

Health Professions and Occupations Act Q&A

What is the Health Professions and Occupations Act (Bill 36), and why does it matter?

- The Health Professions and Occupations Act (previously called Bill 36; also referred to as the HPOA) is the first reform of the *Health Professions Act (HPA)* in 30 years.
- The *HPA*, first established 30 years ago, provides a common regulatory framework for health professions in British Columbia.
- Considering the changes in health care over the last 30 years, the HPOA is a timely and important reform.
- The HPOA came out of a very significant report conducted by an expert in the field of health profession regulation, Harry Cayton.
- The HPOA does important things:
 - It takes a proactive approach to eliminating discrimination in B.C.'s health care system.
 - It improves governance of regulatory colleges by moving to a merit and competency-based appointment process. These processes will be posted publicly to maximize transparency.
 - It also creates a superintendent's office to oversee the regulatory colleges. This will ensure colleges are laser-focused on patient safety and the public interest.
 - It allows for more transparency and accountability to the public.
 - It is focused on keeping people safe.
- The HPOA received Royal Assent on November 24, 2022.

What is the Cayton Report, and who is Harry Cayton? Why is he important/mentioned when talking about Bill 36?

- Harry Cayton led the United Kingdom's Professional Standards Authority for Health and Social Care but has since retired. The U.K. is one of the leading jurisdictions on professional regulation with a track record of focusing on patient safety. By taking the recommendations laid out in the Cayton Report, B.C. will become the strongest jurisdictions on patient safety in health professional regulation in the country.
- In 2018, Mr. Cayton was commissioned by Health Minister, Adrian Dix, to conduct an inquiry into the College of Dental Surgeons of British Columbia and suggest possible approaches to modernize B.C.'s overall health regulatory framework.

- This was done in response to concerns from the public. Numerous complaints from patients and the public indicated that the college was not always acting in the best interests of patients.
- Colleges are legally required to act in the public interest. Professional Associations, such as Doctors of BC, are there to advocate for the profession, not the regulatory college.
- Government made public Mr. Cayton's report on his findings in April 2019.
- The report can be viewed here: <https://www2.gov.bc.ca/assets/gov/health/practitioner-pro/professional-regulation/cayton-report-college-of-dental-surgeons-2018.pdf>

What happened after the Cayton Report was released?

- In response to the recommendations outlined in the Mr. Cayton's report, *An Inquiry into the performance of the College of Dental Surgeons of British Columbia and the Health Professions Act* (referred to as the Cayton report), which called for stronger and more consistent practices across regulatory colleges in the interest of the safety of patients and the public, Health Minister Adrian Dix established and chaired the all-party Steering Committee on Modernization of Health Professional Regulation.
- Committee members included Norm Letnick, then-health critic for the official Opposition, and Sonia Furstenau, then-health critic and house leader for the B.C. Green Party.
- The Cayton report, along with feedback from public consultation on the report, led the Steering Committee to develop a consultation paper with proposed changes to health profession regulation.
- The consultation paper was open to public feedback from November 27, 2019 to January 10, 2020. Feedback from the consultation informed the Steering Committee's final recommendations in an August 2020 report for improving the model of health profession regulation. <https://www2.gov.bc.ca/assets/gov/health/practitioner-pro/professional-regulation/modernizing-health-profession-regulatory-framework-consultation-paper.pdf>
- It is these recommendations, along with thorough engagement with stakeholders and partners, that shaped the foundation of the HPOA.

What does this legislation do for the public?

- The new legislation will improve access to safer health care by taking a proactive approach to eliminating discrimination in our health care system, strengthening the response to discrimination when it occurs, and promoting anti-discrimination measures for safer health care.
- It does this through an enhanced complaints system that offers anonymity to people who have experienced discrimination, sexual abuse, or sexual misconduct by a health

professional throughout the complaints process when requested. Such individuals will also have to the ability to request support services, like counselling.

- Health professionals are also expected to foster culturally safe practices, and adopt anti-discrimination practices.
- In addition, it will create a better complaints system that encourages people who have been hurt or wronged by a health professional to come forward by:
 - Offering identity protection measures,
 - Providing access to support workers and access to support services such as counselling, for people who have experienced sexual abuse, sexual misconduct or discrimination while receiving health care from a regulated health care provider.
- Furthermore, disciplinary actions taken against health professionals will be published on a public, online record to ensure members of the public can make informed decisions when selecting health care providers. Complaints will **NOT** be published, unless disciplinary action is taken as a result of a complaint.

Is it true that this legislation will regulate and restrict what physicians or health practitioners can say?

- No. This is **NOT** true.
- Under the existing *HPA*, regulatory colleges **already** have the ability to restrict the license of a health professional who poses a significant risk to the public or a patient, who has committed an act of misconduct, or who is not competent to practice safely.
- When misinformation leads to harm of patients or the public, colleges are expected under this new legislation to act quickly to prevent any further harm.
- This legislation will not limit physician's or health practitioner's critical or free speech. However, the Act does have provisions that can be enabled to protect the public by requiring regulatory colleges to take action against health professionals who are spreading misinformation that could bring harm to patients or the public.
- This will not have an impact on the day-to-day experience of healthcare professionals providing patient care.
- The goal of this legislation is to ensure that B.C.'s healthcare system continues to provide the best possible care to the people and families that live in this province, and it does that by strengthening protections for patients.

Does Bill 36 allow government to access medical records?

- No. The HPOA does not allow government to copy or seize clinical records.
- Only an independent Investigator, who is appointed by the regulatory college, at the request of an investigation committee can access private medical records.

- This authority **already** exists under the current governing legislation, the *HPA*.
- When a health care professional has had a complaint against them **and an investigation needs to happen**, an investigator requires the ability to search records to confirm whether the complaint has validity and to acquire proof of the professional's misconduct. The Investigator is subject to restraints in this process – including that the records must be in relation to the investigation. The Investigator is subject to the bylaws of the college and the directions of the investigation committee. It is important to recognize that this process is not different from the current Act and that it is for the protection of patients to ensure that people in B.C. receive the highest quality of care.

What type of consultation occurred ahead of these changes?

- The consultation process that occurred for the HPOA was one of the most thorough consultation and engagement processes that the government has ever offered.
- There were three areas of consultation on the HPOA spanning three years. These areas included: 1) public engagement, 2) stakeholder engagement including regulatory colleges and associations, and 3) Indigenous partners.
- **Public Consultation:**
 - The first consultation was held from **May 9, 2019 to June 14, 2019**, and received over 300 written submissions.
 - This was the initial consultation held in response to the Cayton report to understand the perspectives of the key stakeholders, partners, and the public on the issue of modernizing health regulation.
 - The written submissions called for greater transparency and accountability in the complaints and discipline process, consistent approaches to regulation, and greater role clarity in the mandate of regulatory colleges to protect the public.
 - It was this consultation that resulted in the Minister of Health appointing the all-party Steering Committee.
 - A summary of the engagement can be found online, here: <https://www2.gov.bc.ca/assets/gov/health/practitioner-pro/professional-regulation/regulating-health-professions-what-we-heard.pdf>
 - The second consultation was held from **November 27, 2019 to January 10, 2020**, which consisted of a public survey and the opportunity to submit a written submission.
 - The survey received a total of 4,018 responses, where 71% of respondents identified as health professionals. Members of the public were the second largest group at 22%. The remaining 7% included health profession

regulator staff and board members, professional association or union representatives, health profession students and researchers.

- There were 255 unique written submissions received from: health professionals (94), professional associations (53), members of the public (38), B.C. health profession regulators (21), regional health authority representatives (11), Indigenous partners (2), and others like provincial bodies, educational institutions, unions, non-profit groups and out of province regulators (36).
- In addition, 1,225 writing campaign/form letters were received regarding professionals' scopes of practice, amalgamation of regulatory colleges and the regulation of additional professions.

- **Stakeholders including regulatory colleges and associations:**

- Engagement with these stakeholders covered topics including the results of public consultation processes, regulatory college amalgamations, regulated new professions under the Health Professions Act, protected titles, sexual misconduct and abuse, cultural safety and humility, continuing competency, increasing public safety, government reporting entities, anti-discrimination, public registries of health professionals, registrar's abilities, bylaws.
- The Ministry of Health met with stakeholders between **August 26, 2020 and July 25, 2022**. There were 53 distinct meetings with stakeholders, which consisted of the following groups:
 - BC Health Regulators
 - Regulatory Colleges
 - Provincial professional health associations (30 groups)
 - Sept 15, 2020
 - February 12, 2021
 - June 18, 2021
 - July 16, 2021
 - BC College of Social Workers (not regulated under the HPA)
 - Ambulance Paramedics of BC (not regulated under the HPA)
 - Union groups, including Health Services Association of BC and Hospital Employee's Union

- **Indigenous Partners:**

- Extensive engagements were held with Indigenous partners and groups. The subject of these conversations included: hardwiring cultural safety and humility into college processes, culturally safer complaints process, improving transparency in the complaints process, embedding Indigenous and other diverse/equity-oriented perspectives into college governance, monitoring performance through an oversight body.

- Below is a summary of the engagement process:
 - MoH met with Indigenous partners **between June 2019 and August 11, 2022.**
 - There were 27 distinct meetings with Indigenous groups, persons, and bodies representing Indigenous peoples during this time.
 - These groups included:
 - In Plain Sight Legislation Working Group, including representatives from both First Nations and Métis Nation
 - First Nations Leadership Council,
 - Métis Nation BC
 - First Nations Health Authority
 - BC Assembly of First Nations
 - Broader engagement on the draft legislation occurred with:
 - First Nations Summit, which includes the majority of First Nations governments and Tribal Councils in B.C.
 - Engagement with VPs of Indigenous Health from all Regional Health Authorities and the Provincial Health Services Authority (PHSA)
 - Three open house sessions with an open invitation to Indigenous Peoples broadly, with participation and perspective brought from:
 - Adams Lake Indian Band (Secwepemc peoples)
 - Tla'amin Nation (Coast Salish peoples)
 - Lax Kw'alaams (Tsimshian peoples)
 - Anishinaabe peoples
 - Treaty 7 Nation
 - Métis Nation BC
 - First Nations Health Authority
 - Aboriginal Health/Patient Navigator leads from Central Okanagan
 - Regional Health Authorities (Northern, Interior, Fraser) and PHSA

How will the new process work for College boards?

- The new process will see a pool of candidates identified through a merit and competency-based process, run by an independent office led by a Superintendent. This

merit and competency-based process will be made public, to maximize transparency and fairness.

- The Superintendent will put forward a group of board members from this pool, for the Minister to appoint. This process will ensure that the board has the appropriate balance of experience, professional knowledge and skills.
- Historically 50-66% of board members were health professionals elected by their peers, with the remaining seats being public members appointed directly by the Health Minister.
- Under the HPOA, the new appointments will be made up of 50% health professionals and 50% public. This process will be made public by the Superintendent and will create more accountability, independence, and transparency.
 - This process will ensure that half of the board members are public representatives and half are health professionals of the regulatory college with profession-specific knowledge and insight.
- This is in line with the Cayton report and the public consultation.

Is it true that health professionals will no longer be represented in their regulatory boards?

- This is **NOT** accurate.
- As mentioned above, the appointment of board members will be conducted through a merit and competency-based process and 50% of boards will be made up of health professionals. This is run by an independent office of the Superintendent.
- Currently, board members are elected by their profession. That is not in the best interest of patients as it creates a misunderstanding that elected members are beholden to those who elect them, even in partial.
- Additionally, under the office of the Superintendent, a qualified individual will be appointed to the role of Director of Discipline.
- The Director of Discipline creates independent panels to pursue, where necessary, disciplinary action against health professionals who have been found to committed misconduct, and in many cases, caused harm to patients.
 - The discipline panel consists of a professional of the same profession that is being disciplined, a member of the public, and a specialist in the area of concern (for example in the case of sexual assault, someone who is an expert in this area of trauma).
- This ensures that i) discipline is handled independent of the college who does the investigations and ii) the body that investigates and the body that determines discipline are separate.

When will the HPOA come into force?

- HPOA received Royal Assent on November 24, 2022, but is not yet in force.
- Government will be working with professional organizations, health care practitioners, and other stakeholders to implement this legislation. The implementation of this legislation will be done in a way that is fair and recognizes the excellent work health-care professionals engage in every day caring for British Columbians and Indigenous peoples.
- The government will work with professional organizations, healthcare practitioners, and other stakeholders to implement this legislation that prioritizes public safety and recognizes the important work of healthcare professionals.
- Until the HPOA is brought into effect by regulation of the Lieutenant Governor in Council, the Health Professions Act (HPA) will remain the governing legislation for health professionals and regulatory colleges.
- The legal mandate to protect the public has not changed. The HPOA seeks to strengthen public protections, support patients, and acknowledge the outstanding work of healthcare professionals in caring for the people of British Columbia and Indigenous peoples.
- We look forward to working with professional organizations to implement this regulation that is fair and recognizes the excellent work health-care professionals engage in every day caring for British Columbians and Indigenous peoples.