of the Tariff which relate to the assessment to the party making the offer, or
- (b) allow double the value of items of the Tariff which relate to the assessment to the party presenting the bill and making the offer.

### Disbursements

7. In addition to the tariff, actual and reasonable disbursements will be recoverable.

TARIFF		Units	
Item	Description		
1.	<b>Instructions and Investigations</b> Correspondence, conferences, instructions, investigations or negotiations by a party relating to a proceeding, whether before or after commencement, for which provision is not made elsewhere in this tariff.	Minimum	1
		Maximum	10
2.	<b>Initiating Complaint or Citation</b> Costs associated with filing of complaint or inquiry, consideration of complaint or inquiry, and any reports submitted regarding the complaint or inquiry.	Minimum	1
		Maximum	3
3.	<b>Disclosure</b> All processes associated with obtaining or providing disclosure, including documents.	Minimum	1
		Maximum	10
4.	<b>Pre (Discipline Committee) Hearing Applications</b> Preparation for attendance referred to in Item 6, for each day of attendance.	Minimum	1
		Maximum	5
5.	Attendance at a pre-hearing application for each half-day	Minimum	1
		Maximum	3
6.	<b>Discipline Committee Hearing</b> Preparation for an application or other matter referred to in Item 8, for each day of hearing where hearing commenced: (a) where unopposed. (b) where opposed.		2 3
7.	Preparation for hearing, if proceeding set down for each day of hearing.		5

8.	Attendance at hearing, of proceeding, or of an issue in a proceeding, for each day.		10
9.	Written argument where requested by the tribunal.	Minimum	1
		Maximum	10
10.	Attendance at the hearing where party is ready to proceed and when hearing not commenced.		3
11.	Settlement of Costs.	Minimum	1
		Maximum	5
12.	Settlement of Order.	Minimum	1
		Maximum	3
13.	Process relating to the tribunal signing the order.		1
14.	<b>Alternative Dispute Resolution</b> Negotiations, including mediation, and process for settlement, discontinuance, or dismissal by consent of any proceeding if settled, discontinued, dismissed by consent as a result of the negotiations.	Minimum	1
		Maximum	5

<b>Disbursements</b>		
<b>Item</b>	<b>Including, but not limited to...</b>	<b>Costs</b>
1.	Photocopying	\$.10 per page
2.	Binding costs	Actual Reasonable
3.	Hearing room expenses	Actual Reasonable
4.	Recording	Actual Reasonable
5.	Expert Witness Fees	Actual Reasonable
6.	<b>Travel Costs</b> Traveling and subsistence expenses shall be allowed.	Actual Reasonable

**SCHEDULE J.1 -- Delegation of Aspects of Practice  
(Section 108)**

Column 1 Class of Non-Registrant (section 106)	Column 2 Aspects of practice that may be delegated

**SCHEDULE J.2 – Supervision of Aspects of Practice  
(Section 108)**

Column 1 Class of Non-Registrant (section 106)	Column 2 Aspects of practice that may be performed under supervision	Column 3 Supervision requirements

**FORM 1      Statutory declaration**  
**(Part 4)**

CANADA PROVINCE OF BRITISH COLUMBIA IN THE MATTER OF AN  
APPLICATION FOR REGISTRATION IN THE COLLEGE OF [            ]

I, \_\_\_\_\_, of \_\_\_\_\_ in the city of \_\_\_\_\_, in the Province of British  
Columbia do solemnly declare that:

1. I have not been convicted in Canada or elsewhere of any offence that, if committed by a person registered under the *Health Professions Act*, would constitute unprofessional conduct or conduct unbecoming a person registered under these bylaws except as follows:
  
2. My past conduct does not demonstrate any pattern of incompetency or untrustworthiness which would make registration contrary to the public interest.
  
3. I am a person of good character.
  
4. My entitlement to practise [            ] has not been limited, restricted or subject to conditions in any jurisdiction at any time except as follows:
  
5. At the present time, no investigation, review or proceeding is taking place in any jurisdiction which could result in the suspension or cancellation of my authorization to practise [            ] in that jurisdiction except as follows:
  
6. I have read the *Health Professions Act* of British Columbia and the regulations and bylaws of the College of [            ] made pursuant to that *Act*.

7. I will practise at all times in compliance with the *Health Professions Act* of British Columbia and the regulations and bylaws of the College of [                    ] made pursuant to that *Act*.

AND I make this solemn declaration, conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

Signature of Applicant

DECLARED before me at the city  
of \_\_\_\_\_, in the Province of  
British Columbia, this \_\_\_\_ day  
of \_\_\_\_\_, (year).

A Commissioner for taking Affidavits in British Columbia

**FORM 2      Certificate of registration**  
**(section 55)**

COLLEGE OF [                      ] OF BRITISH COLUMBIA

Certificate No.

CERTIFICATE OF REGISTRATION

The board of the College of [                      ] hereby certifies that  
of \_\_\_\_\_ in the City of \_\_\_\_\_, Province of British Columbia,  
has met the qualifications provided for in the bylaws of the College made pursuant  
to the *Health Professions Act*, and is duly qualified to practise [                      ] as a  
\_\_\_\_\_ registrant of the College of [                      ] of British Columbia.

GIVEN under the seal of the board at \_\_\_\_\_, British Columbia, this  
day of \_\_\_\_\_.

**FORM 3**  
**(Section 7)**

**Certificate of Election**

COLLEGE OF [ ] OF BRITISH COLUMBIA

Certificate No. \_\_\_\_\_

CERTIFICATION OF ELECTION

The board of the College of [ ] hereby certifies that \_\_\_\_\_ of \_\_\_\_\_ in the city of \_\_\_\_\_, Province of British Columbia, has been elected as a member of the board of the College in accordance with the *Health Professions Act*. The term of office as a member of the board of the College will commence on \_\_\_\_\_ in the year of \_\_\_\_\_ and terminate on \_\_\_\_\_ in the year of \_\_\_\_\_.

GIVEN under the seal of the board at \_\_\_\_\_, British Columbia, this day of \_\_\_\_\_.



## PART C: TABLE OF CONCORDANCE

### GUIDELINES FOR DEVELOPING BYLAWS UNDER THE HEALTH PROFESSIONS ACT – CONCORDANCE TO 1999 EDITION

*[NOTE: Some of the “old” section numbers need to be re-checked and revised.]*

Model Bylaws Part/Section Number – 2004	Title	Model Bylaws Part/Section Number – 1999	Nature of revision (n.c. = no change, other than section renumberings)
1	Definitions	1	Comments added re terms “Code of Ethics” and “Standards of Practice”
Part 1	College Board, Committees and Panels	Part 1	Note added re possibility of two health professions included in one designation
1.1	First board	1.1	Note re decimal numbering revised
2	Composition of board	2	n.c.
3	Electoral districts	3	n.c.
4	Voting and non-voting registrants	--	New section and note.
5	Notice of election	4	n.c.
6	Nomination procedure	5	n.c.
7	Election procedure	6	New s. 6(9) re form for certification of election.
8	Terms of office	7	n.c.
9	Removal of elected board member	8	Wording clarified
9.1	First election and terms of office	8.1	n.c.
10	Vacancy	9	Comment revised.
11	Remuneration of board members	10	n.c.
12	Chair and vice-chair	11	n.c.

<b>Model Bylaws Part/Section Number – 2004</b>	<b>Title</b>	<b>Model Bylaws Part/Section Number – 1999</b>	<b>Nature of revision (n.c. = no change, other than section renumberings)</b>
13	Board meetings	12	n.c.
14	Extraordinary board meetings	13	n.c.
15	Registration committee	14	Minor revision to comment
16	Inquiry committee	15	n.c.
17	Discipline committee	16	n.c.
18	Quality assurance committee	17	s. 9(3) amended and comment added
19	Patient relations committee	18	n.c.
20	Executive committee	19	Comment added
21	Finance and administration committee	20	n.c.
22	Committees	21	n.c.
23	Committee panels	22	n.c.
24	Meetings of a committee or panel	23	n.c.
25	Remuneration of committee members	24	n.c.
Part 2	College Administration	Part 2	Opening comment revised.
26	Seal	25	n.c.
27	Deputy registrar	26	Note re registrar revised to reference new authority under s. 32(3) of the Act
28	Fiscal year	27	n.c.
29	Banking	28	n.c.
30	Payments and commitments	29	n.c.
31	Borrowing powers	30	Revised to conform to language of Act.
32	Investments	31	n.c.
33	Auditor	32	Comment added.
34	Legal counsel	33	n.c.
35	General meetings	34	n.c.
36	Notice of general meetings	35	n.c.
37	Resolutions proposed by registrants	36	n.c.
38	Proceedings at general meetings	37	n.c.
39	Voting by proxy	38	Comment revised

<b>Model Bylaws Part/Section Number – 2004</b>	<b>Title</b>	<b>Model Bylaws Part/Section Number – 1999</b>	<b>Nature of revision (n.c. = no change, other than section renumberings)</b>
40	Notice to public representativess	39	n.c.
Part 3	College Records	Part 3	No change to opening comment
41	Body responsible for administering the <i>FOIPPA</i>	40	n.c.
42	Fees for information requests	41	n.c.
43	Protection of personal information	42	n.c.
44	Disclosure of annual report	43	n.c.
45	Disclosure of registration status	44	Minor revision to s. 44(1). Comment added.
46	Manner of disposal of college records ...	45	
Part 4	Registration	Part 4	Comment added to introduction, re Act s.52(1)
47	Classes of registrants	46	n.c.
48	Full registrant	47	Comment re criminal records review updated to current ministry
49	Grandparented registration	48	n.c.
50	Limited registration	49	n.c.
51	Student registration	50	n.c.
52	Non-practising registration	51	n.c.
53	Temporary registration	52	n.c.
54	Honorary registration	53	n.c.
55	Certificate of registration	54	n.c.
56	Spccialties	--	New provision and comment.
57	Use of terms	--	New provision and comment.
58	Examinations	55	n.c.
59	Registration renewal	56	n.c.
--	Continuing education	57	Section removed – incorporated in new s. 63
60	Reinstatement	58	n.c.
61	Reinstatement following non-payment of fees	59	n.c.

<b>Model Bylaws Part/Section Number – 2004</b>	<b>Title</b>	<b>Model Bylaws Part/Section Number – 1999</b>	<b>Nature of revision (n.c. = no change, other than section renumberings)</b>
62	Notification of change of registration information	60	n.c.
Part 5	Quality Assurance	--	New Part and introductory comment
63	Quality Assurance Program	--	New provision
64	Approval of courses		New provision
65	Assessment of professional performance		New provision and comment
Part 6	Inspections, Inquiries and Discipline	Part 5	Introductory comment revised to reference registrar's new powers
66	Inspections	61	n.c.
67	Investigations by the inquiry committee	62	n.c.
68	Delegation of inquiry or disciplinary committee functions	--	New provision and comment
69	Consent orders	63	n.c.
70	Mediation	64	n.c.
71	Citation for disciplinary hearing	65	n.c.
72	Hearings of discipline committee	66	n.c.
73	Notice of disciplinary decision	67	n.c.
74	Retention of disciplinary committee and inquiry committee records	68	n.c.
75	Registrant under suspension	69	Provision substantially amended
76	Fines	70	
77	Costs	70	Provision substantially amended; comment added
78	Review of record	--	New provision and comment.
Part 7	Registrant Records	Part 6	Introductory comment revised.
79	Definitions	71	Minor revisions.

<b>Model Bylaws Part/Section Number – 2004</b>	<b>Title</b>	<b>Model Bylaws Part/Section Number – 1999</b>	<b>Nature of revision (n.c. = no change, other than section renumberings)</b>
80	Purpose for which personal information may be collected	72	n.c.
81	Source of personal information	73	n.c.
82	Collection of personal information	74	n.c.
83	Manner of collection of personal information	75	n.c.
84	Confidentiality of personal information	76	n.c.
85	Accuracy of personal information	77	n.c.
86	Right to request correction of personal information	78	n.c.
87	Use of personal information by a registrant	79	n.c.
88	Disclosure of personal information by a registrant	80	n.c.
89	Definition of consistent purpose	81	n.c.
90	Disclosure of research and statistical purposes	82	n.c.
91	Storage and retention of personal information	83	n.c.
92	Manner of disposal of records	84	n.c.
93	Registrant ceasing to practice	85	n.c.
94	Protection of personal information	86	n.c.
95	Contracts for handling personal information	87	n.c.
96	Remedying a breach of security	88	n.c.
97	Patient access to personal information	89	n.c.
Part 8	Health Profession Corporations	Part 7	n.c.

<b>Model Bylaws Part/Section Number – 2004</b>	<b>Title</b>	<b>Model Bylaws Part/Section Number – 1999</b>	<b>Nature of revision (n.c. = no change, other than section renumberings)</b>
98	Application for health profession corporation permit	90	n.c.
99	Issuance of health profession corporation permit	91	n.c.
100	Renewal of health profession corporation permit	92	n.c.
101	Health profession corporation name	93	n.c.
102	Change of health profession corporation name	94	n.c.
103	Health profession corporation advertising	95	n.c.
104	Disposition of shares	96	n.c.
	Provision of service	97	Removed. Replaced by new Part 9.
105	Hearings respecting revocation of permits	98	n.c.
Part 9	Delegation, Authorization and Supervision	--	New Part. New introductory comment.
106	Classes of non-registrants to whom this Part applies	--	New provision and comment.
107	Educational and training requirements	--	New provision.
108	Delegation and supervision of aspects of practice	--	New provision and comment.
109	Aspects of practice which may not be performed other than by a registrant	--	New provision.
110	Limits and conditions	--	New provision.
111	Ability of registrants to accept delegations ...	--	New provision and comment.
112	Holding out	--	New provision.
113	Investigation, inquiry and discipline	--	New provision and comment.
Part 10	General	Part 8	n.c.
114	Codes of ethics and standards of practice	--	New provision.

<b>Model Bylaws Part/Section Number – 2004</b>	<b>Title</b>	<b>Model Bylaws Part/Section Number – 1999</b>	<b>Nature of revision (n.c. = no change, other than section renumberings)</b>
115	Liability insurance	99	n.c.
116	Review of an account charged to a patient	100	n.c.
117	Interjurisdictional agreements	--	New provision and comment.
118	Marketing	101	Minor revision to subs. (6) to reference specialty designations.
Schedule A	Code of Ethics and Conflicts of Interest	Schedule A	Introductory comment revised.
Schedule B	Standards of Practice	Schedule B	Introductory comment revised.
Schedule C	Electoral Districts	Schedule C	n.c.
Schedule D	Maximum fees for information requests	Schedule D	n.c.
Schedule E	Approved training programs	Schedule E	n.c.
Schedule F	Fees for examination and registration	Schedule F	Minor revisions.
Schedule G	Specialties	--	New Schedule.
Schedule H	Order to attend hearing of discipline committee	Schedule G	n.c.
Schedule I	Costs	--	New Schedule.
Schedule J.1	Delegation of aspects of practice	--	New Schedule.
Schedule J.2	Supervision of aspects of practice	--	New Schedule.
Form 1	Statutory Declaration	Form 1	n.c.
Form 2	Certificate of registration	Form 2	n.c.
Form 3	Certificate of election	--	New form.







## Complaints Status: A Look at the Numbers

Some dentists have questioned the length of time it takes the College to resolve complaints. Here we address some of the questions – and misconceptions – that have come up.

**Q. It seems like complaints are taking longer than ever to close. Why?**

**A. In fact, the opposite is true. As of February 28, 2015, we have reduced the average age of open complaint files by about six weeks to 10.5 months and closed significantly more complaint files (303) than we opened (280) – despite the fact that the number of complaints against dentists continues to rise.**

We have added significant staff resources to the complaints team to reflect the fact that closing complaints quickly is a key priority for the College, as is working through the backlog of older complaints.

**Q. Couldn't the College close complaints faster so dentists can avoid months of stress and worry while the investigation continues?**

**A. We know it is stressful for any registrant to deal with a complaint. The bottom line**

**is the College today is doing a dramatically better job at resolving complaints – and doing so more quickly than in the recent past.**

The *Health Professions Act* requires that:

- We investigate all complaints received (if they meet the requirements)
- The investigation must be adequate (we must obtain and assess information from all relevant parties)
- The outcome must be reasonable based on a consideration of all evidence

These requirements listed above are set and enforced through the Health Professions Review Board (HPRB). A complainant can appeal any health college decision to dismiss/resolve a complaint.

**Complaints against dentists reached a record high in 2014/15**

Since its inception in 2009, the HPRB has issued 35 decisions concerning CDSBC. The HPRB has approved our process, upholding the College's decision in 33 of those cases. (Of the remaining two cases,

### Contents

- Complaints Status: A Look at the Numbers
- New Policy on When It Is – or Is Not – Appropriate to Establish a Practitioner/Patient Relationship
- Online CE Opportunity: CDSBC's Dental Recordkeeping Course
- Are Your CE Submissions Accurate?
- Standards & Guidelines for Minimal and Moderate Sedation
- Recent Discipline Activities
- College Calendar

one review was partially favourable, and the court upheld the College's decision in the other.)

This is a record any college can be proud of, and it is clear that the complaints process as a whole is more fair and defensible than it used to be. (As an indicator of this, between 1994 and 2009, the College was the subject of 29 appeals or judicial reviews brought by dentists. The College was unsuccessful in 17 of those cases – often attracting harsh criticism from the court – and success was divided in three others.)

## New Policy on When It Is -- or Is Not -- Appropriate to Establish a Practitioner/Patient Relationship

The *Health Professions Act* and CDSBC Bylaws prohibit professional misconduct of a sexual nature, defined as sexual intercourse or other forms of sexual relations between a practitioner and a patient. Those provisions -- which remain in force -- impacted dentists who had been treating their spouses and sparked much discussion and debate in recent years.

While the initial focus was on the treatment of spouses, the College recognized that the key issue is not one of sexual conduct, but the broader consideration of when it is appropriate -- or not -- to enter into a practitioner-patient relationship.

The Board and the Ethics Committee have determined

that there are three elements that must be in place in order to ensure treatment is appropriate:

- 1) objectivity of care by the practitioner;
- 2) full, free, and informed patient consent; and
- 3) patient autonomy.

**Registrants may not enter into a practitioner/patient relationship that does -- or may -- compromise any one of the principles of objectivity, consent or autonomy.**

These three principles are core values enshrined in the CDSBC Code of Ethics. They can be compromised when treating one's spouse, close family member, or any other person

with whom there is a close personal relationship. A possible exception is where the treatment is minor or emergent and no other practitioner is readily available.

This policy will be published shortly under the CDSBC's standards and guidelines series.

### Online CE Opportunity: CDSBC's Dental Recordkeeping Course

CDSBC's online dental recordkeeping course is an interactive, six-module course that discusses strategies to improve recordkeeping and patient care in your dental office, reviews the principles of good recordkeeping, and provides advice on electronic recordkeeping. It covers informed consent, patient privacy and confidentiality, and the key principles for ownership, retention and disposal of records.

The course can be done anywhere and at your own pace. It takes

approximately three hours to complete from start to finish, or you can do the course module by module, and your progress will automatically be saved.

CDSBC registrants who complete and pay for the course (\$75 for dentists and \$35 for CDAs) are eligible to submit for three continuing education self-study credits in the practice management category. [www.cdsbc.org/online-ce-dental-recordkeeping](http://www.cdsbc.org/online-ce-dental-recordkeeping)

### Are Your CE Submissions Accurate?

All registrants have an ethical and professional obligation to make accurate submissions for continuing education activities. Failure to do so could result in serious consequences.

The Quality Assurance Committee has become aware that several dentists and CDAs claimed CE credits -- inaccurately or falsely -- for courses at dental conference that were, in fact, cancelled. These individuals were contacted by CDSBC and appropriate action was taken.

It is your responsibility to submit your own CE. Asking others to fill in your claim does not absolve you of the responsibility of an inaccurate submission. The Quality Assurance Committee and CDSBC staff will continue to monitor all CE submissions.

## Standards & Guidelines for Minimal and Moderate Sedation

Updated *Standards & Guidelines for Minimal and Moderate Sedation Services in Dentistry (Non-Hospital Facilities)* were published in summer 2014, and are available at [www.cdsbc.org/sedation](http://www.cdsbc.org/sedation). This document replaces the previous guidelines published in 2008.

These new standards contain significant changes and must be read by all registrants who provide minimal or moderate sedation.

Most of these changes take effect immediately (with some exceptions that will be phased in). CDSBC will advise registrants of the upcoming changes and what you need to do to be compliant.

All dentists have already received a document highlighting the key changes. It will be distributed to CDAs shortly. The key points are reiterated below:

- Dentists who own facilities where sedation is administered must ensure that their facility is equipped to the current standard.
- Facilities where parenteral (IV) moderate sedation is administered must pass an inspection conducted by CDSBC (inspections will likely begin in late 2015).
- Dentists providing moderate sedation will now be required to maintain certification in Advanced

Cardiac Life Support (ACLS) or an appropriate equivalent.

- Dentists who administer moderate sedation must complete no fewer than six hours of continuing education in the area of sedation and/or anaesthesia, during their three-year CE cycle (courses in Basic Life Support do not qualify; ACLS or Pediatric Advanced Life Support are acceptable).
- While moderate sedation dental treatment is ongoing, a minimum of the dentist and either a Registered Nurse or a CDA with appropriate certification must be continuously present, and the third trained member of the sedation team must be immediately available.
- CDAs assisting as the second member of the sedation team in moderate sedation will now be required to hold current DAANCE (Dental Anaesthesia Assistant National Certification Examination), OMAAP (Oral and Maxillofacial Surgery Anaesthesia Assistants Program), or an appropriate equivalent certification.

If you have questions about the standards, please contact Sedation Program Coordinator Krista Fairweather, RN, at [sedation@cdsbc.org](mailto:sedation@cdsbc.org) or 604-736-3621.

## Recent Discipline Activities

The *Health Professions Act* requires CDSBC to publish reports of discipline activities and penalties against its registrants. A full list of discipline activities is available at [www.cdsbc.org/public-notification-disciplinary-actions](http://www.cdsbc.org/public-notification-disciplinary-actions).

### Dr. Michal Kaburda – Penalty Decision

A panel of the Discipline Committee has issued a penalty decision against certified specialist Dr. Michal Kaburda of White Rock, who was found to have committed multiple instances of professional misconduct. The Discipline Panel imposed the following penalty on Dr. Kaburda:

- a reprimand;
- immediate suspension from the practice of dentistry for a period of six months;
- he must produce a complete copy of the complainant's records to CDSBC, and if he does not, his suspension will continue until this requirement is met; and
- payment of a \$10,000 fine in addition to \$15,083.13 in costs to CDSBC.

Read more at [www.cdsbc.org/kaburda-michal](http://www.cdsbc.org/kaburda-michal).

## College Calendar

**March 19, 2015**

### **Close of Nominations for CDSBC Election**

There are a number of positions available on the 2015/16 CDSBC Board.

The 2015 Notice of Election and Call for Nominations, nomination packages, position descriptions, and more are available at [www.cdsbc.org/election](http://www.cdsbc.org/election). The election will take place on May 21, 2015.

**March 23, 2015**

### **Consultation Closes for Bylaws Part 12: Advertising and Promotional Activities**

In December 2014, CDSBC posted revised bylaw Part 12: Advertising and Promotional Activities for public consultation. You can read the proposed bylaws and get more information about how to submit feedback at [www.cdsbc.org/ad-and-promotional-activities-bylaws](http://www.cdsbc.org/ad-and-promotional-activities-bylaws). The consultation period is open until March 23, 2015.

If no substantive issues arise from the consultation, the proposed Part 12 of the CDSBC Bylaws will be filed with the Ministry of Health after the close of the consultation period.

**April 2015**

### **Roadshows**

The College is delivering the course "Trust me, I'm a dental professional": Dentistry, ethics, law and the media at three locations in April. More details are available at [www.cdsbc.org/upcoming-events](http://www.cdsbc.org/upcoming-events).

#### **April 10: Surrey (morning)**

*Hosted by the Fraser Valley Dental Society*

Morgan Creek Golf Course  
3500 Morgan Creek Way, Surrey  
Register through the Fraser Valley Dental Society.

#### **April 23: Nanaimo (evening)**

*Hosted by CDSBC*

Vancouver Island Conference Centre  
101 Gordon Street, Nanaimo  
Register at [www.cdsbc.org/upcoming-events](http://www.cdsbc.org/upcoming-events).

#### **April 24: Courtenay (afternoon)**

*Hosted by the Upper Island & District Dental Society*

Crown Isle Golf Resort  
399 Clubhouse Dr, Courtenay  
For more info and to register, go to [www.uidds.com/register.html](http://www.uidds.com/register.html).

**June 5, 2015**

### **2015 AGM and Board Meeting Friday, June 5, 2015 (8:30-10:00 am)**

Vancouver Marriott Pinnacle Downtown Hotel, "Dundarave" Room

1128 West Hastings Street, Vancouver

If you wish to attend, please RSVP to [ncrosby@cdsbc.org](mailto:ncrosby@cdsbc.org) by Friday, May 22, 2015.

### **College of Dental Surgeons of British Columbia**

500 – 1765 West 8th Avenue  
Vancouver, BC V6J 5C6

Phone 604 736 3621  
Toll Free 1 800 663 9169

Fax 604 734 9448  
Toll Free Fax 1 866 734 9448

[www.cdsbc.org](http://www.cdsbc.org)



FEB 11 2011

871201

Ms. Heather MacKay  
Registrar  
College of Dental Surgeons  
of British Columbia  
500 – 1765 West 8th Ave  
Vancouver BC V6J 5C6

Dear Ms. MacKay:

I write to confirm the position of the Ministry of Health Services (the Ministry) regarding section 13.03 of the bylaws of the College of Dental Surgeons of British Columbia (the College).

The College is, under the Dentists Regulation, designated for the purposes of section 16 (2) (f) of the *Health Professions Act* (the Act). Section 16 (2) (f) provides that the mandate of a designated college includes “to ... establish a patient relations program to seek to prevent professional misconduct of a sexual nature”. With one exception, all colleges under the Act are designated for the purposes of section 16 (2) (f).

Section 13.03 of the College bylaws requires that the board of the College must establish a patient relations program to seek to prevent professional misconduct, including professional misconduct of a sexual nature. The term “professional misconduct of a sexual nature” is defined in section 13.03 and expressly includes sexual intercourse or other forms of sexual relations between dentists and their patients.

When dentistry became regulated under the Act in April 2009, section 13.03 was included in the College bylaws at the direction of the Ministry. Equivalent provisions are included, again at the direction of the Ministry, in the bylaws of a majority of colleges under the Act. In particular, the definition of “professional misconduct of a sexual nature” is the same as in the bylaws of the College of Physicians and Surgeons of British Columbia, the College of Optometrists of British Columbia, the College of Chiropractors of British Columbia, the College of Naturopathic Physicians of British Columbia, the College of Podiatric Surgeons of British Columbia, the College of Registered Nurses of British Columbia and others.

...2

As a fundamental policy principle, the Ministry believes it is unacceptable for regulated health professionals to engage in sexual relationships with their patients. Section 13.03 of the College bylaws represents the current Ministry-required standard that has been in place for several years with respect to college bylaws on this subject. The Ministry will continue working with all colleges to ensure their bylaws reflect this current standard.

The Ministry is not contemplating any exceptions or special considerations for the profession of dentistry in regard to this matter. The Ministry expects the College will fulfil its responsibilities in accordance with section 16 (2) (f) of the Act and section 13.03 of the College bylaws as currently in force.

Thank you for the opportunity to clarify this matter.

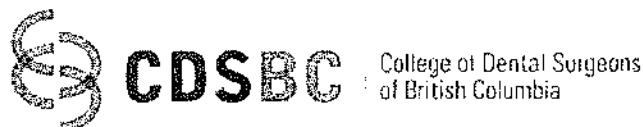
Sincerely,

A handwritten signature in black ink, appearing to read 'DK Beckett', with a long horizontal stroke extending to the right.

Daryl K. Beckett, J.D.  
Director, Professional Regulation

pc: Dr. W.B. Ward  
President, British Columbia Dental Association

Dr. Malcolm Williamson  
Senior Dental Health Consultant, Ministry of Health Services



## FINAL CONTENT FOR DESIGN

### Standards & Guidelines

*Standards and guidelines inform practitioners and the public of CDSBC's expectations for registrants. This document primarily contains standards, which are, by definition, mandatory and must be applied. Standards are clearly identified by mandatory language such as "must" and "required". This document also contains guidelines that are highly recommended but – while being evidence of a standard – are not, strictly speaking, mandatory. Guidelines contain permissive language such as "should" and "may".*

## Boundaries in the Practitioner-Patient Relationship

### Introduction

The *Health Professions Act* and CDSBC Bylaws prohibit professional misconduct of a sexual nature, which includes sexual intercourse or other forms of sexual relations between a practitioner and a patient.

The issue of boundaries between practitioners and their patients is not confined to matters of sexual conduct. CDSBC has considered the broader question of when it is appropriate – or not appropriate – to enter into a practitioner-patient relationship.

### CDSBC's Position

There are three elements that must be in place before providing treatment:

- objectivity of care by the practitioner;
- full, free and informed patient consent; and
- patient autonomy.

These principles are enshrined in CDSBC's Code of Ethics. They are – or may be -- compromised when treating one's spouse, close family member or any other person with whom there is a close personal relationship. Treating any such person is not appropriate.



### **Standard**

A practitioner-patient relationship is not permitted where objective care; full, free and informed consent; and/or patient autonomy is – or may be – compromised. A possible exception is where the treatment is minor or emergent and no other practitioner is readily available.

The provisions in the Health Professions Act and CDSBC Bylaws that prohibit professional misconduct of a sexual nature remain in effect and must be respected.

### **Context**

#### Fiduciary Relationship

The fact that the practitioner-patient relationship is a fiduciary one is well-established in Canadian law and medical ethics.

The key defining characteristics of a fiduciary relationship are trust, confidence, integrity, fidelity, and power imbalance. All are present in the healthcare practitioner - patient relationship. Given that a fiduciary relationship exists, the healthcare practitioner must act with utmost good faith and put their patient's interests above their own.

This gives rise to the professional obligation of healthcare practitioner to place the healthcare needs of their patients above all other considerations, including the obligation not to enter into a practitioner-patient relationship where not appropriate to do so.

#### CDSBC Code of Ethics: Core Values

The emotional attachments one has to one's spouse and family members and those with whom there is a close personal relationship, and the effect (or potential effect) on objective care and patient autonomy and consent are inconsistent with the core values of autonomy, beneficence and fairness.

#### CDSBC Code of Ethics: Guiding Principles

*Principle 1: The paramount responsibility of a practitioner is to the health and well-being of the patient*





Anything that does or can compromise or risk the health and well-being of the patient must be considered and avoided wherever possible. This consideration must be viewed objectively from the perspective of the patient and not subjectively from the perspective of the practitioner.

A practitioner may believe that because they care so deeply for the individual, no one could possibly provide better care. The fact that the practitioner **may** not be able to be objective, and that impediments to consent and autonomy **may** arise, dictate against treatment.

*Principle 2: Provide care with respect, dignity and without discrimination.*

The fact that we care so deeply for our loved ones means that at times we may not give them the degrees of freedom around consent and choice of care options that a dispassionate practitioner may give them.

*Principle 3: Be truthful and obey all applicable laws.*

The *Health Professions Act* and CDSBC Bylaws do not allow for sexual relations between health professionals and their patients.

*Principle 5: Respect the right of patients to be cared for by the dentist of their choice.*

Even when freely made, the "right" to choose a practitioner is not absolute – the practitioner can decline to provide treatment and is obliged to do so when prohibited by law (as noted above) or by the regulatory body. The patient's ability to choose their dentist is subject to the ethical obligations imposed on that dentist when determining whether or not to enter into a dentist-patient relationship.

*Principle 7: Obtain informed consent and provide unbiased explanations of options with associated benefits, risks and costs before proceeding with diagnostic or therapeutic modalities.*

Health professionals must obtain a full medical history and be aware of any changes in the patient's health status. Fear of telling the practitioner something "secret," or fear of not appearing to trust or have confidence in the practitioner by asking questions, seeking alternative treatments or seeking a second opinion can be a barrier to providing necessary information to the practitioner for him or her to make a proper diagnosis or treatment plan or to carry out the contemplated treatment.

*Principle 8: Recognize limitations and refer patients to others more qualified when appropriate for the well-being of the patient.*

Family members and friends have a tendency to place even more trust and confidence in practitioners with whom they have a close relationship. This adds to the pressure to



"perform" and can cloud judgment, potentially putting the patient at risk. It may result in a practitioner attempting treatment outside of their skillset, or impede a patient from seeking a second opinion when one may be warranted.

*Principle 12: Maintain appropriate and dignified boundaries in relationships with patients.*

For all of the reasons noted above, it is imperative that the integrity of the practitioner-patient relationship be maintained. Treatment of family members and friends makes it impossible to maintain an appropriate practitioner-patient relationship.

#### **Related documents**

CDSBC Code of Ethics

CDSBC's Position on Patient Relations and the Treatment of Spouses by Registrants

Board approved: November 2014



June 19, 2015

1036206

Ms. Jennifer Lawrence  
Registrar and CEO  
College of Dental Hygienists of BC  
Suite 600 -- 3795 Carey Rd  
Victoria BC V8Z 6T8  
[jlawrence@cdhbc.com](mailto:jlawrence@cdhbc.com)

Dear Ms. Jennifer Lawrence:

Thank you for the invitation to meet with you at the June 11, 2015, meeting of the Health Profession Regulators of BC (HPRBC). I regret that I was unable to attend, but have heard from my staff that it was a productive discussion. Your invitations are much appreciated, particularly as they provide a useful way for all of us to discuss together matters of common interest.

I am told that the discussion respecting one of HPRBC's stated priorities for the next 12-18 months was particularly helpful:

"Develop and implement a Patient Relations Program across all HPRBC members."

I understand that this is a topic that some of your registrants regularly raise. This has also recently been raised with government, in the context of dentists treating spouses and family members.

As you discussed with my staff, this is a good opportunity to clarify the Ministry's position on regulated health professionals treating family members, particularly their spouses and children.

The *Health Professions Act* HIPA empowers colleges to pass bylaws for an extensive list of purposes. Unlike regulations, which must be made and approved by government, bylaws are made and approved by individual colleges. Government does not approve college by-laws, but does have an opportunity to review them, and disallow them in some circumstances. The Minister may not, however, disallow bylaws that:

- Establish standards of professional ethics for registrants, including standards for the avoidance of conflicts of interests; or
- Establish standards, limits or conditions for the practice of the designated health profession by registrants.

...2

Furthermore, the respective regulations of the professional colleges specify a number of topics that must be addressed in bylaws, without prescribing the specific content of the bylaws. One example, relevant to the situation at hand, is a college's duty to have a patient-relations program.

Consistent with these requirements and limitations, the Ministry in 1999 first published "Guidelines for developing bylaws under the *Health Professions Act*", which includes model bylaws. These can be useful for new colleges drafting their first set of bylaws, and then subsequently as a guiding document going forward. As you know, they contain both mandatory and non-mandatory bylaw provisions, and must be read in conjunction with the (HPA) and associated regulations.

Specifically in relation to patient relations programs, the Model Bylaws include a definition of "professional misconduct of a sexual nature" that each college may use. Over the years, some colleges have chosen to use this definition in their bylaws, while others have not.

As you work on establishing a patient relations program across all HPRBC members, I wish to clarify that government will not impose the specific contents of such a program, including those aspects that address the treatment of spouses and close family members. Rather, it is our view that the colleges are empowered to establish these specifics, taking into account matters of professional ethics, including the avoidance of conflicts of interest.

Thank you again for the productive discussion. I look forward to continuing to work with you and will make myself available to discuss this important matter further, should you wish.

Yours truly,

A handwritten signature in black ink, appearing to read 'Ted Patterson', with a long horizontal flourish extending to the right.

Ted Patterson  
Assistant Deputy Minister