January 2020

CAYTON REPORT SUMMARY – COLLEGE OF DENTAL SURGEONS OF SASKATCHEWAN

1. INTRODUCTION

In March 2018, BC Minister of Health Adrian Dix announced the appointment of Mr. Harry Cayton to conduct a review into the Board governance as well as the administrative and operational practices of the College of Dental Surgeons of British Columbia

A. Why Was the Review Initiated?

i. The BC Health Ministry had received egregious complaints regarding the poor performance by CDSBC, specifically in the areas of public protection, interpretation of the Act, and board governance. Complaints ranged from the public and other health professionals in initiating this review. He was also tasked with suggesting changes to the BC *Health Professions Act* that he considered necessary to enhance the ability of a health College to carry out its public protection duties.

B. Who is Harry Cayton?

i. Harry Cayton is a well known and internationally respected leader in the field of professional regulation. Mr. Cayton was the CEO of the UK Professional Standards Authority 2007-2018. He has been awarded both the OBE (Officer of the Order of the British Empire) and the CBE (Commander of the Order of the British Empire), which recognize his services to healthcare and regulatory reform.

C. Why Should We Care?

i. In studying the report and recommendations provided by Mr. Cayton, it is obvious that there are numerous parallels between the operations of the CDSBC and the CDSS. It is no surprise as both are similar in structure and purpose. His findings, in my opinion, would also relate to many other dental or health regulators in Saskatchewan or in Canada.

ii. In December 2018, Mr. Cayton made 21 recommendations to the BC provincial government and CDSBC (they were given 30 days to create a new strategic plan that had benchmarks it needed to satisfy within that 30 day period). All were accepted and will most likely be implemented in 2021 at the latest.

iii. There seems to be an opinion in the dental community that this review is only being done by one province and only 'one persons' opinion. In my humble opinion, it is quite accurate that this is one person's opinion, and this person happens to be Harry Cayton. We should all aware of the fact that the BC government and CDSBC accepted every single recommendation he made. I have gathered that this report has gained far more traction in the other Health Professions (specifically Medicine, Nursing, and Pharmacy). In Saskatchewan, the Ministry of Health are very much aware of this and are watching it closely, as they should be.

iv. In early December 2019, Mr. Dix began moving on the recommendations, one of them being to merge all dental professions under one College. This is expected to be completed in 2021.

2. ITEMS OF NOTE

A. Governance

i. The Health Professions Act (HPA) in BC refers to the professionals who are regulated within its framework as both 'registrants' and 'members' of a college. This reflects an inherent confusion as to the nature of a college and its relationship to the people it regulates. 'Members' implies that the dentists own and control CDSBC; 'registrants' that they are registered with and controlled by the College.

1. *In Saskatchewan, the Dental Disciplines Act (DDA) uses the term 'member' exclusively. We share the same issue in that it is of course reasonable that elected board members of the CDSS would feel the same way. As in BC and SK, this perception runs through the way the College and its board and registrants (members) behave and how they perceive their roles and responsibilities.*

ii. In the BC under the HPA, the idea of membership in enforced by the requirement under the Act to hold and Annual General Meeting and for elections to council.

1. *Similar in SK, the control the electorate perceives to have over the CDSS has created an environment that there is a belief that the College belongs to dentists, that is a 'club' rather than a regulator. Being perceived by 'members' as a membership organization affects the relationship between the members of the Board and staff.*

iii. Public Representatives appointed by the BC Health Ministry are done so through an 'opaque' process. It is uncertain how the appointments are made and the selection process needs more transparency. One of Cayton's findings is that 'Public' members appointed are also regulated health professionals from a different profession. This is not a criticism of the individuals appointed, but is perhaps not a public representative that has an unobstructed view on public protection, patient perception, etc.

1. *In Saskatchewan, I have also found not only the appointments, but the entire relationship confusing. Some health regulators and associations in Saskatchewan openly discuss the reimbursement levels they provide to public representatives, in front of Ministry of Health officials oddly enough. I've also seen regulators comment on the credentials they require for public appointees and scold the government for not sending 'good people that understand the profession'. I have found that the CDSS has, at times, been conflicted in how it deals with public Board members and a clear policy is needed.*

iv. Chairs and Committee members at CDSBC could not always explain to Cayton their roles and responsibilities. Confusion persisted on the roles of the Governance Committee, Nominations Committee and the relationship of the 'Finance and Audit Working Group' to the Audit Committee. The former Chair of CDSBC wrote in an annual report that 'the best governance is what works best for the CDSBC'. Very problematic statement. Audit Working Group and Audit Committee attended each others meetings and took part in full discussions as if one was in the same. This is incorrect.

1. *I think there may be a general lack of awareness for CDSS board members and staff as well. Again, not a criticism of individuals, but a lack of clear policies, roles and responsibilities.*

v. Cayton found that the Conduct of the Board has been effective. He found that the CDSBC had not been 'happy, well managed or constructive governance body for several years'. It was not uncommon for the members to elect 'slates' of candidates to push the agenda of members. In 2016, 5 of the 6 elected CDSBC board members sent a message out to their 'members' that read: 'Over the last few years the executive body of the CDSBC under the mandate of 'public protection' has rescinded many of the public and dental professional rights in this province.', and went on the claim they were going to 'right the ship'.

1. *This is also possible under our electoral system. Essentially, if the members (professional advocates) wanted to 'exert' control over the regulator, this could be easily done.*

B. Governance Summary

i. In my opinion, the weak governance of the CDSBC is a trait that is shared by the CDSS. This is due to the DDA in SK that makes appropriate regulatory governance, focused on public protection, difficult. The term 'public protection' is not mentioned once in the DDA. It is assumed we will be protect the public, but the Act does not mention this term, this is problematic. Council elections, no term limits, an opaque public appointee process, registrants believing that they are 'members' of the College and holding an 'annual general meeting' all add to the confusion as to the mandate of the CDSS, just as the experience with the CDSBC. I would also suggest Alberta and Manitoba are also vulnerable to the same deficiencies, as they do not hide the fact that they are regulators and advocates. If Cayton were to look at SK and our DDA, I would think it would be very likely that we

would have the same amount or more recommendations in how we can better protect the public.

I should also add, that we are the only provincial college/association in Western Canada that has not had an intervention from their respective provincial health ministry. CDSBC will undergo this unprecedent reform, ADA+C was mandated a fee guide a few years ago, and MDA has been told they need to split their one association into one regulator and one separate association. Nova Scotia Dental Board and the Nova Scotia Dental Association have been told to further separate their regulatory and association functions. I believe the CDSS has avoided this unwanted attention as we have been largely satisfying our unsaid public protection mandate. However, as with the CDSBC, this could change quickly. We must be ready to prove how we satisfy this mandate at a moment's notice.

C. Conflict of Interest

i. Cayton goes on to mention that, 'many dentists, some more than others, are properly involved in business with each other, whether it be sharing a practice, running training courses or study clubs. Others may be active in the British Columbia Dental Association or other representative or advocacy groups. There is nothing wrong with these relationships or activities. They may however, in particular or in general, give rise to an actual or perceived conflict of interest and this is why an up-to-date published register of interests is necessary and why new and relevant interests should be declared.

1. *The CDSS has not been immune to these types of conflicts. However, this is not about the people involved, but how poorly the DDA outlines the roles and responsibilities of public protection and regulation. It has largely been left to the profession to decide how this regulatory framework is employed, with little public involvement. Again, this is a weakness in the DDA, not in the CDSS. Professional and advocacy considerations are obviously going to permeate regulatory bodies if they are operated on the governance principles of member based associations or 'clubs'.*

D. Management of Meetings

i. In following the regulatory mandate, 'at every meeting the Board should be asking itself: how are we protecting the public, what will the decisions of this meeting add to public protection? When Boards lose their way they become over-concerned with process and procedure rather than with effective decision-making and outcomes.'

1. *Due to the nature of the DDA, it is not surprising that the CDSS has not been focused on such practices.*

ii. Voting on resolutions does not lend itself to consensus building or to the development of corporate responsibility. Indeed, the practice of proposing formal motions, gathering amendments and voting on them seems completely out of step with modern governance. It reinforces the idea that

the College is a club and that board members represent and vote on behalf of their electorates. An effective board absorbs information, debates and discusses and aims to reach a consensus.

✓ 1. *Again, elections and other items in the DDA absolutely allow for this type of malfunction.*

3. NEXT STEPS

A. Items for Future Discussion

i. There are other topics that need discussion, but are perhaps more operational in nature, but do require involvement of the council and staff of the CDSS. Topics include, financial oversight, in-camera meetings, recording of minutes, meeting procedures, etc.

B. Task Senior Staff with Further Assessment of Regulatory Function

i. **Recommended that council allow senior CDSS staff to further study our compliance.**

4. APPENDIX

A. Cayton Recommendations to CDSBC (10 of 32, All 32 adopted, see full Cayton Report for further info.)

i. ACTION ITEMS

1. *That the Board continues with its plans to reduce its size, increase the representation of public members and to appoint its officers from within its membership. An induction program should be required of those dentists and CDAs wishing to stand for election before they do so. This will help ensure that those entering the Board fully understand the role that it is expected of them and how they should undertake it.*
2. *The Board should continue in its current trajectory of increasing transparency around as much of its business as possible to public scrutiny and being ready to be held accountable to the public whom it exists to serve. The Board should limit the number of meetings held without any staff present to those dealing with HR matters. It should always make, approve and retain formal minutes of those meetings.*
3. *The Board must recalibrate its relationship with its expert staff team. The Board must stop seeing itself as the College and recognize that its role is to govern the College and oversee its performance but that the College is run and managed by its professional staff. The Board and staff need to form a constructive and respectful partnership. Despite good intentions on all sides this is far from being achieved.*

4. *The board should remove itself from involvement in the complaints process and should not attempt to influence or interfere in complaints in any way.*

5. *As part of its new Strategic Plan the College should develop a stakeholder mapping and communications strategy to ensure that proper attention is paid to all its stakeholders and in particular to engagement with patients and the public through a public engagement strategy.*

6. *The College should continue with its plan to open part of its Board meeting to questions and comments from members of the public.*

7. *The College should aim to build a different relationship with its dentist registrants; one of both mutual respect and distance. Its thorough approach to consultation should aid this over time.*

8. *The CDSBC should encourage better and more regular engagement with the three other dental colleges to promote the safety of patients and public protection.*

9. *The regulator has an effective process for development and revision of standards and guidance, the regulator takes account of stakeholders' views and experiences, external events, developments in provincial, national and international regulation, and best practice and learning from other areas of its work.*

10. *The regulator's performance and outcomes for patients and the public are used by the Board when reviewing the strategic objectives of the organization.*

December 28, 2021 9:18 PM

CAYTON REPORT

* Registrants not members
↑ Members understanding of college roles - AGM
x Misrepresentation by geography and number.
x Public member conflict of interest and transparency.
↑ Committee # and consolidation, mandatory, terms of reference
✓ Oath of Office, Conflict of Interest, Confidentiality, Code of Conduct
↑ Standard Agenda Item - relevant or new existing interests
↑ Real and Perceived Conflict of Interest
↑ Committees **audit finance governance
↑ Meetings - public, format, standard agenda items
↑ 3.46 3.47
↑ Consensus versus voting
↑ Standards names consistent
↑ Audit committee- properly administered policy and Risk Register 3.58 3.59 financial and risk management and oversight
✓ Board course
↑ Inform statements vs guideline vs standards
* Standards public
* How to complain and translation services
* Complaints Risk Assessment and prioritizing
* Website register of dentists 4.14 w abilities and limitations
PCC Chair conflict of interest
↑ C2c followups
* Data on time from case beginning to completion
x Reasons for decisions to complainant not just conclusion statements 4108
Registrar process of identifying risk
✓ Committee terms of reference
Committee chairs
↑ Staff support board w strategic objective delivery, resources sufficient, performance improve or decline
Staff key performance indicators
Bc strategic plan nov 2018
↓ Perp other provinces.
↑ Relationships with other oral health associations
↑ Design for future church and state
Manual Clayton report
↑ Regulator maintain pt safety uphold professional standards and maintain public confidence.