

**Notes of a Meeting**  
Wednesday, July 16, 2008  
between the BC Ministry of Health  
and the BC Task Group for Counsellor Regulation

**Participants**

Representing the Ministry:

- Craig Knight, Assistant Deputy Minister, Strategic Policy, Legislation and Intergovernmental Relations
- Linda Gee, Executive Director, Legislation and Professional Regulation
- Daryl Beckett, Director, Professional Regulation

Representing the Task Group:

- Duncan Shields, President, BCACC
- Jim Browne, Task Group Coordinator
- George Bryce, Task Group Legal Counsel

**Introduction**

In response to the Task Group's April 7<sup>th</sup> letter to Daryl Beckett (re: joint Task Group - CPCA policy statements) and the BCACC's letter of May 5<sup>th</sup> to the Minister of Health (re: designation and section 52.1 of the Act), the Ministry invited representatives of the Task Group and the BCACC to attend a telephone conference call to discuss the status of the designation of the counselling and related issues. Given the short notice and participant availability, it was not possible to involve the entire Group in this meeting.

These Meeting Notes summarize the issues that were discussed during the half hour meeting, but background information is also provided on certain subjects even though that background was not discussed during the meeting. This background information should help the reader understand the discussions without having to refer to other documents.

**Topics**

A few days prior to the meeting, Mr. Bryce proposed the following as a framework for the conference call:

- 1) *Designation of counselling therapy under the HPA:* Given the recent amendments to the HPA and the earlier public reviews of the regulations to designate the currently regulated health professions (e.g. medicine, dentistry, etc.) under the Act, what is the Ministry's timeline for the designation of counselling therapists as a new regulated profession under the Act? And what other projects remain to be completed by the Ministry before the designation of counselling can continue?

- 2) *Joint policy statements of the Task Group and CPCA:* Further to the April 7<sup>th</sup> letter from Jim Browne and Jim Wright, does the agreement between the Task Group and the Canadian Professional Counsellors Association (CPCA) on the issues set out in that joint letter contribute to the designation of counselling therapy under the HPA? Are there other issues that the Ministry would like to see addressed before designation could proceed?
- 3) *Section 52.1 of HPA (“Restrictions on use of terms”):* What is the Ministry’s timeframe for proclaiming into force this section of the Act? If this section is to be proclaimed into force before the long-anticipated College of Counselling Therapists is fully operational, what will be the process and criteria that the Task Group organizations could employ to apply to be specified in a ministerial “exemption” regulation under clause 52.1(2)(a)?

These topics will be used as subject headings for these Notes.

### **Designation of Counselling Therapy under the HPA**

Mr. Knight explained that the designation of counselling therapy under the HPA was not a priority for the Ministry at this time. The Ministry’s focus is on developing the administrative support for, and then bringing into force, the numerous amendments that were recently made to the HPA (reference the *Health Professions (Regulatory Reform) Amendment Act, 2008*).<sup>1</sup> For example, the Ministry needs to set up the Review Board so that it can begin to hear appeals from certain decisions of the colleges established under the HPA. The Ministry has also been assigned priority projects in the recent Speech From The Throne that impact on the health professions, such as developing restricted licenses to help facilitate the licensing of foreign-trained health care professionals by BC colleges.<sup>2</sup>

It is also a priority to bring under the HPA all the existing health professions that are currently regulated under dedicate, separate statutes. These professions include medical doctors, dentists, pharmacists, chiropractors, emergency medical assistants, hearing aid dealers (to be regulated along with speech-language pathologists and audiologists), podiatrists and optometrists. In addition, substantial changes need to be made to the designation regulations for each of the 15 or so professions that are currently regulated under the HPA. Both changes will require amendments to the various college bylaws. These tasks need to be completed before any new professions can be considered for designation under the Act.

The Ministry has not set a date for when it would continue to work on the designation of counselling therapy. (In effect, the April 2001 confidential draft of the Counselling

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<sup>1</sup> For details on the recent amendments to the HPA, please see the Ministry website at: [www.health.gov.bc.ca/leg/whatsnew.html](http://www.health.gov.bc.ca/leg/whatsnew.html).

<sup>2</sup> The Ministry administers 39 health statutes, including the *Health Professions Act*.

Therapists Regulation that would have designated the profession under the HPA has now been removed from active consideration.)

The Ministry plans to have most of the recent amendments to the HPA in force by March 2009. It also hopes to have the designation under the Act of those professions that are currently regulated under separate statutes finished by this time. Once that work has been completed, it may then be possible to consider the designation of counselling therapy under the Act, however another issue needs to be addressed that could result in a further delay.

The Ministry will be reviewing the criteria that it will employ to decide whether or not any particular new profession should be designated under the HPA. Specifically, the designation criteria that are currently set out in the Health Professions Regulation need to be revised in light of the Health Professions Council's 2001 report and the recent amendments to the Act. (See Appendix A for these criteria.)

In addition, the Minister has directed that, wherever possible, any new college should be broadly framed so that it represents the widest spectrum of health care professions under one regulatory umbrella. One example of this is the pending College of Speech and Hearing Health Professionals. Another could be a college for laboratory and diagnostic health care providers.

Until the designation criteria in the Health Professions Regulation have been revised, the Ministry will not put the designation of counselling therapy back on its priority list. It is hoped that a draft of the revised designation criteria could be set out for public review later in 2009, but much would depend on how long it takes to complete the Ministry's other priority projects as outlined above.

### **Joint Task Group – CPCA Policy Statements**

Mr. Knight thanked the Task Group and CPCA for their collaborative work on developing a foundation for moving forward with a College of Counselling Therapists (as set out in the April 7<sup>th</sup> letter), but when on to explain that – given the Ministry's other pressing priorities – it was not looking at this point in time for details on how counselling could be regulated under the HPA. Designation of counselling is not yet a priority for the Ministry.

Mr. Beckett also expressed his appreciation for the work on these foundation issues and, in particular, emphasized that the Task Group – CPCA agreement to focus on a competency based model rather than to make any particular academic degree a registration requirement is a positive development. While the Ministry is not prepared to move forward with designation at this time, one factor that the Ministry supports is that a master's degree should not be the academic entry-to-practice standard for the counselling profession once it is designated under the Act.

### **Section 52.1 HPA re: Restrictions on Use of Terms**

The title protection provisions of the HPA were amended, but these changes have not yet been proclaimed into force. (The revised wording for sections 12.1 and 52.1 of the HPA are set out in Appendix B.)

When section 52.1 comes into force, this new section will prohibit anyone working in BC from using adjectives like “registered” in an occupational title unless they are members of a college established under the HPA. This new section also allows the Minister to grant an exemption to this prohibition for organizations whose members may use an otherwise prohibited title.

The Ministry is anticipating bringing section 52.1 into force by mid-2009. This means that, unless their organizations are exempted, all persons who are not members of an HPA college will have to stop using adjectives like “registered” as part of their occupational titles or practice descriptions.

Before the Ministry will bring section 52.1 into force, it intends to have the criteria for granting exemptions under clause 52.1(2)(a) set out in regulation. But work on these exemption criteria has not yet commenced.

Another issues the Ministry needs to address before it can bring section 52.1 into force is how the titles that are currently granted under the *Society Act* can be repealed so that those titles will not conflict with the policies embodied in section 52.1. Also, the relationship of this new section with the broader prohibition set out in the new section 12.1 of the Act needs to be addressed. (See Appendix B.)

Mr. Beckett cautioned that any health profession in BC that currently uses one of the restricted adjectives as part of its occupational title should be prepared to divest itself of that use. Whether this usage has been granted under the *Society Act* or the federal *Trade-Marks Act*, or is a matter of common practice, eventually such usage will have to end.

While it could be that one of the criteria for granting an exemption is that the professional associations are involved in discussions with the Ministry about a pending designation, there is no guarantee that such a criteria will be adopted. What is clear is that professional associations should look seriously at moving away from their member’s use of the adjectives that will be restricted under section 52.1 when it is eventually proclaimed into force.

While the Ministry officials could not provide a timeline for when the exemption criteria would be set, these criteria would be subject to the mandatory three-month public review before they could become set out regulation, as prescribed by the HPA.

## Appendix A : Public Interest Criteria

The following is extracted from the current version of the Health Professions Regulation, B.C. Reg. 237/92:

### *Criteria for designation of health professions*

5 (1) For the purposes of section 10(1) of the Act,<sup>3</sup> the minister must consider the extent to which the practice of a health profession may involve a risk of physical, mental or emotional harm to the health, safety or well being of the public, having regard to

- (a) the services performed by practitioners of the health profession,
  - (b) the technology, including instruments and materials, used by practitioners,
  - (c) the invasiveness of the procedure or mode of treatment used by practitioners, and
  - (d) the degree to which the health profession is
    - (i) practised under the supervision of another person who is qualified to practise as a member of a different health profession, or
    - (ii) practised in a currently regulated environment.
- (2) The minister may also consider the following criteria:
- (a) the extent to which the health profession has demonstrated that there is a public interest in ensuring the availability of regulated services provided by the health profession;
  - (b) the extent to which the services of the health profession provide a recognized and demonstrated benefit to the health, safety or well being of the public;
  - (c) the extent to which there exists a body of knowledge that forms the basis of the standards of practice of the health profession;
  - (d) whether members of the profession are awarded a certificate or degree from a recognized post-secondary educational institution;
  - (e) whether it is important that continuing competence of the practitioner be monitored;
  - (f) the extent to which there exists within the health profession recognized leadership which has expressed a commitment to regulate the profession in the public interest;
  - (g) the likelihood that a college established under the Act would be capable of carrying out the duties imposed by the Act, having regard to factors which in the view of the minister may affect the viable operation of the college;
  - (h) whether designation of the health profession is likely to limit the availability of services contrary to the public interest.

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<sup>3</sup> Section 10 of the HPA authorizes the Minister to determine if it would be in the public interest to designate a health profession under the Act, thereby creating a college.

## **Appendix B : Title Protection Provisions of the HPA (Amended)**

The following is extracted from the unofficial office consolidation of the HPA, showing the wording of sections 12.1 and 52.1 as they should appear when these amendments are proclaimed into force.

### *Prohibition and limitation – use of reserved titles*

12.1(1) If a regulation under section 12(2)(b)<sup>4</sup> prescribes a title to be used exclusively by registrants of a college, a person other than a registrant of the college must not use the title, an abbreviation of the title or an equivalent of the title or abbreviation in another language

- (a) to describe the person's work,
- (b) in association with or as part of another title describing the person's work, or
- (c) in association with a description of the person's work.

(2) If a regulation under section 12(2)(b.1) prescribes a limit or condition respecting the use of a title, the title must not be used except in accordance with the regulation.

(3) A person other than a registrant of a college must not use a name, title, description or abbreviation of a name or title, or an equivalent of a name or title in another language, in any manner that expresses or implies that he or she is a registrant or associated with the college.

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### *Restriction on use of terms*

52.1 (1) A person who provides a service described in, or whose work is described by, the definition of "health profession" in section 1 must not use any of the following in association with or as part of a title describing the person's work or in association with a description of the person's work, unless that person is a registrant of a college and uses that term in accordance with any regulations of the minister and any bylaws of the college:

- (a) the term "regulated", "registered", "licensed" or "certified";
- (b) an abbreviation of a term set out in paragraph (a);
- (c) an equivalent in another language of a term listed in paragraph (a).

(2) Subject to section 12.1(3) and despite subsection (1) of this section, a person's use of a term, abbreviation or equivalent referred to in subsection (1) in association with or as part of a title describing the person's work or in association with a description of the person's work is not a contravention of subsection (1) if

- (a) the person is a member of an organization or a class of persons specified in a regulation of the minister and uses the term, abbreviation or

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<sup>4</sup> Section 12(2)(b) of the HPA authorizes the Minister to prescribe by regulation “one or more titles to be used exclusively by registrants [of the College]”.

- equivalent in accordance with any limits or conditions specified in the regulation, or
- (b) the person is authorized by a body in another province or a foreign jurisdiction, that regulates a health profession in that other province or foreign jurisdiction, to use the term, abbreviation or equivalent in association with or as part of a title to indicate membership in that body and, in using the term, indicates
    - (i) whether the person is authorized to practise the health profession in the other province or foreign jurisdiction, and
    - (ii) the name of the other province or foreign jurisdiction.
- (3) A person using a term, abbreviation or equivalent as described in subsection (2)(b) may use the term, abbreviation or equivalent only for the purpose of indicating whether the person is authorized to practice the health profession in the other province or foreign jurisdiction.
- (4) A regulation under subsection (2)(a) may prescribe limits or conditions on the use of a term, an abbreviation of a term, or an equivalent of a term in another language, as referred to in subsection (1).