

# Ontario Coalition of Mental Health Professionals

## *Executive Summary*

### **Chapter 7 'Regulation of Psychotherapy' New Directions: Regulation of Health Professions in Ontario Health Professions Regulatory Advisory Council April 2006**

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Chapter 7 on the regulation of psychotherapy is twenty-two pages of a much longer report and addresses the questions asked by the Minister of Health and Long-Term Care in his referral letter of February 2005.

The Minister sought the advice of the Regulated Health Professions Advisory Council (HPRAC) on two questions:

whether psychotherapy should be an additional controlled act under the Regulated Health Professions Act (RHPA) and, if so, which regulated professions should have psychotherapy in their scopes of practice and how standards should be set and measured; and

whether psychotherapists should be regulated under the RHPA as a profession, what their scope of practice should be and what controlled acts they should be authorized to perform, as well as any protected title, and whether it is appropriate that psychotherapists be regulated under an existing profession-specific act.

The initial two sections of Chapter 7 in HPRAC's report deal with the history of the referral and the consultation process leading up to HPRAC's report and recommendations to the Minister. For ease of reference, the Executive Summary will follow the section headings used in the report itself.

### **3. Background**

HPRAC lists the categories of individuals providing psychotherapeutic services in Ontario today, including: "Trained and qualified practitioners voluntarily affiliated with non-statutory professional associations exercising self-regulatory functions". This is a direct reference to the kind of organizations that are core members of the Coalition.

The Coalition is also specifically named as a supporter of statutory regulation: "Support for regulation is found across a wide range of groups representing both currently regulated and currently unregulated practitioners. Of particular note is the strong support shown by the Ontario Coalition of Mental Health Professionals, representing 4,300 practitioners."

In its description of psychotherapy, HPRAC lists four basic orientations: psychodynamic, cognitive/behavioural, strategic/systems, and experiential, each with its own modalities that can be applied to individual, group and family counselling.

HPRAC draws a sharp distinction between psychotherapy and counselling. Psychotherapy is "most often characterized by an intense client-therapist relationship which often involves the

examination of deeply emotional experiences, destructive behaviour patterns and serious mental health issues". Psychotherapy is "...distinct from both counselling, where the focus is on the provision of information, advice-giving, encouragement and instruction, and spiritual counselling, which is counselling related to religious or faith-based beliefs."

The report notes that Ontarians receive psychotherapy services in a variety of settings, including hospitals, clinics, mental health centres, or by practitioners in private practice, and that the cost of treating mental health problems in Ontario is estimated to be more than \$2 billion annually.

HPRAC identified the regulatory colleges that currently include members who provide psychotherapy as the College of Psychologists of Ontario (CPO), the College of Physicians and Surgeons of Ontario (CPSO), the Ontario College of Social Workers and Social Service Workers (OCSWSSW), and the College of Nurses of Ontario (CNO). It notes that under the RHPA today, there are no controlled acts that are specifically authorized to psychotherapists in Ontario. It underscores the fact that "...regulated professionals may practice psychotherapy without educational requirements or standards specific to psychotherapy."

Similarly, HPRAC notes that "...there is no requirement for unregulated professionals to adhere to standards for education and qualification, continuing competence, complaints and disciplinary processes and practice standards."

Elsewhere in the report, HPRAC recognizes that many unregulated professionals seek voluntary self-regulation in contrast to others who are untrained and not affiliated with any professional body.

The report underlines the fact that at present the training for professional psychotherapy "...is diverse with little or no harmonization or standardization" and notes that the range of training is so vast that it includes those with Doctoral or Master's level degrees to those who have enrolled in programs for which the main entrance qualification is "life experience".

#### **4. Factors Informing HPRAC's Recommendations**

The principal factor cited in the report is the risk of harm to the public "...since the practice of psychotherapy often takes place in private, unsupervised settings with emotionally vulnerable patients/clients", adding that the risk of harm inherent in the practice of psychotherapy is widely recognized and often cited by other jurisdictions as one of the main justifications for regulating it.

HPRAC identifies two major sources of potential harm to patients/clients: the nature of the therapeutic relationship itself and the failure to properly assess or implement specific psychotherapeutic interventions. It notes the consensus that emerged during the consultation, confirmed by jurisdictional reviews, that the risk of harm associated with the practice of psychotherapy is significant. It also identifies two groups in particular who pose an increased risk of harm to the public: a) unregulated practitioners in private practice without professional affiliation or supervision, and b) regulated professionals who practice psychotherapy without formal training in psychotherapy.

Other factors informing HPRAC's recommendations include the need for supervision, standards of practice, public awareness, consumer protection, accountability, willingness to be regulated, and ability to favour the public interest. The report also identifies public access to psychotherapeutic services as an important consideration, citing the College of Physicians and Surgeons of Ontario:

Admission to practice should not be unduly restricted by unnecessarily onerous or narrow criteria...admission to the profession should not be limited to currently recognized regulated health professionals, as this would unduly limit

public access to well-qualified practitioners with other backgrounds.

## 5. Summarizing the Case for Regulation

HPRAC concludes that the statutory regulation of psychotherapeutic practice is in the public interest and would reduce the risk of harm to the public by providing entry to practice standards, quality assurance, improved accountability and enforcement.

## 6. HPRAC's Initial Conclusions

HPRAC states that following an extensive examination of the relevant issues it concluded that:

- both psychotherapists and psychotherapy should be regulated
- psychotherapy can be distinguished from supportive counselling
- any new regulatory framework should address both currently regulated and currently unregulated practitioners.

## 7. Regulatory Options Considered

HPRAC rejected both **voluntary self-regulation** and a **registry of practitioners** because neither would be able to filter out unqualified practitioners and provide the necessary accountability and enforcement to ensure sufficient protection of the public.

**Title protection** alone was also seen as too weak a form of regulation because it would not stop those who do not qualify to use the protected titles from practicing psychotherapy. It would only prevent others from using the protected titles and thus would not provide an adequate level of public protection.

**Regulation within an existing College** was rejected primarily because there was very little support for it among regulated and unregulated practitioners alike. In addition, no College was interested in taking on the additional regulatory burden that this option would require.

HPRAC considered defining a **controlled act** of psychotherapy and limiting its practice to those authorized to perform it by statute but decided against that option for the following reasons:

- it would require a precise definition of the act of psychotherapy comparable to the 13 existing controlled acts in the RHPA which is not viable since psychotherapy is a process and not a single act
- it would unduly complicate the regulation of social workers who perform psychotherapy requiring them to qualify for dual membership in two regulatory bodies
- it would stifle the evolution of psychotherapy as a dynamic and maturing discipline.

## 8. Preferred Approach to Regulation

HPRAC concluded that a new College of Psychotherapists under the RHPA is the preferable regulatory model.

HPRAC also concluded that "...both the practice of psychotherapy and its practitioners be regulated by way of title protection and an enforceable scope of practice within the RHPA."

## 9. A New Regulatory Framework for Psychotherapy

The key elements of the new regulatory framework would be:

- Practitioners who are currently unregulated would be required to become members of the new College and practitioners who are now regulated would continue to be regulated under their own Colleges.
- Council of the College of Psychotherapy would be composed of 6-9 members elected according to the College's by-laws and 5-8 members appointed by the Lieutenant-Governor-in-Council.
- Council of the College of Psychotherapy would establish an Advisory Committee to include representatives of the College of Psychologists of Ontario, College of Physicians and Surgeons of Ontario, Ontario College of Social Workers and Social Service Workers, and the College of Nurses of Ontario.
- Members of existing Colleges would be able to provide psychotherapy without having to become members of an additional, new regulatory body but would have to demonstrate compliance with the qualifications and standards specific to psychotherapy.
- Colleges of regulated professionals who practice psychotherapy (psychologists, social workers, nurses, and physicians and surgeons) would have to develop, implement and enforce their own minimum qualifications and standards of practice specific to psychotherapy. If they fail to do so, they would be required to adhere to the standards of the College of Psychotherapists.
- There would be only one protected title 'Psychotherapist' because it is already widely used by practitioners and other health care professionals and is understandable to the public.

Significantly, HPRAC also recommends that the RHPA be amended to include the concept of an **enforceable scope of practice** as a key component of the new regulatory regime for psychotherapy.

In arguing for this approach, HPRAC notes that the RHPA now allows for two general regulatory approaches:

- defining 'controlled acts' that can only be performed by members of specified RHPA Colleges who must meet minimum qualifications and standards
- acts that do not present a sufficient risk of harm to warrant removing them from the public domain as controlled acts and can thus be performed by any practitioner, regulated or unregulated.

Having ruled out making psychotherapy a 'controlled act', for the reasons noted above, HPRAC introduces the concept of 'a legally enforceable scope of practice' which would "...describe the nature and extent of the activities that will be subject to this new regulatory framework regardless of the title or label used by a practitioner, and prohibit practitioners of existing Colleges who are not qualified to practice psychotherapy and those who are not members of the new College of Psychotherapists from practicing within that scope."

HPRAC notes that some jurisdictions in the United States have adopted this approach to the regulation of psychotherapy and that legally enforceable scopes of practice were a feature of the former Health Disciplines Act (Ontario).

HPRAC proposes the following **scope of practice** that would apply to all practitioners authorized to practice psychotherapy within existing Colleges or in the new College of Psychotherapists:

Psychotherapy is the provision of a psychological intervention or interventions delivered through a therapeutic relationship for the treatment of cognitive, emotional or behavioural disturbances.

Regarding the current **exemptions under the RHPA** for counselling, religious care and Aboriginal healers, HPRAC recommends that they form the basis for similar exemptions under the proposed new regime:

- include an exemption in the new Psychotherapy Act specifying that it “does not apply to counsellors providing information, encouragement, advice or instruction about emotional, social, educational or spiritual matters”
- include the exemption from the RHPA for Aboriginal healers in the new Act
- further investigate the need to regulate faith-based practitioners who provide psychotherapy in the course of spiritual or religious care so they would meet the same qualifications and standards as other practitioners of psychotherapy

Finally, HPRAC recommends that regulated psychotherapists not have access to the controlled act under the RHPA to diagnose and “communicate a diagnosis”. Its rationale is that the type of assessments carried out by psychotherapists on their patients/clients fall short of “...the threshold for a clinical diagnosis of a mental or emotional disorder.”

## 10. Transition to Regulation

HPRAC recommends that a Transitional Council be established to oversee the transition to a College of Psychotherapy over a period of three years.

The report lists all the standard functions of a transitional council and proposes the following **composition for the Transition Council**:

- the chair and vice-chair would be appointed by the Lieutenant-Governor-in-Council on the recommendation of the Minister of Health and Long-Term Care
- 6-9 currently unregulated practitioners of psychotherapy
- 5-8 members of the public
- 4-6 representatives (collectively) of the College of Psychologists, Physicians and Surgeons, Social Workers and Social Service Workers, and Nurses

HPRAC also recommends that the representatives of the existing Colleges not become members of the governing council of new the College. Their appointments to the Transitional Council would terminate when the new College is officially established but they would name representatives to an Advisory Committee of the new College of Psychotherapists.

The report notes that a major task of the Transition Council would be to establish **entry to practice requirements**. In its discussion of the “...foundational qualifications and the educational equivalencies for entry to practice as a psychotherapist”, the report notes that a minimum of two years of training would be required to master the theoretical body of knowledge in any given modality of psychotherapy as well as in the area of supervised clinical practice.

Finally, HPRAC recommends that the Transitional College implement **a strategic communications program** designed to tell both practitioners and the public that: a) the purpose of regulation is to include, not exclude, currently unregulated practitioners, b) currently unregulated practitioners will play a significant role in the transition to regulation, and c) currently regulated practitioners will meet accountability standards established by existing Colleges.

## 11. Conclusions

HPRAC lists the conclusions it reached after examining the regulation of psychotherapy in Ontario and other jurisdictions and consulting with a wide range of practitioners and members of the public. Among its key conclusions are the following:

- Anyone, with or without credentials, may currently practice psychotherapy and call him/herself a psychotherapist in Ontario.
- Psychotherapy in Ontario is provided by a spectrum of practitioners ranging from regulated health professionals (physicians, psychologists, social workers) to those with graduate degrees and specialized training in psychotherapy, and those with little or no formal training.
- The risk of harm to the public from the practice of psychotherapy has already been recognized by other jurisdictions that regulate or are considering statutory regulation.
- HPRAC considered a number of regulatory options and concluded that title protection with an enforceable scope of practice, under the RHPA, provides the best balance between the public interest, the need for professional accountability and issues of public access.
- Following a three-year Transitional Council, a College of Psychotherapists should be established as a new, permanent regulatory body.
- Existing Colleges would be required to develop high minimum standards for entry to practice and continuing competence specific to psychotherapy for their members who practice psychotherapy.
- A collaborative and interdisciplinary approach to the practice of psychotherapy by Colleges is fundamental to protecting the public interest, and ensuring that people who need psychotherapeutic services can rely on qualified practitioners from a range of disciplines.
- Public education is essential, including how to find a qualified practitioner, client's rights, and how to lodge a complaint against a practitioner.

## **12. Recommendations**

HPRAC ends its report by listing all of its recommendations to the Minister, as outlined above, in summary form.

The full report and the list of recommendations are available at the following websites: [www.health.gov.on.ca](http://www.health.gov.on.ca) and [www.hprac.org](http://www.hprac.org)