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Bill 283

An Act to amend and enact various Acts with respect to the health system

The Hon. C. Elliott
Minister of Health

Government Bill

1st Reading April 27, 2021

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

SCHEDULE 1 COVID-19 VACCINATION REPORTING ACT, 2021

Persons and entities that administer COVID-19 vaccines are required to provide certain information to the Ministry of Health. The use that the Ministry may make of the information is provided for.

SCHEDULE 2 HEALTH AND SUPPORTIVE CARE PROVIDERS OVERSIGHT AUTHORITY ACT, 2021

The Schedule enacts the *Health and Supportive Care Providers Oversight Authority Act, 2021* and makes complementary amendments to several other Acts. The major elements of the Schedule are described below.

Part I sets out interpretive provisions that apply to the Act.

Part II establishes the Health and Supportive Care Providers Oversight Authority (the “Authority”). The Authority is governed by a board composed of directors appointed by the Lieutenant Governor in Council and directors appointed by the members of the board. The board appoints a Chief Executive Officer to discharge a number of duties and obligations under the Act. The objects of the Authority include administering the Act and the regulations and governing the health services and supportive care services provided by registrants. The Authority must enter into a memorandum of understanding with the Minister of Health, who is entitled to appoint a supervisor to assume control of the Authority if the Minister considers it to be in the public interest. The Authority must comply with policy directions issued by the Minister.

Part III establishes the process for applying for registration with the Authority. Applicants can apply to join the personal support worker class of registration or any other prescribed class of registration. Applicants must meet the prescribed criteria for registration and shall be refused registration if they meet the prescribed prohibited grounds for registration. Refusals to register an applicant and decisions to impose conditions on a registrant may be submitted to the Health Professions Appeal and Review Board for a written review.

Part IV establishes the rules that apply to registrations. Registrations are subject to conditions applied under the Act or the regulations and expire in accordance with the rules set out in the Authority’s by-laws. The Chief Executive Officer is required to establish a register of registrants and make certain information about them available to the public. Registrants are required to report to the Chief Executive Officer when they are found guilty of or charged with certain offences. They are also required to make a report if they have reasonable grounds to believe that another registrant or a member of a health profession college has sexually abused a person who receives health services or supportive care services. Persons who choose not to register with the Authority are not prohibited from providing health services or supportive care services, but they cannot hold themselves out as a registrant with the Authority or use any visual mark or other identifier established by the Authority for registrants.

Part V establishes the procedures for complaints and investigations. The Chief Executive Officer may investigate complaints or may appoint investigators on their own initiative. Investigators have a number of powers to investigate contraventions of the Act and the regulations. The Chief Executive Officer may take action as appropriate, which may include requiring additional training for registrants, applying conditions to their registration or referring contraventions of the prescribed code of ethics to the discipline committee. Urgent interim action may also be taken in certain circumstances. The discipline committee is established by the board to hear allegations of contraventions of the prescribed code of conduct. They may direct the Chief Executive Officer to revoke, suspend or impose conditions on a registration. Their decisions may be appealed to the appeals committee, which is also established by the board.

Part VI sets out a number of miscellaneous provisions, including provisions respecting fees, confidentiality, evidence and the service of documents.

Part VII sets out offences under the Act and establishes the penalty for committing an offence.

Part VIII sets out limitations on the liability of the Authority, the Crown, and various officers, employees, service providers, agents and other officials.

Part IX sets out the Lieutenant Governor in Council’s power to make regulations under the Act.

Part X sets out amendments to the Act and complementary amendments to various other Acts. The *Fair Access to Regulated Professions and Compulsory Trades Act, 2006* is amended so that the Authority is a regulated profession for the purposes of that Act. The *Ministry of Health and Long-Term Care Appeal and Review Boards Act, 1998* is amended to provide the Health Professions Appeal and Review Board with the authority to make decisions in respect of the Authority. The *Regulated Health Professions Act, 1991* is amended to permit certain information to be communicated to the Authority and to require members of every College to report if they have a reasonable belief that a registrant of the Authority has sexually abused a patient. The *Excellent Care for All Act, 2010*, the *Quality of Care Information Protection Act, 2016* and the *Personal Health Information Protection Act, 2004* are amended to extend the application of certain provisions of those Acts to the Authority.

Part XI sets out the commencement and short title of the Act set out in this Schedule.

**SCHEDULE 3
MEDICINE ACT, 1991**

The *Medicine Act, 1991* is amended to provide for a class of members of the College of Physicians and Surgeons of Ontario to be known as “physician assistants”. Rules concerning the acts they may perform are provided for.

**SCHEDULE 4
PSYCHOLOGY AND APPLIED BEHAVIOUR ANALYSIS ACT, 2021**

The *Psychology and Applied Behaviour Analysis Act, 2021* is enacted. The *Psychology Act, 1991* is repealed, and the College of Psychologists of Ontario is continued under the name College of Psychologists and Behaviour Analysts of Ontario.

The scopes of practice of psychology and applied behaviour analysis are provided for.

Related amendments are made to the *Regulated Health Professions Act, 1991*.

An Act to amend and enact various Acts with respect to the health system

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Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Contents of this Act

1 This Act consists of this section, sections 2 and 3 and the Schedules to this Act.

Commencement

2 (1) Subject to subsections (2) and (3), this Act comes into force on the day it receives Royal Assent.

(2) The Schedules to this Act come into force as provided in each Schedule.

(3) If a Schedule to this Act provides that any provisions are to come into force on a day to be named by proclamation of the Lieutenant Governor, a proclamation may apply to one or more of those provisions, and proclamations may be issued at different times with respect to any of those provisions.

Short title

3 The short title of this Act is the *Advancing Oversight and Planning in Ontario's Health System Act, 2021*.

SCHEDULE 1
COVID-19 VACCINATION REPORTING ACT, 2021

Definitions

1 In this Act,

“Minister” means the Minister of Health, or such other Minister as may be assigned responsibility for the administration of this Act under the *Executive Council Act*; (“ministère”)

“Ministry” means the Ministry of the Minister; (“ministre”)

“personal health information” has the same meaning as in section 4 of the *Personal Health Information Protection Act, 2004*; (“renseignements personnels sur la santé”)

“regulations” means the regulations made under this Act; (“règlements”)

“vaccinator” means any person or entity who administers a vaccine to an individual in Ontario; (“vaccinateur”)

“vaccine” means a vaccine to protect against COVID-19. (“vaccine”)

Providing information re individual

2 Every vaccinator shall ensure that the following information is disclosed to the Ministry in respect of every individual to whom the vaccinator administers a vaccine and every individual to whom the vaccinator declines to administer a vaccine, unless the individual has not supplied the information to the vaccinator:

1. The name or names of the individual, including a legal name, an alternate name or an alias.
2. The telephone number or email address of the individual.
3. The individual’s date of birth.
4. The individual’s sex.
5. The individual’s Ontario health card number.
6. Any other information provided for in the regulations.

Providing information re vaccine

3 Every vaccinator shall ensure that the following information is disclosed to the Ministry with respect to each dose of a vaccine administered by the vaccinator:

1. Product name and manufacturer.
2. Date of administration.
3. Lot number.
4. Expiry date.
5. Dose number for the individual it was administered to.
6. The responsible public health unit for the geographic area in which the dose was administered.
7. The anatomical location of injection.
8. The route of administration.
9. Any other information provided for in the regulations.

Information re vaccinator

4 Every vaccinator shall ensure that the following information is disclosed to the Ministry with respect to the vaccinator:

1. The vaccinator’s name.
2. The vaccinator’s contact information.
3. The vaccinator’s professional designation and licence number.
4. Any other information provided for in the regulations.

Use and disclosure of reportable information by Ministry

5 (1) Subject to subsection (2), the Ministry shall use and disclose the information disclosed under sections 2, 3 and 4 in accordance with the *Personal Health Information Protection Act, 2004*.

(2) Despite the *Personal Health Information Protection Act, 2004*, the Ministry shall use and disclose any information that may be prescribed in the regulations in accordance with the requirements provided for in the regulations.

Directives

6 (1) The Minister may make directives in writing respecting the form, manner and timing of the disclosures required under sections 2, 3 and 4, and every vaccinator to whom a directive is directed shall comply with the directive.

Not a regulation

(2) A directive under this section is not a regulation within the meaning of Part III (Regulations) of the *Legislation Act, 2006*.

Regulations

7 The Lieutenant Governor in Council may make regulations,

- (a) respecting and governing anything that, under this Act, may be prescribed or provided for in the regulations;
- (b) modifying or clarifying the definition of “vaccinator” for the purposes of this Act;
- (c) respecting how vaccinators may provide information under sections 2, 3 and 4;
- (d) providing for exemptions from this Act or any provision of this Act, and setting conditions on such an exemption;
- (e) generally, for carrying out the purposes, provisions and intent of this Act.

Commencement

8 The Act set out in this Schedule comes into force on the day the *Advancing Oversight and Planning in Ontario’s Health System Act, 2021* receives Royal Assent.

Short title

9 The short title of the Act set out in this Schedule is the *COVID-19 Vaccination Reporting Act, 2021*.

**SCHEDULE 2
HEALTH AND SUPPORTIVE CARE PROVIDERS OVERSIGHT AUTHORITY ACT, 2021**

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**PART I
INTERPRETATION**

Interpretation

1 (1) In this Act,

“Authority” means the corporation without share capital incorporated under section 2; (“Office”)

“board” means the board of directors of the Authority; (“conseil”)

“Chief Executive Officer” means the Chief Executive Officer of the Authority appointed under subsection 10 (1); (“directeur général”)

“memorandum of understanding” means the memorandum of understanding described in subsection 14 (1); (“protocole d’entente”)

“Minister” means the Minister of Health or such other member of the Executive Council as may be assigned the administration of this Act under the *Executive Council Act*; (“ministre”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“registrant” means a person or individual that is registered with the Authority under this Act; (“titulaire d’une inscription”)

“regulations” means the regulations made under this Act. (“règlements”)

Sexual abuse

(2) In this Act,

“sexual abuse” of a person who receives health services or supportive care services from a registrant means,

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

Same, exceptions

(3) For the purposes of subsection (2),

“sexual nature” does not include,

- (a) touching, behaviour or remarks that are appropriate to the service provided by the registrant, or
- (b) any other prescribed conduct, behaviour or remarks.

**PART II
THE AUTHORITY**

ESTABLISHMENT, COMPOSITION AND GOVERNANCE

Authority established

2 A corporation without share capital is established under the name Health and Supportive Care Providers Oversight Authority in English and Office de surveillance des fournisseurs de soins de santé et de soutien in French.

Composition of Authority

3 (1) The Authority is composed of the members of its board of directors.

Same

(2) A person ceases to be a member of the Authority when they cease to be a director of the Authority.

Board

4 (1) The Authority shall have a board of directors which shall manage or supervise the management of the affairs of the Authority.

Composition of board

(2) The board shall consist of no fewer than eight and no more than 12 directors.

Appointed directors

(3) The Lieutenant Governor in Council may appoint directors to the board, subject to subsection (4).

Not majority

(4) The Lieutenant Governor in Council shall ensure that the directors appointed by the Lieutenant Governor in Council do not constitute a majority of the directors on the board.

Elected directors

(5) The directors that are not appointed by the Lieutenant Governor in Council shall be elected by the members of the board.

Eligibility

(6) A person is eligible to be elected or appointed as a director of the Authority if they,

- (a) are not a registrant;
- (b) meet any prescribed qualifications; and
- (c) in the case of elected board members described in subsection (5), meet any qualifications that are set out in the Authority’s by-laws.

Rules respecting who may serve as director of Authority

(7) The regulations may establish rules regarding who can serve as a director of the Authority, including,

- (a) requiring that no more than a fixed percentage of directors shall be drawn from among specified persons or classes of persons;
- (b) specifying the qualifications for being a director of the Authority;

- (c) specifying the length of a director's term; and
- (d) specifying the number of terms that a director can serve.

Remuneration and expenses

(8) The Authority shall pay reasonable remuneration and expenses to the directors.

Meetings

(9) The board shall meet regularly throughout the year and in any event shall hold at least four meetings in each calendar year.

Quorum

(10) A majority of the number of directors required to be on the board constitutes a quorum.

Chair

(11) The Minister shall designate a chair of the board from among the directors.

First election

(12) The first election of the directors mentioned in subsection (5) shall take place before the second anniversary of the day this section comes into force or before a later date that is prescribed.

Interim board

5 (1) Until the first election of the directors mentioned in subsection 4 (12) takes place, the Authority shall have an interim board consisting of three to five directors who shall be appointed by the Lieutenant Governor in Council.

Remuneration and expenses of interim board

(2) The remuneration and expenses of the directors on the interim board shall be determined by the Lieutenant Governor in Council.

Application of s. 4

(3) Section 4, except subsections (2) to (5) and (8), applies to the interim board.

By-laws

6 (1) The board may make by-laws for the management of the Authority and for the conduct and administration of the Authority's operations, including with respect to,

- (a) delegating any powers and duties of the board or of the Chief Executive Officer under this Act to any person, subject to any conditions the board may specify;
- (b) establishing and governing the expiry of registrations issued under this Act; and
- (c) requiring information to be included in the register required by section 32.

Elected directors

(2) The board shall make a by-law regarding who can serve as directors elected to the board, the criteria and qualifications for persons to be nominated for election to the board and the process for their election.

Minister's approval required

(3) The board may make a by-law described in subsection (2) only with the written approval of the Minister.

Available to the public

(4) The Authority shall publish each by-law on the website of the Authority as soon as practicable after the by-law becomes effective.

Not Crown agent

7 The Authority is not an agent of the Crown and shall not hold itself out as an agent of the Crown.

Corporations Act, Corporations Information Act

8 The *Corporations Act* and the *Corporations Information Act* do not apply to the Authority except as prescribed.

EMPLOYEES, OFFICERS, AGENTS AND COMMITTEES

Employees

9 The Authority may employ or retain the services of any qualified person to carry out any power or duty of the Authority.

Chief Executive Officer

10 (1) The board shall appoint one of its employees as the Chief Executive Officer.

Restriction

(2) The Chief Executive Officer shall not be a registrant or a director of the Authority.

Duties

(3) The Chief Executive Officer shall have the powers and perform the duties assigned to the Chief Executive Officer under this Act and by the board.

Non-application of *Statutory Powers Procedure Act*

(4) The *Statutory Powers Procedure Act* does not apply to anything done by the Chief Executive Officer under this Act, except as may be prescribed.

Advisory committees

11 (1) The board shall establish a separate advisory committee for each class of registrants in accordance with the regulations to advise the board and the Chief Executive Officer about issues pertaining to registrants in that class of registration.

Composition

(2) In addition to any other requirements provided for in the regulations, every advisory committee for a class of registrants shall include,

- (a) one or more individuals who represent the interests of persons who receive health services or supportive care services from that class of registrants or the caregivers of such individuals;
- (b) one or more individuals who are registrants in that class of registration; and
- (c) one or more individuals who are educators of registrants in that class of registration.

OBJECTS, POWERS AND DUTIES

Objects

12 The objects of the Authority are,

- (a) to administer this Act and the regulations, including overseeing their enforcement;
- (b) to establish and maintain educational and skills-based qualifications for each class of registrants;
- (c) to establish and maintain one or more visual marks or identifiers for use by registrants that can identify registrants to members of the public;
- (d) to promote the provision of safe, competent, ethical and high-quality health services and supportive care services by registrants to members of the public;
- (e) to establish and maintain codes of ethics applicable to each class of registrants in relation to the health services or supportive care services they provide to members of the public;
- (f) to educate registrants, employers and members of the public about matters relating to this Act and the regulations;
- (g) to advise the Minister, at the Minister's request, on policy matters specified by the Minister; and
- (h) to carry out any other duties or powers assigned to the Authority under this Act.

Capacity, rights, powers and privileges

13 The Authority has the capacity and the rights, powers and privileges of a natural person, except as limited by this Act or the regulations.

Memorandum of understanding

14 (1) The Minister and the Authority shall enter into a memorandum of understanding, which must, at a minimum,

- (a) set out requirements relating to the governance of the Authority;
- (b) set out requirements with which the Authority shall comply in connection with its administration of this Act and the regulations, including a requirement that the Authority maintain adequate insurance against liability arising out of its administration of this Act and the regulations; and
- (c) set out requirements with which the Authority shall comply in connection with carrying out its other objects.

Conflict

(2) In the event of conflict between any provision of this Act or the regulations and any provision of the memorandum of understanding or the Authority's by-laws or resolutions, the provision of this Act or the regulations prevails to the extent of the conflict.

Amendment by Minister

(3) If the Minister considers it to be in the public interest, the Minister may unilaterally amend the memorandum of understanding after giving the Authority the notice that the Minister considers reasonable in the circumstances.

ACCOUNTABILITY

Minister's authority to appoint supervisor

15 (1) If the Minister considers it to be in the public interest, the Minister may appoint a person as a supervisor for the Authority for the purposes of assuming control of it and responsibility for its activities.

Notice of appointment

(2) The Minister shall give the board the notice that the Minister considers reasonable in the circumstances before appointing the supervisor.

Immediate appointment

(3) Subsection (2) does not apply if there are not enough members on the board to form a quorum.

Term of appointment

(4) The appointment of the supervisor is valid until the Minister terminates the appointment.

Powers and duties of supervisor

(5) Unless the supervisor's appointment provides otherwise, the supervisor has the exclusive right to exercise all the powers and perform all the duties of the directors, officers and members of the Authority.

Same

(6) In appointing the supervisor, the Minister may specify the supervisor's powers and duties and the conditions governing them.

Right of access

(7) The supervisor has the same rights as the board in respect of the Authority's documents, records and information.

Report to Minister

(8) The supervisor shall report to the Minister as the Minister requires.

Minister's directions

(9) The Minister may issue directions to the supervisor with regard to any matter within the supervisor's jurisdiction, and the supervisor shall carry them out.

Status of board during supervisor's tenure

16 (1) On the appointment of a supervisor under section 15, the members of the board cease to hold office, unless the supervisor's appointment provides otherwise.

Same

(2) During the term of the supervisor's appointment, the powers of any director of the Authority who continues to hold office are suspended, unless the supervisor's appointment provides otherwise.

Policy directions

17 (1) If the Minister considers it to be in the public interest, the Minister may issue policy or operational directions to the Authority relating to its administration of this Act, after giving the Authority the notice that the Minister considers reasonable in the circumstances.

Compliance required

(2) The Authority shall comply with the policy directions and shall implement measures to do so.

Ministerial reviews

18 (1) The Minister may require that reviews of the Authority, of its operations or of both, including, without limitation, performance, governance, accountability and financial reviews, be carried out,

- (a) by or on behalf of the Authority; or
- (b) by a person or entity specified by the Minister.

Access to records

(2) If a review is carried out by a person or entity specified by the Minister, the Authority shall give the person or entity specified by the Minister and the employees and agents of the person or entity access to all records and other information required to conduct the review.

Report to Minister

(3) The results of reviews under this section shall be reported to the Minister within the time specified by the Minister.

Conditions

(4) The Minister may impose any additional requirements or conditions with respect to a review carried out under this section.

Duty to advise the Minister

19 (1) The Authority shall promptly inform and advise the Minister with respect to,

- (a) any information that could affect the Authority's ability to exercise its powers or perform its duties under this Act; and
- (b) any urgent or critical matter that is likely to require action by the Minister.

Same

(2) The Authority shall advise or report to the Minister, within the time period that the Minister specifies, on any matter that the Minister refers to it and that relates to this Act, the regulations or the memorandum of understanding.

Internal audit

20 The board shall appoint an auditor licensed under the *Public Accounting Act, 2004* to audit the accounts and financial transactions of the Authority annually.

External audit

21 (1) The Auditor General appointed under the *Auditor General Act* may conduct an audit of the Authority, other than an audit required under the *Corporations Act*.

Access

(2) When the Auditor General conducts an audit under subsection (1), the Authority shall give the Auditor General and employees of the Auditor General access to all records and other information required to conduct the audit.

Disclosure of compensation and other payments

22 (1) The Authority shall, in accordance with the regulations, make available to the public any information specified by the Minister relating to,

- (a) the compensation that the Authority pays to members of its board of directors, its officers and its employees; and
- (b) any other payments that the Authority makes or is required to make to the persons mentioned in clause (a).

Website, etc.

(2) The information described in subsection (1) must be made available to the public on the Authority's website and by any other means that the Authority determines.

Definition

(3) In this section,

“compensation” means anything paid or provided, directly or indirectly, to or for the benefit of a person who performs duties and functions that entitle the person to be paid, and includes salary, benefits, perquisites and all forms of non-discretionary and discretionary payments.

Public interest considerations

23 In exercising a power under subsection 14 (3), 15 (1) or 17 (1), the Minister may consider any matter the Minister regards as relevant to the public interest including, without limiting the generality of the foregoing, whether,

- (a) the exercise of the power is necessary to prevent serious harm to public safety or to the interests of individuals who receive health services or supportive care services from registrants;
- (b) an event of force majeure has occurred;
- (c) the Authority is facing a risk of insolvency; or
- (d) the board's composition is no longer in compliance with the requirements set out in this Act, or the number of directors of the Authority is insufficient for a quorum.

MISCELLANEOUS

Prohibitions**Commercial activities**

24 (1) The Authority shall not engage in commercial activity through an individual, corporation or other entity that is related to the Authority.

Subsidiary corporations

(2) The Authority shall not establish a subsidiary corporation.

Services in French

25 The *French Language Services Act* applies to the Authority as though it were a government agency under that Act.

**PART III
APPLICATIONS FOR REGISTRATION**

Applications

26 (1) An applicant may apply to the Authority for registration or renewal of registration in a class described in subsection (2).

Classes

(2) The classes of registration to which an applicant may apply are,

- (a) the personal support worker class; and
- (b) any other prescribed class.

Form and manner

(3) The application must be made in the form and manner required by the Authority.

Registration

27 (1) An applicant is entitled to registration or renewal of registration by the Chief Executive Officer in the class they are applying for unless the Chief Executive Officer refuses to grant the application under section 28.

Request for information

(2) The Chief Executive Officer may request that an applicant for registration or renewal of registration provide to the Chief Executive Officer, in the form and manner and within the time period specified by the Chief Executive Officer,

- (a) information specified by the Chief Executive Officer that is relevant to the decision to be made by the Chief Executive Officer as to whether or not to grant the registration or renewal; and
- (b) verification, by affidavit or otherwise, of any information described in clause (a) that the applicant is providing or has provided to the Chief Executive Officer.

Approval and conditions

(3) Subject to subsection (4), the Chief Executive Officer may,

- (a) approve the registration or renewal of a registration on such conditions as the Chief Executive Officer considers appropriate; and
- (b) at any time impose on a registration such conditions as the Chief Executive Officer considers appropriate.

Notice required if no consent to conditions

(4) The Chief Executive Officer must provide notice in writing to the applicant under subsection 28 (3) if the Chief Executive Officer proposes to impose conditions on a registration or renewal to which the applicant has not consented.

Refusal to register, etc.

28 (1) If an applicant or a registrant meets the prescribed prohibited grounds for registration, the Chief Executive Officer shall, as applicable,

- (a) refuse to register or renew the registration of the applicant; or
- (b) revoke the registrant's registration.

Failure to meet prescribed criteria

(2) The Chief Executive Officer may refuse to grant or renew a registration if, in the Chief Executive Officer's opinion, the applicant does not meet the prescribed criteria for that class of registration.

Notice

- (3) The Chief Executive Officer shall notify an applicant or registrant in writing if they propose to,
- (a) refuse to grant or renew a registration in accordance with subsection (1) or (2);
 - (b) revoke the registrant's registration in accordance with subsection (1); or
 - (c) impose conditions to a registration or renewal to which the applicant has not consented.

Content of notice

- (4) The notice described in subsection (3) shall,
- (a) set out the reasons for the proposed action; and
 - (b) state that the applicant is entitled to a review in writing of the application and the documentary evidence supporting it by the Health Professions Appeal and Review Board if the applicant mails or delivers, within 15 days after service of the notice, a written request to the Chief Executive Officer and to the Health Professions Appeal and Review Board.

Where no request for review

- (5) If an applicant does not request a review in writing after receiving the notice described in clause (4) (b), the Chief Executive Officer may carry out the proposal.

If review requested

- (6) If a review in writing of a matter is requested, the Health Professions Appeal and Review Board shall conduct the written review in accordance with section 29.

Continuation pending renewal

- (7) If, within the time prescribed or, if no time is prescribed, before the expiry of the applicant's registration, the applicant has applied for renewal of a registration and paid the required fee, if any, the registration shall be deemed to continue,
- (a) until the renewal is granted; or
 - (b) if the applicant is served notice that the Chief Executive Officer proposes to refuse to grant the renewal, until the time for requesting a review has expired or, if a review is requested, until the Health Professions Appeal and Review Board makes its order.

Voluntary cancellation

- (8) The Chief Executive Officer may cancel a registration upon the request, in writing, of the applicant and this section does not apply to the cancellation.

Written review by HPARB

- 29** (1) After receiving a request for a written review from an applicant under subsection 28 (6), the Health Professions Appeal and Review Board shall conduct a written review in accordance with the procedures provided for in the regulations, if any.

Non-application of the *Statutory Powers Procedure Act*

- (2) A written review conducted by the Health Professions Appeal and Review Board under this section is not a proceeding within the meaning of the *Statutory Powers Procedure Act* and the *Statutory Powers Procedure Act* does not apply to such a review, except as provided for in the regulations.

Powers

- (3) After conducting a written review, the Health Professions Appeal and Review Board may by order,
- (a) direct the Chief Executive Officer to carry out the Chief Executive Officer's proposal; or
 - (b) substitute its opinion for that of the Chief Executive Officer, which may include granting, refusing to grant or applying conditions to the registration.

CEO shall comply

- (4) The Chief Executive Officer shall comply with any orders made under subsection (3).

Conditions

- (5) An order under subsection (3) is subject to any conditions specified in the order and may attach conditions to a registration.

Parties

- (6) The Chief Executive Officer and the applicant are the parties to a written review under this section.

**PART IV
REGISTRATIONS**

CONDITIONS AND THE REGISTER

Registration subject to conditions

30 A registration is subject to any conditions that are applied to the registration under this Act or that are otherwise prescribed.

Expiry of registration

31 Registrations expire in accordance with the rules set out in the Authority's by-laws.

Register

32 (1) The Chief Executive Officer shall, in accordance with the regulations, establish and maintain a register of registrants and shall make available to the public,

- (a) the names of registrants;
- (b) any other information that may be prescribed in respect of registrants; and
- (c) any other information that may be required by the Authority's by-laws.

Form and manner

(2) The information to be maintained by the Chief Executive Officer in the register shall be maintained in the form and manner set out in the regulations.

REPORTING AND INFORMATION

Reporting by registrants re: offences

33 (1) A registrant shall file a report in writing with the Authority if the registrant has been found guilty of an offence, other than a prescribed offence.

Timing of report

(2) The report must be filed as soon as reasonably practicable after the registrant receives notice of the finding of guilt.

Contents of report

- (3) Subject to subsection (4), the report must contain,
- (a) the name of the registrant filing the report;
 - (b) the nature of, and a description of the offence;
 - (c) the date the registrant was found guilty of the offence;
 - (d) the name and location of the court that found the registrant guilty of the offence; and
 - (e) the status of any appeal initiated respecting the finding of guilt.

Publication ban

(4) The report shall not contain any information that violates a publication ban.

Same

(5) No action shall be taken under this section which violates a publication ban and nothing in this section requires or authorizes the violation of a publication ban.

Additional reports

(6) A registrant who files a report under subsection (1) shall file an additional report if there is a change in status of the finding of guilt as the result of an appeal.

Reporting by registrants re: charges and bail conditions, etc.

34 (1) A registrant shall file a report in writing with the Authority if the registrant has been charged with an offence other than a prescribed offence, and the report shall include information about every bail condition or other restriction imposed on, or agreed to, by the registrant in connection with the charge.

Timing of report

- (2) The report must be filed as soon as reasonably practicable after,
- (a) the registrant receives notice that they were charged with the offence; or
 - (b) the bail conditions or other restrictions were imposed on or agreed to by the registrant.

Contents of report

- (3) Subject to subsection (4), the report must contain,
- (a) the name of the registrant filing the report;
 - (b) the nature of, and a description of, the charge;
 - (c) the date the charge was laid against the registrant;
 - (d) the name and location of the court in which the charge was laid or in which the bail condition or restriction was imposed on or agreed to by the registrant;
 - (e) every bail condition imposed on the registrant as a result of the charge;
 - (f) any other restriction imposed on or agreed to by the registrant relating to the charge; and
 - (g) the status of any proceedings with respect to the charge.

Publication ban

- (4) The report shall not contain any information that violates a publication ban.

Same

- (5) No action shall be taken under this section which violates a publication ban and nothing in this section requires or authorizes the violation of a publication ban.

Additional reports

- (6) A registrant who files a report under subsection (1) shall file an additional report if there is a change in status of the charge or bail conditions as the result of an appeal.

Sexual abuse reporting

- 35** (1) A registrant shall file a written report with the Authority if the registrant has reasonable grounds to believe that another registrant has sexually abused a person who receives health services or supportive care services.

Same, member of health profession College

- (2) A registrant shall file a written report with a College within the meaning of the *Regulated Health Professions Act, 1991* if the registrant has reasonable grounds to believe that a member of that College has sexually abused a person who receives health services or supportive care services.

If name not known

- (3) A registrant is not required to file a report under subsection (1) or (2) if the registrant does not know the name of the registrant or member who would be the subject of the report.

Requirement to inform

- (4) If a registrant is required to file a report under subsection (1) or (2), the registrant shall use their best efforts to advise the person who is alleged to have been sexually abused of the requirement to file the report before doing so.

Contents of report

- (5) The report required under subsection (1) or (2) must contain the following information, to the extent that it is known by the registrant:
- 1. The name of the registrant filing the report.
 - 2. The name of the registrant or member who is the subject of the report.
 - 3. An explanation of the alleged sexual abuse.
 - 4. Subject to subsection (6), the name of the person who was alleged to have been sexually abused.

Consent required

- (6) The name of a person who was alleged to have been sexually abused must not be included in a report under subsection (1) or (2) unless that person, or if that person is incapable, the person's representative, consents in writing to the inclusion of the person's name.

Collection of personal information from registrants

- 36** (1) At the request of the Minister, the Authority shall collect information directly from registrants as is reasonably necessary for the purpose of human resources planning or research.

Unique identifiers

(2) A unique identifier shall be assigned by the Minister or a person designated by the Minister for each registrant from whom information is collected under subsection (1).

Form and manner

(3) The unique identifier shall be in the form and manner specified by the Minister.

Registrants to provide information

(4) A registrant who receives a request for information for the purpose of subsection (1) shall provide the information to the Authority within the time period and in the form and manner specified by the Authority.

Disclosure to Minister

(5) The Authority shall disclose the information collected under subsection (1) to the Minister within the time period and in the form and manner specified by the Minister.

Use, collection, disclosure and publication

(6) The following applies to information collected under subsection (1):

1. The information may only be used for the purposes set out under subsection (1).
2. The Minister shall not collect personal information if other information will serve the purposes set out under subsection (1).
3. The Minister shall not collect more personal information than is necessary for the purposes set out under subsection (1).
4. The Minister may disclose the information only for the purposes set out in subsection (1).
5. Reports and other documents using information collected under this section may be published for the purposes set out under subsection (1), and for those purposes only, but personal information about a registrant shall not be included in those reports or documents.

Notice required by s. 39 (2) of FIPPA

(7) If the Minister requires the Authority to collect personal information from its registrants under subsection (1), the notice required by subsection 39 (2) of the *Freedom of Information and Protection of Privacy Act* is given by,

- (a) a public notice posted on a website of the Government of Ontario; or
- (b) any other public method that may be prescribed.

Same

(8) If the Minister publishes a notice referred to under subsection (7), the Minister shall advise the Authority of the notice and the Authority shall also publish a notice about the collection within 20 days of receiving the advice from the Minister.

Definitions

(9) In this section,

“human resources planning” means ensuring the sufficiency and appropriate distribution of registrants in Ontario; (“planification des ressources humaines”)

“information” includes personal information about registrants, but does not include personal health information; (“renseignements”)

“research” means the study of data and information in respect of human resources planning. (“recherche”)

PROHIBITIONS ON NON-REGISTRANTS

Holding out prohibitions for non-registrants**Use of mark or visual identifier**

37 (1) No individual shall use or hold themselves out as being entitled to use a visual mark or other identifier established by the Authority for a class of registrants unless the individual is authorized to do so by the Authority in accordance with this Act and the regulations.

Other forms of holding out

(2) No individual shall otherwise represent or hold themselves out as being a registrant unless the individual is registered with the Authority in accordance with this Act.

PART V
COMPLAINTS, INVESTIGATIONS AND DISCIPLINE
COMPLAINTS AND INVESTIGATIONS

Complaints

38 (1) If the Chief Executive Officer receives a complaint about a registrant, the Chief Executive Officer may investigate the complaint and may, in writing, request information in relation to the complaint from any person, including the registrant who is the subject of the complaint.

Request for information

(2) A request for information under subsection (1) shall indicate the nature of the complaint.

Duty to comply with request

(3) A registrant who receives a request for information under subsection (1) shall provide the information as soon as possible.

Appointment of investigators

39 (1) The Chief Executive Officer may appoint persons to be investigators for the purposes of conducting investigations,

- (a) into complaints received by the Chief Executive Officer; or
- (b) where the Chief Executive Officer has reason to believe that a registrant may have acted in a manner that breaches the Act, the regulations or the prescribed code of ethics that applies to them.

Certificate of appointment

(2) The Chief Executive Officer shall issue to every investigator a certificate of appointment bearing the Chief Executive Officer's signature or a facsimile of the signature.

Production of certificate of appointment

(3) Every investigator who is conducting an investigation shall, upon request, produce the certificate of appointment as an investigator.

Application of *Public Inquiries Act, 2009*

(4) An investigator may inquire into and examine the actions of a registrant and section 33 of the *Public Inquiries Act, 2009* applies to that inquiry and examination.

Reasonable inquiries

(5) An investigator may make reasonable inquiries of any person, including the registrant who is the subject of the investigation, on matters relevant to the investigation.

Entry and examination

(6) Subject to section 40, an investigator may, on the production of their certificate of appointment, enter a place in which a registrant provides health services or supportive care services to the public, or in which documents or records relevant to the registrant's provision of health services or supportive care services are located, at any reasonable time and may examine anything found there that is relevant to the investigation.

Entry to dwellings

40 In conducting an investigation, an investigator shall not enter any dwelling except,

- (a) with the consent of the occupier; or
- (b) under the authority of a warrant issued under section 41.

Entries and searches

41 (1) A justice of the peace may, on the application of an investigator made without notice, issue a warrant authorizing an investigator to enter and search a place and examine any document or thing specified in the warrant if the justice of the peace is satisfied that the investigator has been properly appointed and that there are reasonable and probable grounds for believing that,

- (a) the registrant being investigated has contravened the prescribed code of ethics that applies to them; and
- (b) there is something relevant to the investigation at the place.

Hours of execution

(2) A warrant issued under subsection (1) may be executed only between 8 a.m. and 8 p.m. unless the warrant specifies otherwise.

Application for dwelling

(3) An application for a warrant under subsection (1) to enter a dwelling shall specifically indicate that the application relates to a dwelling.

Powers under the warrant

- (4) Subject to any conditions contained in the warrant, a warrant issued under subsection (1) authorizes an investigator to,
- (a) enter or access the building, dwelling, receptacle or place specified in the warrant and to seize, examine and remove anything described in the warrant;
 - (b) make reasonable inquiries of any person, orally or in writing, with respect to anything relevant to the investigation;
 - (c) require a person to produce the information or evidence described in the warrant and to provide whatever assistance is reasonably necessary, including using any data storage, processing or retrieval device or system to produce, in any form, the information or evidence described in the warrant;
 - (d) use any data storage, processing or retrieval device or system used to engage in the activities of a registrant in order to produce information or evidence described in the warrant, in any form; and
 - (e) use any investigative technique or procedure or do anything described in the warrant.

Assistance and entry by force

(5) An investigator entering and searching a place under the authority of a warrant issued under subsection (1) may call upon police officers for assistance in executing the warrant and may enter a place using whatever reasonable force is necessary.

Investigator to show identification

(6) An investigator entering and searching a place under the authority of a warrant issued under subsection (1) shall produce their certificate of appointment, on request, to any person at the place.

Copying of documents and objects

42 (1) An investigator may copy, at the Authority's expense, a document or object that an investigator may examine under subsection 39 (6) or under the authority of a warrant issued under subsection 41 (1).

Removal for documents and objects

- (2) An investigator may remove a document or object described in subsection (1) if,
- (a) it is not practicable to copy it in the place where it is examined; or
 - (b) a copy of it is not sufficient for the purposes of the investigation.

Return of documents and objects or copies

- (3) If it is practicable to copy a document or object removed under subsection (2), the investigator shall,
- (a) if it was removed under clause (2) (a), return the document or object within a reasonable time; or
 - (b) if it was removed under clause (2) (b), provide the person who was in possession of the document or object with a copy of it within a reasonable time.

Copy as evidence

(4) A copy of a document or object certified by an investigator to be a true copy shall be received in evidence in any proceeding to the same extent and shall have the same evidentiary value as the document or object itself.

Definition

(5) In this section,

“document” means a record of information in any form and includes any part of it.

Obstruction, etc. prohibited

43 (1) No person shall,

- (a) hinder, obstruct or interfere with an investigator in the performance of their duties;
- (b) withhold or conceal from an investigator or destroy anything that is relevant to the investigation; or
- (c) knowingly furnish false information to an investigator in the performance of their duties.

Co-operation

(2) A registrant shall co-operate fully with,

- (a) any investigator appointed under this Act; and

- (b) any request for information by the Chief Executive Officer under subsection 38 (1).

RESOLUTION OF COMPLAINTS OR INVESTIGATIONS AND APPEALS

Chief Executive Officer actions

44 At any time following the receipt of a complaint or following the appointment of an investigator, the Chief Executive Officer may do any of the following, as appropriate, subject to any additional procedures provided for in the regulations:

1. Attempt to mediate or resolve the complaint.
2. Give the registrant a written warning that action may be taken against them if they continue to engage in specified activity.
3. Require the registrant to take further educational courses or training.
4. Impose conditions on the registration under clause 27 (3) (b), subject to the requirements in section 28.
5. Refer any contraventions of the prescribed code of ethics that applies to the registrant, in whole or in part, to the discipline committee of the Authority.
6. Take any further prescribed actions that the Chief Executive Officer considers appropriate.

Urgent interim action

45 (1) The Chief Executive Officer may, at any time following the receipt of a complaint or following the appointment of an investigator, suspend or impose conditions on a registrant's registration on an interim basis if the Chief Executive Officer believes on reasonable and probable grounds that the conduct of the registrant exposes or is likely to expose members of the public who receive health services or supportive care services from the registrant to harm or injury and that urgent intervention by the Chief Executive Officer is needed.

No notice or review required

- (2) The requirements in section 28 do not apply to an interim action taken under subsection (1).

Duration

- (3) An interim action taken under subsection (1) continues in force until,
- (a) it is varied or revoked by the Chief Executive Officer;
 - (b) the Chief Executive Officer chooses to take an action under paragraphs 1, 2, 3, 4 or 6 of section 44 with respect to the matter;
 - (c) if the Chief Executive Officer refers the matter to the discipline committee under paragraph 5 of section 44,
 - (i) the matter is disposed of by the discipline committee and any applicable deadline for appealing the decision to the appeals committee expires, or
 - (ii) the appeals committee finally disposes of the matter.

Procedure following interim action

(4) If an interim action is taken under subsection (1), the Chief Executive Officer shall give precedence to the complaint or investigation that gave rise to the interim action and endeavour to investigate or otherwise deal with the matter within a reasonable period of time.

Discipline and appeals committees

Discipline committee

46 (1) The board shall establish a discipline committee in accordance with the regulations to hear and determine, in accordance with the prescribed procedures, issues concerning whether registrants have failed to comply with the prescribed code of ethics that applies to them.

Non-application of *Statutory Powers Procedure Act*

(2) The *Statutory Powers Procedure Act* does not apply to proceeding before the discipline committee concerning whether registrants have failed to comply with the prescribed code of ethics that applies to them, except as provided for in the regulations.

Appointment of members

(3) The board shall appoint the members of the discipline committee and, in making the appointments, shall ensure that the prescribed requirements for the composition of the committee are met.

Result of a determination

(4) If the discipline committee makes a determination under subsection (1) that a registrant has failed to comply with the prescribed code of ethics that applies to them, it may make an order as appropriate,

- (a) directing the Chief Executive Officer to revoke the registrant's registration;
- (b) directing the Chief Executive Officer to suspend a registrant's registration for a specified period of time;
- (c) directing the Chief Executive Officer to impose specified conditions on a registrant's registration for a specified or indefinite period of time; or
- (d) taking such other action as may be prescribed.

CEO shall comply

(5) The Chief Executive Officer shall comply with any orders made under subsection (4).

No notice or review required

(6) The requirements in section 28 do not apply with respect to any actions taken to comply with an order made under subsection (4).

Same

(7) In making an order under subsection (4), the discipline committee may specify criteria to be satisfied for the removal of a suspension or the removal of conditions imposed on a registrant's registration.

Circumstances where revocation of registration is mandatory

(8) Despite subsection (4), if the discipline committee determines that a registrant has failed to comply with the prescribed code of ethics that applies to them in prescribed circumstances, the discipline committee must make an order directing the Chief Executive Officer to revoke the registrant's registration.

Suspension of order

(9) The discipline committee may suspend the effect of all or part of an order made under subsection (4) for a specified period and on specified conditions.

Exception

(10) Subsection (9) does not apply to orders that the discipline committee is required to make under subsection (8).

Appeals committee

47 (1) The board shall establish an appeals committee in accordance with the regulations to consider, in accordance with the prescribed procedures, appeals from orders of the discipline committee.

Appointment of members

(2) The board shall appoint the members of the appeals committee and, in making such appointments, shall ensure that the prescribed requirements for the composition of the committee are met.

Appeal

(3) A party to a proceeding before the discipline committee may appeal the final order of the discipline committee to the appeals committee in accordance with the regulations.

Procedure

(4) The appeals committee shall conduct any appeals to it in accordance with the procedural requirements set out in the regulations, if any.

Non-application of *Statutory Powers Procedure Act*

(5) The *Statutory Powers Procedure Act* does not apply to a proceeding before the appeals committee, except as may be prescribed.

Power of the appeals committee

(6) The appeals committee may by order overturn, affirm or modify the order of the discipline committee and may make an order described in section 44.

Public access to decisions

48 Decisions of the discipline committee and the appeals committee shall be made available to the public in such manner as may be prescribed.

**PART VI
MISCELLANEOUS**

Forms

49 The Authority may require the use of forms it develops in connection with administering this Act or the regulations.

Fees, etc.

50 (1) The Authority may set and charge fees, costs or other charges in relation to anything that the Authority does in administering this Act or anything that the Chief Executive Officer does under this Act as long as the decisions to set and charge are made in accordance with processes and criteria that the Authority establishes and that the Minister approves.

Exception

(2) The Authority shall not set or charge any fees, costs or charges payable by a person for making a complaint to the Chief Executive Officer.

Setting fees, etc.

(3) In setting the fees, costs and charges described in subsection (1), the Authority may specify their amounts or the method for determining the amounts.

Collection

(4) The Authority may,

- (a) set the time and manner of payment of the fees, costs and charges charged by it under subsection (1); and
- (b) require the payment of interest and other penalties, including payment of collection costs, when fees, costs and charges charged under subsection (1) are unpaid or paid after the due date.

Publication

(5) The Authority shall publish the fees, costs and charges, the processes and criteria and anything set or required under subsection (4) on its website and in any other way described in the memorandum of understanding.

Not public money

(6) For greater certainty, the money that the Authority collects in administering this Act or the regulations is not public money as defined in the *Financial Administration Act*, and the Authority may use the money to carry out its objects.

Confidentiality

51 (1) A person who obtains information in the course of exercising a power or carrying out a duty related to the administration of this Act, the regulations or the memorandum of understanding shall preserve secrecy with respect to the information and shall not communicate the information to any person except,

- (a) as may be required in connection with a proceeding under this Act or in connection with the administration of this Act or the regulations;
- (b) for the purposes of the administration of another prescribed Act of Ontario or Canada;
- (c) to a College that governs a health profession within the meaning of the *Regulated Health Professions Act, 1991* or to a similar body that governs a health profession outside of Ontario;
- (d) to another person or entity outside of Ontario that regulates the activities of individuals who perform health services or supportive care services that are substantially similar to those performed by registrants;
- (e) to a police officer to aid an investigation that may result in a law enforcement proceeding, subject to any restrictions set out in the regulations;
- (f) to the counsel of the person who is required to keep the information confidential under this section;
- (g) for the purpose of confirming whether the Authority has received a complaint or is investigating a registrant, if there is a compelling public interest in the disclosure of that information;
- (h) if the disclosure is required by an Act of Ontario or Canada;
- (i) if there are reasonable grounds to believe that the disclosure is necessary for the purpose of eliminating or reducing a significant risk of serious bodily harm to a person or group of persons;
- (j) with the consent of the person to whom the information relates; or
- (k) to a prescribed entity or organization.

Testimony

(2) Except in a proceeding under this Act, no person shall be required to give testimony in a civil proceeding with regard to information obtained in the course of exercising a power or carrying out a duty related to the administration of this Act, the regulations or the memorandum of understanding.

Evidence in civil proceedings

52 No record of a proceeding under this Act, no document or thing prepared for or statement given at such a proceeding and no order or decision made in such a proceeding is admissible in a civil proceeding other than a proceeding under this Act.

Service

53 (1) Any notice, order or request made under this Act is sufficiently given or served if it is,

- (a) delivered personally;
- (b) sent by courier;
- (c) sent by registered mail;
- (d) sent by e-mail; or
- (e) sent by fax.

Deemed service

(2) Subject to subsection (3), the notice, order or request shall be deemed to have been served,

- (a) on the day it was delivered personally;
- (b) on the fifth day after it was couriered;
- (c) on the fifth day after it was mailed;
- (d) on the day after it was sent by email; or
- (e) on the day after it was sent by fax.

Holidays

(3) If the day described in clause (2) (b), (c), (d) or (e) is a holiday, the notice shall be deemed to have been served on the next day that is not a holiday.

Failure to receive beyond person's control

(4) Subsection (2) does not apply if the person receiving the notice, order or request that the person, acting in good faith, did not receive it or received it on a later date because of a reason beyond the person's control, including accident, disability or illness.

Exception

(5) Despite subsections (1) and (2), the Health Professions Appeal and Review Board may order any other method of service that it considers appropriate in the circumstances of any notices, orders or requests to or from the Board.

Review of Act

54 (1) Within five years after this section comes into force, the Minister shall undertake a comprehensive review of this Act and shall prepare a report setting out the findings of the review.

Tabling in Assembly

(2) The Minister shall deliver the report to the Speaker of the Assembly, who shall lay the report before the Assembly at the earliest reasonable opportunity.

PART VII OFFENCES

Offences

55 A person is guilty of an offence if the person,

- (a) furnishes false information in any application of registration or renewal of registration under this Act;
- (b) contravenes subsection 35 (1) or (2) (Sexual abuse reporting);
- (c) contravenes section 37 (Holding out prohibitions for non-registrants); or
- (d) contravenes section 43 (Obstruction, etc. prohibited).

Penalty**Individual**

56 (1) Every individual who is found guilty of an offence under section 55 is liable on conviction to a fine of not more than \$25,000.

Corporation

(2) Every corporation that is found guilty of an offence under section 55 is liable on conviction to a fine of not more than \$50,000.

Directors and officers

(3) If a corporation is guilty of an offence under section 55, every director or officer of the corporation who authorized, permitted or acquiesced in the commission of the offence is deemed to be a party to and guilty of the offence and on conviction is liable to a fine of not more than \$25,000.

**PART VIII
LIABILITY OF THE AUTHORITY AND THE CROWN**

No personal liability, Authority officials

57 (1) No cause of action arises against any of the following persons as a result of any act done in good faith in the exercise or performance or intended exercise or performance of their duties or powers under this Act or any alleged neglect or default in the performance in good faith of such duties or powers:

1. The Chief Executive Officer.
2. An investigator appointed under this Act.
3. A director or an officer of the Authority.
4. Any other person whom the Authority employs or whose services the Authority retains in accordance with this Act.
5. An agent of the Authority.
6. A member of the discipline committee, the appeals committee or of any other committee provided for in the regulations.
7. A supervisor appointed under this Act.

No personal liability during supervisor's tenure, directors

(2) No cause of action arises against a director of the Authority for any act, neglect or default done by the supervisor or the Authority after the director's removal under subsection 16 (1) or while the director's powers are suspended under subsection 16 (2).

Liability of Authority for Authority officials

(3) Subsections (1) and (2) do not relieve the Authority of liability to which it would otherwise be subject in respect of the acts or omissions of a person mentioned in subsection (1).

Authority officials not agents or employees of the Crown

(4) The persons listed in subsection (1) are not and shall not be deemed to be agents or employees of the Crown, and they shall not hold themselves out as such.

No personal liability, Crown officials

58 (1) No cause of action arises against any of the following persons as a result of any act done in good faith in the exercise or performance or intended exercise or performance of their duties or powers under this Act or any alleged neglect or default in the performance in good faith of such duties or powers:

1. A member of the Executive Council, including the Minister.
2. An employee, officer or agent of the Crown.

Crown liability for Crown officials

(2) Despite subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, subsection (1) does not relieve the Crown of liability to which it would otherwise be subject.

Loss of status as Crown official

(3) A person mentioned in subsection (1) who accepts employment in or assignment to the Authority, including appointment as a director or supervisor of the Authority, is deemed not to be an employee, officer or agent of the Crown for the purposes of this Part during the period of the employment or assignment, as the case may be, in respect of any act or omission relating to the employment or assignment.

No Crown liability, persons other than Crown officials

59 (1) No cause of action arises against the Crown, or any person mentioned in subsection 58 (1), as a direct or indirect result of any act or omission of a person who is not a person mentioned in subsection 58 (1) if the act or omission is related, directly or indirectly, to the exercise or performance or intended exercise or performance of a duty or power under this Act.

Indemnification

(2) The Authority shall indemnify the Crown and any person mentioned in subsection 58 (1) in respect of damages and costs incurred by the Crown or any such person for any act or omission of the Authority or of any person mentioned in subsection 57 (1) in carrying out that person's duties or powers under this Act.

Proceedings barred

60 (1) No proceeding, including but not limited to any proceeding in contract, restitution, tort or trust, shall be commenced against,

- (a) any person mentioned in subsection 57 (1) in respect of a matter referred to in that subsection;
- (b) any director of the Authority mentioned in subsection 57 (2) in respect of a matter referred to in that subsection;
- (c) any person mentioned in subsection 58 (1) in respect of a matter referred to in that subsection; or
- (d) any person, including the Crown, mentioned in subsection 59 (1) in respect of a matter referred to in that subsection.

Application

(2) Without limiting the generality of subsection (1), that subsection applies to any proceeding, including a court, administrative or arbitral proceeding, claiming any remedy or relief, including specific performance, injunction, declaratory relief, any form of compensation or damages, including loss of revenue and loss of profit, or any other remedy or relief, and includes a proceeding to enforce a judgment, order or award made by a court, tribunal or arbitrator outside of Canada.

Exception — judicial review

(3) This Part does not apply to prevent an application for judicial review.

Interpretation, former officials

61 A reference in this Part to an officer, employee, service provider, agent, or other official includes reference to a former officer, employee, service provider, agent, or other official, in relation to the exercise of powers and the performance of duties and functions in their capacity as an officer, employee, service provider, agent or other official.

PART IX REGULATIONS

Regulations

62 The Lieutenant Governor in Council may make regulations,

- (a) prescribing anything that, under this Act, may or must be prescribed, provided for or otherwise done by regulation;
- (b) exempting any person or class of person from any part of this Act and attaching conditions to the exemption;
- (c) prescribing classes of registrants in addition to the personal support worker class;
- (d) governing the rules that apply to different classes of registrants;
- (e) prescribing the code of ethics for the classes of registrants, which may include establishing different codes of ethics for different classes of registrants;
- (f) requiring the establishment of any committee of the Authority that is not already established in this Act;
- (g) governing the composition, operations, procedures and functions of any committee of the Authority;
- (h) respecting applications for registration or renewal of registration, which may include,
 - (i) prescribing requirements for registration and renewal of registration,
 - (ii) requiring applicants or registrants to meet specified educational or skills-based requirements, which may include completing a program of studies or taking one or more designated courses,
 - (iii) designating organizations that are authorized to provide the programs and courses referred to in subclause (ii), and
 - (iv) prescribing exemptions from these requirements and attaching conditions to the exemption;
- (i) respecting the issuance of visual marks and other identifiers established and maintained by the Authority and authorizing their use by registrants;
- (j) requiring and governing the disclosure of compensation and other payments under section 22;

- (k) governing the register that is required to be established and maintained under section 32 of this Act, including prescribing the information to be contained in the register and the form and manner in which it shall be maintained;
- (l) respecting matters having to do with the complaints received by the Authority and investigations involving allegations of sexual abuse by registrants, which may include,
 - (i) requiring the Authority to establish a fund for the purposes of providing therapy and counselling for persons who allege that sexual abuse has been committed by registrants,
 - (ii) requiring the Authority to provide other types of supports in relation to allegations of sexual abuse by registrants;
- (m) respecting investigations under this Act;
- (n) respecting the manner in which and the frequency with which decisions of the discipline committee and appeals committee are made available to the public;
- (o) requiring or authorizing the Chief Executive Officer or the board to conduct continuous quality improvement activities for registrants, which may include requiring registrants to complete continuous quality improvement activities as a condition of registration;
- (p) providing for any transitional matter necessary for the effective implementation of this Act;
- (q) defining, for the purposes of this Act, any word or expression that is used in this Act but not defined in this Act;
- (r) respecting matters concerning the winding up and dissolution of the Authority and the transfer of its assets, liabilities, rights and obligations;
- (s) respecting any matter that the Lieutenant Governor in Council considers advisable to carry out effectively the intent and purpose of this Act.

PART X

AMENDMENTS TO THIS ACT AND COMPLEMENTARY AMENDMENTS TO OTHER ACTS

Amendments to this Act

63 (1) Section 8 of this Act is repealed and the following substituted:

Not-for-Profit Corporations Act, 2010, Corporations Information Act

8 The *Not-for-Profit Corporations Act, 2010* and the *Corporations Information Act* do not apply to the Authority except as prescribed.

(2) Subsection 21 (1) of the Act is amended by striking out “Corporations Act” at the end and substituting “Not-for-Profit Corporations Act, 2010”.

Excellent Care for All Act, 2010

64 The definition of “proceeding” in subsection 13.2 (5) of the *Excellent Care for All Act, 2010* is repealed and the following substituted:

“proceeding” includes a proceeding held in, before or under the rules of a court, a tribunal, a commission, a justice of the peace, a coroner, a committee of a College within the meaning of the *Regulated Health Professions Act, 1991*, a committee of the Board of Regents continued under the *Drugless Practitioners Act*, a committee of the Ontario College of Social Workers and Social Service Workers under the *Social Work and Social Service Work Act, 1998*, a committee of the Authority within the meaning of the *Health and Supportive Care Providers Oversight Authority Act, 2021*, an arbitrator or a mediator.

Fair Access to Regulated Professions and Compulsory Trades Act, 2006

65 Section 1 of Schedule 1 to the *Fair Access to Regulated Professions and Compulsory Trades Act, 2006* is amended by adding the following paragraph:

- 6. The Health and Supportive Care Providers Oversight Authority.

Ministry of Health and Long-Term Care Appeal and Review Boards Act, 1998

66 (1) Section 2 of the *Ministry of Health and Long-Term Care Appeal and Review Boards Act, 1998* is amended by striking out “the *Drug and Pharmacies Regulation Act*, the” and substituting “the *Drug and Pharmacies Regulation Act*, the *Health and Supportive Care Providers Oversight Authority Act, 2021*, the”.

(2) Subsection 6 (1) of the Act is amended by adding the following paragraph:

- 4.1 The *Health and Supportive Care Providers Oversight Authority Act, 2021*.

Personal Health Information Protection Act, 2004

67 (1) The definition of “proceeding” in section 2 of the *Personal Health Information Protection Act, 2004* is repealed and the following substituted:

“proceeding” includes a proceeding held in, before or under the rules of a court, a tribunal, a commission, a justice of the peace, a coroner, a committee of a College within the meaning of the *Regulated Health Professions Act, 1991*, a committee of the Board of Regents continued under the *Drugless Practitioners Act*, a committee of the Ontario College of Social Workers and Social Service Workers under the *Social Work and Social Service Work Act, 1998*, a committee of the Authority within the meaning of the *Health and Supportive Care Providers Oversight Authority Act, 2021*, an arbitrator or a mediator; (“instance”)

(2) Clause 9 (2) (e) of the Act is repealed and the following substituted

- (e) the regulatory activities of a College under the *Regulated Health Professions Act, 1991*, the College under the *Social Work and Social Service Work Act, 1998*, the Board under the *Drugless Practitioners Act* or the Health and Supportive Care Providers Oversight Authority under the *Health and Supportive Care Providers Oversight Authority Act, 2021*; or

(3) Subsection 17.1 (1) of the Act is amended by adding the following definition:

“Authority” means the Authority within the meaning of the *Health and Supportive Care Providers Oversight Authority Act, 2021*; (“Office”)

(4) Subsection 17.1 (2) of the Act is amended by striking out the portion before paragraph 1 and substituting the following:

Termination, suspension, etc., of employed members or registrants

(2) Subject to any exceptions and additional requirements, if any, that are prescribed, if a health information custodian employs a health care practitioner who is a member of a College or a registrant of the Authority, the health information custodian shall give written notice of any of the following events to the College or Authority within 30 days of the event occurring:

.

(5) Subsection 43 (1) of the Act is amended by adding the following clause:

- (b.1) to the Authority within the meaning of the *Health and Supportive Care Providers Oversight Authority Act, 2021* for the purpose of the administration or enforcement of that Act;

Quality of Care Information Protection Act, 2016

68 The definition of “proceeding” in subsection 2 (1) of the *Quality of Care Information Protection Act, 2016* is repealed and the following substituted:

“proceeding” includes a proceeding that is within the jurisdiction of the Legislature and that is held in, before or under the rules of a court, a tribunal, a commission, a justice of the peace, a coroner, a committee of a College within the meaning of the *Regulated Health Professions Act, 1991*, a committee of the Board of Regents continued under the *Drugless Practitioners Act*, a committee of the Ontario College of Social Workers and Social Service Workers under the *Social Work and Social Service Work Act, 1998*, a committee of the Authority within the meaning of the *Health and Supportive Care Providers Oversight Authority Act, 2021*, an arbitrator or a mediator, but does not include any activities carried on by a quality of care committee; (“instance”)

Regulated Health Professions Act, 1991

69 (1) Subsection 36 (1) of the *Regulated Health Professions Act, 1991* is amended by adding the following clause:

- (c.1) to the Health and Supportive Care Providers Oversight Authority for the purposes of administering the *Health and Supportive Care Providers Oversight Authority Act, 2021*;

(2) Section 85.1 of Schedule 2 to the Act is repealed and the following substituted:

Reporting by members

85.1 (1) A member shall file a report in accordance with section 85.3 if the member has reasonable grounds, obtained in the course of practising the profession, to believe that,

- (a) another member of the same or a different College has sexually abused a patient; or
 (b) a registrant of the Health and Supportive Care Providers Oversight Authority has sexually abused a patient who receives health care or supportive care services from the registrant.

If name not known

(2) A member is not required to file a report if the member does not know the name of the member or registrant who would be the subject of the report.

If information from a patient

(3) If a member is required to file a report because of reasonable grounds obtained from one of the member’s patients, the member shall use his or her best efforts to advise the patient of the requirement to file the report before doing so.

(3) Section 85.3 of Schedule 2 to the Act is repealed and the following substituted:

Requirements of required reports

85.3 (1) A report required under section 85.1 or 85.2 must be filed in writing with,

- (a) the Registrar of the College if a member of the College is the subject of the report; or
- (b) the Health and Supportive Care Providers Oversight Authority if a registrant of the Authority is the subject of the report.

Timing of report

(2) The report must be filed within 30 days after the obligation to report arises unless the person who is required to file the report has reasonable grounds to believe that the member or registrant will continue to sexually abuse the patient or will sexually abuse other patients, or that the incompetence or the incapacity of the member is likely to expose a patient to harm or injury and there is urgent need for intervention, in which case the report must be filed forthwith.

Contents of report

(3) The report must contain,

- (a) the name of the person filing the report;
- (b) the name of the member or registrant who is the subject of the report;
- (c) an explanation of the alleged sexual abuse, incompetence or incapacity; and
- (d) if the grounds of the person filing the report are related to a particular patient of the member who is the subject of the report, the name of that patient, subject to subsection (4).

Patients not named without consent

(4) The name of a patient who may have been sexually abused must not be included in a report unless the patient, or if the patient is incapable, the patient's representative, consents in writing to the inclusion of the patient's name.

If reporter providing psychotherapy

(5) If a member who is required to file a report under section 85.1 is providing psychotherapy to the member who would be the subject of the report, the report must also contain the opinion of the member filing the report, if he or she is able to form one, as to whether or not the member who is the subject of the report is likely to sexually abuse patients in the future.

**PART XI
COMMENCEMENT AND SHORT TITLE**

Commencement

70 The Act set out in this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

71 The short title of the Act set out in this Schedule is the *Health and Supportive Care Providers Oversight Authority Act, 2021*.

**SCHEDULE 3
MEDICINE ACT, 1991**

1 The *Medicine Act, 1991* is amended by adding the following section:

Physician assistants

4.1 (1) There shall be a class of members to be known as physician assistants.

Restriction

(2) Subject to subsection (3), a reference in any other Act or regulation to a physician, a legally qualified medical practitioner, a member of the College or any similar expression does not include a physician assistant unless the other Act or regulation specifically provides that it does.

Exception

(3) Despite subsection (2), a provision of the *Regulated Health Professions Act, 1991*, that applies with respect to a member of the College applies with respect to a physician assistant unless it provides otherwise, except in,

- (a) clause 33 (2) (c) of that Act; and
- (b) paragraph 3 of subsection 33.1 (1) of that Act.

Additional requirements for authorized acts by physician assistants

- (4) A member who is a physician assistant shall not perform an act under the authority of section 4 unless,
- (a) the performance of the act by the member is permitted by the regulations and the member performs the act in accordance with the regulations; or
 - (b) the act is ordered by a person who is a member of the College, other than a physician assistant, and who is authorized to perform the act.

Grounds for misconduct

(5) In addition to the grounds set out in subsection 51 (1) of the Health Professions Procedural Code, a panel of the Discipline Committee shall find that a member has committed an act of professional misconduct if the member contravenes subsection (4).

2 (1) Subsection 9 (1) of the Act is amended by striking out ““physician” or “surgeon”” and substituting ““physician”, “surgeon” or “physician assistant””.

(2) Subsection 9 (3) of the Act is amended by striking out “physician or surgeon” and substituting “physician, surgeon or physician assistant”.

3 Section 12 of the Act is amended by adding the following clause:

- (d) governing the performance of acts by members who are physician assistants.

Commencement

4 This Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

SCHEDULE 4
PSYCHOLOGY AND APPLIED BEHAVIOUR ANALYSIS ACT, 2021

Definitions

1 In this Act,

“College” means the College of Psychologists and Behaviour Analysts of Ontario; (“Ordre”)

“Health Professions Procedural Code” means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; (“Code des professions de la santé”)

“member” means a member of the College; (“membre”)

“profession” means the professions of psychology and applied behaviour analysis; (“profession”)

“this Act” includes the Health Professions Procedural Code. (“la présente loi”)

Health Professions Procedural Code

2 (1) The Health Professions Procedural Code shall be deemed to be part of this Act.

Terms in Code

(2) In the Health Professions Procedural Code, as it applies in respect of this Act,

“College” means the College of Psychologists and Behaviour Analysts of Ontario; (“ordre”)

“health profession Act” means this Act; (“loi sur une profession de la santé”)

“profession” means the professions of psychology and applied behaviour analysis; (“profession”)

“regulations” means the regulations under this Act. (“règlements”)

Definitions in Code

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

Scope of practice**Psychology**

3 (1) The practice of psychology is the assessment of behavioural and mental conditions, the diagnosis of neuropsychological disorders and dysfunctions and psychotic, neurotic and personality disorders and dysfunctions, the prevention and treatment of behavioural and mental disorders and dysfunctions and the maintenance and enhancement of physical, intellectual, emotional, social and interpersonal functioning.

Applied behaviour analysis

(2) The practice of applied behaviour analysis is the assessment of covert and overt behaviour and its functions through direct observation and measurement, and the design, implementation, delivery and evaluation of interventions derived from the principles of behaviour in order to produce meaningful improvements.

Authorized acts

4 In the course of engaging in the practice of psychology, a member is authorized, subject to the terms, conditions and limitations imposed on the member’s certificate of registration, to perform the following:

1. To communicate a diagnosis identifying, as the cause of a person’s symptoms, a neuropsychological disorder or psychologically based psychotic, neurotic or personality disorder.
2. To treat, by means of psychotherapy technique delivered through a therapeutic relationship, an individual’s serious disorder of thought, cognition, mood, emotional regulation, perception or memory that may seriously impair the individual’s judgement, insight, behaviour, communication or social functioning.

College continued

5 The College of Psychologists of Ontario is continued under the name College of Psychologists and Behaviour Analysts of Ontario in English and L’Ordre des psychologues et des analystes du comportement de l’Ontario in French.

Council

6 (1) The Council shall be composed of,

- (a) at least eight and no more than 12 persons who are members elected in accordance with the by-laws, at least three and no more than five of whom must hold a certificate of registration in applied behaviour analysis;
- (b) at least eight and no more than 13 persons appointed by the Lieutenant Governor in Council who are not,
 - (i) members,

- (ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or
- (iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*; and
- (c) at least two and no more than four persons selected, in accordance with a by-law made under section 11, from among members who belong to the faculty of a department of a university in Ontario, if that department is,
 - (i) a department of psychology, or
 - (ii) a department, however described, that offers a specialization in applied behaviour analysis.

Additional qualification

(2) At least one of the members selected pursuant to clause 1 (c) must belong to the faculty of a department that offers a specialization in applied behaviour analysis.

Who can vote in elections

(3) Subject to the by-laws, every member who practises or resides in Ontario and who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.

President and Vice-President

7 The Council shall have a President and Vice-President who shall be elected annually by the Council from among the Council's members.

Restricted titles

8 (1) No person other than a member shall use the title "psychologist", "psychological associate" or "behaviour analyst", a variation or abbreviation or an equivalent in another language.

Representations of qualification, etc.

(2) No person other than a member shall hold himself out as a person who is qualified to practise in Ontario as a psychologist, psychological associate or behaviour analyst or in a specialty of psychology or applied behaviour analysis.

Same

(3) A person who is not a member contravenes subsection (2) if the person uses the word "psychology" or "psychological", an abbreviation or an equivalent in another language in any title or designation or in any description of services offered or provided.

Exception for university faculty

(4) Subsections (1) and (3) do not apply to a person in the course of their employment by a university.

Definition

(5) In this section,

"abbreviation" includes an abbreviation of a variation.

Notice if suggestions referred to Advisory Council

9 (1) The Registrar shall give a notice to each member if the Minister refers to the Advisory Council, as defined in the *Regulated Health Professions Act, 1991*, a suggested,

- (a) amendment to this Act;
- (b) amendment to a regulation made by the Council; or
- (c) regulation to be made by the Council.

Requirements re notice

(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within 30 days after the Council of the College receives the Minister's notice of the suggestion.

Offence

10 Every person who contravenes subsection 8 (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$25,000 for a first offence and not more than \$50,000 for a second or subsequent offence.

By-laws

11 The Council may make by-laws,

- (a) respecting the qualifications, number, selection and terms of office of Council members who are selected; and
- (b) specifying Ontario universities for the purposes of clause 6 (1) (c).

Transition

12 (1) A person who, on the day before section 14 of this Act came into force, was registered under the *Psychology Act, 1991* shall be deemed to be the holder of a certificate of registration issued under this Act subject to any term, condition or limitation to which the registration was subject.

Same, Council members

(2) A person who, on the day before section 14 of this Act came into force, was a member of the Council or the President or Vice-President of the Council under the *Psychology Act, 1991* continues in office under this Act until their term would otherwise expire.

Same, by-laws and regulations

(3) By-laws and regulations made under the *Psychology Act, 1991* that were in force on the day before section 14 of this Act came into force remain in force until they are revoked or replaced under this Act.

Power of Council

(4) The Council of the College of Psychologists of Ontario has the power to make by-laws and regulations under this Act to come into force on or after the day section 14 comes into force.

Amendment to this Act

13 Section 9 of this Act is repealed.

Repeal, *Psychology Act, 1991*

14 The *Psychology Act, 1991* is repealed.

Regulated Health Professions Act, 1991

15 (1) Clause 33 (2) (d) of the *Regulated Health Professions Act, 1991* is amended by striking out “College of Psychologists of Ontario” and substituting “College of Psychologists and Behaviour Analysts of Ontario who holds a certificate of registration in the profession of psychology”.

(2) Item 15 of the Table to the Act is struck out and the following substituted:

15.	person registered under the <i>Psychologists Registration Act</i>	member of the College of Psychologists and Behaviour Analysts of Ontario
15.1.	member of the College of Psychologists of Ontario	member of the College of Psychologists and Behaviour Analysts of Ontario

(3) Schedule 1 to the Act is amended by striking out,

Psychology Act, 1991	Psychology
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and substituting the following:

Psychology and Applied Behaviour Analysis Act, 2021	Psychology and applied behaviour analysis
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Commencement

16 (1) Subject to subsection (2), the Act set out in this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

(2) Subsection 12 (4) comes into force on the day the *Advancing Oversight and Planning in Ontario’s Health System Act, 2021* receives Royal Assent.

Short title

17 The short title of the Act set out in this Schedule is the *Psychology and Applied Behaviour Analysis Act, 2021*.