



Psychiatric Patient Advocate Office

*Submission to the Health Professions
Regulatory Advisory Council*

*Re: Consultation on the possible regulation of
psychotherapy and /or psychotherapists*

October 2005

Psychiatric Patient Advocate Office
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PROMOTING PATIENTS' RIGHTS



Psychiatric Patient Advocate Office

Bureau de l'intervention en faveur des patients des établissements psychiatriques

October 31, 2005

Ms. Karen Lane
Health Professions Regulatory Advisory Council
55 St. Clair Avenue West
Suite 806 Box 18
Toronto, Ontario, Canada M4V 2Y7

Dear Ms. Lane:

Re: Consultation on the possible regulation of psychotherapy and /or psychotherapists

I am pleased to submit the response of the Psychiatric Patient Advocate Office (PPAO) regarding the possible regulation of psychotherapy and/or psychotherapists in Ontario.

The PPAO is an arm's length office of the Ministry of Health and Long-Term Care. Since 1983 the PPAO has provided individual advocacy, rights protection and rights advice to clients of tertiary care psychiatric facilities in Ontario. Through our community rights advice service, we also provide rights advice in nearly all psychiatric units of Schedule 1 and 2 hospitals throughout Ontario. For more than two decades the PPAO has also advocated strenuously on behalf of consumers of mental health services in an effort to address significant local, regional and provincial systemic issues.

Professional regulation and oversight are essential to consumer protection and ensuring the delivery of the highest quality of care, standards of practice and conduct and practitioner qualifications. While different opinions exist about the effectiveness of professional self-regulation as a means to protect the public, both consumers of mental health services and the public benefit from an accessible, visible and transparent accountability process.

The regulation of psychotherapy and/or psychotherapists is an important undertaking. There are currently significant numbers of practitioners providing psychotherapy and counselling to individuals with diagnosed mental illnesses, as well as those experiencing self-assessed emotional, cognitive, behavioural, social and interpersonal problems. The development of an accountability framework and complaint mechanism is fundamental to the protection of consumers and the public.

We have responded to the questions posed in the Consultation Discussion Guide – On Issues Relating to the Ministerial Referral on Psychotherapy and Psychotherapists and provided recommendations for the development of a regulatory mechanism providing effective oversight, accountability, and quality assurance for consumers of psychotherapy and counselling services.

Please contact me at (416) 327-7004 should you have any questions regarding this submission.

Sincerely,

David Simpson
Director (A)

Summary of Recommendations Psychiatric Patient Advocate Office

- The PPAO recommends the development of a broad and clear definition of psychotherapy and counselling, capturing overarching principles and commonalities in therapeutic tasks and goals. It should pay close attention to the helping relationship that is established between therapist and client. This definition should be developed in consultation with consumers, regulated and unregulated practitioners and other stakeholders.
- The PPAO recommends the development of an oversight and accountability mechanism for psychotherapy (and counselling). The practice of psychotherapy (and counselling) carries with it a significant potential for harm to consumers. A regulatory mechanism would set a standard for entry-level and ongoing practice, and provide avenues for complaint, discipline and quality assurance.
- The PPAO recommends the regulation of psychotherapists and counselors in the context of the psychotherapy and counselling services they provide.
- The PPAO recommends the regulation of psychotherapy and counselling (in tandem with the regulation of psychotherapists and counselors) to offer consumers and the public the greatest level of protection.
- The PPAO recommends the development of a new statutory scheme for the regulation of psychotherapy (and counselling) and psychotherapists (and counselors).
- The PPAO recommends the establishment of a title scheme for psychotherapists (and counselors). This regulatory scheme should be developed in consultation with and the full involvement of consumers and other stakeholders
- The PPAO recommends the establishment of practice and conduct guidelines.
- The PPAO recommends the creation of a transparent and accessible complaint process, which has the authority to mete out discipline. This process should support third party complaints.
- The PPAO recommends that exceptions be made for aboriginal healers and healing practices, as well as for other established, culturally specific healing practices and practitioners.
- The PPAO recommends processes that support a period of transition to a new regulatory body for psychotherapy and psychotherapists.
- The PPAO recommends a grandparenting mechanism for practitioners which takes into account equivalencies in education, experience and training for practitioners.
- The PPAO recommends the establishment of an expert panel of consumers, family members, other stakeholders and regulated and unregulated practitioners to guide the development of a new regulatory body and practices. Every effort must be made to support consumer involvement in all phases of this developmental process.

Introduction and Background

The Psychiatric Patient Advocate Office (PPAO) is an arm's length office of the Ministry of Health and Long-Term Care. Since its inception in 1983, the PPAO has provided individual advocacy, rights protection and rights advice to clients of the current and former provincial psychiatric hospitals in Ontario. Through its community rights advice service, the PPAO provides rights advice to nearly all psychiatric units of Schedule 1 and Schedule 2 facilities throughout Ontario. For more than two decades the PPAO has also advocated strenuously on behalf of consumers of mental health services in an effort to address significant local, regional and provincial systemic issues.

As a rights protection organization, the PPAO is particularly concerned about the protection of vulnerable individuals who are consumers of mental health services. This submission grapples with the issue of regulating psychotherapy and/or psychotherapists, responding to questions posed in the Consultation and Discussion Guide – On Issues Relating to the Ministerial Referral on Psychotherapy and Psychotherapists. Of particular importance is establishing a regulatory framework that ensures the protection of consumers and the public. Help-seekers, and in particular those faced with the complex therapeutic needs of serious mental illness, may have difficulty in safely navigating the vast array of available psychotherapeutic and counselling strategies. Any regulatory scheme must offer a means of regulating practitioner eligibility, conduct and practice guidelines and an accessible and transparent complaint process, with the authority to administer discipline. Recommendations are provided for the development of a regulatory mechanism providing effective oversight, accountability, and quality assurance for consumers of psychotherapy and counselling services.

Defining Psychotherapy

(1) Is it necessary to define psychotherapy in order to effectively regulate it? If so, is broad agreement on a definition necessary?

The practice of psychotherapy as a helping intervention requires a clear working definition as a first step toward regulation. Many definitions of psychotherapy and counselling exist, which are based on different philosophical and historical perspectives, goals and intervention strategies. Common principles spanning different therapeutic approaches need to be identified. This is most effectively achieved through ongoing consultation with a variety of stakeholders, including regulated and unregulated professionals and consumers of these services.

(2) *Please comment on the working definition. Are there elements that should be included or deleted?*

This definition differentiates psychotherapy from counselling and spiritual counselling. It may be argued that spiritual counselling, insofar as it is based on religious systems of belief, may be exceptional. There may also be a need to differentiate specific healing practices and practitioners from different cultural traditions, as well as aboriginal healing practices and practitioners, from psychotherapeutic approaches. There is considerable overlap between counselling and psychotherapeutic interventions. Many counselling approaches, for example humanistic and person-centred counselling, may be seen as equal to psychotherapy in both intensity and specificity of treatment or intervention. Broadly, psychotherapy and counselling may have different historical and theoretical underpinnings. However, both approaches rely on the establishment of a helping relationship in a particular therapeutic context. For this reason, a working definition of psychotherapy should be broadened to include counselling. It should identify overarching principles, and commonalties in therapeutic tasks and goals. It should also pay particular attention to the nature and quality of the helping relationship that is established between the counselor or psychotherapist and client. The nature and quality of this relationship has the potential to help or harm consumers of psychotherapy and counselling services.

Recommendation:

- The PPAO recommends the development of a broad and clear definition of psychotherapy and counselling, capturing overarching principles and commonalties in therapeutic tasks and goals. It should pay close attention to the helping relationship that is established between therapist and client. This definition should be developed in consultation with consumers, regulated and unregulated practitioners and other stakeholders.

Need for a Regulatory Intervention

(3) *Does the practice of psychotherapy pose a risk of harm to the public? If so, how?*

Where practitioners are unregulated there is no protective or oversight mechanism for consumers of counselling or psychotherapeutic services. Individuals seeking these services may be suffering from a diagnosed mental illness or self-defined specific cognitive, behavioural, social or interpersonal problems and therefore in a state of increased vulnerability. The influence, authority and relative power of the counselor or psychotherapist has the potential to help or harm clients. This may occur through the misuse or abuse of power or through a lack of skill, knowledge or training. In some instances, unprincipled practitioners may intentionally exploit clients for personal gain. The helping relationship is essential to counselling and psychotherapy and the development of

inappropriate and sexually exploitative relationships is a risk, especially where practitioners are not grounded by professional ethics and practice guidelines. Further, unregulated professionals may not be sufficiently knowledgeable about legislation of relevance to clients' rights and entitlements.

(4) *Would regulatory intervention decrease the risk of harm to patients/clients? If so, how?*

Regulation through a registration process would potentially provide an oversight and accountability mechanism for the practice of psychotherapy or counselling. An avenue of redress would be established through a transparent complaint and discipline process. Ethics and practice guidelines could also be developed and made available to the public. Ongoing and entry-level practice requirements would provide a basic standard for practice and provide a mechanism for quality assurance. Practitioners who failed to meet the fundamental requirements for practice could be limited in terms of the scope and nature of their work.

(5) *Please identify any other factors that weigh for or against regulatory intervention.*

Efforts to regulate current and future practitioners of psychotherapy or counselling may limit both the availability and range of services offered to consumers. Increased educational requirements may exclude some individuals from practice and potentially increase the cost of service delivery. Moreover, the cost of regulation itself may contribute to an increase in service fees. Nevertheless, the potential benefits of regulation for clients and the public outweigh these possible negative consequences. The risk of harm to consumers is significant enough to warrant regulation.

Recommendation:

- The PPAO recommends the development of an oversight and accountability mechanism for psychotherapy (and counselling). The practice of psychotherapy (and counselling) carries with it a significant potential for a harm to consumers. A regulatory mechanism would set a standard for entry-level and ongoing practice, and provide avenues for complaint, discipline and quality assurance.

Regulating Psychotherapists

(6) *Would a significant public need be met by regulating psychotherapists?*

There are two possible dimensions to a regulatory scheme, namely, the regulation of both psychotherapy practice and practitioners. This two pronged approach provides the greatest level of protection to the public. Individuals providing service would need to have some combination of education, training and

experience as a minimum requirement for providing psychotherapy or counselling services. Criteria qualifying individuals both beginning and continuing to provide psychotherapeutic services need to be developed.

- (7) *Should the title “psychotherapist” be restricted? If so, to whom?*
- (8) *Should psychotherapists be regulated without regulating psychotherapy?*
- (9) *Are there any other issues relating to the regulation of psychotherapists, as distinct from psychotherapy, you would like to comment on?*

Title regulation could serve as an important element in the regulation of psychotherapists or counselors. There may be a common, lay understanding of these terms, which are very much a part of our present day lexicon. These terms are suggestive of the qualifications of practitioners and the services that they offer. In receiving services from a “psychotherapist, “ a client may have distinct expectations regarding the nature and quality of their treatment that are directly related to their understanding of this title. This understanding may or may not be reflective of a particular level of education, training and experience. This is an important consideration from the standpoint of quality assurance. There needs to be a scheme developed toward the regulation of title for those providing psychotherapeutic and counselling services. There may be categories of practitioners within each of these designations that would be more accurately reflective of current and best practice within the field of talking therapies.

Similarly, the regulation of psychotherapy and psychotherapists needs to be carried out in tandem. It makes little sense to separate the practice from the practitioner if the goal of regulation is the protection of the public. Both unregulated and regulated practitioners currently carry out psychotherapy. Existing colleges may or may not have practice guidelines for those members working in this area of practice. While there may be a mechanism of accountability for those members of regulated colleges practicing psychotherapy, there may be limited quality assurance in this area due to the absence of clear practice qualifications and guidelines. Efforts to regulate psychotherapists, independent of the practice of psychotherapy, could result in diminished protection for consumers, due to the lack of clarity of what constitutes this therapeutic approach. In addition, if the goal of regulation is provide the maximum protection to consumers, in consideration of the potential risks of psychotherapy, then regulation standards need to be applied across professional disciplines and classes of practitioners. It is clear that psychotherapy covers a range of approaches and is provided by many disciplines including nursing, social work, psychology and medicine, as well by other trained and untrained individuals.

Recommendation:

- The PPAO recommends the regulation of psychotherapists and counselors in the context of the psychotherapy and counselling services they provide.

Regulating Psychotherapy

- (10) *Would a significant public need be met by regulating psychotherapy?*
- (11) *Can psychotherapy be regulated without regulating psychotherapists?*
- (12) *Are there any other issues relating to the regulation of psychotherapy you would like to comment on?*

Clearly, issues of accountability, quality assurance and protection from harm are central to the regulation of psychotherapy and psychotherapists. At present, these issues have not been addressed in any consistent or systematic way. While the public may have access to a complaints process if receiving service from a member of a professional college, standards of practice may not be uniform across professional colleges. Moreover, there is no protection afforded to individuals receiving service from unregistered practitioners and no mechanism for addressing concerns arising from the quality or nature of the services received. Given the breadth of practice and practitioners, efforts to regulate psychotherapy independent of who provides it, would be an incomplete protection for the public.

Recommendation:

- The PPAO recommends the regulation of psychotherapy and counselling (in tandem with the regulation of psychotherapists and counselors) to offer consumers and the public the greatest level of protection.

Options for Regulation

- (13) *Is the RHPA the most appropriate statutory framework to use to regulate psychotherapists and psychotherapy?*
- (14) *Should psychotherapy be a Controlled Act under the RHPA? If so, what professions should be authorized to perform the Controlled Act of psychotherapy?*
- (15) *Should psychotherapists be regulated as a new profession under RHPA?*
 - a) *Should psychotherapists be regulated as part of an existing regulatory College or under a new, separate College?*
 - b) *Should psychotherapists be regulated as a class within an existing College?*
- (16) *Should another regulatory framework (using a new or existing statute) be used to address all matters relating to the issue of regulating psychotherapy and/or psychotherapists?*
- (17) *Are there any other regulatory models that should be considered?*

In view of the eclectic nature of both the practice of psychotherapy and the backgrounds of those providing this service, making psychotherapy a controlled act may be too limited in scope to provide effective regulation. Existing regulated disciplines may not have clear or any practice guidelines for psychotherapy, or may fail to specify the qualifications of those providing psychotherapy. In

addition, there is a need to achieve buy-in from unregulated practitioners of psychotherapy, and to take into account current broad-based knowledge in the delivery of psychotherapeutic services. These considerations may argue in favor of the development of a new professional designation(s), namely psychotherapist and/or counselor. The most effective and comprehensive way to address the issue of regulation may be to propose a new statutory scheme for regulating both psychotherapy and psychotherapists. There are several tasks that need to be accomplished toward this end. These include:

- The development of a general working definition(s) for psychotherapy (and counselling);
- The establishment of a title scheme for psychotherapists (and counselors) with qualifications for practitioners;
- The establishment of practice and conduct guidelines; and,
- The creation of a transparent and accessible complaint process that addresses issues of professional conduct and practice and has the authority to mete out discipline. This process should support third party complaints.

It is essential that consumers and other stakeholders be fully involved in this process at every stage in the design and implementation of a new regulatory mechanism.

Recommendations:

- The PPAO recommends the development of a new statutory scheme for the regulation of psychotherapy (and counselling) and psychotherapists (and counselors). This regulatory scheme should be developed in consultation with and the full involvement of consumers and other stakeholders.
- The PPAO recommends the establishment of a title scheme for psychotherapists (and counselors).
- The PPAO recommends the establishment of practice and conduct guidelines.
- The PPAO recommends the creation of a transparent and accessible complaint process, which has the authority to mete out discipline. This process should support third party complaints.

Exceptions and Exemptions

(18) If there is to be regulatory intervention, should exceptions be made? If so, for what professions and/or services?

Exemptions under *RHPA* should continue for aboriginal healers and healing practices, and careful consideration should be given to exempting other specific healing practices and practitioners from diverse cultural traditions. However, beyond culturally specific and spiritually based approaches, the exemption of other practitioners may limit the protection afforded to consumers under any

proposed regulatory mechanism. Comprehensive and precise definitions for psychotherapy and counselling may reduce the need to exempt other classes of practitioners. Though some may view counselling as an intervention of relatively low intensity, principally concerned with the provision of information and advice, there are others who consider counselling strategies equal in intensity to psychotherapy. Counselling and psychotherapy approaches may have different historical and philosophical roots but in practice may treat similar problems and target populations. For this reason, some consideration should be given to developing a definition that includes counselling practices that address cognitive, behavioural, social and interpersonal problems and which are of sufficient intensity to be comparable to psychotherapeutic interventions.

Recommendation:

The PPAO recommends that exceptions be made for aboriginal healers and healing practices, as well as for other established, culturally specific healing practices and practitioners.

Transition to a New Regulatory Environment

- (19) *Should there be a transition period during which all practitioners must qualify? If so, how long should it be?*
- (20) *Should those currently practising psychotherapy be permitted to continue to practice throughout a transition period without meeting certain requirements?*
- (21) *Should some or all of those practising psychotherapy be “grandparented”? Should those seeking “grandparenting” be required to meet a different, less onerous set of minimum qualifications and standards than those likely to be required in a new regulatory environment?*
- (22) *How and by whom should minimum qualifications and standards be identified and set, including those for grandparenting?*

The effectiveness of a new regulatory mechanism, including the establishment of a new professional college and the harmonization of regulatory mechanisms for the practice of psychotherapy by members of existing colleges, will need the support and buy-in of regulated and unregulated practitioners of psychotherapy. It will also be of critical importance to canvas consumers and other stakeholders regarding the development of a new regulatory scheme. Considerable thought should be given to processes that will support the transition to regulation. A transitional period will be fundamental to ongoing public access to needed and wanted psychotherapeutic services. Moreover, a transitional period coupled with a grandparenting mechanism will encourage unregulated practitioners to support the development of a new regulatory body and process. Grandparenting approaches typically take into account equivalencies in education, experience and training and do not necessarily demand a reduction in practice or qualification

standards. Consultation with consumers, families, other stakeholders and regulated and unregulated practitioners will be pivotal to establishing qualifications and standards. Every effort must be made to support consumer involvement throughout all stages in the development of this regulatory framework and process. An expert panel drawn from a broad spectrum of stakeholders will be essential to steering the development of a new regulatory mechanism and setting time lines for transitional periods. Such a panel will need to have ongoing and broad-based community consultation to guide the development of a new regulatory body and practices.

Recommendations:

- The PPAO recommends processes that support a period of transition to a new regulatory body for psychotherapy and psychotherapists.
- The PPAO recommends a grandparenting mechanism for practitioners which takes into account equivalencies in education, experience and training for practitioners.
- The PPAO recommends the establishment of an expert panel of consumers, family members, other stakeholders and regulated and unregulated practitioners to guide the development of a new regulatory body and practices. Every effort must be made to support consumer involvement in all phases of this developmental process.

Conclusion:

At present, both psychotherapy's practice and practitioners are largely unregulated. Those seeking access to psychotherapeutic and counselling services are potentially vulnerable to harm as a consequence of limited quality assurance and, in certain rare instances, exploitation; there is a distinct absence of a comprehensive regulatory mechanism with an accessible complaint and discipline process. Nevertheless, the provision of these services addresses an important client need. Consumers seeking intervention for self-defined cognitive, emotional, behavioural, social and interpersonal problems, as well as those with diagnosed mental health problems, may have considerable difficulty in safely navigating the vast array of talking therapies and service providers. A new regulatory scheme is needed to address issues of quality assurance, complaint and discipline. This scheme should regulate both the practice of psychotherapy and counselling and those who provide these services. There is also a need to harmonize any scheme that is developed with existing professional colleges and practice and conduct guidelines. A comprehensive process of consultation, fully involving consumers, families, unregulated and regulated practitioners, and other stakeholders should be undertaken to define, develop and implement this new regulatory scheme. Care should be taken to exempt spiritual and traditional healers and counselling approaches, including aboriginal and other culturally specific healing traditions. Such a regulatory scheme will reduce the potential for harm, offer an avenue to

redress issues arising in the course of treatment and contribute toward the delivery of improved services.