

# **REPORT OF A MEETING**

## **BETWEEN THE MINISTRY OF CHILD AND FAMILY DEVELOPMENT AND THE TASK GROUP FOR COUNSELLOR CERTIFICATION**

3<sup>rd</sup> floor – 1818 Cornwall Avenue, Vancouver, BC

March 10, 2003 – 9:00 am to 10:00 am

### **PARTICIPANTS:**

Representing the Ministry of Child and Family Development:

- Peter Burton, lawyer and MCFD consultant

Representing the Task Group for Counsellor Certification (in alphabetical order):

- Bev Abbey, BC Association of Clinical Counsellors
- Jim Browne, Task Group coordinator
- George Bryce, Task Group legal counsel
- Ann Evans, BC Association of Marriage and Family Therapy
- Edward Peck, Canadian Counselling Association (BC Branch)

### **BACKGROUND:**

This meeting was arranged following the Task Group's February 3<sup>rd</sup> meeting with the Hon. Sindi Hawkins, Minister of Health Planning, and Alan Moyes, executive director of legislation and professional regulation for MHP. The Task Group had expected that that meeting would focus on discussing the anticipated designation of counseling therapy as a health profession and the concurrent creation of a College of Counselling Therapists of BC under the *HPA*. This outcome was suggested in a draft designation regulation that the Ministry had shared with the Task Group in April of 2001. Instead, Minister Hawkins told that Task Group that she would not present to Cabinet a regulation to designate counselling therapists under the *HPA* until such time as her counterpart, the Hon. Gordon Hogg, Minister of Child and Family Development, supported that designation. His support was apparently contingent on his Ministry determining how the regulation of counselling would impact on its "service devolution" initiative.

### **PURPOSE:**

From the Task Group's perspective, the purpose of this meeting with MCFD was twofold:

1. To better understand the MCFD initiative to "devolve" the provision of social services, and – in particular - how the regulation of social service providers may develop as part of that initiative;
2. To discuss the Task Group's position that it is in the public interest to designate counselling therapists under the *Health Professions Act* now, rather than wait until MCFD has developed its own regulatory model for social service professionals even if that model may provide an alternative designation process for counselling therapists.

### **SUMMARY:**

The following summarizes the issues and topics that were discussed during the meeting, albeit not necessarily in this sequence. Certain details have been added as background to a few issues.

Mr. Burton began the meeting by outlining the MCFD initiative to devolve the provision of certain social services currently being performed by MCFD staff to regional and aboriginal authorities. In 1997, he had prepared a regulatory model for social workers, but that model was not pursued within the Ministry. In November 1999, MCFD released the *Report of the Working Group on Regulation of Social Service Professions*, which recommended an ambitious model to regulate all social service providers under a regulatory structure that was based in part on the *HPA*. Both of these initiatives have been sidetracked because of concerns within the Ministry that it (as the employer) should have the primary voice in setting professional standards and regulating the conduct of its employees. With the move toward devolving out of the Ministry many social services to arms-length agencies and regional authorities, the Ministry would no longer be in a position to exercise such influence. Therefore, the option of establishing a regulatory body to take on these roles becomes an important aspect of the Ministry's devolution initiative.

The Task Group then provided a brief overview of its work to date in trying to secure the designation of counselling therapists under the *HPA*. The deficiencies in the Health Professions Council's 1997 report (which did not recommend designation) were discussed. The Task Group took the Council's concerns to heart and addressed them in its November 1998 *Joint Response*. That document proposed a two-tiered registration model for a new college, and competency-based entry requirements. The second tier would focus on the regulation of counsellors who have advanced or specialized practice, such as clinical counselling, psychotherapy, marriage and family therapy, pastoral counselling, art therapy and music therapy. The first tier would include counsellors with basic training.

Each of the three organizations at the table then provided Mr. Burton with some detail of their own registration requirements, programs for promoting professional competence and investigating and resolving complaints against their members. Some background on the other groups that were not at the meeting was also provided.

There was a discussion of the type of concerns that government would have if counselling therapists were to be designated, be this under the *HPA* or some other statute. Would the members of the new profession start to demand more financial compensation in recognition of their new regulation status? Would this result in increased demands for public funding through government to pay for their services?

Information collected by the BCACC from its 1,300 (plus) members would suggest that somewhere between 90% and 95% of their member's counselling revenue is generated from sources other than MCFD agency funding (directly or indirectly). A small proportion of counsellors provide services to the public that are funded in part by the Ministry of Health Services or the Ministry of the Solicitor General. The greatest

proportion of an average counsellor's annual billings is derived from individuals, and some of those services may be covered under private health insurance plans.

Despite repeated requests made in the past, the Task Group has never been supplied with information from MCFD about how many potential members of a new College of Counselling Therapists could receive funding from that Ministry (directly or indirectly). Or even if particular potential members in a particular class of counselling therapist could receive such funding. The Ministry has never provided any data on what it believes would be a negative impact on its budget of designating counsellors. Without some sort of reliable data, the Ministry's concerns seem to be misguided.

There was also a discussion of the public benefits that could flow from the regulation of counselling therapists. As there would likely be uniformity in the registration requirements, there should then be more consistent if not higher quality services to the public than is current the case with each organization setting its own standards, etc.

Professional practice insurance would be mandatory for all college registration, which would provide the public with some financial compensation should a counsellor be found to be negligent in a civil lawsuit. (Mandatory professional liability insurance is a requirement for membership in most of the Task Group organizations.)

Third party insurance carriers would also rely on a professional body to ensure competent and accountable health professionals provide the counselling services that those carriers pay for on behalf of their insured clients.

A college would also be required to develop a quality assurance program to promote continuing education and competency of its registrants. Some of the organizations have begun such programs, but a new college would have the statutory mandate to do so.

At the moment, the various Task Group members have their own complaint investigation, resolution and disciplinary bylaws, policies and procedures. Each of these are different from the others, and some are much different than the *HPA* requirements. Some member organizations have well-developed investigation and resolution programs and deal with dozens of complaints each year. Others have had little or no experience in this area. Regardless, all of these processes are private and there is no accountability to the public for the result. Neither the *Ombudsman Act* nor the *Freedom of Information and Protection of Privacy Act* apply to the Task Group organizations.

Designation of the professions under a single college would result in a single, common complaint investigation, resolution and disciplinary process, that would be open and accountable to the public, and governed by the *Ombudsman Act* and the *Freedom of Information and Protection of Privacy Act*. Such designation would also give the professions the benefit of the statutory authorities and powers, and the confidentiality and non-compellability provisions that exist within or are proposed for the *HPA*.

One suggestion was put on the table that could allow the Task Group and the MCFD to meet both of their objectives. There is a substantial commitment within the Task Group to professional regulation in one form or another. In the past five years, the member organizations have worked out many of the policy decisions they believe will have to be made by the first board of a new College of Counselling Therapists. They are moving toward a consensus on other issues that have not yet been resolved. Indeed, it is reasonable to expect that many of the Task Group representatives themselves will be appointed to the first board of the new college. The organizations have given commitments to government to fund the operations of the first board until such time as the new college can collect revenue from its registrants. Given these developments, the Task Group believes that it would be in the public interest to legitimize the professional self-regulation mandate that the organizations have voluntarily undertaken by designating the professions under the *HPA* now, rather than later. If, at some future date, the Legislature approves umbrella MCFD legislation like the *HPA* and it was determined that counselling therapists should be regulated under that new legislation rather than the *HPA*, then the designation of counsellors could be transferred from the *HPA* to the new MCFD legislation. (Along with social workers, this could establish two colleges under this new legislation that other social service professionals could then use as models for their own, emerging colleges.)

That said, the Task Group believes that it is unlikely that counselling therapists should be or would be considered to be social service professionals. While counselling therapists provide services to children and families, those services are focused on addressing mental health and related psychological and emotional problems, rather than being child protection or social welfare services. Further and as noted above, only 5% to a maximum of 10% of the average therapist's annual counselling revenue is generated from MCFD agency funding. Most counsellors bill their clients directly for counselling services. To echo an important finding from the Council's 1997 report, counselling therapy meets the definition of a health profession under the *HPA*.

Mr. Burton explained that MCFD is not yet at a position where it or the Minister has made a final decision on the regulation of social service professionals. A possible timetable could see new legislation introduced by the Minister in 2004, at the earliest. Mr. Burton agreed that he would explore further why the regulation of counselling therapists continues to be linked to the MCFD service devolution and professional regulatory initiatives, and arrange for his findings to be communicated to the Task Group.

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