

Ministry of
Community and
Social Services

Ministère des
Services sociaux
et communautaires



**REVIEW OF
THE *SOCIAL WORK & SOCIAL SERVICE WORK ACT*, 1998**

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INTRODUCTION

Under subsection 56(1) of the *Social Work and Social Service Work Act (SWSSWA)*, 1998, the Minister of Community and Social Services must conduct a review of the Act within five years of its coming into force. The intent of the five-year review is to identify any legislative barriers to the effective implementation of the regulatory framework for social work and social service work established through the *SWSSW Act* that may not have been foreseen when the legislation was first introduced. The review is not an operational review of the College's performance.

Members and employers of the social work and social service work professions, other professions, various stakeholders and members of the general public were invited to participate and make submissions on the following two questions:

- Are the provisions in the *SWSSW Act* adequate for achieving the objectives of the *SWSSW Act* (i.e., public protection, quality social work and social service work services and accountability)?
- What changes to the *SWSSW Act*, if any, should be considered by the government to improve the operations of the College in carrying out its roles and responsibilities?

Ninety-seven submissions were received. Respondents included registered social workers, the Ontario College of Social Workers and Social Service Workers ("the College"), professional organizations, two trade unions and a few members of the public. While the submission of the College represented both registered social workers and registered social service workers, there were no individual submissions from registered social service workers. A majority of the submissions, although supportive of the current regulatory regime, did not address the two review questions. Instead, other issues were raised, including the business practices of the College, and proposals to expand the scope of the *SWSSW Act* to include other fields of practice. Suggestions were also made on some of the provisions and processes under the *SWSSW Act*, including technical issues.

This report is a synopsis of the issues, recommendations and proposals submitted and stakeholder discussions held throughout the review process. Also included in this report is the Ministry's position on the issues raised in the consultations.

BACKGROUND

Purpose of the Act

The *Social Work and Social Service Work Act, 1998*, regulates the practice of two distinct professions – social work and social service work. The Act received Royal Assent on December 18, 1998 and was proclaimed in stages, with the final sections proclaimed on August 15, 2000. Social work is regulated in all Canadian provinces. Ontario is the only Canadian province to regulate social service workers.

The two primary objectives of the Act are to:

- Protect the title of social worker/registered social worker and social service worker/registered social service worker.
- To provide public protection by regulating the two professions.

Social workers and social service workers practise in many settings such as child welfare, children's mental health, facilities for people with a developmental disability, hospitals and home care. Social workers and social service workers apply knowledge, skills, values and principles to a wide range of personal and interpersonal, community and societal issues.

Unethical or incompetent practice by social workers and social service workers can cause serious harm to clients. The legislation provides protection for consumers of social work and social service work services, and provides a means to monitor and support excellence in practice.

Overview of the Act

The Act provides distinct and identifiable professional designations for social workers and for social service workers. The Act restricts the use of the following title(s):

- Social Worker/ Registered Social Worker (generally, holders of degrees: Bachelor of Social Work, Master of Social Work, Doctor of Social Work);
- Social Service Worker/Registered Social Service Worker (generally, holders of a two-year diploma in social service work from a community college).

The Act protects the public by establishing a self-governing College to regulate the practices of social work and social service work. Membership in the College is mandatory for anyone who wishes to use the title social worker/registered social worker or social service worker/registered social service worker or represent or hold themselves out to be a social worker or a social service worker.

The College is governed by a 21-member Council, with equal representation of social workers and social service workers elected by members of the College

and public members appointed by Order-in-Council. The Council manages the affairs of the College.

The primary duty of the College is to serve and protect the public interest. In this regard, the public has access to a register of all members of the College. The College ensures that registered social workers and registered social service workers are accountable for their practice and are answerable to the College regarding complaints from the public. The College may take remedial and other suitable measures in the public interest. Under the Act, the College:

- Sets standards of practice and ethics;
- Oversees professional qualifications and certification;
- Maintains a registry of members;
- Maintains a complaints process;
- Disciplines members for professional misconduct or incompetence; and
- Coordinates ongoing professional education.

Accountability measures for the College include the following:

- The College reports annually to the Minister on its activities and financial affairs;
- The College must hold annual meetings of members;
- The Minister can require the College to provide information and reports, to take specific actions, or make, amend, or revoke a regulation;
- The register of College members is accessible to the public;
- Council meetings are open to the public, with limited exceptions; and
- Ministerial review and Lieutenant Governor in Council approval are required for Council regulations (e.g., certificate of registration, and professional misconduct).

METHODOLOGY

On January 13, 2005 the Minister of Community and Social Services announced a review of the *Social Work and Social Service Work Act, 1998*. A discussion paper accompanied the Minister's announcement. Members and employers of the social work and social service work professions, other professions, various stakeholders and members of the general public were invited to participate and make submissions by March 15, 2005 on the following two questions:

- Are the provisions in the Act adequate for achieving the objectives of the Act (i.e., public protection, quality social work and social service work services and accountability)?

- What changes to the Act, if any, should be considered by the government to improve the operations of the College in carrying out its roles and responsibilities?

All responses to the above two questions received by the closing date for submissions were collated by the ministry.

The ministry held two follow-up sessions to obtain the views of stakeholders on issues that were raised in the submissions, potential approaches to address them and key considerations. The following stakeholders were invited to attend:

- Association of Ontario Colleges of Applied Arts and Technology of Ontario
- Canadian Union of Public Employees
- Ministry of Training, Colleges and Universities
- Ontario Association of Children's Aid Societies
- Ontario Association of Marriage and Family Therapists
- Ontario Association of Private Career Colleges
- Ontario Association of Social Workers
- Ontario Coalition of Mental Health Professionals
- Ontario College of Social Workers and Social Service Workers
- Ontario Council of Deans and Directors of Schools of Social Work
- Ontario Federation of Labour
- Ontario Social Service Workers Educators Association
- Social Work Doctors Colloquium
- Social Work Reform Group

These stakeholders were given the opportunity to clarify the issues raised in their submissions for inclusion into the final report.

SUMMARY OF ISSUES

Key Issues

Stakeholders raised five key issues related to public protection, quality and accountability of services to consumers of social work and social service work.

1. *Scope of Practice and Title Protection*

Issue:

There are two related issues regarding scope of practice. The first involves what social workers refer to as “blurring” of the scopes of practice between social work and social service work. Second, the College wants to have revised scopes of practice embedded in the legislation rather than in by-laws of the College to allow enforcement of the existing statutory title protection and enforcement provisions against persons who continue to use the restricted titles, i.e. holding themselves out to be social workers/registered social workers or social service workers/registered social service workers while not registered with the College.

Synopsis of submissions:

The College is requesting that scopes of practice be embedded in the *SWSSW Act*. Similarly, the Ontario Association of Children’s Aid Societies (OACAS) and some social workers are asking for the differences between social workers and social service workers to be defined in legislation.

According to the College, a scope of practice statement for a profession is a general statement describing, but not exclusively limiting, the performance of the activities for a profession. Such statements provide three types of information – what the profession does, the methods the profession uses and the purpose for which the profession does it.

The College believes that without a scope of practice for social work and social service work in the Act, there is no statutory framework for determining whether individuals are representing or holding themselves out as social workers or social service workers. The College believes that including a scope of practice for social work and social service work in the Act would not turn the services described in that statement into controlled acts or restricted activities, but it would serve to better define the meaning of social work and social service work practice.

The College believes that the title protection regime of the *SWSSW Act* would be strengthened by requiring those individuals who have social work or social service work education and who provide services to the public within the scope of practice of social work or social service work to be registered. The College's

view is that the *SWSSW Act* cannot accomplish the key objective of ensuring public safety and quality services if there are practitioners who have the academic qualifications of a social worker or social service worker, and who provide services to members of the public within the scope of practice of the professions, but are not regulated by the College. In addition, the College is interested in discussing with the ministry whether any restricted activities should be authorized to social workers and social service workers and outlined in legislation. Under the Regulated Health Professions Act, an activity restricted to a particular profession is called a 'controlled act'. For example, a controlled act laid out in the scope of practice for a health profession cannot be carried out by another health profession unless the Act allows for the activity/procedure to be delegated by that profession and under supervision of a member of that profession.

On the other hand, the Ontario Social Service Worker Educator's Association does not support creating separate and distinct scopes of practice in legislation for social workers and social service workers. The group points out that social service workers typically provide a broader range of services, especially in smaller and outlying communities that may have difficulty recruiting university-trained social workers and need to rely on the critical services offered by social service workers.

Although the College maintains that the scope of practice issue is not about the exclusive right to practice, Canadian Union of Public Employees (CUPE), Ontario Federation of Labour (OFL) and the Social Work Reform Group (SWRG) are concerned that a defined scope of practice would result in the requirement of social service workers, who are generally on the lower end of the pay scale, to register with the College and pay annual membership fees. In addition, these groups believe any expansion of the College's regulatory authority would be harmful to the social service sector because that sector is already saturated with an excess of rules and regulations.

Ministry's position:

The College will retain responsibility for defining scopes of practice in its by-laws and may amend the by-laws accordingly in response to the professions' needs. The current system supports the principle that scope of practice is the responsibility of the College and the professions. One of the primary objectives of the Act is to protect the public interest as a 'title protection' Act. Keeping the scope of practice within the by-laws of the College is consistent with the original intent of the Act. Defining scope of practice for social service workers for the purposes of the Act is complex as the services they provide to the public are very broad. This is compounded in remote and rural areas where social services workers may be providing services traditionally provided by social workers only because access to social workers is limited.

2. Accountability to Register

Issue:

Individuals offering social work or social service work services to the public and who meet the requirements for registration with the College, are allegedly circumventing the *SWSSW Act* by not registering with the College. Similarly, some employers may not be requiring such staff to register with the College as a term of employment, or to renew registration to maintain employment.

Synopsis of submissions:

The College, the Ontario Association of Social Work (OASW) and several social workers have expressed concern that some employers are assisting their employees to circumvent the requirement to register with the College, by re-classifying social work and social service work positions under different job titles, yet requiring social work and social service work education/training for these positions. The employees do not register with the College and do not use the restricted titles under the legislation, although they may practice within the scope of practice of social work or social service work. Others may not renew their membership in the College after obtaining employment with an employer who has re-classified a position or is not requiring College registration as a condition of employment.

From a public protection perspective, consumers may incorrectly assume that the person providing a service is a social worker or social service worker accountable to the College. Sometimes, consumers use “social worker” as a generic term to refer to their helper or care-provider. This scenario is also unsettling for those co-workers who choose to register with the College, pay registration fees and subject themselves to another level of accountability.

The College believes that the *SWSSW Act* should be strengthened in the area of accountability of employers who employ people who meet the qualifications to be registered and provide services within the scope of practice of social work and social service work as laid out in the College’s by-laws. The College has been advised of several instances where employers have simply changed the job titles of their employees or reclassified positions as a method of assisting their employees to avoid the statutory obligation to register with the College.

Similarly, the College believes the *SWSSW Act* should be strengthened in the areas of accountability of individuals who meet the qualifications to be registered, provide services within the scope of practice, use the title social worker/social service worker and/or hold themselves out to be a social worker/social service worker. The College has received a number of complaints about individuals who are not registered as members of the College but who the complainants believed were providing social work or social service work services. Between 2000-2005 65 out of 241 complaints and mandatory reports filed with the College related to

individuals who were not registered with the College. As well, the number of complaints that relate to non-members has been increasing; from 6 in 2000 to 19 in 2004. As of October, 2005 there were 12, for a total of 60 from 2000-2005.

The College's view is that the *SWSSW Act* cannot accomplish the key objective of ensuring public safety and quality services if there are practitioners who have the academic qualifications of a social worker or social service worker, provide services within the scope of practice, use the title social worker/social service worker and/or hold themselves out to be a social worker/social service worker, but are not regulated by the College.

OASW suggests that all organizations that provide services to at-risk populations under such legislation as the *Child and Family Services Act* and the *Developmental Services Act*, and who hire 'social workers' should require these individuals to register with the College. Organizations providing mandated or involuntary services would continue to be free to hire individuals who do not hold academic backgrounds in social work. However, if individuals with social work degrees are hired, these individuals must hold the registered social worker designation. Accountability and public protection has been substantially weakened by the change to generic job titles for positions that have traditionally been held by social workers, effectively placing these positions outside of the jurisdiction of the *SWSSW Act*. The public has the right to expect the same level of protection from people with backgrounds in social work as from people in other regulated professions.

However, OACAS, CUPE, OFL and SWRG all recommend that the *SWSSW Act* be amended so that any Children's Aid Society worker or other employee of government or government-funded agencies would not be required to register with the regulatory College. Those workers currently registered with the College are subject to multiple accountability mechanisms, including those internal to the employer and other legislation (e.g. the *Child and Family Services Act*, *Developmental Services Act*, *Social Work and Social Service Work Act*, *Criminal Code*) and other civil proceedings.

CUPE, OFL and SWRG contend that registration with the College only makes sense for social workers in private practice where there is no accountability framework. They propose a voluntary membership model be adopted for social workers and social service workers in the public sector and in non-government organizations that have complaints processes and accountability mechanisms. The College position in response to this last submission is, in part, reflected under issue Number 4: Complaints Process.

Ministry position:

Mandatory registration would require scope of practice to be explicitly defined for both social workers and social service workers in the Act, which the ministry does

not support. Maintaining the status quo retains the policy intent for this legislation regarding public protection through restricted use of titles.

3. Governance Model

Issue:

Currently the Act dictates that there are seven elected social workers, seven elected social service workers and seven public appointees on the College Council. Some stakeholders would like to increase the social worker representation on the College Council to better reflect their 90 percent membership or establish separate colleges for the two professions. At the present time there are approximately 10,000 social workers and 1,000 social service workers registered with the College.

Synopsis of submissions:

The Ontario Association of Children's Aid Societies (OACAS) wants social workers and social service workers to be dealt with either in two separate statutes, or that the governance structure be flexible to permit Council representation according to proportionate membership.

The Ontario Association of Social Workers (OASW) would like to increase the number of social work representatives on the College Council from seven to 12 to better reflect composition of College registrants, or separately regulate social workers to address the following issues they have identified:

- The principles of self-regulation are compromised by the current composition of the College Council that provides for equal representation of social workers and social service workers.
- The interests of the public are not well served by the under-representation of social workers on the Council, given the fact that more than 90 percent of registrants are social workers.
- The blurring of the social work and social service work role raises troubling practice and public protection issues.

On the other hand, the College Council supports the current composition -- seven elected social workers, seven elected social service workers and seven public members. The College presents the two professions as having equal standing under the *SWSSW Act* and on the College Council.

The Council's position is based on the following considerations:

- The duty of each Council member is to serve and protect the public interest, not to represent a specific geographic region or profession.
- The two professions of social work and social service work, being equal in status, should have equal representation on Council.
- The public should have an effective voice on Council.

Ministry position:

The ministry will not be pursuing a change in the governance model at this time. It is important to note that there is ample room for the College's membership to grow, particularly with social service workers. The College expects continued growth in membership for both professions and, in particular, has taken and will continue to take steps to reach out to potential social service workers. Changing the composition of the Council at this time would require further changes in the legislation when/if membership of social service workers increases. In addition, if separate Colleges were established, membership numbers may not be sufficient to sustain a separate College for Social Service Workers.

4. Complaints Process

Issue:

Several stakeholders believe that Children's Aid Society workers and other employees of government or government funded agencies should not be required to register with the College because they are subject to multiple accountability mechanisms, including those internal to the employer and the *Child and Family Services Act (CFSA)*, *Social Work and Social Service Work Act*, *Criminal Code* and other civil proceedings.

Synopsis of Submissions:

The Ontario Association of Children's Aid Societies (OACAS) believes that the complaint process as set out in the *SWSSW Act* presents the potential for duplicative or layering of processes on a CAS worker for a single complaint. They request that the *SWSSW Act* be revised to empower the College to refuse a review of the CAS worker where a review of the same complaint has already been initiated or conducted. They contend that it is essential that the use of the College's complaints process be restricted in situations where the complainant is engaged in litigation related to the same matter. Amendments to the *Child and Family Services Act* under Bill 210 include provisions for a complaint process. Where this process is engaged, it should be the only one used to deal with a complaint about CAS practice. They state that the *SWSSW Act* should set out circumstances which would be considered frivolous and vexatious. Furthermore, they want those hearing complaints against child protection workers to have demonstrated expertise in this complex and specialized field (minimum of two people on the College's Complaints committee).

As noted earlier, the CUPE, OFL and SWRG all propose a voluntary membership model be adopted for social workers and social service workers in the public

sector and in non-government organizations that have complaints processes and accountability mechanisms, e.g. through elected community boards.

The College has responded that one of the important functions of a regulatory College is to provide a neutral third party with whom a member of the public can file a complaint, and to have the complaint investigated and assessed against the standards of practice of the profession. A regulatory College protects the public by dealing with issues of professional misconduct, incompetence and incapacity. The College register already provides information to the public about a member whose certificate of registration has been suspended or revoked.

The College contends that while employers set policies and procedures that will contribute to public safety, employers do not develop and establish standards of practice for their employees (who may be members of a number of different regulated professions); nor do they require that their employees engage in activities to promote quality assurance. The role of a regulatory College in assuring the quality of practice of the profession is equally as important as the complaints and disciplinary functions. Furthermore, the College states that they have also received complaints against members employed in the public sector.

Lastly, an agency submitted that the College by-laws do not prevent a complainant from filing a continuing complaint (i.e. providing ongoing information to the College following the initial complaint). Thus, subsection 24(9) of the *SWSSW Act* that deals with the “best efforts” to dispose of a complaint in a timely manner is undermined. The agency recommends that subsection 24(9) be changed so the College “shall dispose of a complaint within 120 days of its being filed with the Registrar”, with a further provision to address the circumstance of a delay and to prevent continuous complaints. The College has not made a written submission responding to this last submission.

Ministry position:

The *CFSA* only addresses complaints against an agency. It does not include a provision for complaints about an individual employee of an agency. A regulatory College is necessary to provide public protection through a neutral third party with whom a member of the public can file a complaint against a CAS worker and/or other employees of a government or government-funded agency. Furthermore, the request for those hearing complaints against child protection workers to have demonstrated expertise in this field is an operational issue and should be raised with the College by the stakeholder.

Regarding the recommended amendment to subsection 24(9) of the *SWSSW Act*, a fixed completion time of 120 days may not be feasible in all cases. In addition, subsection 24(2)(b) deals with the issue of continuing complaints as it addresses complaints that are “frivolous, vexatious or an abuse of process”.

5. Use of the Title “Doctor”

Issue:

Social workers with doctoral degrees want to be able to legally use the title “Doctor”, having earned the highest academic credential from accredited schools of social work. Currently, the use of the title ‘Doctor’ is restricted under the *Regulated Health Professions Act (RHPA)*, to the following five professions: chiropractic, dentistry, medicine, optometry, and psychology.

Synopsis of submissions:

Submissions on this issue were received from the College, the Social Work Doctors’ Colloquium (SWDC), the Ontario Association of Social Workers (OASW) and some MSW and PhD social workers. All supported the use of the title ‘Doctor’ by doctoral level social workers through an amendment to the *SWSSW Act* permitting the use of the title ‘Doctor’, notwithstanding the provisions of the *RHPA*, or through an amendment to the *RHPA*.

The College contends that this change would provide the public with access to full information to inform their choice of professional when they are making decisions about access to the services that they need.

OASW believes the restriction in the use of the title “Doctor” is discriminatory and does not serve to protect the public. The restriction denies the public important and relevant information about the individual’s academic qualifications and training which informs their choice of health care provider and decisions regarding treatment.

The SWDC has raised this issue with the Ministry of Health and Long-Term Care (MOHLTC) and has submitted a task force position paper titled “Use of Title” which claims that the current legislation, which prohibits the use of the title “Doctor”, has created a monopoly that is inequitable. The paper explained that because the title ‘Doctor’ under the *RHPA* is a ‘descriptor’, it does not distinguish between the five different fields of health practice which were given the exclusive use of the title ‘Doctor’. This being the case, social workers believe that the public will not be confused if doctoral social workers use the title ‘Doctor’, and they will not be mistaken for doctors associated with any of the five health fields currently using the title. For example, the public is generally aware of what the dentist does compared to the psychologist, although both use the same title ‘Doctor’.

According to the SWDC, the Ontario specific restriction on the use of title is not based on any empirical evidence that identifies or substantiates a need to protect the public by restricting the use of the title “Doctor”. They believe that the restriction is prejudicial, discriminatory and violates the *Canadian Charter of*

Rights and Freedoms. In addition, they believe that by imposing the restriction on the use of title, the entire social work profession is devalued.

Ministry position:

Granting the use of the title “Doctor” in situations where individuals are providing health care is currently under review by the Ministry of Health and Long-Term Care as part of the broader review of the *RHPA*.

Other Relevant Issues Raised

The following issues that were raised during the review are not strictly limited to matters of quality and accountability of services to consumers of social work and social service work or to the College’s legislated role in supporting these objectives. However, they are important, complementary issues that merit consideration by the ministry. These items were not commented upon by all stakeholders during the review process, including the College.

6. Fees

The OFL, CUPE, SWRG and the Ontario Social Service Worker Educator’s Association believe that the College’s annual registration fee of \$370 is a hardship for social service workers who are generally at the low end of the pay scale in the human services sector. They contend that the fee structure should reflect both the wages and the hours worked.

Ministry position:

The College should retain responsibility for setting annual registration fee levels through their by-laws. It should be noted that on May 10, 2006, the Council of the College approved a by-law reducing the registration and annual fees for members of the College effective January 1, 2007.

7. College business practices

Although this is not an operational review of the College, several College members prefaced their submissions and included references to personal experiences dealing with College personnel and processes. For the most part, they felt that they did not receive good customer service. Some, for example, expected more dedicated commitment and adherence to firm timelines in processing registration applications or clearer responses to inquiries.

Ministry position:

The ministry will raise the issue with the College and recommend that they engage an outside consultant to examine business practices and customer

services in order to provide recommendations for improvement. The *RHPA* professions have undertaken a similar exercise to improve their customer relations.

In addition, the ministry will request the College to report in future on the distribution of complaints between social worker members and social service worker members (including the numbers related to social worker services to consumers, social service worker services to consumers and complaints from existing or prospective members regarding business practices of the College).

8. Regulation of marriage & family therapists

The Ontario Association of Marriage and Family Therapists (OAMFT) presented a submission seeking the inclusion of marriage and family therapy in the *SWSSW Act* as a distinct profession, thereby expanding and enhancing the scope of public protection.

Of 26 supportive submissions, 22 were from marriage and family therapists, six of whom are also registered social workers (some in senior positions), and four submissions were from MPPs.

The College did not make submissions on OAMFT's recommendation to include marriage and family therapy in the *SWSSW Act* as they consider it outside the scope of the current review. However, OAMFT met with representatives of the College in February 2005 to discuss its proposal to amend the Act to include marriage and family therapists as was done in Quebec in 2001.

Initially, OAMFT hoped that the College would grant program equivalency status to its members because marriage and family therapy is a sister profession to social work, but the College decided that it would consider only individual applications from marriage and family therapists because their qualifications and training are distinct from those of social workers. OAMFT has since decided that Ontario would be best served by following the prevailing trend in forty-eight states in the United States and Quebec by regulating marriage and family therapists, as a distinct profession, under the *SWSSW Act*.

CUPE, OFL and the SWRG contend that it is not necessary for a College to regulate OAMFT members who are employed in the public sector. Furthermore, CUPE, OFL and SWRG emphatically believe that the *SWSSW Act* and its regulations should not be amended to expand the scope of the College's mandate. If expansion is being considered, they call on the ministry to conduct an extensive series of consultations with a broad range of stakeholders, including organized labour, Aboriginal communities and diverse social service organizations.

Ministry position:

The ministry supports maintaining the status quo. Marriage and family therapy is regarded as a specialization in counselling or activity within social work and not a separate profession for regulation.

9. Regulation of mental health counselors

The Ontario Coalition of Mental Health Professionals (OCMHP) requests that the *SWSSW Act* be amended to include all qualified mental health counsellors, or counselling therapists, as a single independent profession, citing precedence in forty-eight out of fifty states in the United States. They believe this will expand and enhance the scope of public protection. The coalition represents many professional associations, including the Ontario Association for Marriage and Family Therapy, which operate according to public interest principles and have a combined membership of over 4000 highly trained mental health practitioners across the province.

The OCMHP was a recognized stakeholder in the recent Health Professions Regulatory Advisory Council's consultation on the regulation of psychotherapy/psychotherapists in Ontario.

CUPE, OFL and the SWRG contend that it is not necessary for a College to regulate OCMHP members who are employed in the public sector. Furthermore, CUPE, OFL and SWRG emphatically believe that the *SWSSW Act* and its regulations should not be amended to expand the scope of the College's mandate. If expansion is being considered, they call on the ministry to conduct an extensive series of consultations with a broad range of stakeholders, including organized labour, Aboriginal communities and diverse social service organizations.

Ministry position:

The ministry supports maintaining the status quo. Mental health counselling is regarded as a specialization in counselling or activity and not a separate profession for regulation.

In addition, mental health is within the mandate of the Ministry of Health and Long Term Care.

Technical Issues

A number of technical issues were raised to improve the operations of the College in carrying out its roles and responsibilities to protect the public interest.

Issues supported by MCSS:

10. *Vacancies on the Council of the College*

Both the College and OASW recommend that the *SWSSW Act* be amended so that when one or more vacancies occur in the membership of the Council, the members remaining in office can continue to act as Council so long as their number meets quorum requirements. The interruption to Council business caused by vacancies has had a significant impact on College operations and the ability of the College to protect the public interest.

Ministry position:

The ministry supports minimizing any disruptions to the operations of the College. As such, the ministry addressed this issue through the *Good Government Act, 2006*, which received Royal Assent on June 22, 2006.

11. *Substantial Equivalency*

Private Career Colleges (PCCs) have expressed concern that the threshold for substantial equivalency, against which their social service work graduates are measured, seems to be high and inequitable. While O.Reg. 383/00 allows the College to approve whether a social service work program offered outside Ontario is equivalent to a social service work program offered at a college of applied arts and technology (CAAT), the College does not have the authority to assess equivalency of a social service work program offered at a PCC in Ontario. Graduates from PCC programs can only be assessed for eligibility for registration with the College on an individual basis. A number of PCCs have been offering social service work programs since 2000, months before the regulation came in force. PCCs believe that by recognizing and regulating social service workers from career colleges, public protection would be enhanced by holding all social service worker program colleges, graduates, and employers to the same level of accountability.

On December 12, 2005, the *Private Career Colleges Act, 2005* received Royal Assent. The Ministry of Training, College and Universities (MTCU) is currently developing regulations under this Act. MTCU will also establish a credentials framework and program standards to improve the quality, consistency and transferability of PCC training. To this end, MTCU recommends amending

O.Reg. 383/00 to provide the College with the ability to grant equivalency to PCC social service worker programs.

Although the authority for regulation changes lies with the College, subsection 11(1)(c) grants the Minister power to require the Council to make, amend or revoke a regulation under section 36.

Ministry position:

The ministry will hold discussions with the College regarding amending Reg. 383/00 to provide the opportunity for a social service work program offered at an institution in Ontario other than a College of Applied Arts and Technology (CAAT) to be assessed equivalent to a CAAT social service work program. This would be consistent with *Private Career Colleges Act, 2005*. Program standards and a credential framework would be developed for the PCC sector. If there are any concerns regarding the quality of social service work programs offered at PCCs, the Ministry of Training, Colleges and Universities will work with the College to bring the PCCs in line with the program quality requirements of the College.

12. Registration of members

The College recommends that Section 18 of the *SWSSW Act* be amended to remove all requirements for registration and to consider these requirements as a matter for regulation-making authority. The College believes that the provisions of the *SWSSW Act* that relate to substantial equivalency (Sections 18(1)(b)(ii) and 18(2)(b)(ii)) have created an expectation that an applicant with an educational background significantly different from a degree in social work or a diploma in social service work would be eligible for registration. While the threshold for substantial equivalency may be high from a legal perspective, the College believes that the inclusion of provisions in the *SWSSW Act* that relate to a combination of academic qualifications and practical experience will continue to encourage this expectation. The provisions in the *SWSSW Act* relating to a combination of academic qualifications and practical experience are set out in the *SWSSW Act* as an alternative to the minimum academic qualifications. The College believes that this combination is perceived by applicants as providing an avenue for becoming registered as a social worker or social service worker without first acquiring professional education in social work or social service work.

On a separate point regarding registration of members, the College would like to consider creating additional classes of certificates of registration such as inactive, retired, academic and student. They maintain there are certain disadvantages to the current structure of having academic qualifications for an applicant to be issued a certificate of registration set out in the Act and additional requirements set out in regulations. With the academic requirements set out in the *SWSSW Act* for the issuance of certificates of registration, there is a question about

whether additional classes of certificate of registration could be created since at the time a person applies for a different class of registration, either the applicant might not meet the academic requirements set out in the *SWSSW Act* (such as a member of the provisional class who was admitted to the College under grandparenting) or it would be onerous for the applicant (presumably a member of the College) to demonstrate again that he or she meets the academic requirements set out in the *SWSSW Act*.

To this end, they would like all requirements for registration to be set out in regulation. The requirements and standards would undergo government review through the regulation-making process, but there would be an added flexibility with respect to the registration requirements. The College believes this added flexibility could help them to address such matters as additional classes of certificate of registration, the establishment of which may be impeded by the academic qualifications being included in the Act, and considering lower fees for such additional classes of certificate of registration.

Ministry position:

The ministry supports streamlining the College's application process. The ministry will recommend that this item be considered in a future government Omnibus Bill. Regarding the second point of creating additional classes of certificate of registration, the Act currently permits the College to address classes of certification through regulation.

13. *Fitness to practice*

The College recommends that a provision be made under the *SWSSW Act* to provide the Registrar authority to compel a member to undergo physical or mental examinations conducted or ordered by a health professional specified by the Registrar where there are reasonable and probable grounds that a member may be incapacitated. The College also wants the power to suspend the member's certificate of registration if the member does not submit to such examinations. The College contends that a member who is suffering from a physical or mental condition or disorder may not recognize the problems from which he or she is suffering and thus may not be willing to submit to an independent physical or mental examination when concerns about their capacity have been raised. They believe such examinations are necessary in order for there to be evidence regarding a member's physical or mental condition or disorder at a hearing and in order to avoid referrals for a hearing where referral is not warranted.

Ministry position:

The ministry supports streamlining Fitness to Practice hearings. The ministry will recommend that this item be considered in a future government Omnibus Bill.

14. Powers of Executive Committee (Panels)

The College recommends that section 14(4) of the *SWSSW Act* be broadened to make clear that the Executive Committee may function as a panel for the functions referred to under Section 14(4) and 25(3) of the *SWSSW Act* i.e. to consider and investigate mandatory reports and to make interim orders.

Explanatory note: Section 14(4) states that the chair of a committee (as per Section 14(1) the *Statutory Committees* are: Executive Committee, Registration Appeals Committee, Complaints Committee, Discipline Committee and the Fitness to Practise Committee) may appoint panels from among the committee's members and authorize them to conduct reviews, to consider and investigate written complaints and to hold hearings. Section 25(3) states that the Council or the Executive Committee may make an interim order directing the Registrar to suspend the certificate of registration of a member of the College or impose terms, conditions or limitations on a member's certificate of registration if, (a) an allegation respecting the member has been referred to the Discipline Committee or to the Fitness to Practise Committee; and (b) the Council or the Executive Committee believes that the actions or conduct of the member in the course of his or her practice exposes or is likely to expose a person or persons to harm or injury.

Ministry position:

The ministry supports addressing the language in the Act to clarify that the Executive Committee may function as a panel for the functions referred to under the Act (e.g. to conduct reviews, to consider and investigate complaints, to hold hearings and to make interim orders). The ministry will recommend that this item be considered in a future government Omnibus Bill.

15. Suspended member

The College recommends that the status of a person whose certificate of registration has been suspended should be clarified to ensure the individual cannot use the title of social worker or social service worker while suspended. For example, some members may be suspended for not paying registration fees or for professional misconduct and it would be helpful if the public is aware of the status of the suspended member (e.g. the *Regulated Health Professions Act* provides that a person whose certificate of registration is suspended is not a member).

Ministry position:

The ministry supports addressing the language in the Act to clarify the status of the member whose certificate of registration has been suspended. The ministry will recommend that this item be considered in a future government Omnibus Bill.

16. *Administrative suspension and cancellation of registration*

The College recommends that a provision be added to the *SWSSW Act* to give discretion to the Registrar to revoke or cancel a certificate of registration after an administrative suspension has been in effect for two years.

Ministry position:

The ministry supports streamlining the operations of the College. The ministry will recommend that this item be considered in a future government Omnibus Bill.

17. *Powers of the Registrar and Registration Appeals Committee*

The College recommends that a provision be added to the *SWSSW Act* to give the Registrar authority to propose to issue a certificate of registration if the applicant successfully completes examinations or additional training, and for authority for the Registration Appeals Committee to order an applicant to successfully complete examinations or additional training prior to the issuance of a certificate of registration.

Ministry position: The ministry supports streamlining the application process. This conditional approval avoids the need for an unsuccessful applicant to meet potentially different registration criteria in future. The proposed process is a helpful approach for new applicants. The ministry will recommend that this item be considered in a future government Omnibus Bill.

18. *Resignation of members*

The College recommends that the resignation provision under the *SWSSW Act* be changed so that a member's resignation is effective upon its acceptance by the Registrar. Currently, if a member resigns in the midst of a complaint or discipline proceeding, the College retains jurisdiction to continue the proceedings, however, the College believes that the types of penalties that may be imposed are affected by the resignation (e.g. the College cannot revoke membership from a member who has resigned). The College believes that this would ensure that a member's resignation in the midst of a complaint or discipline proceeding does not affect the type of penalties that may be imposed as a result of the discipline proceeding or the process for future reinstatement.

Ministry position:

The ministry supports streamlining the College's complaint or discipline proceedings. The ministry will recommend that this item be considered in a future government Omnibus Bill.

19. *Alternative Dispute Resolution*

The College would like to treat the referral of a matter for alternative dispute resolution as a possible intermediate step before the final disposition by the Complaints Committee, separate and apart from the possible dispositions set out in section 24(5). According to the College, the current provision treats alternative dispute resolution as one of the dispositions the Complaints Committee can make. If a matter is referred for alternative dispute resolution (ADR) but is not resolved through that process, the Complaints Committee may be without jurisdiction to take further steps.

Ministry position:

The ministry supports streamlining the College's complaints process. The ministry will recommend that this item be considered in a future government Omnibus Bill.

20. *Incapacity of a member of a Statutory Committee or Panel*

The College recommends amending the *SWSSW Act* to add a provision so that where a member of a Statutory Committee or panel who has participated in a hearing or in a decision becomes unable to complete the hearing or participate in the decision, the remaining member or members may complete the hearing and give a decision, or give a decision.

Ministry position:

The ministry supports streamlining the operations of the College. The ministry will recommend that this item be considered in a future government Omnibus Bill.

21. *Expiry of term of office of committee members*

The College recommends amending the *SWSSW Act* to add a provision so that where the term of office of a member of a Statutory Committee or panel who has participated in a hearing or in a decision expires before a final decision with reasons (if required) is given, the term is deemed to continue, but only for the purpose of participating in the decision and for no other purpose.

Ministry position:

The ministry supports streamlining the operations of the College. The ministry will recommend that this item be considered in a future government Omnibus Bill.

Issues not supported by MCSS:

22. *Quality Assurance*

The College recommends for future consideration supplementary regulation-making authority to establish processes and criteria for imposing terms, conditions or limitations or for suspending certificates of members who fail to meet on-going education requirements or to establish processes and criteria for removing the terms, conditions, or limitations or the suspension of certificates where the terms, conditions or limitations or suspension was as a result of a failure to meet ongoing education requirements. In addition the College would like to explore the possibility of gaining additional regulation-making powers which would allow it to provide authority for the College to implement further quality assurance initiatives. They believe this would promote high standards and quality assurance.

Ministry position:

The College has indicated in its submission that this is a matter for future consideration. The ministry will address this issue when the College is prepared to move forward.

23. *Composition of Statutory Committees*

The College would like the *SWSSW Act* to be amended to provide more flexibility with respect to the composition of the Statutory Committees allowing the composition of the Statutory Committees to be determined in the by-laws of the College. The College believes that the current requirement for at least one-half of the members of each of the five Statutory Committees to be persons elected to the Council and that at least one-third of the members of each Statutory Committee be public members restricts the ability of the Council to appoint non-Council members of the College to the Statutory Committees. It also means that the College is also unable to expand the size of its Statutory Committees or change the sectoral representation on Statutory Committees, without increasing the burden on Council members.

The College points out that if the *SWSSW Act* were amended to provide more flexibility with respect to the composition of the Statutory Committees, the College could involve non-Council members in the Statutory Committees and have more social work and social service work representation at the Statutory Committee level.

Statutory committees include the following:

- Executive Committee
- Registration Appeals Committee

- Complaints Committee
- Discipline Committee
- Fitness to Practise Committee

Ministry position:

The ministry supports the status quo. It is appropriate that the composition of statutory committees be laid out in the Act rather than in the College's by-laws. Subsection 14(2) of the Act ensures public member representation on these committees. By-laws are intended to address administrative matters.

24. *Composition of Panels*

The College recommends that the *SWSSW Act* be amended to provide more flexibility with respect to the composition of panels by providing that at least one member of each panel be a public member (currently, the Act requires one-third of the members of each panel to be public members). They believe that this change would provide more flexibility with respect to the composition of panels without sacrificing the important role of public members on panels. It would also take into account the principle of self-regulation that the members of a profession are to be judged by their peers. Statutory committees sit as panels in order to conduct reviews, to consider and investigate written complaints and to hold hearings. A decision of a panel is deemed to be the decision of the committee from which it was appointed.

Ministry position:

The ministry supports the status quo. Proportionate public membership of one third would continue to ensure the public's interest is well represented. If one public member was appointed to a committee and that member was absent, the public interest would not be well served when the rest of the committee's deliberations are conducted by the elected professionals.

25. *Specialty Certificates*

OASW supports the development of categories of specialization within the College to reflect the growing need for advanced training in a variety of recognized specialties e.g. clinical practice, social policy analysis, marriage and family therapy. These specialties require specific knowledge and competencies to be performed effectively in the public interest. As a result of the increasing complexity of issues that social workers address, many have sought advanced clinical training to enhance their competencies. OASW believes that recognizing advanced competencies in the Register would enable the College to achieve its second goal of supporting excellence in professional practice by fostering continuing education.

Ministry position:

The College has authority over registration requirements through regulations respecting specialties in the professions. If the College chooses to introduce specialty certificates then the ministry would review the proposed regulation at that time.

26. *Discipline and reporting of decisions*

The College recommends that a provision be added to the *SWSSW Act* to clarify the Discipline Committee's power to order publication of its decisions and to allow reporting and publication decisions under the Council's by-law making authority.

Ministry position:

The Act is clear regarding the power to order publication of decisions. The reporting and publication of decisions is a public protection issue and should be dealt with through regulation under the Act. By-laws are intended for administrative issues.

27. *Annual report of Council*

Regarding section 10(1) of the *SWSSW Act* pertaining to reporting to the Minister on the activities and financial affairs of the College, an individual stakeholder submitted that this section should include that the report shall not include the following information: 1) referrals by the Council or Executive Committee to the Discipline or Fitness to Practise Committee until the matter is disposed of; 2) approval by the Executive Committee to appoint an investigator until the investigation is completed and reported by the Registrar to the appropriate committee, and the Committee then disposes of the matter; and 3) an interim order made by the Council or Executive Committee until the Discipline Committee disposes of the matter.

Ministry position:

The ministry supports the status quo as there is no requirement for the College to report on the above mentioned matters in its Annual Report, and they are not reported on in practice.

28. *Order for interim suspension and adjudication timelines*

A respondent submitted that subsection 25(7) of the *SWSSW Act* should be amended to include a timeframe by which a complaint shall be adjudicated, and include a provision to address the circumstance of a delay.

Ministry position:

The ministry supports the status quo as subsection 25(7) requires that where an order for interim suspension has been made a disciplinary or fitness to practice complaint shall be dealt with “expeditiously” and given “precedence”. In addition, the member in question may be under suspension or terms, conditions or limitations may be placed on the member’s certificate of registration so the public interest is protected.

29. *Unfounded allegations and publication on request*

Subsections 26(8) and 27(6) of the *SWSSW Act* state that when an allegation is unfounded, the member against whom the allegation was made may request that the matter be published in the College’s official publication. An individual stakeholder recommends that the *SWSSW Act* be amended to include a provision that the College in publishing the matter shall not publish the member’s name unless the member requests publication of their name. Occasionally, in cases that are publicized in the media for example, a member may request their name be published to inform the public that they were not found guilty of a professional misconduct or that allegations were not substantiated.

Ministry position:

The ministry supports the status quo. The Act is silent regarding the publication of names.

APPENDIX 1: Additional Stakeholder Comments

Although the Ontario Council of Deans and Directors of Schools of Social Work (OCDDSSW) did not make a formal submission by the closing date, they did participate in the second round of stakeholder consultations.

OCDDSSW raised the following issues, which are similar to those raised by other stakeholders:

- Representation of social service workers vs. social workers on the College Council should more closely reflect membership.
- Social workers should be separately regulated from social service workers.
- The *Regulated Health Professions Act* should be amended to remove restrictions on social workers with doctorates from using the title “Doctor”.
- The range of areas of practice should be expanded (e.g. clinical, administrative, community practice) with requirements for advanced training in a variety of domains.

APPENDIX 2: Summary of Issues to be Actioned

The following ten issues submitted by stakeholders are supported by the ministry. Considering the technical nature of issues of the first nine issues, the ministry will recommend that these items be considered in a future government Omnibus Bill.

1. A member's resignation should be considered effective only upon its acceptance by the Registrar so members cannot circumvent penalties or the Discipline Committee's consideration of their application for reinstatement.
2. The Registrar should be allowed to revoke or cancel a certificate of registration after an administrative suspension has been in effect for two years.
3. Clarification is needed that social workers/social service workers who are suspended are not members of the College and therefore cannot use the restricted titles under the Act.
4. Clarification is needed that the Executive Committee may function as a panel for the functions referred to under the Act e.g. to conduct reviews, to consider and investigate complaints, to hold hearings and to make interim orders.
5. To streamline the application process the Registrar should be granted the authority to propose to issue a certificate of registration if the applicant successfully completes examinations or additional training and the Registration Appeals Committee should be given authority to order an applicant to successfully complete examinations or additional training prior to the issuance of a certificate of registration.
6. The requirements in order to register with the College should be moved from the Act to regulations.
7. The College should be granted the authority to compel a member to undergo physical or mental examinations when there are reasonable and probable grounds that a member may be incapacitated and the power to suspend the member's certificate of registration if the member does not submit to such examinations.
8. Clarification is needed that when the term of a member of a Statutory Committee expires the term is deemed to continue for that member but only for the purpose of participating in the hearing decision; and when a member becomes incapacitated, the hearing can continue and a decision reached with the remaining members.
9. The complaints process should be streamlined around alternative dispute resolution (ADR) to allow a matter to return to the complaints committee when the ADR process fails.

Furthermore, the ministry supports pursuing the following issue through regulations:

10. Social service work programs offered at an institution other than a College of Applied Arts and Technology (CAAT) i.e. Private Career Colleges, should

have the opportunity to be assessed equivalent to a CAAT social service work program.

APPENDIX 3: Categories of submissions

ONTARIO COLLEGE OF SOCIAL WORKERS
AND SOCIAL SERVICE WORKERS

SOCIAL WORKERS

ONTARIO ASSOCIATION OF SOCIAL
WORKERS AND 2 OF ITS BRANCHES

SOCIAL WORK REFORM GROUP

UNIVERSITIES

COMMUNITY COLLEGES

SOCIAL SERVICE WORKER GRADUATES

PRIVATE CAREER COLLEGES

SOCIAL WORK DOCTORS' COLLOQUIUM

ONTARIO FEDERATION OF LABOUR

CANADIAN UNION OF PUBLIC EMPLOYEES

MEMBERS OF THE PUBLIC

ONTARIO ASSOCIATION OF MARRIAGE AND
FAMILY THERAPISTS

SUBMISSIONS SUPPORTING OAMFT

MPPs SUPPORTING OAMFT

ONTARIO. COALITION OF MENTAL HEALTH
COUNSELLORS

ONTARIO ASSOCIATION OF CHILDREN'S
AID SOCIETIES (OACAS)

SUPPORT FOR OACAS

GOVERNMENTAL SUBMISSIONS

OTHER PROFESSIONS

TOTAL NUMBER OF SUBMISSIONS **97**