



CANADIAN CITIZENS CARE ALLIANCE

Review of The Health Professions and Occupations Act of British Columbia (HPOA)

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**Interpretations are solely those of Gail Davidson.*

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The Health Professions and Occupations Act (HPOA):

- Perhaps the largest bill ever presented to the BC Legislative Assembly at 645 sections over 276 pages. Set to replace the *Health Professions Act* which itself has 54 Sections over 83 pages
- Repeals the *Health Professions Act* (s. [546](#)) and amends 31 existing statutes (ss [547-644](#)). Concerns the governance, licensing, discipline and control of approximately 130,000 health care workers in 25 health professions and occupations in BC
- Was hastily passed on 24 November 2022 when the NDP used closure to force a vote by the Legislative Assembly when only 1/3 of the sections had been reviewed by MLAs.
- Has never been subject to the notice, consultation, transparency, access to information, debate and consensus required in a democracy including consultation with and debate by health care workers, the Legislative Assembly, or the 5 million residents of BC in need of access to ethical personalized consent-based medical care.
- Was expected to be declared in force in June 2024 and the new expected date is June 2025.

Petition to Recall Premier of BC & Rescind the HPOA

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A Petition to recall Premier David Eby as the MLA for Vancouver Point Grey was initiated because of concerns that the HPOA:

1. Impairs or destroys rights to provide and receive personalized consent-based health care
2. Puts political appointees in charge of governance of health care workers and of, lawmaking over all aspects of health services including: licensing, seizure of health records, definition of ethical standards and punishments for non-compliance
3. Prohibits giving medical advice or opinions—in private or public—not in line with opinions sanctioned by authorities
4. Criminalizes freedom of expression and authorizes violation of other essential rights, such as rights to privacy, consent to medical treatment, due process and access to remedies for violations
5. Authorizes adoption as binding law in BC of any laws or rules made anywhere, by any state or organization, without complying with rights, Canadian law, international human rights law, the rule of law or the requirements of democratic law making, enforcement and review
6. Enables unelected, unaccountable appointees to mandate vaccination as a condition of licensing and employment
7. Creates involuntary markets for pharma products through mandated vaccination for “any transmissible disease”
8. Authorizes appointees to change the meaning of words

The Petition did not receive the requisite number of signatures to trigger recall.



https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96398_02

Recall Petition & Petition to Legislative Assembly

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Recall Process: To trigger recall of MLA David Eby, the [Recall and Initiative Act](#) required campaigners to collect signatures from 40% of the 41,000 voters in the Vancouver Point Grey constituency within 60 days, ending 17 March 2023

11.31% of constituents voting in the 2022 election opposed the HPOA and supported Recall

- 2,737 Vancouver Point Grey constituents signed the petition to recall the Premier for his support of the HPOA.

17,500 signed a Petition to the Legislative Assembly of BC opposing enactment of the HPOA.

- On 4 May 2023 John Rustad, Leader of the Conservative Party of BC and MLA for Nechako Lakes presented to the Legislature a Petition signed by 17,500 people calling for the Act to be paused.

MLAs received 5,000 postcards opposing the HPOA

- On 9 November 2023 MLAs John Rustad and Bruce Banman presented to the BC Legislature, 5,000 postcards signed by BC residents opposed to the HPOA.



The Unstated Purpose of the HPOA

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The HPOA allows regulations, standards, codes or rules enacted in other jurisdictions or set by “any body that may make codes, standards and rules” (ss. [533](#), [335](#)) to be adopted as law in BC. This includes rules set by the World Health Organization (WHO), World Health Assembly (WHA) and the World Economic Forum (WEF).

- The HPOA mirrors proposed amendments to the International Health Regulations (IHR) which will impose a global system of control over all aspects of health. The IHR will oblige states to adopt and enforce measures that:
 - i. Change the meaning of words;
 - ii. Mandate some medical treatments and prohibit others;
 - iii. Require collection, use and sharing of personal information without consent;
 - iv. Declare international or regional emergencies in response to arbitrarily determined actual or *potential* threats to health;
 - v. mandate responses to a declared public health emergency; and
 - vi. impose punishments for non-compliance.

The IHR Amendments allow almost anything to qualify as a public emergency. The HPOA authorizes similar measures without a public health emergency.

world health organization emergency
public health totalitarian
who wef health ihr pandemic
international health regulation

The Unstated Purpose of the HPOA

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The IHR amendments were [recently adopted](#) by the WHA on 1 June 2024 without a vote and will become binding for Canada by 1 September 2025 if Canada does not object to the provisions.

As stated by US law professor [Francis Boyle](#), the IHR Amendments and the Pandemic Treaty *“are fatally dangerous. Either one or both would set up a worldwide medical police state under the control of the WHO, and... WHO Director... will be able to issue orders that will go all the way down the pipe to your primary care physicians.”*

The HPOA paves the way for global totalitarian control of health care in BC and potentially prohibits and criminalizes personalized, consent-based health care.

Issues of Concern: Impact of the Act

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1. The HPOA abolishes democratic governance of health care colleges and imposes governance by unelected and unaccountable political appointees.
 - Under s. [17](#) of the existing *Health Professions Act*, boards are composed of a majority elected by members. Board members appointed by the Minister of Health (minister) cannot exceed elected board members.
 - Under s. [346](#) of the HPOA, all members of the board will be appointed by the minister, half will be licensees and half “representatives of the public.” (“A regulatory college is a corporation consisting of the persons appointed as members of the board.” (See ss. [343](#) (1), [344](#), [345](#), [346](#)). Appointees are not independent of the Executive and the HPOA does not require them to be competent or impartial.

2. The HPOA empowers the Minister of Health (minister) and Cabinet to appoint dozens of people to positions of authority over all aspects of health care. Appointments are made without notice to, consultation with, or oversight by the public, health care workers, or the BC Legislative Assembly. For example:
 - The Superintendent of Health Professions and Occupations Oversight is appointed by Cabinet (s. [436 \(2\)](#)) and reports only to the minister (s. [486](#)).
 - The Office of the Superintendent is “an office of the government” (s. [435 \(1\)](#)) and has significant powers including making recommendations to the minister on the administration of and amendments to the HPOA, the improvement of performance of regulators and “any other matter the minister requests”, as well as publishing any “information and record” deemed by the superintendent to be in the public interest (s. [435 \(2\)](#)).
 - The Director of Discipline is appointed by the minister (s. [444](#)) and then himself appoints the Deputy Director who exercises the same powers of the Director (s. [445](#)). Their wide powers includes managing discipline panels, setting practice directives, issuing and cancelling disciplinary citations, and approving disciplinary orders. Additionally, they have statutory immunity for actions regarding disciplinary proceedings (s. [400](#)).

3. The HPOA empowers appointed Board members to exercise law making, governance and enforcement powers and to appoint and empower others.

Appointed Boards are mandated to:

- Make bylaws regarding: monitoring licensees; complaint procedures; production of records; summary protection orders; summary actions by the registrar (s. [118](#)); anti-discrimination measures; sexual misconduct; what constitutes false or misleading information (s. [70](#) (2)).
- Appoint the registrar, professional standards advisors, and members of the license, investigation, and permit committees (s. [359](#)).
- Seek advice from the professional standards advisors appointed by the board when making bylaws on eligibility, ethics, and practice standards (s. [361](#)).

2. The HPOA creates acts of misconduct and criminal offences that violate the principles of legality and predictability. The prohibited acts are not defined with sufficient specificity to be objectively determined in advance of contravention or hearing and therefore cannot be avoided or defended and contravene non-derogable right to freedom from ex post facto law

Examples of illegitimate offences and acts of misconduct:

- **“providing false or misleading information to patients or the public”** is both an act of misconduct (s. [70](#) (2) (g)) and a criminal offence (s. [514](#) (2) (b)).
 - **“conduct that may bring the practice... into disrepute.”** Section [11](#) (2) states, “a licensee commits an act of misconduct if the licensee engages in conduct that (a) may bring the practice of a designated health profession into disrepute.”
- These acts are too vague to be objectively interpreted and applied and therefore cannot be avoided or defended.

3. The HPOA authorizes appointees to:

- **Make rules regarding: informed consent** (s. [72](#) (3) (b)); **ethical standards** (ss. [70](#) (2), [361](#)); **what health care services can be provided, by who, to whom** (s. [72](#) (3) & [73](#) (b))), and **in what locations** (s. [72](#) (4) (a)). The HPOA does not require that such rules comply with existing Canadian or international human rights law. For example, rules made by appointees on informed consent are not specifically required to comply with guarantees in the *Charter of Rights and Freedoms*, treaties to which Canada is a State Party or Customary International Law.
- **Mandate vaccination for ‘transmissible disease’ as a condition of licensing and employment.** Sections [49](#) (1) (b) (v) and [49](#) (3) (f) respectively provide that boards *must* and *may* make bylaws mandating vaccination. It is not clear if boards may make bylaws requiring mandatory vaccination in the absence of “an enactment.” Boards have unrestricted authority to make by-laws “in collaboration with other persons” (s. [67](#)). The HPOA Act does not define the terms vaccination or transmissible disease.
 - These mandates violate individual rights to informed consent, accept or refuse medical treatment; and freedoms from non-consensual experimentation and coercion to accept a treatment not voluntarily chosen. Also violated are ethical duties of health care professionals to do no harm by delivering personalized, consent-based health care.

Under the HPOA:

The minister may mandate vaccination: The minister may make regulations requiring applicants and regulated health service providers to “be vaccinated against specified transmissible illnesses” (s. [200](#) (2) (a)).

Boards must mandate vaccination: Boards must make bylaws mandating vaccination “against transmissible illnesses” as a condition of licensing when there is an enactment requiring vaccination (s. [49](#) (1) (v)).

Boards may mandate vaccination. Boards may make bylaws mandating vaccination, required under the bylaws, against transmissible illnesses (s. [49](#) (3) (f)).

The provincial health officer has the power to, as an emergency order, adopt mandatory vaccination requirements set by any state or any non-state organization, anywhere in the world (s. [335](#) (2)).

Cabinet and an unspecified number of appointees have the power to, in non-emergency time, adopt as law mandatory vaccination requirements enacted by other states or set by non-state organization anywhere in the world (s. [533](#) (1)).

1. The HPOA (ss. [325-340](#)) authorizes the minister and the provincial health officer to make emergency orders. Whenever notice of a public health emergency is provided under the *Public Health Act*, the minister can make administrative orders (ss. [330-331](#)) and the provincial health officer can make scope of practice orders (ss. [333](#) – [340](#)).
2. Emergency Orders are not required to be lawful, necessary, proportionate, legitimate or temporary. The HPOA does not require that emergency orders comply with Canadian or international law obligations to maintain rights, democracy and the rule of law.

See: "[The Right to Say No to Covid-19 Vaccines: International Human Rights Law and the Unlawfulness of Vaccine Mandates](#)"

3. Issues regarding emergency powers

- **Broad Interpretation:** The HPOA allows a broad interpretation of what constitutes a public health emergency (see s. [325](#) and Public Health Act s. [52](#) (2)) and authorizes emergency orders without notice and the information needed to assess justification and without consultation with health care professionals, emergency specialists, the Legislative Assembly, or other informed or impacted parties.
- **Competence to make orders not required:** Neither the minister or the provincial health officer are required to have the competence to assess the lawfulness, necessity, legitimacy, or proportionality of emergency orders, or to identify measures capable of delivering benefit, limiting harm, and complying with domestic and international law.
- **Additional Risks of Emergency Powers:** Summarily imposed laws, mandates, restrictions, and prohibitions restrict or extinguish rights to provide and receive personalized consent-based health care and associated rights including rights to security of the person, mobility, work, expression, association, assembly, privacy and freedoms from non-consensual medical treatment or experimentation.

4. The HPOA authorizes the minister and the provincial health officer to summarily make undemocratic, apparently unreviewable, and potentially dangerous emergency orders that are:
- Based on subjective determinations of necessity and harm (ss. [330](#), [333](#)) and on subjective opinions of appropriateness, proportionality and benefit (s. [335](#) (2) (a)).
 - Made without release or debate of the information needed to assess the safety, efficacy necessity, proportionality, or legitimacy of the emergency orders.
 - Restricted to one or more persons, classes of persons, or geographical areas (s. [327](#) (2)).
 - Made without notice to or oversight by, MLAs, the public, or the affected health professions, occupations, or patients (s. [326](#) to [329](#)).

4. (cont'd) The HPOA authorizes imposition of emergency orders that are:

- Made without notice, other than to appointees who lack independence and possibly the competence or impartiality (ss. [326](#) to [329](#)) to act in the public interest.
 - Before making an emergency order, the minister and provincial health officer must give notice to and *make reasonable efforts* to consult: the superintendent, the Health Professions Review Board and affected regulators (s. [329](#) (a)), all of whom are appointees.
 - The provincial health officer must give notice to the minister and advise of any objections raised by the above-named appointees (s. [329](#) (b)).
- Based on any regulation, code, standard, or rule, enacted in any other jurisdiction or “set by a provincial, national or international body or any other body that may make codes, standards or rules, or published by a laboratory...” (s. [335](#) (2)) adopted by the provincial health officer.

5. The HPOA (s. [335](#)) authorizes the provincial health officer to adopt as law in BC, laws enacted in any other jurisdiction and rules adopted by any state or non-state body anywhere:
- In the sole discretion of the provincial health officer.
 - If adoption is “appropriate,” in the personal, subjective opinion of the provincial health officer.
 - With no requirement that the rules adopted as law serve a public purpose or be consistent with domestic or international law obligations or the rule of law.
 - Without any notice to, consultation with, debate by, or consensus of the Legislative Assembly, the public, health practitioners, and without evidence justifying adoption.
- Section [335](#) would, for example, allow adoption of all or some of the International Health Regulations as law in BC, including measures restricting or violating guaranteed rights.

Enforcement & Punishments for Non-Compliance

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1. The HPOA imposes severe penalties for acts of misconduct that include temporary or permanent loss of licenses to practice and employment and for criminal offences, fines up to \$500,000, imprisonment up to 2 years (s. 518), and additional penalties for each day that the offence continues ([517](#)).
2. The HPOA authorizes “the minister, a board or a health occupation director” to establish all medical and ethical standards along with standards governing eligibility to practice and accreditation (s. [7](#) (1)).
3. The HPOA imposes a mandatory duty on licensees to report other licensees believed to be “not fit to practice” or to present “a significant risk of harm to the public” (s. [85](#)).

4. The HPOA authorizes appointees to suspend a license to practice without notice to the practitioner and before a complaint has been investigated or determined.
 - A registrar can suspend a practice license by summary protection order before a complaint is referred to an investigation committee (ss. [122](#) (1) and [153](#)).
 - A health occupation director can also make summary protection orders (s. [225](#)).
 - Section [259](#) authorizes summary protection orders when, *inter alia*, “a respondent is providing false or misleading information to patients or the public” What constitutes false and misleading information is not defined.

A summary protection order can be issued without notice or hearing (s. [260](#)). Regarding the arbitrariness of the term ‘misleading’, see US District Court decision of 25/01/23 granting an interim injunction against enforcement of provisions allowing discipline of doctors for spreading misinformation.

1. **The HPOA allows invasion of patient and professional privacy:** The HPOA allows the collection, use, and disclosure of confidential information even “...for purposes...not covered by the Act” (s. [530](#)). This section allows an order for the collection, use and disclosure of personal information excluded from disclosure by sections [491](#) and [492](#).
2. **The HPOA allows the search of premises and seizure of documents including patient records with and without a warrant:** The HPOA contemplates applying for court orders *ex parte* (*i.e.*, without notice to affected person(s)) and in secret (ss. [502](#) (1), [503](#) (1)), authorizes seizure of documents not described in a court order (s. [508](#)), and authorizes, without a warrant, securement of practitioner’s premises, search and seize documents (s. [511](#)), and treatment of items seized as though there had been a court order.

3. The HPOA authorizes appointees to order the production, examination and copying of documents and confidential records.

- An investigator may order production of information and, without a court order, may enter premises and inspect and copy documents (s. [131](#)).
- The superintendent may order production of documents or enter premises without a warrant and inspect and copy documents (s. [469](#) (1)).
- The Health Occupation Director may make complaints (s. [222](#)) and order production of information, including confidential information (s. [224](#)).
- The provincial health officer may make an emergency order for the production of records to the minister and appointees (s. [338](#)). Such orders last for 90 days after “the order ceases to have effect” (s. [328](#) (4)).

These provisions potentially authorize violation of the privacy rights of patients and practitioners without prior notice or hearing.

Lack of Legitimate Statutory Purpose

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1. The HPOA appears directed at restricting, not enabling the quality, provision, delivery, and reception of individualized consent-based health care ostensibly to prevent potential harms posed by members of health professions and occupations to BC residents.
 - Section [6](#) defines health professionals as providing services that “**present a risk of harm to the public**”: those practicing health occupations are described as providing health services that “**present a lower risk of harm to the public.**”
 - It states that regulation of health professionals is **necessary** and regulation of health occupations **advisable** in order to protect “the public from harm” and “the public interest” (s. [6](#)). Neither harm or public interest is defined.

Although health professionals must act ethically, safely, and in accordance with applicable ethics and practice standards, the definition of these standards is left to be determined, perhaps arbitrarily, by appointees (see s. [7](#) (2) definition) who may lack competence.

Lack of Legitimate Statutory Purpose

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2. The HPOA does not mandate licensees to serve the medical needs of individual patients. Rather, it mandates licensees to:

- Protect the public from harm and discrimination;
- Take anti-discrimination measures; and
- Act in a manner that is respectful of the privacy of patients (s. [72](#) (1)).

The HPOA does not require licensees to respect or fulfill the paramount duties to do no harm to individual patients and to ensure patient rights to informed consent (or refusal) to medical treatment, freedom from coercion or force to accept treatment not voluntarily chosen, and freedom from non-consensual medical or scientific experimentation.

1. The HPOA limits review by any court of some decisions and orders made by appointees.

The HPOA grants exclusive jurisdiction to inquire into, hear, and determine all questions of fact, law, and discretion under the Act to the health occupation director, director of discipline, discipline panel, and Health Professions Review Board, all of whom are appointees. whose decisions are “final and conclusive and not open to question or review in any court.”(s. [512](#)).

Limited Review: On judicial review, the court:

- Must consider the decision maker an “expert tribunal in relation to all matters over which it has exclusive jurisdiction,” irrespective of demonstrated incompetence;
- Cannot set aside a finding of fact unless there is no evidence to support the finding or the finding is otherwise unreasonable; and
- Cannot set aside a discretionary decision unless it is patently unreasonable (s. [512](#), Administrative Tribunals Act s. [58](#)).

Limitation of Review and Immunity

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Appointment of authorities whose decisions and orders are subject to limited review.

- A health occupation director can be appointed by a board or can be a civil servant (ss. [365](#), [26](#) (2) (a) (ii)).
- The director of discipline is established by the superintendent's office (s. [443](#)).
- Discipline panel members are appointed by the Director of Discipline (ss. [169](#), [449](#)).
- The Health Professions Review Board chair and members are appointed by Cabinet (s. [309](#)).

Decision-making powers of appointees whose decisions are subject only to limited review include powers for:

- A health occupation director to **determine misconduct complaints and impose discipline** (ss. [230](#) to [232](#)), and **to make bylaws or rules "in addition to any imposed under this Act"** (s. [530](#) (a) (ii)).
- The Discipline panel to **conduct and set rules for disciplinary proceedings** (ss. [173](#) to [189](#)).
- The Director of Discipline to **issue citations and appoint discipline panels** (ss. [161](#) to [170](#)).
- The Health Professions Review Board to **conduct reviews** (ss. [310](#) fllg), **make orders** (s. [319](#)), and **make recommendations to the superintendent on policies, discipline processes, and investigations**.

2. The HPOA grants immunity from legal proceedings:

An amendment to s. [33](#) of the *Pharmacy Operations and Drug Scheduling Act* provides immunity from legal proceedings for damages arising from acts done or omitted “(a) in the exercise or intended exercise of a power under this Act, or (b) in the performance or intended performance of a duty under this Act” (s. 629).

Prohibits legal proceedings for damages against:

- A regulatory college for anything done or omitted with respect to an investigative or disciplinary action (s. [89](#)).
- Appointees designated as “protected persons” in the exercise of intended exercise of powers or duties under the Act (s. [399](#)).
- A “protected person” for conducting an investigation, taking disciplinary action, or participating in a disciplinary proceeding (s. [400](#)).

Amalgamation to Date: Colleges

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1. Under the HPOA, there will be 6 regulatory colleges that govern 25 health professions. These have been reduced from a prior total of 15 regulatory colleges. The 6 regulatory colleges will be:
 - [The BC College of Nurses and Midwives](#): regulates licensed practical nurses, midwives, nurse practitioners, registered nurses, and registered psychiatric nurses.
 - [The BC College of Oral Health Professionals](#): regulates certified dental assistants, dental hygienists, dental technicians, dental therapists, dentists, and denturists.
 - [The College of Pharmacists of BC](#): regulates pharmacists and pharmacy technicians.
 - [The College of Physicians and Surgeons of BC](#): regulates physicians, surgeons, and podiatric surgeons.
 - [The College of Complementary Health Professionals of BC](#): regulates chiropractors, massage therapists, naturopathic physicians, acupuncturists, and practitioners of traditional Chinese medicine.
 - [The College of Health and Care Professionals of BC](#): regulates dietitians, occupational therapists, opticians, optometrists, physical therapists, psychologists, audiologists, hearing-instrument practitioners, and speech-language pathologists.

Amalgamation to Date: Funding

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2. The Ministry of Health has provided [5.125 million](#) for the amalgamations. As of late June 2024, eleven colleges have been amalgamated into the [College of Complementary Health Professionals of BC](#) and [the College of Health and Care Professionals of BC](#).
 - The [Society of BC Health Regulators](#) has been awarded [4.5 million](#) to: create by-laws for the new colleges; create policies; ensure incorporation of the guiding principles; and, to review complaint processes, licensing and quality. Others costs of amalgamation have not been disclosed.
 - Annual operation costs of the unwieldy HPOA systems of governance, licensing, discipline, law making and enforcement are not known. Whether these costs will or could be, borne by licensing fees is not yet known. The costs of the Superintendent's office which is an arm of government, will be borne by the Ministry of Health.

A request was sent on 16 August 2024 to the Society for details of who has been hired, contracted, or appointed to perform what tasks, how work will be supervised and approved, and the budget for expenditure of the 4.5 million. This request has not yet been answered.

Amalgamation to Date: Appointments

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3. Regarding the individuals leading amalgamation efforts:

- Allan Seckel K.C. was [appointed](#) on 24 July 2023 to lead amalgamation of the colleges and to “exercise the powers and to perform the duties of the board of each of the colleges. No education in medicine or health has been disclosed. Mr. Seckel, at the time of appointment was Chair of Legal Aid BC, Chair of BC Housing, Chair of WorkSafe BC’s Fair Practices Commission, a Director of ICBC and Translink and Chair of the Cross Jurisdictional Technical Advisory Group, formed to assist the BC Justice COVID-19 Response Group and the federal Action Committee on Court Operations in Response to COVID-19. He has been [appointed](#) to serve from June 28, 2024 to June 30, 2026 as Public Member Chair of the College of Complementary Health Professionals of BC, and as [Designated](#) Public Member Chair of the College of Health and Care Professionals of BC.
- Brian Westgate was appointed as the Acting Executive Director of the Office of the Superintendent, and accompanied by a team, will have “a dual mandate in establishing the Superintendent’s Office in addition to implementing and enacting the HPOA.” Mr. Westgate is a BC civil servant with a bachelor degree in forestry. No education in medicine, health or law has been disclosed.
- Sherri Young has been appointed as the HPOA Superintendent to lead the Office of Superintendent of Health Professions and Occupations Oversight. Ms Young is a career bureaucrat. No education in medicine, health or law has been disclosed.
- Benson Cowan appointed as Director of Discipline. Mr. Cowan was the CEO of Legal Aid in Nunavut and then most recently legal counsel in the office of the Attorney General of BC.

The HPOA is a danger to personalized consent-based health care in BC.

The HPOA is replete with unlawful provisions that:

- Restrict and potentially extinguish many essential rights;
- Signal the end of essential rights to provide and receive, personalized consent-based health care; and
- Do not comply with rule of law principles, established requirements of democratic law making or with legal obligations under both Canadian and international law to maintain rights and ensure remedies for violations.

The HPOA does not serve the public interest in timely, equal and non-discriminatory access to competent personalized consent-based health care in BC.

The HPOA is a danger to Rights

The HPOA appears to be a template statute to override laws that guarantee rights and access to effective remedies for violations and ensure safeguards against undemocratic or tyrannical law making and the imposition of totalitarian control. The HPOA allows Cabinet, the minister and dozens of unelected, unaccountable political appointees to adopt, create, change, and enforce laws that violate rights and contravene the duty of states in a democracy to ensure that laws are properly purposed and developed and passed through a transparent process that includes: adequate notice of the proposed changes; access to the information necessary to understand, debate and support or oppose the proposed changes; meaningful consultation at all stages with the public, the people whose rights will be impacted, experts and elected representatives; tacit public consensus established by the aforesaid processes; and, the consent of elected representatives established by a fair parliamentary vote.

Rights potentially restricted or extinguished include rights: to equality and non-discrimination; to privacy; to informed consent to medical treatment; to work, to participate in public affairs, to mobility, to due process; and, freedom from non-consensual experimentation; freedom from coercion to accept medical treatment not voluntarily chosen; freedom from ex post facto laws; freedom from cruel and unusual punishment; and, freedoms of expression and access to information. These rights are protected by Canadian and international law.

The HPOA is a danger to Democracy

The HPOA is not an anomaly. It is one of several laws that threaten to:

- Replace democracy with autocracy;
- Replace the rule of law with rule by law; and
- Transform laws from being democracy's tools to ensure rights and restrict and remedy abuse of power by government, to laws being effective instruments to impose arbitrary control and allow unrestricted abuse.

The HPOA replaces elected governance, democratic law making and obligations to comply with existing laws, with rules and laws made behind closed doors by unelected, unaccountable and even unknown people or groups within and outside of Canada.

The HPOA paves the way for BC to partner with big Pharma and other entities (instead of with health care providers and BC residents), unhampered by what Canada has called “the [regulatory irritants and roadblocks](#)” of democracy.

Presently the people of BC use pharma; the HPOA enables Pharma and other non-state corporate actors—with the aid of state powers and resources—to use the people.

The HPOA is a danger to

Rights, Democracy, the Rule of Law, Personalized Consent-based Health Care.

The HPOA must be repealed or recalled

The HPOA appears to be part of the Agile Nations initiative developed over the past decade by the World Economic Forum to prepare for what the WEF calls the Fourth Industrial Revolution. Klaus Schwab says in his 2016 book “The Fourth Industrial Revolution ‘that industry and government must collaborate closely to shape the global transformation” necessary to allow global marketing of innovative products free from the costly delays caused by having to comply with domestic regulation and human rights laws.

The HPOA threatens not just access to personalized consent-based health care, but also violates rights and contravenes democracy and the rule of law. BC has proceeded—at great cost to BC taxpayers—with the amalgamation of colleges and appointment of unelected, unaccountable and possibly incompetent people who are authorized to administer the HPOA and create in secret and put in place more regulations without democratic oversight or safeguards to prevent abusive measures or violations of existing law. .

Closure: a procedure whereby parliament can, by majority vote, stop debate of a bill or motion before parliament and force a vote before the completion of the review and debate by elected representatives that is required in a democracy. Adopted from the British by Canada in 1913, closure is so controversial and, until recently, so rarely used there has yet to be any rules developed about its use. The proper purpose of closure is to maintain the integrity of parliamentary review and debate, not to curtail it.

Customary International Law (CIL): international rules and state obligations arising from established customs of acceptance and compliance amongst states. The Statute of the International Court of Justice recognizes and applies “international custom, as evidence of a practice accepted as law.” Article [38](#) (1) (a).

Derogable Right: a right that can be subjected to restriction under certain circumstances and subject to conditions. Examples of derogable rights are: freedom of expression; freedom of assembly, freedom of association, liberty and security of the person and the right to manifest a religion or belief (see [ICCPR](#) Articles 19, 21, 22, 9, 18.3).

Non-Derogable Right: a right that can never be subjected to any restriction, even in times of war or health crisis. Examples of non-derogable rights include rights to: freedom of thought, conscience and religion; freedom from torture and other cruel, inhuman and degrading punishment or treatment; not be arbitrarily deprived of life; equality and non-discrimination; freedom from non-consensual medical or scientific experimentation; access to an independent, competent and impartial tribunal to determine rights, ([ICCPR](#) Article 4.2, Geneva Conventions, Article 3, Convention Against Torture). In addition, the UN High Commissioner of Human Rights has stated, “rights to food, health, housing, social protection, water and sanitation, education and an adequate standard of living remain in effect even during situations of emergency. ([Emergency Measures and COVID-19 Guidance](#), 27 April 2020).

Due process: the measures established by law that impose state duties to ensure rights and safeguard against violations in any given case. For example, in a criminal prosecution, due process includes fair trial rights to: notice of allegations and evidence; be presumed innocent until proven guilty; be represented by a lawyer of choice; legal aid when necessary; prepare and present a defense; freedom from retroactive laws; present and challenge evidence; and, to have charges and rights determined by an independent, competent and impartial tribunal. In law making, due process refers to the established processes for the law making. See Black’s Law Dictionary.

Ex post facto laws: (Latin for having retrospective effect or force) These are laws that apply retroactively. Freedom from conviction for laws that apply retroactively is a non-derogable rights. UN [International Covenant on Civil and Political Rights](#), Articles 15, 4.

Immunity: refers to, in these slides, exemption from review by a court or other tribunal of the lawfulness of acts carried out the HPOA.

Principle of legality: establishes that no can be convicted of a crime unless the published text of the offence clearly identifies the acts and omissions that constitute the offence with sufficient clarity and precision that the offence can be understood and avoided. A law violating the principle of legality would also violate freedom from ex post facto laws as such an offence could not be known in advance of commission. Wording of a offence that is so broad and/or vague that it may not be possible to know in advance what acts are prohibited, such as “spreading misleading information,” contravenes the principle of legality when misleading is not defined and therefore could not, when referring to controversial issues, be known in advance and avoided.

Rule of law: This term was created by British jurist A.C. Dicey to refer to the requirement that the state must act in accordance with and be accountable to the law as had been established by the Magna Carta in 1215 and affirmed by the British Bill of Rights in 1899. The preamble to the Canadian Charter of Rights and Freedoms states, "...Canada is founded on the supremacy of... the rule of law." Canada's democratic system of governance, law making and enforcement and its legal system must therefore be consistent with accepted rule of law principles. The UN defines the rule of law as:

"A principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness, and procedural and legal transparency."

- See: [UN and the Rule of Law: Rule of Law and Human Rights](#) and UN Security Council. 2004, [Report of the Secretary-General](#).





Gail Davidson is a retired lawyer and legal activist promoting understanding of, and compliance with, international human rights and humanitarian law. Prior to engaging with international human rights advocacy and education, she practiced for almost two decades as a criminal defense lawyer and then as a family law barrister. She founded Lawyers' Rights Watch Canada (LRWC), an NGO with UN Special Consultative Status that engages globally in international human rights law advocacy, research and education, was its Executive Director for 20 years and remains a director. She also co-founded with Professor Michael Mandel, Lawyers against the War (LAW), an international committee of jurists and others to oppose war, advocate adherence to international humanitarian law and promote accountability for violators. She has authored, co-authored and edited hundreds of communications about international human rights and humanitarian law directed at decision makers, human rights defenders, victims and suspected perpetrators of violations. These communications include: amicus briefs to international, regional and domestic tribunals, factums; reports to the UN bodies (the Human Rights Council, Special Procedures, Treaty Monitoring bodies and the UN Security Council), guides and books on international law rights guarantees; and communications to government officials in dozens of countries. She has spoken, made presentations and/or organized education events in Cameroon, Canada, Germany, Hong Kong, the Philippines, Switzerland, and the United Kingdom. She received the UBC Great Trekker Award in 2003, the Courage in Law Award from the UBC Indigenous Law Students' Association in 2013 and was appointed as the Grace MacInnis Visiting Scholar by the SFU Institute for the Humanities in 2016. In 2021, she attended the Inquiry on Systemic Racist Police Violence against People of African Descent in the United States and contributed to the resulting book and the report to the UN Human Rights Council. Ms. Davidson has been an active member of the Canadian Covid Care Alliance, now called the Canadian Citizens' Care Alliance, since its founding.