

## Submission to the Ministry of Health Steering Committee

### Responding to Part Two of the Cayton Report (Released April 11, 2019)

The Honourable Adrian Dix, Minister of Health,  
Ms. Sonia Furstenau, MLA for Cowichan Valley  
Mr. Norm Letnick, MLA for Kelowna-Lake Country

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The following report is respectfully submitted to the Ministry of Health Steering Committee by the British Columbia College of Social Workers (BCCSW) to meet the following objectives:

- Confirming to the Steering Committee that the BCCSW is a member of the BC Health Regulators but is administered under the BC *Social Workers Act* by the Ministry of Children and Family Development.
- Confirming to the Steering Committee that the BCCSW is, and always has been, fully committed to its mandate of public protection. In order to support this, the BCCSW separated from the BC Association of Social Workers in 1996 and remains at arms-length.
- Highlighting to the Steering Committee the integral role social workers play in many of BC's health systems, and that a significant number of our 4,774 registrants are directly or indirectly working in health.
- Informing the Steering Committee of the benefits, nuances and challenges faced by the BCCSW in regulating registered social workers in BC.
- Confirming to the Steering Committee that the BC *Social Workers Act* was principally designed around the BC Health Professions Act, and that the BCCSW shares many of the challenges highlighted in Mr. Cayton's report.
- Asking the Steering Committee to carefully consider, through the information provided in this report, the position and function of the BCCSW as a regulating body in BC.
- Requesting the Steering Committee facilitate discussion between the Ministry of Health, the Ministry of Children and Family Development, the BCCSW, and its stakeholders to explore options for optimizing public protection through the regulation of social work in BC.

#### The Cayton Report

We open by thanking the Ministry of Health, Mr. Cayton and his team for the work put into producing the report. Section two of the report has been a useful guide for the BCCSW staff and Board to evaluate their systems of governance and operational policies and procedures. The BCCSW Board struck a standing Policy Committee of the Board in January 2019 to review, and where appropriate, develop new

policy and procedures of the BCCSW. The Policy Committee will develop ongoing systems to periodically review and amend BCCSW policy and procedures applying a public protection lens and ensuring governance compliance.

BCCSW staff and Board are also evaluating the College of Dental Surgeons of BC (CDSBC) action plan, submitted in response to Part One of the Cayton Report. We commend the CDSBC on a well thought through document that can be used by other regulators to evaluate their own regulatory processes.

The BCCSW staff and Board are committed to its mandate of public protection and believe that the current operations of the BCCSW reflect this mandate. The BCCSW separated from the BC Association of Social Workers in 1996, thus avoiding the challenges of conflicts of interest faced by the CDSBC highlighted in the Cayton Report.

As a member of the BC Health Regulators the BCCSW has been involved in discussions on the group's submission to the Steering Committee. The BCCSW Board Executive Committee support the guiding principles proposed in the BCHR submission to the Steering Committee regarding the modernization of health regulation in BC. However, the BCCSW Board also acknowledges the complexity of this process and encourages an incremental approach that focuses on collaboration and consultation.

### **The Importance of Social Work in British Columbia's Health Systems:**

Social Work is a profession with a wide scope of practice as set out in the BCCSW Standards of Practice:

*Social work means the assessment, diagnosis, treatment and evaluation of individual, interpersonal and societal issues through the use of social work knowledge, skills, interventions and strategies, to assist individuals, couples, families, groups, organizations and communities to achieve optimum psychological and social functioning.*

Social work education often adopts a micro, mezzo, macro approach to the skills and knowledge required to analyse the intersections between human development and social, economic and cultural factors that informs the unique approach of social work practice. Social worker's perspectives are vital components in the delivery of quality, cost-effective health care services. Social work roles include:

- counsellors, facilitators, care coordinators, patient advocates, program managers, mediators, educators, and community development consultants.
- experts in family dynamics, trained to address complex family issues that may interfere with progress and effective use of health care resources.
- using a strengths-based systems lens when working with individuals and families to address psycho-emotional and social issues that affect well-being.
- providing counselling and resources to support families through the toughest of times; dealing with illness, disability, and loss.
- helping people navigate service delivery systems and facilitate access to personal and community resources.
- playing key roles in conflict resolution and crisis response, including providing assessment, psychological first aid, and group interventions.
- advocating for and are trained in the application of relevant policy and legislation.
- facilitating communication that takes into account cultural, language, and literacy issues.
- contributing a person-centred perspective to ethical decision making.

- As team builders, they take a lead role in facilitating a preventative and interprofessional approach to health.

### **Specialized Skills**

- Many social workers are Designated Responders to abuse or self-neglect concerns under Adult Guardianship legislation.
- Many social workers are Qualified Health Care Providers, able to complete incapability assessments under the Adult Guardianship legislation.
- Many social workers have the additional qualification of Registered Clinical Social Worker, allowing them to independently use the Diagnostic and Statistical Manual of Mental Disorders (DSM) in the assessment, diagnosis, treatment, and prevention of mental, emotional, and behavioral disorders and conditions.<sup>1</sup>

It should be noted that social workers work in many settings, some of which include: health care, community-based, residential facilities, and hospital based; mental health and substance use, community social service agencies; Provincial Ministries including child protection, family services, resources, guardianship, adoptions and foster care; as well as Ministries providing family law, court services, and correctional programs, and forensic services; in addition to educational programs at universities and colleges; plus private practice, not-for-profits, mediation, research and social policy for government and social agencies.

### **Social Work Regulation in BC, the *Social Workers Act* and the BCCSW**

The first Social Workers Act was passed through legislation in 1968, which initiated the BC Board of Regulation for Social Workers. This legislation was for an appointed board and did not legislate a College. Historically, the BC Association of Social Workers (BCASW) lobbied for the legislation of a College, and in 1996 the BCASW and the Board of Regulation for Social Workers separated to avoid any conflict of interest. In 2008, the current BCCSW College was established by the provincial legislature under the revised BC *Social Workers Act* (November 2008). The *Social Workers Act* falls under the legislative jurisdiction of the Ministry of Children and Family Development (MCFD); however, in 2007 prior to the revision of the *Act*, the BC Board of Registration for Social Workers had been in discussion with the Ministry of Health for consideration for the Social Work legislation to be administered under the Health Professions Act. The Ministry of Health was open to such a move should the Ministry of Children and Family Development be in agreement, which it was not at that time.

### **Exemptions to Social Work Registration in BC**

The original BC Social Workers Act that was passed in 1968 contained a number of exemptions to registration for some social workers in BC. When the Social Workers legislation was updated in 2008, the exemptions were moved into the Social Workers Regulation to make their removal easier in the future. The *Social Workers Act* restricts the use of the title ‘social worker’ or ‘registered social worker’ to a person who is registered with the BC College of Social Workers (BCCSW) *unless* they are exempted from registration [section 18 (2) of the Social Workers Act Regulation].

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<sup>1</sup> Health Care Social Workers – information Sheet (2015) BC Association of Social Workers

### **Exempt persons - Regulation 4 (2)**

The following persons are prescribed for the purpose of section 18 (2) of the Act:

- (a) a person who is employed as a social worker by
  - (i) Canada or the government or an agent of either,
  - (ii) a board, other than a regional health board, commission or other body any member of which is appointed by Canada or the government,
  - (iii) a municipality, regional district or board of education,
  - (iv) an Indian band, a tribal council, a treaty first nation, the Nisga'a Nation or a Nisga'a Village, or
  - (v) an agency, other than an adoption agency as defined in the [Adoption Act](#), to whose staff is delegated any or all of a director's powers, duties or functions under the [Child, Family and Community Service Act](#) or the [Adoption Act](#), or
  - (vi) Repealed. [B.C. Reg. 211/2015, s. 34 (b).]
- (b) a person who teaches or is engaged in research as a social worker under an academic appointment or program in a university, college or institute.

The BCASW has lobbied for the removal of the exemptions since the creation of the first Social Work Act in 1968, and continued with the new legislation. With the exemptions being moved to the Regulation, the BCCSW was successful in 2012 on removing the exemption for Health Authority social workers; however, this was only for Title Protection and not scope of practice.

Where exemptions apply under section 18 (2) of the Social Workers Act Regulation, registration is still required for social workers in health to carry out certain health care provider functions where the requirement to be registered is regulated through other Acts, as follows:

#### **If Social Workers are not registered, they are restricted from the following under the Health Care (Consent) and Care Facility (Admission) Act (HCCCFAA):**

- Determine if an adult is incapable of giving consent to health care (HCCCFAA s. 7)
- Develop a plan for minor health care (HCCCFAA s. 15)
- Obtain substitute consent from a Temporary Substitute Decision Maker (HCCCFAA s. 16)
- Comply with an advance directive in an emergency (HCCCFAA s. 12.1)
- Provide an opinion for 'medically appropriate' refusal of life sustaining health care (HCCCFAA s. 18 -2)
- Determine whether a Temporary Substitute Decision Maker has followed the rules for substitute decision makers (HCCCFAA s.19)
- Triage health care or undertake a preliminary examination without informed consent (HCCCFAA s. 13)

#### **If Social Workers are not registered, they are restricted from the following under Part 3 of the Adult Guardianship Act (AGA):**

- Enter the premises to determine if the adult requires health care (AGA s. 49)

- Develop a Support and Assistance Plan (AGA s. 53-2) <sup>2</sup>

This information is provided to the Steering Committee to highlight some of the complexities of proposing legislative changes to the BC *Social Workers Act* or inclusion of Social Workers under a future version of the *Health Professions Act*. The BCCSW suggests that this is an opportunity to facilitate discussion between the Ministry of Health, the Ministry of Children and Family Development, the BCCSW and its stakeholders to explore options for optimizing public protection through the regulation of social work in BC. The BCCSW considers consultation is vitally important to understand the effects of legislative changes on related systems such as Child Protection, Adoptions and Foster Care.

### **Will public protection be best served if social work regulation legislation resides under MoH or MCFD?**

Many people have asked this very question for many years. The BCCSW would require a consultation period to evaluate the multiple complex consequences of being administered under HPA or any proposed reform of the existing *Social Workers Act*. The BCCSW believes that it is imperative that the College be involved in this process given:

- 1) its unique perspective on the complex, yet integral, role social workers play in health systems and the relation to public protection;
- 2) the role of the College as a stakeholder with BCHR;
- 3) the similarities of the legislative framework between HPA and SWA and the need to maintain or strengthen those similarities;
- 5) the challenge of creating legislation regarding social workers given the current exemptions,
- 6) the unique Indigenous perspective that the College can bring to the regulation of social workers.

There are many sound reasons why the BC *Social Workers Act* should mirror any improvements made to the BC Health Professions Act to optimise public protection. However, without details of such changes it is difficult to evaluate the systemic effects on BC health care systems. Once again, the BCCSW would request a consultation period to evaluate the multiple complex consequences of changes to legislation.

### **Size of the College - Amalgamation and fit with other disciplines**

BCCSW has 4,774 active registrants in Good Standing as of May 31, 2019. The BCCSW Board suggests to the Steering Committee that the BCCSW has many complexities to be considered before discussions of amalgamation with other regulators can be decided on. The BCCSW has followed the recent discussions of the BC Health Regulators and is in general agreement with the principals of regulatory reform as outlined in their submission to the Steering Committee. The BC Health Regulators discussed several options for amendments to the HPA, and should this occur, the BCCSW would want consideration for inclusion either in the *Health Professions Act*, or through amendments to the BC *Social Worker Act* that would mirror those in the revised HPA.

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<sup>2</sup> \* 'Social Work Registration in Health Care Why it Matters'. An information paper from the Health Practice Committee of the BC Association of Social Workers

## **Applying Indigenous Cultural Safety to regulation and changes to the BC regulatory framework**

The BCCSW has been working on embedding Indigenous Cultural Safety in regulation, and in 2017 was proud to sign on to the First Nations Health Authority Declaration of Commitment to Cultural Safety and Humility with the 22 other BC Health Regulators. The BCCSW currently has three self-identified Indigenous Board members, and in 2017 struck a standing Indigenous Committee of the Board. Canadian Social Workers are trained in Canadian colonial history, and practitioners are encouraged, through regulatory standards, to hold strong values of inclusion, cultural humility and a desire for reconciliation. Social workers take a micro, mezzo, macro approach to understanding cultural context when working with Indigenous service users in BC's health and social services. Regulation is a system grounded in administrative law, which presents challenges when attempting to intersect Indigenous Cultural Safety. The BCCSW requests that when deliberating reform of health regulation, policy makers consult with Indigenous organizations and communities, including the BC First Nations Health Authority to ensure the best possible outcomes of public protection for BC's Indigenous service users.

### **In Summary**

The BCCSW's intention in providing this submission to Steering Committee is to highlight the important and integral roles social workers play in multiple health care systems in British Columbia. The BCCSW urges the Steering Committee not to omit Social Work from its deliberations, or from plans to modernize BC's health regulatory framework.

The exemptions in the current legislation make maintaining the integrity of the profession and building public trust in the regulation of social workers challenging. As highlighted in this submission, the protected title of social worker is written into multiple pieces of BC legislation<sup>3</sup> and changes to the regulation of social work should be analysed carefully to avoid unexpected consequences of change.

The BCCSW will work with the BC Health Regulators over the coming months and looks forward to engaging with the Steering Committee or its working panels in their deliberations. The BCCSW would also appreciate direct collaboration with the Steering Committee to discuss the nuances of regulating social work in BC. Ultimately, we see this process as an opportunity to open discussions between the Ministry of Health and the Ministry of Children and Family Development, the BCCSW and its stakeholders, to optimize a system of regulation for BC social workers that will fulfill the mandate of public protection, to prevent harm and promote health and well-being.

Respectfully submitted June 14, 2019 on behalf of the BCCSW Board of Directors.



Mr. Jim Campbell, BC College of Social Workers, Chair of the Board

cc: Hon. Katrine Conroy, Minister, MCFD;

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<sup>3</sup> BC legislation referencing the protected title of 'social worker': Adoption Act – Section 97; Adoption Act and Financial Administration Act – Section 3, 7, 9, 14, 16, 18, 23; Schedule 1 (Section 5(1)), Form 2 (Section 9 (1)(a)); Divorce Act – Section 7 (1)(c); Employment and Assistance with Persons with Disabilities Regulation – Section 2 (2)(vi); Medical Assistance in Dying – In the *Criminal Code*, replaced with Section 5.1