CAOT- BC RESPONSE TO:

Modernizing the Provincial Health Profession Regulatory Framework: a paper for consultation.

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Re: Modernizing the Provincial Health Profession Regulatory Framework

The Canadian Association of Occupational Therapists - British Columbia (CAOT-BC), the regional chapter of the national association representing over 2000 occupational therapists in BC, is pleased to submit a response to *Modernizing the Provincial Health Profession Regulatory Framework: A paper for consultation*.

CAOT-BC supports the stated objectives of *Modernizing the Provincial Health Profession Regulatory Framework* to improve public safety, improve public protection and increase public confidence. Based on the limited detail provided in the steering committee's paper for consultation, we are unable to determine the feasibility of these changes in fully meeting these objectives. While we agree with the move to modernize regulation based on the stated objectives, we have some concerns and questions on how the recommendations in the consultation report can be carried out in a way that will meet the objectives. We are pleased to have the opportunity to provide feedback at this early stage and hope to remain involved in the process to support a successful and meaningful change towards improving public safety. Our feedback, and when possible, suggestions for solutions, is organized using the headings from the consultation paper.

1. **Improved Governance**

CAOT-BC is generally supportive of the proposed changes to regulatory college governance, including board composition (Q1a), size (Q1c) and compensation (Q1e). However, we foresee significant challenges to governance of the proposed College of Health and Care Professions (CHCP), which includes occupational therapy with 15 health professions, and all future regulated health professions.

There is insufficient information on the composition of the 12-person board (the competency criteria and selection of professional members) and how it will interact with profession specific sub-committees, making it difficult for us to provide specific recommendations. Instead, process questions arise: What responsibilities are to be assigned to sub-committees? If disagreement or conflict arises between profession-specific committees and board perspectives, how will resolution be handled? Will successful, profession-specific processes and resources be carried forward into the new governance model? It is vitally important that the professional associations, as representatives of the professionals that have direct contact with the public, remain actively involved in the implementation phase of these sweeping changes.

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Briefly, we anticipate a significant challenge in finding individuals with "the right balance of skills and experience[1]" to provide effective leadership for regulating the practice of 16 (or more) health professions. We are concerned that the professional representation in governance by, at most, 6 of the 16 professions will reduce public confidence in their expectations of the health care system. For example, the standards of practice are at risk of becoming increasingly vague if combined to be applicable to multiple professions with differing levels of education, accreditation, and continuing competency. While there are common minimal competencies related to areas such as communication, there remains a skill set unique to each profession that is directly related to provision of safe and effective care. Practically, the administrative burden placed on a board of only 12 members to receive reports and communicate with representatives from 16 profession specific sub-committees appears high. We anticipate this will have a detrimental impact on communication and efficiency, again posing a risk to college efficacy and in turn, public safety.

2. Improved efficiency and effectiveness through a reduction in the number of regulatory colleges

CAOT-BC strongly opposes the proposed approach to reduce the number of regulatory colleges from 20 to five, specifically in regard to the proposed CHCP. In addition to our comments regarding practical and contextual inefficiencies in the governance of the CHCP (as described above), we have outlined several further concerns as well as our proposed solutions below.

Insufficient evidence for the efficacy of the CHCP.

We don't believe there is sufficient evidence that a reduction in regulators is the best way to support more consistent standards of regulation. A consistent strategy does not make it the right strategy. Reducing the number of colleges does not necessarily improve consistency, integrate care, or empower professionals to better understand their scope. We question how merging such diverse professions will be more efficient and effective. While there are some standards that all professions should be held to, such as the steering committee's example of sexual abuse and misconduct, there are more standards that need to remain practice specific based on professional scope and practice environments. In our experience, unclear standards of practice compromises quality care delivered to patients.

[1] https://engage.gov.bc.ca/app/uploads/sites/578/2019/11/Modernizing-health-profession-regulatory-framework-Consultation-Paper.pdf

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It seems drastic to make such significant changes based on concerns with a minority of existing colleges. Occupational therapists have been successfully and effectively regulated by COTBC for almost 20 years. COTBC has clearly communicated their mandate to protect the public interest and developed tools to assess and uphold safe, effective, and ethical practice of occupational therapy. The closest parallel to the proposed CHCP is the United Kingdom's Health and Care Professionals Council, which includes a similar mix of health professions, including occupational therapy. Review of the Professional Standards Authority audit reports[2] indicates that the Health and Care Professionals Council has not met six out of ten of their Fitness to Practice Standards for the past three review periods. None of the other councils that regulate fewer and more similar health professions have met this few practice standards in past performance reviews.

Comments in the 2016/17 performance review for the Health and Care Professionals Council reference inconsistent and incorrect interpretation of complaint assessment process, inadequate independent investigation of complaints, ineffective risk assessment and prioritization of complaints, increased/unnecessary amounts of time to progress complaints (resulting from inefficiencies in process), poor quality and clarity of communication/correspondence and not considering all information, among other things. We believe it likely that these issues stem, at least in part, from the challenges of regulating so many different and diverse health professionals under one regulatory body. It is critical to learn from the UK experience so that these types of impairments in the regulatory process will not reduce public safety. In fact, creation of the CHCP may actually increase the risk to public safety, at least in relation to occupational therapy, when compared to current regulation by COTBC.

Inadequate profession specific knowledge and expertise.

Profession specific knowledge is vital to all areas of regulation including governance, development of standards of practice, quality practice support, complaints inquiry and discipline. Compared to the other four colleges in the proposal, we believe the proposed CHCP's ability to protect the public is severely hindered with responsibility for 16 or more distinct professions.

The composition of the CHCP appears to present a lack of understanding of the diverse scopes of practice among the included professions. Forcing professionals to amalgamate could have severe

[2] https://www.professionalstandards.org.uk/what-we-do/our-work-with-regulators/find-a-regulator/health-care-professions-council

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repercussions for the work force, as they may feel undervalued. Instead, a process of voluntary amalgamation would be preferred. If amalgamated models do, in fact, improve efficiency and safety, **we propose that amalgamations group professions that reflect the team-based practice environments in BC.**

We further suggest **establishing the proposed oversight body as a first step, with the existing colleges remaining**. This oversight body could then analyze the existing governance process and structures of the existing colleges and implement changes in an informed and methodical manner towards professional groupings (amalgamations) that make sense in improving safety and efficiency. Further, this process would enable thoughtful planning to merge college staff and resources, establish processes for the public and the registrants to make inquiries, and minimize confusion that naturally occurs with transitions of this scale.

Impact on workforce mobility across Canada.

Occupational therapists, like many of the health professions proposed to fall under the CHCP, are in high demand due to significant workforce shortages across the province. In proposing this new framework, we suggest consideration be given to the impact on alignment of licensing across the country and the potential impact of workforce mobility between provinces. With over 60% of new occupational therapy registrants in BC migrating from another province in Canada[3], limiting the in-migration of occupational therapists to BC would have a substantial negative impact on the quality of health care in our province. All of the occupational therapy regulatory organizations in Canada collaborated on establishing a common set of Essential Competencies and a process for assessing substantial equivalency for foreign-educated occupational therapists. Standards of practice implicitly and directly guide patient care by professionals with strong histories of effective self-regulation. We would hate to see this history of collaboratively established, profession-specific standards potentially diluted by an amalgamation goal that may be falsely efficient. The steering committee should be aware that regulatory change has the potential to make BC a less desirable practice environment and exacerbate health human resource challenges.

Inaccurate reflection of team-based care in practice.

Finally, the consultation paper cites team-based care as a driving force behind the proposed changes to the health regulation framework, however, the grouping of health professionals in the CHCP do not accurately reflect the

[3] https://cotbc.org/wp-content/uploads/2018-19_COTBC-Annual-Report_Oct11.pdf

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professions that frequently practice together in the majority of health and social care settings.

Proposed Solutions

Because COTBC has effectively regulated occupational therapists in BC since 2000, CAOT-BC believes that **maintaining COTBC to ensure safe and ethical occupational therapy practice is the best course of action**. Considering the challenges cited above and the lack of convincing evidence for the CHCP, we do not believe that a shift to this model will improve regulation of occupational therapy in BC and expect it may actually pose further risk to the public compared to the current state.

We suggest a **closer examination of the Australian model of health regulation**[4], which regulates health professionals via 15 health profession boards supported by the Australian Health Practitioner Regulatory Agency. We believe there is room to consider how to improve regulation within the existing college structure in BC to implement clear and effective legislation enforcing standards of care and scope of practice for each discipline. In our opinion, this approach will be more effective in meeting the Steering Committee's objectives while also minimizing disruption to those regulatory bodies that are already operating effectively.

In the case that COTBC must be amalgamated with other professional regulatory bodies, **we recommend encouraging voluntary amalgamation to occur subsequent to initiating an oversight model for health professional regulation in BC.** Having met with our colleagues leading other professional associations, we believe that given time to negotiate a plan, it is foreseeable that grouping health professions with similarities in practice standards and scope, educational requirements and practice landscape, and practicing on the same interprofessional teams within most health and social care settings is a possible alternative to a single CHCP. For example, occupational therapists, dietitians, physiotherapists, psychologists, and speech and hearing professionals have many similarities and inter-professional education experiences. This grouping also represents an appropriate college size in terms of registrant numbers and revenue as compared to the other four proposed colleges. Under any amalgamated model, we stress the importance of profession-specific clinical expertise being present at all levels of regulation, including development of standards of practice/ by-laws, complaints inquiry, discipline and quality practice support.

[4] https://www.ahpra.gov.au/

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3. Strengthening the oversight of regulatory colleges

CAOT-BC supports the Steering Committee's objective of increasing accountability and transparency of health regulation in BC and ensuring adequate oversight is in place. However, we question the extensive functions proposed in the consultation paper; this is likely not the most efficient, effective or economically viable solution, especially given that the majority of colleges in BC are currently operating effectively in their role of public protection. We suggest considering alternative options based on evidence and outcomes from other regions to ensure that regulatory bodies are performing as expected. While the creation of a government body to perform periodic reviews or audits is likely necessary, **we do not believe a complete overhaul of the current health regulation framework is a necessary course of action.** Should there be more direct evidence that supports this degree of change that has not been provided in the consultation report, **we would suggest the development of the oversight body as a first step prior to abolishing all of the existing colleges** and amalgamating 16 of them into one college. The oversight body could apply a more methodical and evidence informed decision making process in determining a college governance structure to best address the objectives stated in *Modernizing the Provincial Health Profession Regulatory Framework*.

4. Complaints and adjudication

As part of revising the approach to oversight across the colleges, CAOT-BC supports the creation of a new disciplinary process as proposed in the consultation paper, contingent on the statement that "the panel would include at least one health professional with clinical competence in the same health profession as the registrant[5]". As previously mentioned, the presence of profession specific knowledge in all areas of college activity is vital to ensure effective regulation.

We have concerns regarding the implication that the inquiry committee will have the ability to impose sanctions on registrants prior to a proper disciplinary hearing (p.18). We would like further clarification on the intended process of determining which complaints are "accepted", given the proposal that actions taken to resolve these will be made public (Q4g). As occupational therapists often work with populations who may have impaired insight and impulsive behaviour, unsubstantiated complaints are a common possibility, particularly in certain practice areas such as driving assessments. A robust investigation process must be completed prior to any of the registrant's information being made public.

[5] https://engage.gov.bc.ca/app/uploads/sites/578/2019/11/Modernizing-health-profession-regulatory-framework-Consultation-Paper.pdf (pg. 17)

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We recommend caution and clear guidelines with regard to publicizing *all* agreements between registrants and regulatory colleges (Q4f). All complaints involving serious matters are already made public under the current system, and the rationale for publishing agreements that do not have an impact on public safety is unclear and poses an unnecessary breach to registrant privacy and professional reputation. Encumbering health care providers with unnecessarily reduced reputations may violate charter rights to earn a living, and limit access to health care providers in an overwhelmed workforce, increasing risk to public safety by reducing their access to care.

Finally, in our opinion, it is unnecessary and unethical for those involved in investigating a current complaint to be privy to a registrant's previous complaint history (Q4k). This knowledge may prevent investigators from remaining impartial when determining if a complaint is warranted. The time to consider past history is when disciplinary action is determined.

5. Information sharing to improve patient safety and public trust

CAOT-BC supports information sharing when in the best interest of ensuring public protection. However, we do anticipate that under the proposed CHCP model, there stands be a greater risk of inefficiency, miscommunication and misinterpretation any time that information passes between college representatives with different professional backgrounds.

CAOT-BC is eager to work with the Steering Committee and/or government on refining this very important legislation, and in collaboration with our colleagues in all of the health professional associations in BC. We thank the Steering Committee for consideration of our response to the consultation on *Modernizing the Provincial Health Profession Regulatory Framework*, and we encourage and welcome further opportunities for discussion and consultation.

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