

Modernizing the provincial health profession regulatory framework: A paper for consultation

Steering Committee on Modernization of Health Professional Regulation

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Introduction

The purpose of this consultation paper is to seek feedback from British Columbians and health-sector stakeholders that will assist the Steering Committee on Modernization of Health Professional Regulation to refine their proposal on how to modernize the regulatory framework for health professions in British Columbia.

Regulation of health professionals¹ is part of the foundation of safe health care and ensures that trust in health professionals is maintained. The public must be comfortable seeking care from health professionals and have confidence that these professionals will deliver safe, effective, ethical care. Regulation is one of the key mechanisms that assures patients that the care they receive is provided by qualified, capable and competent professionals.

On March 8, 2018, the Honourable Adrian Dix, Minister of Health appointed Harry Cayton, a leading expert in the field of professional regulation, to undertake an inquiry into the College of Dental Surgeons of British Columbia. The inquiry examined concerns about the College of Dental Surgeons' governance and operations, as well as reviewing the *Health Professions Act* and the model of health profession regulation in B.C.

On April 11, 2019, *An Inquiry into the performance of the College of Dental Surgeons of British Columbia and the Health Professions Act* (the Cayton report) was released to the public. The report contains two parts:

- Part One focuses on the inquiry into the College of Dental Surgeons²; and,
- Part Two suggests approaches to modernize B.C.'s overall health profession regulatory framework.

In response to the suggestions outlined in Part Two of the Cayton report, the minister established and chairs the Steering Committee on Modernization of Health Professional Regulation. Committee members include Norm Letnick, health critic for the official Opposition, and Sonia Furstenau, health critic and house leader for the BC Green Party caucus. The steering committee was established to provide advice on an approach to modernize the regulatory framework for health professions. The authority to modernize the regulatory framework rests with the cabinet and the Legislative Assembly.

In developing this consultation paper, the steering committee has considered research, expert guidance, evidence from other jurisdictions and feedback gathered from an initial phase of [public consultation](#).

¹ Terms defined in Appendix A first appear in **bold font**.

² The recommendations contained in Part One of the Cayton report related to the College of Dental Surgeons were accepted by the Minister of Health in April 2019. The minister directed the college to implement the recommendations. Information on the college's progress toward implementation of the recommendations is available [online](#).

Scope of consultation

To modernize B.C.'s health profession regulatory framework, the steering committee is seeking feedback from stakeholders and the public. This consultation paper proposes wide ranging changes, including to current structures and the creation of new structures to strengthen the province's framework for health profession regulation.

In considering how to modernize health profession regulation, the steering committee is guided by three objectives:

1. Improve patient safety and public protection.
2. Improve efficiency and effectiveness of the regulatory framework.
3. Increase public confidence through transparency and accountability.

The Ministry of Health's most recent service plan explains that "underpinning the work of all ministries are two shared commitments: reconciliation with Indigenous peoples and consideration of how diverse groups of British Columbians may experience our policies, programs and initiatives."³ In addition to the consultation outlined below, the steering committee supports implementation of the *Declaration on the Rights of Indigenous Peoples Act* and commits to honouring the United Nations Declaration on the Rights of Indigenous Peoples.

The steering committee supports cultural safety, diversity and accessibility of the regulatory system as foundational to increasing public trust and ensuring public protection for all British Columbians. Based on engagement completed to date, improvements to cultural safety have been most frequently linked to changes to the complaints and discipline process, ensuring leadership including board membership reflects the diversity of the people and communities that make up B.C., and creation of standards that promote cultural competence of health professionals and regulatory organizations.

Ways to participate

Members of the public, community groups and health-sector stakeholders are invited to submit feedback on the proposals outlined in this consultation paper.

Feedback is accepted from Nov. 27, 2019 to Jan. 10, 2020 via:

- Online survey [here](#).
- Written submissions may be provided by email to PROREGADMIN@gov.bc.ca using the subject line 'Feedback – Regulating health professionals.' An email confirming receipt of the submission will be sent, but personalised responses will not be provided.

This engagement opportunity is at the level of *consult* on the [spectrum of engagement](#).

³ [Ministry of Health 2019/2020-2021/22 Service Plan](#), p.1.

Background

In B.C., health profession **regulatory colleges** are responsible for ensuring that regulated health professionals provide services in a safe, competent, and ethical manner. Regulatory colleges hold a register of professionals, set standards of practice, set and maintain standards of education and training, and investigate complaints and discipline **registrants**. Regulatory colleges' role in setting and enforcing standards of competence and conduct for the professions they regulate influences patients' and families' interactions with health professionals. Regulatory colleges also protect certain titles - like doctor, nurse, traditional Chinese medicine practitioner, and dentist - that help the public to recognize qualified professionals who have demonstrated the requirements to practice safely.

There are 20 regulatory colleges established under B.C.'s *Health Professions Act*. This legislation provides a common regulatory framework for 25 health professions.⁴ There have been criticisms that the current model of regulation, set out in the *Health Professions Act*:

- has enabled cultures that can sometimes promote the interests of professions over the interests of the public;
- is not keeping up with the changing health service delivery environment, particularly in relation to interprofessional team-based care;
- is not meeting changing patient and family expectations regarding transparency and accountability; and
- is inefficient.

Further to this, there has been growing concern regarding the performance of some regulatory colleges in carrying out their mandate to protect the public from harm.

Cayton report findings

The Cayton report finds that the provincial regulatory framework for health professionals fails to support regulatory colleges in fulfilling their mandate, stating that the *Health Professions Act* "is no longer adequate for modern regulation."⁵ Deficiencies with the current regulatory model are highlighted, including issues related to the governance of regulatory colleges, a complex complaints and discipline process, and lack of transparency of regulatory colleges.

There is also concern that the current model of regulation has allowed for promotion of the interests of the profession over the interests of the public. The report identifies a lack of public trust in regulators and a lack of "relentless focus on the safety of patients"⁶ as inadequacies of the current model. These themes are closely aligned with previous findings from a 2003 report conducted by the ombudsperson on self-governance in health professions in B.C.⁷

⁴ See Appendix B – *List of regulatory colleges and regulated professions in British Columbia*.

⁵ Cayton report, p. 70.

⁶ Cayton report, p. 85.

⁷ Office of the Ombudsman of British Columbia. [*Acting in the public interest? Self Governance in the Health Professions: The Ombudsman's Perspective*](#). 2003.

The Cayton report makes suggestions for improvements related to regulatory college governance, reduction in the number of regulatory colleges, oversight of regulatory colleges, and transparency of the complaints and discipline process.

Results from initial public consultation

Following the release of the Cayton report and the minister's establishment of the steering committee, one of the committee's first steps was to seek input from the public and stakeholders regarding their views on health profession regulation and the suggestions contained in the report. The initial consultation was held for one month, ending June 14, 2019. Through this consultation, the steering committee heard from British Columbians and health-sector stakeholders about the aspects of health profession regulatory modernization that are important to them.

The steering committee reviewed and considered all submissions and published an overview of themes on the Ministry of Health's Professional Regulation website.⁸ Over 300 written submissions were received from a broad cross section of respondents, including: 190 members of the public; 50 health practitioners; 25 professional associations; 18 regulators; and 30 other health-sector stakeholders, including unions.

The submissions were broadly supportive of modernizing health profession regulation in B.C. Improved transparency and accountability throughout the system of health profession regulation were common themes. The need for greater oversight was also frequently expressed.

Members of the public who made complaints to regulatory colleges shared concerns about the current process for complaints and discipline. The importance of profession-specific clinical knowledge in health profession regulation was expressed. Other feedback themes included the need for consistent approaches to regulation across professions, cultural safety within the complaints and discipline process, and performance monitoring of regulators. Members of the public and health-sector stakeholders expressed support for continued engagement and consultation as potential changes progress.

Input from the initial public consultation assisted the steering committee to identify and prioritize the following elements of regulatory modernization that are important to British Columbians and health-sector stakeholders:

- Ensuring regulatory colleges are putting the public interest and patient safety ahead of the professional interest.
- Improving effectiveness of regulatory college boards and ensuring boards are composed of members appointed based on merit and competence.
- Reducing the number of regulatory colleges to improve efficiency and effectiveness.
- Creating a body to oversee regulatory colleges to improve public confidence and patient safety.
- Simplifying and increasing transparency in the complaints and disciplinary process.

⁸ [Initial consultation themes summary](#), 2019.

Modernization proposals

The steering committee is seeking input on the proposed changes outlined in the following sections of this consultation paper.

1. Improved governance

In its simplest form, governance is how groups organize themselves to make decisions. It refers to the structures, policies and processes put in place to make decisions. Regulatory colleges are governed by boards of directors that provide strategic leadership, decision making and stewardship, among other responsibilities.

In 2003, the ombudsperson reported on self-governance in health professions in B.C., citing concerns that “the professions do not appear to have fully accepted or understood what it means to act in the public interest.”⁹ Concerns have persisted and the Cayton report highlights that for many regulatory colleges, “their governance is insufficiently independent, lacking a competency framework, a way of managing skill mix or clear accountability to the public they serve.”¹⁰

Regulatory college boards must provide effective leadership to ensure regulatory colleges fulfill their legally defined mandate. To achieve this, boards need to be composed of individuals with the right balance of skills and experience, who are focused on public safety. Ensuring boards are composed of individuals whose motivation is consistent with legislative requirements is critical to ensuring the protection of public safety.

Competency-based board appointments and balanced board membership

Each regulatory college board is made up of public board members (who are *not* registrants of the college) and health professional board members (who *are* registrants of the college). Public board members make up between one third and one half of each college’s board (a legislated requirement). They are appointed by the Minister of Health and ensure that the public’s perspective is considered in strategic leadership and decision making. Registrant board members make up the rest. They are elected by registrants within their professions and provide a profession-specific perspective.

The majority of regulatory college board members are elected by health professionals who are registered with the regulatory college overseen by the board. The ombudsperson’s 2003 report highlighted concerns that these elections have led to a “strong sense of accountability [among colleges] to the profession,”¹¹ and ultimately have led to a diminished “sense of direct accountability to the public.”¹²

⁹ Office of the Ombudsman of British Columbia. [Acting in the public interest? Self Governance in the Health Professions: The Ombudsman’s Perspective](#). May 2003, p. 3.

¹⁰ Cayton report, p. 85.

¹¹ Office of the Ombudsman of British Columbia. [Acting in the public interest? Self Governance in the Health Professions: The Ombudsman’s Perspective](#). May 2003, p. 10.

¹² Office of the Ombudsman of British Columbia. [Acting in the public interest? Self Governance in the Health Professions: The Ombudsman’s Perspective](#). May 2003, p. 11.

The election of registrant board members has continued to promote the misconception that these board members are accountable to those who have elected them, rather than accountable to protect British Columbians. To address this issue, the Cayton report proposes the elimination of elected board members in favour of “fully appointed boards combining health professionals and members of the public in equal parts.”¹³

Striving for balanced numbers of public and registrant board members will ensure that the perspective of the public is well represented. Ideally, a balanced board will include about half public and half registrant board members.¹⁴ Increased public representation will also ensure that boards are more diverse and reflective of the public they serve. Using a **competency-based process to appoint board members** ensures boards have the right mix of skills and experience to govern effectively.

Feedback from the initial public consultation supported having regulatory college boards with an equal number of professional and public members, as well as the appointment of both public and professional members of boards based on merit, skills and experiences. Stakeholders also noted that ensuring cultural diversity of board members, as well as other leadership positions, is important to fostering cultural safety at all levels of organizations.

It is proposed that regulatory college boards have equal numbers of registrant and public members.

It is proposed that all board members (registrant and public) be recommended for appointment through a competency-based process, which considers diversity, is independently overseen, and is based on clearly specified criteria and competencies. The Minister of Health would appoint all board members based on the recommendations of the competency-based process.

Questions:

Q1a. *Do you support an equal number (50/50) of public and professional board members?*

Q1b. *Are there any possible challenges to the proposed approach, and if so, how can they be addressed?*

Size of boards

The Cayton report suggests regulatory college boards be reduced in size. In the initial public consultation, there was support for smaller boards. Evidence shows the most effective size for a board is between eight and 12 members.¹⁵ Larger boards can lead to communication and co-ordination problems, causing effectiveness and performance to suffer.¹⁶ A reduction in board size will help ensure boards provide effective strategic decision making and oversight.

To improve functioning and effectiveness, it is proposed that regulatory college boards move to a more consistent and smaller size.

Questions:

Q1c. *Do you support reducing the size of boards?*

Q1d. *Are there any possible challenges to reducing board size, and if so, how can they be addressed?*

¹³ Cayton report, p. 74.

¹⁴ It is envisioned registrant members would make up one half of college boards and public members would make up one half of college boards. The number of registrant members or public members could not exceed the number of the other type by more than one.

¹⁵ Professional Standards Authority. [Board size and effectiveness: advice to the Department of Health regarding health profession regulators](#), September 2011.

¹⁶ Professional Standards Authority. [Board size and effectiveness: advice to the Department of Health regarding health profession regulators](#), September 2011.

Board member compensation

Regulatory colleges rely on fees collected from registrants to fund their operations, including compensation of board members. The amount regulatory colleges currently pay their board members varies significantly from board to board. Registrant board members are sometimes paid at a higher rate than public board members creating inconsistency within the same board.

The Cayton report notes, “if a higher performance is to be expected of board and committee members, they should be adequately rewarded. Board and committee members, both professional and public should be paid for the time they give and the expertise they provide.”¹⁷

It is proposed that board and committee members be fairly and consistently compensated (within and between colleges) and move away from volunteerism.

Questions:

Q1e. *Do you support fair and consistent compensation for board and committee members?*

Q1f. *What are the benefits of this approach?*

Q1g. *What are challenges and how can they be addressed?*

2. Improved efficiency and effectiveness through a reduction in the number of regulatory colleges

To improve performance, efficiency and effectiveness of the regulatory framework, the Cayton report recommends a transition to fewer regulatory colleges. In the initial public consultation, increased efficiency and cost-savings were identified by many respondents as a key reason to support amalgamation. Some submissions from regulatory colleges indicated that smaller regulatory colleges are struggling to meet their mandate due to resource challenges. In some cases, these resource constraints significantly hamper the regulatory college’s ability to protect the public from harm.

Of the 20 regulatory colleges under the *Health Professions Act*, there is significant variation in size and financial resources available to fulfil their legislated mandate. The smallest regulatory college, the College of Podiatric Surgeons of B.C., has just over 85 registrants and an annual revenue of about \$330,000.¹⁸ The largest regulatory college, the B.C. College of Nursing Professionals, has more than 59,000 registrants and an annual revenue exceeding \$25 million.¹⁹

Amalgamation may also have benefits for registrants in the long term. Registrants of the College of Podiatric Surgeons pay the highest registration fees of regulated health professions, while registrants of the College of Nursing Professionals pay among the lowest.

¹⁷ Cayton report, p.75.

¹⁸ [College of Podiatric Surgeons 2018 Annual Report](#).

¹⁹ [BC College of Nursing Professionals 2018 Annual Report](#).

Larger regulatory colleges are not only more efficient but are likely to be more effective. In clinical practice, experience and repetition of tasks improves performance.²⁰ The same is true for activities of regulation; writing clear standards, checking registrations, investigating complaints and making decisions on disciplinary matters are all performed more efficiently and effectively by colleges with extensive experience doing them. Adequate financial resources allow regulators to provide registrants with up-to-date clinical standards and guidance, and access to high-quality practice support resources.

B.C. is moving toward interdisciplinary teams of health-care professionals to better meet the health-care needs of patients and families. As health-care delivery shifts from solo professionals to team-based care, the regulatory framework must also evolve. Maintaining a focus on regulating single professions in isolation does not position regulatory colleges to respond to the increasing complexities of modern team-based care. A reduction in the number of regulators will support more consistent standards across professions, enabling integrated care for patients and empowering professionals to better understand the scope of their role within a team.

Fewer regulatory colleges will also make it easier for patients and families to determine who they should contact regarding concerns about the care received by a health professional. For example, as a result of the amalgamation of the three nursing regulatory colleges, there is now a single point of contact for concerns about the professional practice or behaviour of any nurse.

Reduction in the number of regulatory colleges – from 20 to five

To increase public protection, and improve efficiency and effectiveness of regulation, a reduction in the number of regulatory colleges from 20 to five is proposed.

Maintain the College of Physicians and Surgeons of B.C., the College of Pharmacists of B.C. and the B.C. College of Nursing Professionals. The College of Physicians and Surgeons, the College of Pharmacists and the College of Nursing Professionals are of sufficient size and have a sufficient registrant base to continue as standalone regulatory colleges. As a result of previous amalgamations, the College of Nursing Professionals has over 59,000 registrants and is the largest regulatory college in the province.

The College of Physicians and Surgeons, and the College of Pharmacists are large regulatory colleges, and also have unique jurisdiction and responsibilities. The College of Pharmacists has jurisdiction over the Drug Schedules Regulation and the operation of pharmacies in the province. The College of Physicians and Surgeons has jurisdiction over laboratory and diagnostic facilities and non-hospital medical and surgical facilities. These unique program responsibilities add to the need for these regulatory colleges to continue.

²⁰ Benner, P. (1982) From Novice to expert. American Journal of Nursing, 82(3), p. 402-407.

Creation of an oral health regulatory college. It is proposed that the four oral health regulatory colleges amalgamate to form a single oral health regulatory college. The four oral health regulators include: College of Dental Surgeons of B.C., College of Denturists of B.C., College of Dental Hygienists of B.C., and College of Dental Technicians of B.C. Certified dental assistants would shift from certified non-registrants of the College of Dental Surgeons to registrants of the oral health regulatory college. This would create a large regulatory college with ample resources and expertise in regulation of oral health professions. This would also simplify system navigation for patients and families with questions or concerns related to oral health professions.

Creation of the College of Health and Care Professions of B.C. A new multi-profession regulatory college, which for the purposes of this paper will be referred to as the College of Health and Care Professions, will be created. The College of Health and Care Professions will be similar to the Health and Care Professions Council in the United Kingdom, which effectively regulates a broad range of professions.²¹ The new College of Health and Care Professions will bring together the remaining regulatory colleges. Dissolution of the remaining regulatory colleges will address current resource challenges, improve regulatory effectiveness and create new economies of scale.

Options for remaining regulatory colleges. Regulatory colleges, apart from the oral health colleges, the College of Physicians and Surgeons, the College of Pharmacists and the College of Nursing Professionals will join the College of Health and Care Professions. As an alternative to joining the new College of Health and Care Professions, some regulatory colleges may consider approaching the College of Physicians and Surgeons, the College of Pharmacists, or the College of Nursing Professionals regarding a possible merger.

Mergers between a regulatory college and the College of Physicians and Surgeons, the College of Pharmacists or the College of Nursing Professionals must be supported by rationale for the merger and be approved by the boards of directors of both regulatory colleges. Following approval, board chairs of both regulatory colleges would be required to write to the Minister of Health indicating their mutual support for a merger and outlining rationale for the merger. Cabinet is responsible for making the final decision on whether colleges may merge.

The boards of directors of the College of Nursing Professionals and the College of Midwives have jointly submitted a letter to the minister outlining their support and rationale for an amalgamation. Similarly, the boards of the College of Physicians and Surgeons and the College of Podiatric Surgeons have submitted a letter to the minister outlining their interest in merging. The steering committee is supportive of these proposals.

²¹ [Health & Care Professions Council](#).

Diagnostic and therapeutic professions. Prior to the release of the Cayton report, cabinet approved creation of a diagnostic and therapeutic professions regulatory college to oversee respiratory therapists, radiation therapists, clinical perfusionists and medical laboratory technologists. If the College of Physicians and Surgeons, the College of Pharmacists, or the College of Nursing Professionals' board has confirmed a willingness to regulate one or more of these professions, the board should write to the minister to confirm its intention. Following receipt of the letter, ministry representatives will work with representatives of the diagnostic and therapeutic professions to determine if there is rationale to support regulation by a regulatory college other than the College of Health and Care Professions.

While a reduction in the number of regulatory colleges is proposed, the intention of this change is not to reduce the number of regulated health professions. All currently regulated health professions will continue to be regulated. A reduction in the number of regulatory colleges does not create a barrier to regulation of new professions. Instead, the process will be streamlined through removal of the costly and time-consuming requirement to set up a new regulatory college each time a new profession is regulated. As set out on page 14, the new oversight body will make recommendations to the minister and cabinet regarding regulation of new professions.

Given the current commitment to a reduction in the number of regulatory colleges, it is proposed that any new health professions be regulated by an existing regulatory college or the new College of Health and Care Professions.

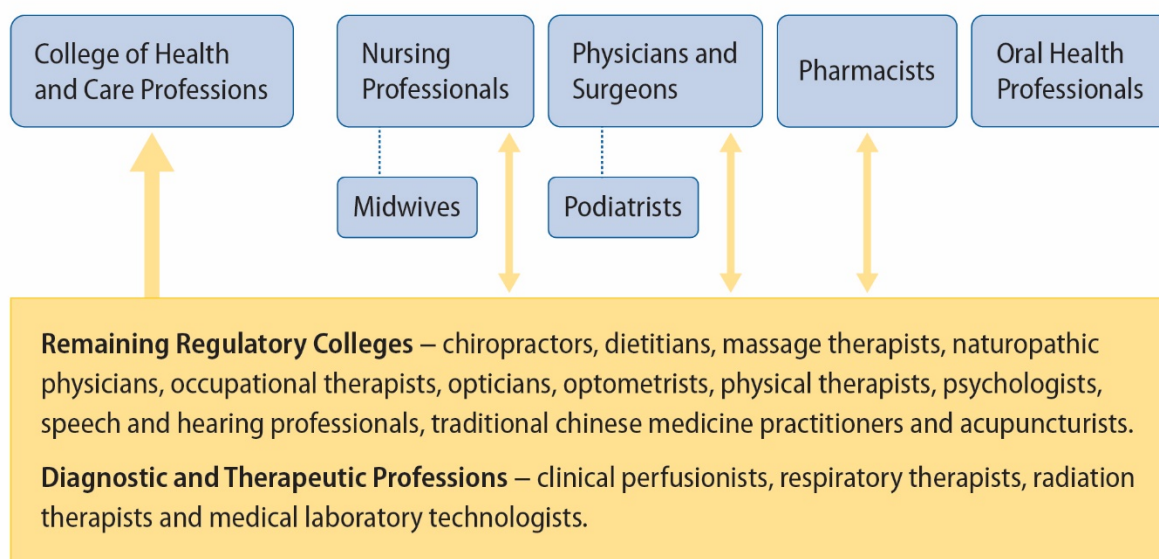
Questions:

Q2a. *Are you supportive of the proposed approach to reduce the number of regulatory colleges from 20 to five?*

Q2b. *Please share your concerns with this approach, as well as your suggestions to address challenges.*

Q2c. *Are you supportive of a moratorium on the creation of new regulatory colleges?*

Figure 1. Proposed arrangement of regulatory colleges



Legislative change to support amalgamations

In November 2017, the *Health Professions Act* was amended to add provisions allowing for the amalgamation of regulatory colleges (Part 2.01). These provisions were used in September 2018 to successfully amalgamate the three former nursing colleges into a single regulatory college.

Submissions from the initial consultation noted that the current legislative provisions may not be suitable in all merger situations due to concerns about the disruption resulting from the amalgamation process. For example, the requirement to dismiss regulatory college boards was cited as an issue in potential mergers of small and large regulatory colleges, where it is intended that the large college continue to function without disruption and absorb the smaller college, leaving its board and bylaws in place.

The creation of broader legislated merger provisions to minimize disruption resulting from future amalgamations is proposed.

Question Q2d: *Do you have suggestions for ways to minimise the disruption caused by a merger of regulatory colleges that can be addressed through broader legislative provisions?*

Subcommittees to ensure clinical expertise

Stakeholders expressed concern that access to profession-specific clinical expertise could be lost in a transition to fewer regulators. For example, profession-specific clinical expertise is needed in the development of clinical standards of professional practice. The continued reliance on profession-specific knowledge and expertise is acknowledged as an important element of any future system. Sub-committees will be created to ensure that regulatory colleges continue to have access to profession-specific expertise and that understanding of professional context is maintained for effective regulation.

There would be a clear separation between professional sub-committees - responsible to establish clinical standards for professions - and the board which is responsible for governance. Regulatory college board members would be unable to serve as members of sub-committees.

It is proposed that sub-committees will be created within multi-profession regulatory colleges to address matters requiring profession-specific clinical expertise.

Question Q2e: *The importance of and continued reliance on profession-specific clinical expertise is acknowledged as an important element of effective regulation; for example, in the development of professional standards. Where is profession-specific experience required to ensure effective regulation?*

3. Strengthening the oversight of regulatory colleges

It is becoming common for governments to establish independent bodies to ‘regulate the regulators’ as part of a transparent regulatory system. To restore public trust in natural resource decision making, the government passed the *Professional Governance Act* (2018), which establishes the Office of the Superintendent of Professional Governance as an authority on professional governance matters in the natural resource sector.²² The Cayton report suggests a new independent body be created to oversee health regulatory colleges (the **oversight body**).

In previous public consultation, submissions were broadly supportive of the creation of an oversight body, with particular interest in increasing accountability and consistency of regulatory colleges. At present, it is difficult for the public to find objective information on how health profession regulatory colleges are performing. An oversight body would increase accountability and transparency by defining performance standards for regulatory colleges, measuring performance against those standards, and publicly reporting on regulatory performance and opportunities for improvement. The steering committee supports a process that includes all parties in the appointment of the head of the oversight body.

Creation of a new oversight body with the following responsibilities is proposed:

1. **Routine audits of regulatory colleges based on clear performance standards.**
2. **Public reporting on common performance standards.** All regulatory colleges would be required to provide the oversight body with common performance data. Regular, consistent reporting would allow the public, policymakers and legislators to acknowledge good performance and determine where improvement may be required.
3. **Conducting systemic reviews and investigations.** The oversight body would conduct investigations into regulatory college performance and undertake systemic reviews on its own or at the request of the minister and would have the authority to make recommendations (e.g., the replacement of a regulatory college board with a public administrator). The minister could direct a regulatory college to implement the oversight body’s recommendations.
4. **Review of registration and complaint investigation decisions.** The Health Professions Review Board would become an arm of the oversight body and continue to carry out independent reviews of registration and complaint investigation decisions made by regulatory colleges. Its role would not be expanded at this time as the creation of an oversight body would result in significant improvements to accountability and transparency of the overall provincial regulatory environment.
5. **Publishing guidance on regulatory policy and practice.** The oversight body would be responsible for analyzing performance data and publishing guidance in support of improvements across the regulatory system, with the aim of protecting patients from harm and improving overall quality of care.

²² Government of British Columbia. Qualified professional legislation to restore public trust in natural-resource decision-making. [News release](#). Oct. 22, 2018.

6. **Identify core elements of shared standards of ethics and conduct across professions.** The oversight body would work with regulatory colleges to facilitate a collaborative process to support alignment of common elements of standards of ethics and conduct across professions. Regulatory colleges would continue to have the authority to add to their standards of ethics and conduct; however, there will be an expectation that certain core elements, as established by the oversight body, are present in the standards of all regulatory colleges. Patients could expect increased consistency in standards of conduct, while allowing for some differences based on the care provided by the profession.
7. **Establishing a range of standards of professional practice.** Regulatory colleges would continue to have the authority to create standards of professional practice and responsibility for the content of those standards; however, the oversight body could require regulatory colleges to create or update certain standards of professional practice. This would increase consistency of standards across health professions, while respecting profession-specific clinical expertise. The oversight body would monitor emerging practice issues to keep the range of standards of professional practice up-to-date.
8. **Development of model bylaws and oversight of the process for bylaw amendments.** Working with regulatory colleges, the oversight body would develop a common set of model bylaws to support consistency, particularly in matters related to governance. To simplify the process for bylaw amendments, the posting and filing periods for bylaws that align with the model bylaws would be shortened or removed.

Responsibility for the review and filing of bylaws would shift from ministry staff to the oversight body. The minister and oversight body would have the authority to disallow certain bylaws.

9. **Overseeing a board member appointment process.** The boards of directors of regulatory colleges would be appointed through a transparent, competency-based appointment process – developed and managed by the oversight body. This process would involve the regulatory colleges in identifying the desired competencies, diversity and experience required. The head of the oversight body would make a recommendation to the minister on board appointments.

The oversight body would use the same process to facilitate appointments to the discipline panel (discussed starting on page 16 of this paper).

10. **Recommending health occupations that should be regulated under the *Health Professions Act*.**

New professions – The oversight body would recommend to the minister which, if any, unregulated occupations should become regulated. This recommendation would be based on the level of risk the occupation’s activities have on public health, considering both the likelihood of harm and its severity should harm occur. The oversight body would also recommend how to address the risk of harm posed by an occupation, including whether another form of oversight might be more appropriate. If the minister accepts a recommendation for regulation under the *Health Professions Act* it would go to cabinet for final decision.

Existing professions not regulated under the *Health Professions Act* – Not all regulated health professions fall under the umbrella of the *Health Professions Act*. For example, emergency medical assistants are regulated by a government-appointed licensing board under the *Emergency Health*

Services Act. Some social workers are overseen by a regulatory college under the *Social Workers Act*, while other social workers are overseen by their employer, the Ministry of Children and Family Development. In the future, the oversight body could assess and recommend whether the public interest could be better served if certain existing professions were to be regulated under the *Health Professions Act* and, if so, by which regulator.

The steering committee has noted that there is opportunity to consider improvements to how emergency medical assistants, social workers and counselling therapists are regulated. The oversight body may wish to prioritize review of these groups.

11. **Holding a list (single register) of all regulated health professionals.** The oversight body would be responsible for creating an online list of all regulated health professionals that is publicly-accessible and easy to search. Responsibility for inputting data would rest with regulatory colleges.
12. **Oversight of systemic progress on timeliness of the complaint process.** The oversight body would monitor regulatory colleges' systemic progress on meeting time limits; and provide guidance on complaints' resolution best practices, including guidance related to timeliness. Concerns about timeliness of individual complaints would continue to be reviewed by the Health Professions Review Board.
13. **Collection of fees.** The oversight body would be given the authority to collect fees from regulatory colleges in the future. It is envisioned that initial funding for the oversight body will be provided by government.

Questions:

Q3a. *Do you support the creation of an oversight body?*

Q3b. *Do you agree with the functions listed above?*

Q3c. *Do you have any concerns and if so, what are they?*

Increased accountability to the Legislative Assembly

The *Health Professions Act* requires regulatory colleges submit an annual report to the Minister of Health. To increase transparency and accountability of the regulatory framework to the Legislative Assembly, the minister will be required to table the annual reports of regulatory colleges and the oversight body in the Legislative Assembly.

It is proposed that annual reports of regulatory colleges and the oversight body be provided to the Legislative Assembly by the Minister of Health.

Questions:

Q3d. *Do you support increased accountability by requiring regulatory colleges' annual reports to be filed with the Legislative Assembly?*

Q3e. *Should annual reports of the oversight body also be filed with the Legislative Assembly?*

4. Complaints and adjudication

The Cayton report brings to light challenges with the current complaints investigation and discipline process set out in the *Health Professions Act* and undertaken by regulatory colleges. The report finds this process “needs significant revision to make it more efficient and effective, transparent and fair.”²³ In particular, the report notes there is a need to create a clearer separation between the investigation and discipline stages of the complaints process.

The need for transparency and fairness in the complaints and discipline process were common themes from earlier public consultation. Members of the public who made complaints to regulatory colleges reported finding the process to be cumbersome and commented on delays and unsatisfactory resolutions. Health professionals and associations also highlighted the need for a timely and fair process. Regulatory colleges and health-sector stakeholders spoke to the necessity for professional clinical expertise in investigations and discipline.

Simplifying the complaints and discipline process is proposed in order to provide a clear focus on patient safety, public protection and strengthening public trust in regulation.

Proposed changes would include:

- Establishing a new disciplinary process that would create clear separation between the investigation and discipline stages of complaints. Regulatory colleges would continue to investigate complaints; however, disciplinary decisions would be made by a separate independent process.
- Increasing transparency by requiring that actions resulting from accepted complaints be made public.
- Removing the ability of professionals to negotiate agreements late in the process.

New independent discipline process

The Cayton report finds a lack of separation between the investigation of complaints and the disciplinary decision-making stage of the process, noting “separation of investigation from **adjudication** is a common principle of law which currently does not apply under the [*Health Professions Act*].”²⁴

The report recommends that a new adjudication body be established, separate from regulatory colleges, to make disciplinary decisions regarding regulated health professionals.²⁵ Most prior public consultation submissions supported an adjudication body.

A new discipline process would be created, in which disciplinary decisions would be made by discipline panels independent of regulatory colleges. This new process would further separate the investigation stage of complaints (undertaken by regulatory colleges) from the discipline stage and provide consistency across regulated health professions. The use of a panel approach supported by the oversight body would be more efficient than creation of a new body.

²³ Cayton report, p.77.

²⁴ Cayton report, p.87.

²⁵ Cayton report, p.86-87.

The oversight body would support establishment of a pool of qualified discipline panel members. The Minister of Health would appoint an executive panel lead who would select a specific panel for each discipline hearing depending on the competencies required to decide the matter. Regulatory college board members and senior-level staff within related health professional associations would be ineligible for panel membership.

A panel for each discipline hearing would include at least one health professional with clinical competence in the same health profession as the registrant facing the complaint and at least one public member (non-health professional). Three-member panels are envisioned; however, panels would be larger in complex complaints. Single-member panels would make decisions on simple matters (e.g., a registrant's failure to respond to a regulatory college in a timely way regarding a complaint).

A new disciplinary process is proposed in which independent discipline panels would make decisions regarding regulated health professionals.

Questions:

Q4a. Do you support the creation of a new disciplinary process which would be independent from regulatory colleges?

Q4b. What are the benefits of such an approach?

Q4c. What are possible challenges and ways to address these?

Regulatory college roles in the complaints process

The Cayton report makes a range of recommendations related to the role of regulatory colleges in complaint matters; especially related to the role of inquiry committees. The report recommends regulatory colleges continue to be responsible for investigation of complaints against registrants.²⁶ During consultation, stakeholders expressed the need to clearly delineate the functions of regulatory college inquiry committees in relation to adjudicative functions of a potential new external disciplinary body.

To improve public trust in the complaints process and ensure that public safety is at the forefront of complaints investigations, regulatory colleges would need to demonstrate their use of a fair and open process to appoint inquiry committee members. Regulatory colleges would need to ensure that inquiry committee membership considers competence, merit and diversity. Also, inquiry committee members would be required to undertake regular training and appraisal. Regulatory college boards would not be involved in complaints and discipline,²⁷ and persons in senior positions within related health professional associations would be ineligible for inquiry committee and discipline panel membership.

²⁶ Cayton report, p.86.

²⁷ Cayton Report, p.87 and p.75.

Regulatory college inquiry committees would continue to have many of their current functions, including to investigate complaints, dismiss vexatious complaints, send caution or advice letters, and to resolve matters consensually via agreements with registrants. Additionally, inquiry committees would have wider discretion to dispose of complaints, in line with the Cayton report's recommendation. Once inquiry committee investigations are complete, committees would refer matters to a discipline panel, where appropriate.

Regulatory colleges and their inquiry committees would continue to be responsible for the investigation of complaints. This will assure professional expertise in the investigation of complaints.

Questions:

Q4d. *Do you support regulatory colleges continuing to investigate complaints regarding health professionals?*

Q4e. *Do you support improvements to the composition of inquiry committees?*

Transparency

The Cayton report finds that “the *Health Professions Act* builds secrecy into the complaints process” and in doing so, protects registrants’ privacy but not the public.²⁸ It reflects that “it should be recognised as a fundamental right of a patient to know about their healthcare provider’s competence and conduct.”²⁹ Of significant concern is that when a registrant resolves a complaint by making an agreement with their regulatory college, in some cases public notification can be negotiated and the matter can be kept private. The report recommends that “all or any **sanctions** imposed in relation to complaints” be accessible to the public (via the single online register of professionals).³⁰ The need for increased transparency in the complaints and discipline process was a frequent theme of feedback during public consultation, specifically the need to disclose information regarding findings of complaints against professionals.

It is proposed that actions taken to resolve accepted³¹ complaints about health professionals be made public.

All actions resulting from agreements between registrants and regulatory colleges would become public (e.g., agreements that registrants complete additional training). These actions would be listed under the health professional’s name in the single online register and on the regulatory college’s website. Public notification would be limited in some circumstances related to practitioner’s ill health.³²

Questions:

Q4f. *Do you support publishing actions taken to resolve accepted complaints about health professionals?*

Q4g. *Do you support all actions resulting from agreements between registrants and regulatory colleges being public?*

²⁸ Cayton report, p. 82.

²⁹ Cayton report, p. 82-83.

³⁰ Cayton report, p.86.

³¹ Accepted complaints are those that are not dismissed, and where some action is being taken as a result of the complaint.

³² *Health Professions Act*. Section 39.3 (4) to (6).

Enable regulatory colleges to make public comments about known complaints

At times, a complaint under investigation may become known to the public through the media or other means. However, regulatory colleges may not provide public information due to interpretation of privacy provisions in the *Health Professions Act*. This may be perceived as a lack of transparency or inaction.

To increase transparency and public confidence, it is proposed that regulatory colleges be allowed to provide limited public comment if a complaint becomes known to the public, modeled after similar public notification rules of the Law Society of British Columbia.³³ This would allow regulatory colleges to disclose: the existence of a complaint, subject matter, status and any interim undertakings.³⁴

It is proposed that regulatory colleges be able to make limited public comments if a complaint under investigation becomes known to the public.

Questions:

Q4h. *Do you support allowing regulatory colleges to make limited public comments about a complaint under investigation if the complaint becomes known to the public?*

Q4i. *What are the benefits of such an approach?*

Q4j. *What are the challenges, and how can these be addressed?*

Ensuring past conduct is considered

The *Health Professions Act* appears to give regulatory colleges discretion on whether past conduct will be considered when current complaints are reviewed. The Cayton report highlights concerns regarding this discretion. The report notes that “a history of upheld complaints is clearly relevant to sanction, particularly if remediation has previously been prescribed but has failed to improve performance.”³⁵

In order to better protect patients from harm, it is proposed that complaint and discipline decisions must take into consideration the professional’s past history.

Questions:

Q4k. *Do you support requiring that regulatory colleges and disciplinary panels consider a registrant’s past history of complaints and discipline when making decisions on a current complaint?*

Q4l. *What are the benefits of such an approach?*

Q4m. *What are the challenges and how can they be addressed?*

Time limits and timeliness

Timely investigations and conclusions of complaint matters are important to ensuring public safety and confidence in the regulation of health professionals. Regulatory colleges, health professionals, health-sector employers, and public safety agencies may influence timeliness.

³³ Law Society of BC Rules 2015, updated July 2019, [3-3\(2\)](#).

³⁴ This is modeled on the Law Society of BC Rules 2015, [3-3\(2\)](#).

³⁵ Cayton Report, p.80-81.

The *Health Professions Act* currently sets time limits for how long inquiry committees have to complete complaint investigations (by disposing of complaints), allows the suspension of investigations if they are delayed, and gives certain powers to the Health Professions Review Board to investigate and respond.³⁶ The Cayton Report notes that “statutory time limits take no account of reality (complexity of cases, actions by the registrant, actions by lawyers, circumstances outside the college’s control, resources available) and there are other better ways of improving timelines” and recommends removing the statutory time limit for how long inquiry committees have to complete investigations/dispose of matters.³⁷

Time limits would be set for stages of the investigation process to encourage timeliness and transparency, instead of a statutory time limit for the overall length of time that investigations must be completed in. Time limits for stages in the investigation process would strengthen the requirements on registrants to co-operate with investigations. Time limits for points in the investigation process would be specified, and may include:

- A set number of days in which registrants are required to respond to a complaint.
- A set number of days in which regulators must respond to and update the complainant.
- Time limits for negotiations between registrants and inquiry committees, which may include limiting how long registrants have to make proposals to the inquiry committee once a citation has been issued for a disciplinary panel hearing. This would help to resolve complaints more quickly and could reduce costs.

The Health Professions Review Board would continue to be responsible for reviewing concerns of complainants when regulatory colleges do not meet time limits in the investigation process. The oversight body would be responsible for monitoring regulatory colleges’ systemic progress on meeting time limits and for encouraging improvements.

It is proposed that time limits be set for stages of the investigation process, instead of a statutory time limit for the length of time that investigations must be completed in.

Responses to sexual abuse and sexual misconduct

The *Health Professions Act* leaves discretion with regulatory colleges in how they address sexual abuse and misconduct. Alberta and Ontario have taken specific measures to address sexual abuse by health professionals, these include mandatory cancellation of practice for sexual abuse, and requiring regulatory colleges to fund counselling for victims. Many other provinces do not have such measures.

The steering committee is seeking feedback to help establish consistency across regulatory colleges in relation to how they address sexual abuse and sexual misconduct.

Question Q4n: *What measures should be considered in relation to establishing consistency across regulatory colleges regarding how they address sexual abuse and sexual misconduct?*

³⁶ *Health Professions Act*, Section 50.55.

³⁷ Cayton Report, p.83.

5. Information sharing to improve patient safety and public trust

In matters of multi-profession complaints (i.e., a complaint regarding care from a team of health professionals) and patient safety matters, information sharing is needed in order to protect the public. Regulatory colleges, along with all parts of the health profession regulatory system, must work together to improve patient safety and secure public trust in health professionals.³⁸

During public engagement, regulatory colleges noted that legislative barriers to information sharing made it difficult to work with other health system stakeholders. Information sharing between regulatory colleges, health authorities and other agencies is affected by multiple pieces of legislation. It was suggested that statutory changes are required to allow effective communication among regulatory colleges and with other agencies. It was also suggested that regulatory colleges should be responsible for co-ordinating team-based care complaints, so that patients only have to connect with one regulator.

It is proposed that health profession regulatory colleges be enabled to share information (between each other and with other agencies) where necessary for public safety and protection.

Questions:

Q5a. *What are the benefits of enabling regulatory colleges to more easily share information?*

Q5b. *What are the challenges of this approach and how can they be addressed?*

Q5c. *What organizations should regulatory colleges be able to share information with in order to protect the public from future harm, or address past harms?*

Next steps

Feedback from British Columbians and health-sector stakeholders will assist the steering committee to finalize recommendations for modernization of health profession regulation. Following the public consultation period, a summary of feedback received will be shared.

³⁸ [Regulation rethought: Proposals for reform](#). Professional Standards Authority. October 2016. Page 4.

Appendix A: Glossary of Terms

Adjudication: To make a formal judgement or decision on a disputed matter.

Audit or audits: In the context of this paper, an audit is a routine assessment, conducted by the oversight body, of the performance of regulatory colleges.

Competency-based appointment process: A process by which individuals are assigned to a position of responsibility based on demonstrated competency, experience and skill.

Oversight body: In the context of this paper, a dedicated body responsible for promoting regulatory best practices and holding regulators to account through rigorous reporting and review mechanisms.

Registrant or registrants: Refers to a health professional(s) registered with a regulatory college under the *Health Professions Act*.

Regulation: Regulation is a means to control an activity, process or behaviour, usually by means of rules made by government or other authority.

Regulatory college: In B.C., regulated health professionals are governed under the *Health Professions Act*. The act establishes regulatory colleges that are responsible for ensuring that regulated health professionals provide health services in a safe, professional and ethical manner. A regulatory college's legal obligation is to protect the public through the regulation of their registrants.

They do this by:

- Determining registration requirements;
- Setting standards of practice;
- Recognizing education programs;
- Maintaining a register that everyone can search;
- Protecting certain titles; and,
- Addressing complaints about their registrants.

Review/investigation: In the context of this paper, a review or investigation is an in-depth examination of a regulatory college (or groups of regulatory colleges), conducted by the oversight body for a specific purpose.

Sanction: Penalties or other means of enforcement used to provide incentives for obedience with the law, or with rules and regulations.

Appendix B: List of regulatory colleges and regulated professions in British Columbia

Regulatory College	Reporting Year	Practising Registrants	Total Registrants (all categories, including non-practising)
College of Chiropractors of B.C.	2017/18 ³⁹	1,215	1,252
College of Dental Hygienists of B.C.	2018/19		4,012
College of Dental Surgeons of B.C.	2018/19	Dentists: 3,725 Certified Dental Assistants: 6,138 Dental therapists: 7	Total: 10,432 Dentists: 3,851 Certified Dental Assistants: 6,574 Dental therapists: 7
College of Dental Technicians of B.C.	2018/19	Dental Technicians: 386	Total: 995 Dental Technicians: 393 Dental Technician Assistants: 559 Student: 43
College of Denturists of B.C.	2018/19	260	268
College of Dietitians of B.C.	2018/19	1,284	1,318
College of Massage Therapists of B.C.	2017/18	4,564	4,759
College of Midwives of B.C.	2018/19	293	379
College of Naturopathic Physicians of B.C.	2018	597	705
B.C. College of Nursing Professionals	2018	Registered nurse: 39,921 Nurse practitioner: 525 Licensed practical nurse: 13,168 Registered psychiatric nurse: 2,913 Graduate & employed students: 688	Total: 59,493 Registered nurse: 41,636 Nurse practitioner: 552 Licensed practical nurse: 13,477 Registered psychiatric nurse: 3,139 Graduate & employed students: 689
College of Occupational Therapists of B.C.	2017/18	2,469	2,575
College of Opticians of B.C.	2018/19	981	1011

³⁹ Annual reporting cycles differ between regulatory colleges (i.e., fiscal year reporting vs. calendar year reporting). Information in this document was obtained from the latest published annual reports from each college.

Regulatory College	Reporting Year	Practising Registrants	Total Registrants (all categories, including non-practising)
College of Optometrists of B.C.	2018	811	815
College of Pharmacists of B.C.	2018/19	Pharmacists: 6,272 Pharmacy technicians: 1,576	Total: 8,772 Pharmacists: 6,321 Pharmacy technicians: 1,583 Student: 868
College of Physical Therapists of B.C.	2018	4,192	4,436
College of Physicians and Surgeons of B.C.	2018/19	12,960	13,724
College of Podiatric Surgeons of B.C.	2018	78	85
College of Psychologists of B.C.	2018	1,255	1,331
College of Speech and Hearing Professionals of B.C.	2018		Total: 1,864 Audiologists: 43 Hearing instrument practitioners: 265 Speech language pathologists: 1,300 Multi-profession registrants: 256
College of Traditional Chinese Medicine Practitioners and Acupuncturists of B.C.	2018/19	2,267	2,361