



## General Policies and Processes on Designation Assessments

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## Purpose

The purpose of this document is to establish the policies and processes used by the Health Professions and Occupations Regulatory Oversight Office (the Oversight Office) with respect to designation assessments under the *Health Professions and Occupations Act* (HPOA).

## Overview of Responsibilities

The Superintendent is responsible for conducting designation assessments in accordance with the HPOA and any additional directions provided by the Minister of Health (the Minister). The Oversight Office is responsible for developing and maintaining the policies and procedures that guide how designation assessments are conducted, including how risk to the public is defined, identified, assessed, and weighted.

Based on the results of a designation assessment, the Superintendent prepares a report that includes a formal recommendation to the Minister regarding whether to regulate the health practitioners subject to the assessment, and if so, whether they should be designated as a health profession or a health occupation under the HPOA. The HPOA provides definitions for health profession and health occupation, which will be used by the Oversight Office to guide recommendations on designation, as informed by findings of the assessment.

### Health Professions:

- Determine appropriate course of care for **patients**
- Provide **health services** that pose a **high risk of harm**
- Have sufficient qualifications to have a professional level of knowledges, skills, ability, and judgment

### Health Occupations:

- Do not determine appropriate course of care for **patients**
- Provide **health services** that pose a **lower risk of harm**
- Are either:
  - Sufficiently qualified with a level of knowledge, skills, and ability to protect the public from harm in providing health services; or
  - Supervised or directed by a regulated health professional in providing health services

The recommendation is advisory in nature, and pursuant to section 24 of the HPOA, the

Minister is responsible for deciding if they are satisfied that the unregulated practice of the subject presents an unreasonable risk of harm to the public and, if so, whether to designate.

## Initiating an Assessment

### Initiating

Before a designation assessment is conducted, a decision must first be made as to whether it should be initiated. There are two ways in which a designation assessment may be initiated:

1. **The Superintendent is of the opinion it is in the public interest, or**
2. **At the direction of the Minister.**

## Assessment Scope

Once a decision to initiate a designation assessment has been made, the Oversight Office will publish a Scope of Assessment on its website that provides details about the assessment and how people are able to participate or engage during the assessment.

### *Types of information published in the assessment scope*

- Which cohort of unregulated health practitioners are subject to the assessment, including which common titles are used
- The regulatory decision(s) the assessment is intended to inform
- Type of information that will be sought
- Dates or timelines relating to consultation periods, and how interested parties can engage
- Interim reports that may be published during the course of the assessment
- Information that may be published during the course of the assessment
- What is within and outside of scope for the assessment
- Whether Indigenous rights, self-determination, or distinctions-based considerations are a distinct part of the assessment due to nature of the services provided by those subject to the assessment
- Whether and how the scope may be refined during the assessment, and how scope changes would be communicated

Once initiated, the Oversight Office will proceed with consultation, information gathering, and a risk assessment. Please note that these activities, as further described in this document, are not independent of each other and can be explored concurrently.

## Consultation

The Oversight Office has several consultation obligations under the HPOA. To meet these obligations, the Oversight Office adopts practical strategies to ensure best efforts are reflected in consultation plans. When developing a consultation plan, the Oversight Office will adopt the following practical strategies:

- **Reduce bias** by consulting in a way that recognizes regional differences (urban, rural, remote), different practice settings, years of experience, demographics, employer types (e.g., health authorities, private clinics, non-profits), and post-secondary institution types (e.g., public, private, large, small).
- **Identify key partners** and interested parties in alignment with consultation obligations (Section 19 of the HPOA).
- **Reduce participation barriers** by offering a number of ways to consult, such as online, in-person, and written opportunities.
- **Document processes** by making records of invitation lists, response rates, sampling size approaches, barriers, and summary of outreach efforts.
- **Promote accurate capture of information and data**, such as ensuring reliability and validity of data gathered, and using consistent methodology.

Consultation methods used by the Oversight Office may include but are not limited to:

- Targeted outreach
- An open portal for submissions
- Surveying
- Presentation panels

## Information Gathering

### Research

In addition to consultation, the Oversight Office will gather information through independent research, seek expert advice, and engage through methods such as interviews and surveys.

#### *Types of information sought and researched:*

- Jurisdictional scans to assess regulatory status and frameworks used in other Canadian provinces and internationally
- The settings and supervisory environment in which unregulated health practitioners work
- Educational programs offered, including course content
- Existing oversight or self-regulatory systems in place, including presence or absence of:
  - Professional development expectations
  - Complaint processes and disciplinary procedures
  - Ethical standards and practice standards
- Relevant legal cases or court findings
- Accounts of public interactions with, or information about, the unregulated health practitioners subject to the assessment
- Previous reports, studies, or assessments on the oversight or regulation of the unregulated health practice
- The number of practitioners subject to the assessment in British Columbia and in other jurisdictions
- The impact of potential regulation on health service supply and access

If the Oversight Office is unable to gather or source information that is necessary for the purposes of conducting a designation assessment, it may order the production of records from practitioners subject to the assessment or hold hearings. If conducting a designation assessment requires the Oversight Office to compel the provision of critical information or records, whether through correspondence or as part of a hearing, the following principles are adhered to:

- **Minimal Intrusion** - voluntary cooperation sought before orders of compulsion
- **Proportionality** - requests are limited to what the assessment genuinely requires
- **Procedural Fairness** - clear notice, adequate time to respond, right to representation
- **Transparency** - criteria and process are documented and applied consistently

- **Accuracy** - information provided must be complete; corrections must be flagged promptly

## Ordering of Information

In the case that necessary information or records cannot be obtained through engagement and general information gathering, the Oversight Office may order they be provided.

### *Types of information included in a written notice of order:*

- information or records sought
- purpose of the order
- legal authority for the order
- deadline for providing the information or records
- requested format of the information or records
- consequences of non-compliance
- notice that:
  - the Freedom of Information and Protection of Privacy Act (FIPPA) applies to information provided
  - personal data provided will be aggregated or de-identified during analysis and in the final report
  - non-compliance may be noted in the Oversight Office's final report

## Hearings

Hearings may be held when written evidence is insufficient or conflicting evidence requires direct examination. The Oversight Office's intention is to use hearings in exceptional circumstances. Hearings of this nature are for the purpose of information gathering only and are not intended to be adversarial. If someone with necessary information or records is unwilling to participate in a hearing voluntarily, the Superintendent may order their participation. Written notice of the hearing will be issued with sufficient notice, and will include the:

- date, time, and format of the hearing
- legal authority for order to participate
- topics on which evidence is sought
- records to be produced
- Oversight Office contact information to assist with accommodation

Electronic attendance by video or phone will be offered to support participation and minimize inconvenience. In-person attendance may be required in exceptional circumstances.

The following governs the conduct of Oversight Office hearings:

- hearings are presided over by the Superintendent or a delegated person employed by the Oversight Office
- evidence is given under oath or affirmation where the Superintendent or delegate considers it appropriate
- witnesses may bring an individual to accompany them, a representative, or legal counsel (adviser role only unless separately summoned)
- verbatim transcript or audio recording made; copy available to witnesses on request

## Risk Assessment

The Oversight Office develops policies and procedures respecting how the risk of harm to the public from the practice of the unregulated health practitioners subject to the assessment will be defined, identified, and assessed. As part of a designation assessment, the Oversight Office conducts a risk assessment to assess nature, and to what degree, the practice of an unregulated health practitioner poses a risk of harm to the public.

### **Defining**

The Oversight Office considers both the qualitative nature of evidential harm, including actual and potential (e.g., what kind of harm, how it arises, who it affects) and the quantitative dimensions of risk (e.g., how likely harm is, how serious it would be, how often does or could it occur). Risk is considered comprehensively across unregulated practitioners subject to the designation assessment, and not only at the level of the most serious or extreme instances of evidence of harm.

### **Identifying**

Information collected during consultation and information gathering phases will be used to identify risk of harm. The Oversight Office uses the following types of indicators to identify when harm may have occurred.

Is there evidence that people who have received the health service experienced outcomes such as:

- injury, worsening of condition, long-term disability or functional decline
- chronic pain
- mental health deterioration, conditions, or problems
- trauma
- reduced life expectancy
- threat to life
- reduced daily functioning or lower overall well-being
- reduced public trust or confidence in services or institutions

### **Assessing**

The Oversight Office will assess risk in accordance with the matters identified in section 22 of the HPOA. In addition, evidence gathered during consultation and information gathering phases will be used to assess risk factors of harm, such as:

- Likelihood of harm
- Outcome of harm
- Nature of harm
- Whether the harm was broad or narrow
- The degree of severity of harm
- The degree to which the practitioner was responsible for the harm (direct, indirect), including who was responsible for determining and deciding the course of care that resulted in the harm
- Whether the harm could have been prevented, and how
- Evidence of systemic, repeated, or escalating harm patterns
- Evidence of emerging harms
- Whether there are systems in place to address and respond to harms
- Whether, and the degree to which, regulatory intervention under the HPOA could address and/or respond to harm

## Recommendations Report

### Evidence-based Recommendations

Only information that is evidence-based will be considered when reaching conclusions and developing recommendations over the course of the designation assessment. The Oversight Office uses the following principles when giving weight to evidence:

1. **Triangulation:** where two or more independent sources confirm the same fact or insight.
2. **Document verification:** supporting documents will be requested or sought when validating claims.
3. **Comparison against historical accounts:** analyzing if there is a pattern of information, or if claims are consistent with past data, behaviour, or findings, to verify if information is an outlier or a pattern.
4. **Analytics:** measurable information will be verified using statistical reports, systems, and/or public data sets.
5. **Reliability:** greater weight will be given to evidence that is collected from reliable sources such as laws, regulations, official policies, reports from reputable institutions, and academic and research literature.

### Report

Following the completion of designation assessment, the Oversight Office drafts a report for the Minister of Health to:

- provide a recommendation and rationale regarding whether to regulate the health practitioners under the HPOA as a:
  - designated health profession
  - designated health occupation
  - do not designate under the HPOA
- provide insight into how the designation assessment was conducted

If the report recommends designation, the report will also contain a recommendation on:

- whether they should be designated as a health profession or a health occupation, and the Oversight Office's rationale for why

- in what way the health profession or health occupation should be regulated within the HPOA framework
- anything else requested by the Minister

The recommendations are advisory in nature, and after receiving the report, the Minister of Health is responsible for determining if they are satisfied that the unregulated practice of the health profession or health occupation presents an unreasonable risk of harm to the public, and for making the final decision regarding designation.

Following the Minister's decision, the Oversight Office will publish its report and any additional information or records directed by the Minister. The report will include a summary of its findings and reasoning used to inform its recommendation so that conclusions can be understood, scrutinized, and compared across assessments.

*Document Last Updated: April 1, 2026.*

**The Office is committed to continuous improvement of its policies and processes, and welcomes thoughts, feedback, or questions which can be directed to the Office by contacting [info@hporoo.ca](mailto:info@hporoo.ca).**