

# **Consultation Discussion Guide**

*On Issues Relating to the Ministerial Referral on  
Psychotherapy and Psychotherapists*

September 2005

**HPRAC**

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**Health Professions Regulatory Advisory Council**

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## Invitation to Comment

The Health Professions Regulatory Advisory Council (HPRAC) regularly seeks input from a variety of sources including the general public, interest groups, health professionals, health professional regulatory Colleges, community groups and other interested organizations, on matters related to the regulation of health professions.

Depending on the nature of the project, a variety of approaches are used to elicit comment and feedback, including written submissions, public hearings, focus groups, community meetings and public consultations.

HPRAC welcomes all responses to this document. **The deadline for written submissions is October 21, 2005**, and HPRAC encourages submissions prior to that date. Responses should be addressed to:

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Electronic submissions can be made to: [HPRACSubmissions@moh.gov.on.ca](mailto:HPRACSubmissions@moh.gov.on.ca)

*Respondents should be aware that all submissions and correspondence on this matter may be the subject of a request under the Freedom of Information and Protection of Privacy Act (FIPPA). If you wish any part of your response, submission or correspondence to be withheld, please indicate so and provide the reason for your request. HPRAC will endeavour to ensure that your wish for privacy is respected; however, please be aware that ultimately, submissions are subject to FIPPA and could be released. Names of third parties should not be included in written submissions, oral presentations and correspondence.*

HPRAC will also be conducting **Public Consultations** on the psychotherapy referral throughout Ontario in September and October 2005. **Note: dates may be subject to change.** Final details of times and locations will be posted at [www.hprac.org](http://www.hprac.org).

September 27	Ottawa	October 6	Thunder Bay
September 28	Kingston	October 7	Sudbury
September 29	Hamilton	October 11	London
September 30	Toronto	October 14	Toronto

Anyone wishing to make an **oral presentation** at one of the Consultations should contact Karen Lane at [Karen.Lane@moh.gov.on.ca](mailto:Karen.Lane@moh.gov.on.ca) or (416) 325-8928 or 1-888 377-7746 by September 22, 2005. Presenters are asked to address the major themes and topics raised in the Discussion Guide. We encourage presenters to provide a written copy of their remarks, but they are not required to do so. Oral presentations will be recorded.

## Part 1: Introduction

This Discussion Guide weighs various approaches to possible regulation of psychotherapy – an accepted treatment method for emotional and mental health problems for more than a century. The Guide looks at what regulation involves, and weighs the potential danger of harm being done to patients/clients in the current, unregulated environment.

The issue is both personal and practical: Psychotherapy is an important component of treatment for mental health problems, which affect one in four families directly or indirectly, and consume a large proportion of health care dollars. An estimated 20 per cent of Ontarians will experience a serious mental illness at some point in their lives, requiring hospital and/or community mental health support.

Currently, a wide of range of practitioners conduct psychotherapy. Some are traditional, regulated health professionals, such as psychologists, social workers, physicians and nurses. Others have graduate-level education or specialized training in particular therapeutic approaches. However, still others have only limited formal training – or none at all.

Typically, psychotherapy is characterized by an intense client-therapist relationship. Often it is conducted in private settings away from institutional constraints and without peer collaboration or oversight. Frequently it involves probing deeply emotional experiences, destructive behaviour patterns and serious mental health problems. It may also involve transference – the redirection of feelings and desires to a new object, sometimes the psychotherapist.

An inherent power imbalance exists in the patient/client-therapist relationship – one that could be manipulated and exploited by an unscrupulous practitioner dealing with an emotionally fragile or vulnerable client. Such exploitation could take the form of sexual, financial or emotional abuse, with the potential for causing serious harm to the patient/client.

Other potential sources of harm in psychotherapy might include inadequate assessment, inappropriate treatment and failure to refer a patient/client to another professional when the problem is beyond the practitioner's training and experience. Incompetent therapy could worsen a patient's/client's problem, with potentially serious consequences.

In North America, many jurisdictions have regulated psychotherapy or are considering doing so. In Canada, Alberta recently restricted "provision of a psycho-social intervention" to six regulated health professions, and British Columbia is currently studying the issue.

In the U.S., many states restrict the practice of psychotherapy using a range of approaches – from voluntary registration with a state board to formal licensing. Elsewhere, Great Britain is considering self-regulation or mandatory registration for psychotherapists, and Australia expects to address the issue in the near future. In New Zealand, the national psychotherapy association has requested that the practice become a regulated profession.

One of the biggest challenges for those weighing the case for regulation versus maintaining the status quo, is formulating a clear definition of psychotherapy, especially when it comes to differentiating it from counselling. The distinction is important because many jurisdictions that regulate psychotherapy or psychotherapists exempt counsellors, including spiritual counsellors. In addition, if the provincial government were to regulate psychotherapy as a Controlled Act, with only certain professionals permitted to practice it, a definition of the Controlled Act of psychotherapy would be essential.

Another approach to regulation involves designating a new category of health professional (“psychotherapist”) within either an existing regulatory College or a new one. In either case, qualifications and training would have to be developed for those who are newly regulated. Similar requirements might also apply to currently regulated professionals who wish to practise as psychotherapists.

Earlier this year, the Minister of Health and Long-Term Care asked the Health Professions Regulatory Advisory Council (HPRAC) to look at whether psychotherapists or psychotherapy should be regulated.

In HPRAC’s 2001 report, Adjusting the Balance, A Review of the Regulated Health Professions Act, the Council recommended to the Minister of Health and Long-Term Care that, based on input from stakeholders, regulation of psychotherapy and psychotherapists should be further investigated.

This Discussion Guide reviews the history of health professions regulation in Ontario and examines some of the issues and options around possible regulation.

## **Note on Statutory Self-Regulation of Health Professions**

Statutory self-regulation of healthcare professionals helps protect health care consumers by ensuring that practitioners meet defined professional standards and competence. It involves establishing a Register of practitioners who are qualified and competent to practise, and restricting use of a specific title to practitioners included on the Register.

For patients/clients, caregivers and the public, a modern statutory regulatory framework provides some assurance that practitioners are not only suitably qualified, but also competent and current with developments in their fields.

The governing councils of regulatory Colleges include lay members who represent the broader public interest. Their role is to ensure that the views of patients/clients and the public-at-large are heard.

Matters of concern to regulatory bodies include entry-to-practice qualifications, registration, standards of practice, continuing professional development, complaints, discipline and enforcement, and in a small minority of cases, health and fitness to practise. Sanctions, such as suspension or removal from the Register, can be applied to any practitioner whose fitness to practise is impaired.

Professional self-regulation affects both practitioners' initial entry into a profession and their continuing professional development and competence to remain in practice. Regulation also serves to reassure healthcare professionals of the competence of other practitioners to whom they refer patients/clients. In addition, it provides a means of recourse, should a patient/client encounter a professional problem with a health care provider.

## Part 2: Background

### 1. About HPRAC

The Health Professions Regulatory Advisory Council (HPRAC) is an independent agency of the Government of Ontario created in 1993 under the *Regulated Health Professions Act, 1991 (RHPA)* to provide advice to the Minister of Health and Long-Term Care on matters related to the regulation of health professions in Ontario. Its mandate includes providing advice on:

- whether unregulated health professions should be regulated;
- whether regulated health professions should no longer be regulated;
- amendments to the *RHPA* and related Acts, and their regulations;
- matters concerning the Quality Assurance programs of the Colleges; and
- any matter related to the regulation of health professionals, referred to HPRAC by the Minister of Health and Long-Term Care.

HPRAC also has a duty to monitor each College's Patient Relations program and to advise the Minister about its effectiveness.

The Minister relies on recommendations from HPRAC as an autonomous source of information, analysis and advice in the formulation of public policy. In providing its advice and conducting its affairs, HPRAC is independent of the Minister, the Ministry of Health and Long-Term Care, the regulatory Colleges, regulated health professional associations, and stakeholders who have an interest in issues on which advice is provided.

In early 2005, The Honourable George Smitherman, Minister of Health and Long-Term Care, requested advice regarding possible regulation of five health professions (homeopathy, kinesiology, personal support workers, pharmacy technicians/assistants and psychotherapy/psychotherapists), and on scope of practice issues related to three regulated professions. In addition, the Minister's referral letter asked HPRAC for advice regarding the currency and effectiveness of the *Regulated Health Professions Act* as a regulatory framework. HPRAC expects to convey advice to the Minister on these matters by April 2006.

## 2. The Minister's Referral

In February 2005, the Minister of Health and Long-Term Care for Ontario, sought specific advice from HPRAC on the following questions:

- 1) Whether psychotherapy should be an additional Controlled Act under the *Regulated Health Professions Act, 1991, (RHPA)* and if so, which regulated professions should have psychotherapy in their scopes of practice and how standards should be set and measured; and
- 2) 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 titles, and whether it is appropriate that psychotherapists be regulated under an existing profession-specific act.

The possible regulation of psychotherapy was raised as an issue in HPRAC's 2001 document, *Adjusting the Balance: A Review of the Regulated Health Professions Act*. That report noted that several stakeholders had recommended to HPRAC that psychotherapists be regulated and psychotherapy be made a Controlled Act under the *RHPA*, given the potential for harm to the public by those who lack adequate training.

In response, HPRAC concluded that:

...regulation of psychotherapists and/or making psychotherapy a Controlled Act should be reviewed with reference to the nature and extent of associated risk of emotional harm.

[and that]... the Minister invite a request for a referral from appropriate psychotherapy groups on amending the *RHPA* to list the additional Controlled Act of psychotherapy.

### Consultation process

In response to the Minister's February 2005 referral, HPRAC embarked on a multi-stage consultation process. In addition to preparing and circulating this Discussion Guide, HPRAC sponsored a two-day workshop, conducted interviews and meetings with stakeholders, and produced literature and jurisdictional reviews and other background materials. These materials are available on HPRAC's website [www.hprac.org](http://www.hprac.org).

## Discussion Guide

This Discussion Guide is divided into three parts:

### Part 1

- Introduction

### Part 2

- reviews the history of health professions regulation in Ontario, and current regulatory frameworks;
- examines recent regulatory developments concerning psychotherapy in other jurisdictions; and
- discusses factors that need to be taken into consideration if psychotherapists and/or psychotherapy are to be regulated.

### Part 3

- explores whether or not there is a case for regulating psychotherapists and/or psychotherapy;
- examines possible options for regulation;
- explores potential exceptions and transitional issues; and
- poses specific questions to elicit comment and response.

Responses to questions included in this Guide will assist HPRAC in formulating its advice to the Minister. Ultimately, the decision on whether to regulate psychotherapists or psychotherapy is that of the Minister of Health and Long-Term Care, the Government, and The Legislature of Ontario.

## 3. The Evolution of Health Professions Regulation in Ontario

In 1982 the Minister of Health initiated the Health Professions Legislation Review, a far-reaching formal review of virtually all health professions in Ontario. The Review's mandate was to make recommendations to the Minister in the form of draft legislation with respect to:

- which health professions should be regulated;
- updating and reforming the *Health Disciplines Act, 1980*;
- devising a new structure for all legislation governing the health professions; and
- settling outstanding issues involving several professions.

A key feature of the *Health Disciplines Act (HDA)* was that it provided exclusive scopes of practice to five health professions, effectively creating practice monopolies. These monopolies came to be seen as being broader than

necessary and therefore not in the public interest. The Act did not include a mechanism to control the performance of potentially harmful acts falling outside defined scopes of practice.

The Health Professions Legislation Review (HPLR) released its final report in 1989, and recommended that:

- a uniform or omnibus health professions procedural code be enacted;
- 24 health professions be granted or maintain self-regulation; including
  - four professions then regulated by the *Drugless Practitioners Act*;
  - seven professions then regulated by individual statutes;
  - six professions then regulated by the *Health Disciplines Act*; and
  - seven professions then unregulated; and
- a new independent policy development agency be established.

In response to the HPLR's recommendations, the Government introduced the *Regulated Health Professions Act, 1991 (RHPA)*, and 21 profession-specific Acts to provide a comprehensive framework for regulating most health professions in Ontario. Practitioners and professional practice are both regulated under the Act. The *RHPA* addresses issues of public protection by:

- restricting who may perform hazardous acts and procedures;
- prohibiting unregulated practitioners from providing treatment or advice when physical harm to the patient/client may result;
- restricting the use of professional titles and designations;
- providing complaints, discipline and fitness to practise processes; and
- requiring reporting of incompetence, incapacity or professional misconduct.

The Act includes mechanisms to improve quality of care, including Quality Assurance and Patient Relations programs; promotes consumer freedom of choice through abolition of exclusive scopes of practice and enhancing direct access to practitioners; and emphasizes increased accountability and openness in the governance of each profession.

The *RHPA* governs approximately 220,000 health professionals in Ontario. Each profession is governed by a profession-specific Act through a self-regulatory College established under the Act.

The regulation of health professions in Ontario is an ongoing, evolving process. Midwifery, for example, became a newly regulated profession under the *RHPA* in 1991; social workers (including social service workers) were regulated through the Ministry of Community and Social Services under the *Social Work and Social Service Work Act, 1998*. Most recently, the Government of Ontario announced its intention to regulate Traditional Chinese Medicine.

Two other recent statutes have implications for regulated health professions and their complaints/discipline processes. The *Health Care Consent Act (HCA), 1996* established additional responsibilities for regulated practitioners, as well as safeguards for patients/clients, and set out requirements for informed consent for treatment, personal care services and admission to long-term care facilities. The *Personal Health Information Protection of Privacy Act (PHIPPA), 2004* provides a broad framework for safeguarding the privacy of personal health information. Both these statutes placed additional professional demands on regulated practitioners.

## **4. Regulatory Frameworks Relevant to Psychotherapy in Ontario**

This section looks at three regulatory frameworks that affect health care practitioners in Ontario, and are relevant to the possible regulation of psychotherapy and/or psychotherapists – the *Regulated Health Professions Act*, the *Social Work and Social Service Work Act*, and the *Mental Health Act*.

### **A. *Regulated Health Professions Act, 1991***

The *RHPA* establishes a framework for regulating most health professions in Ontario, including a Procedural Code and 21 profession-specific Acts. It also affects unregulated practitioners who provide health services by restricting the activities and procedures they may perform.

The *RHPA* framework sets out:

- the health professions that are regulated, their scopes of practice and protected titles;
- the powers and duties of the governing Colleges;
- those health care acts and procedures that may only be performed by regulated health professions (i.e. Controlled Acts);
- the professional obligations of regulated practitioners; and

- fitness to practise, complaints, discipline and appeals procedures.

### ***RHPA* Controlled Acts**

The *RHPA* designates 13 Controlled Acts. These are procedures that, if not performed correctly and by a competent person, present a significant risk of harm to patients/clients. They may be performed only by regulated professionals to whom one or more of the Controlled Acts are designated by a profession-specific Act under the *RHPA* (for a complete list of the Controlled Acts see Appendix B).

### **The *RHPA* Harm Clause**

The effect of the Harm Clause is to prohibit potentially harmful activities not specifically addressed by the Controlled Acts scheme. The clause prohibits individuals, other than regulated health professionals acting within their scope of practice, from treating or advising someone about their health in circumstances where it is reasonably foreseeable that serious physical harm may result. (The *RHPA* does allow regulated professionals to delegate performance of part or all of a Controlled Act in specified circumstances.)

### **Policy objectives**

The *RHPA* may be viewed as having four inter-related policy objectives – public protection, quality of care, access and accountability:

#### **Public protection**

- restrictions on which practitioners may perform harmful acts and procedures;
- prohibition against unregulated practitioners providing treatment or advice when it is reasonably foreseeable that serious harm may result;
- restrictions on the use of professional titles and designations;
- complaints, discipline and fitness to practise processes; and
- funding for therapy for victims of sexual abuse.

#### **Quality of care**

- broad regulatory authority given to governing bodies (Colleges), including authority to set and enforce standards of practice; and
- mandatory Quality Assurance and Patient Relations programs.

### **Access**

- abolition of exclusive scopes of practice; and
- fewer restrictions on direct access to practitioners.

### **Accountability**

- transparency through requirements for open council meetings, discipline hearings and complaint reviews; and
- balanced representation on the governing councils of Colleges, including representation by professionals, academics and the public.

## **B. *Social Work and Social Service Work Act, 1998***

While this legislation falls under the Ministry of Community and Social Services, it has been included in this Discussion Guide as a significant number of social workers provide psychotherapeutic services in Ontario.

The *Social Work and Social Service Work Act, 1998* is similar to the *RHPA* in that it establishes the Ontario College of Social Workers and Social Service Workers as a regulatory body for the profession. The Act sets out processes for complaints, discipline, and appeals, as well as establishing standards such as fitness to practise.

Unlike the profession-specific acts such as the *Medicine Act* and the *Psychology Act* under the *RHPA*, the *Social Work and Social Service Work Act* does not articulate a scope of practice, authorize access to any Controlled Acts, or grant the use of the “Dr.” prefix. It does, however, offer title protection for Social Workers and Social Service Workers.

Also, all Colleges under the *RHPA* have the following responsibilities:

- developing, establishing and maintaining qualifications for membership in the College;
- approving professional and ongoing education programs;
- establishing and enforcing professional and ethical standards; and
- receiving and investigating complaints against members of the College, and dealing with issues of discipline, professional misconduct, incompetence and incapacity.

### **C. *Mental Health Act, 1990***

The *Mental Health Act, 1990* governs the fair and equal treatment of all persons who require mental health care, and regulates the services provided to these individuals including voluntary and involuntary admission to psychiatric facilities.

The Act articulates the rights and responsibilities of physicians, patients/clients, the police, justices of the peace and others in regard to such matters as mental competency, treatment, clinical records, review mechanisms and estates. There are also provisions that apply the Act to community settings and facilities through community treatment orders.

## **5. Regulatory Developments Affecting Psychotherapy in other Jurisdictions**

Ontario is not alone in reviewing the case for regulating psychotherapists and/or psychotherapy. Many jurisdictions have either done so, or are currently examining the issue. HPRAC has conducted a review of regulatory models for psychotherapy in other jurisdictions; this document is available on the HPRAC website – [www.hprac.org](http://www.hprac.org).

### **Canada**

In Canada, British Columbia has been reviewing the regulation of psychotherapy for many years. Alberta recently passed the *Health Professions Act*, which restricts the provision of a psycho-social intervention to six regulated health professions. At one time, the *Alberta Mental Health Act* created a Therapists Registration Board to permit mental health practitioners (in addition to physicians) to make decisions about committal and treatment. Those provisions, although enacted, were never proclaimed (put into force).

In Quebec, psychotherapy is not a regulated act, and psychotherapists are not regulated as a profession. Marriage and family therapists, on the other hand, are regulated as a profession and have psychotherapy within their scope of practice.

### **The Commonwealth**

In the United Kingdom, a statutory regulation working group is examining both self-regulation and statutory registration of psychotherapists. In addition, psychotherapy is a Controlled Act for Art Therapists, who became a regulated profession in 2001.

In Australia, psychotherapy is currently unregulated, but a series of self-regulatory models has been proposed by the Psychotherapy and Counselling Federation of Australia. As of May 2005, the Australian Ministry of Health was revising regulations under its *Health Professions Act*. Once proposed reforms are finalized for existing registered health professions, the Australian Department of Health will consider regulatory reforms for unregistered health professions, including psychotherapists.

In 2004, the New Zealand Association of Psychotherapy requested that psychotherapy become a regulated profession under the country's *Health Practitioners Competence Assurance Act*. Subsequently, the Ministry of Health distributed a discussion document and is currently reviewing regulatory proposals.

## **United States**

A look at U.S. jurisdictions reveals a spectrum of approaches to regulating psychotherapists and psychotherapy, ranging from voluntary registration on a state roster, to a complete licensing scheme with a clear statutory definition of psychotherapy and an exclusive scope of practice.

The jurisdictions discussed below are highlighted by way of example, but do not represent all American jurisdictions in which regulatory intervention has been undertaken.

Vermont and Minnesota in 1998 and 2004 respectively passed legislation that defines psychotherapy, licenses a variety of mental health professions, and creates categories of unlicensed/non-certified psychotherapists who can voluntarily register with the state. Vermont requires only a high school diploma in order to register.

Minnesota allows unlicensed/uncertified mental health practitioners to provide psychotherapy and other mental health services for remuneration. They must be monitored by the state Department of Health, however, and are required to provide clients with a Patient's Bill of Rights.

Under its *Mental Health Statute* (2004), Colorado regulates the practice of psychotherapy by defining what psychotherapy is and identifying which licensed professions are authorized to practise it. The legislation also provides for the regulation of "unlicensed psychotherapists" as a distinct group under a separate Board. Individuals applying to be "unlicensed psychotherapists" must pass a State exam in order to register and practise.

In Nebraska, New York, Wisconsin, and Wyoming, state statutes clearly define psychotherapy and limit the provision of defined psychotherapeutic services to a select group of licensed professions.

California, Florida and Arizona do not define psychotherapy by statute; however, they do set out under legislation the specific professions authorized to provide psychotherapeutic services.

## **6. Psychotherapy: Current Situation in Ontario**

### **Impact of mental health problems**

Mental health problems exact a large human toll – personally, socially and economically. The effects range from difficulty coping with everyday challenges, to major incapacitating illness. For over a century psychotherapy has been an important component of treatment for many individuals suffering mental health problems.

In Ontario one in four families is directly or indirectly affected by the distress of an immediate family member or other relative experiencing emotional difficulties. Outside the family, the mental health problems of colleagues and friends impact many lives and workplaces.

A few statistics illustrate the magnitude of the problem:

- 5 –12 per cent of men, and 10 – 25 per cent of women experience at least one episode of depression in their lifetimes;
- 12 per cent of adults experience one or more anxiety disorders during their lives; and
- approximately 3 per cent of men and 12 per cent of women suffer from substance abuse at some point in their lives.

In addition, major psychiatric illnesses such as schizophrenia (1 per cent of Ontarians) and bipolar disorder (3 per cent) devastate lives and cause great pain and disruption for families.

The economic cost of treatment and services for mental health problems in Ontario is substantial – estimated to be over two billion dollars annually, not including costs associated with non-physician providers. There is a further economic impact in lost productivity.

The range of psychotherapy treatments is steadily expanding and encompasses psychological and biological dimensions.

## **Providers of psychotherapy services**

Currently, individuals providing psychotherapeutic services in Ontario may be grouped into four categories:

1. regulated professionals (e.g. psychologists, social workers, physicians and nurses, etc.);
2. trained and qualified practitioners voluntarily listed with non-statutory regulatory bodies;
3. trained and qualified practitioners not listed with any professional body; and
4. untrained practitioners without credentials who are not members of, or aligned with any professional body.

As psychotherapists are not regulated as a profession in Ontario, anyone may hold himself or herself out as a psychotherapist, or use the title “psychotherapist” regardless of credentials, training, education, experience or lack thereof. Similarly, as psychotherapy is not a Controlled Act, psychotherapeutic services may be provided by anyone regardless of training or experience.

It should be noted, however, that members of currently regulated professions may be subject to regulatory requirements specific to the practice of psychotherapy, as established by their respective Colleges. These professionals are also subject to regulatory action for failure to adhere to appropriate standards in their treatment of patients/clients. Many existing Colleges, however, do not have well-defined qualifications and standards for the provision of psychotherapeutic services.

## **7. HPRAC Criteria for Regulation**

In 2003, HPRAC initiated a review of the processes and criteria for the regulation of health professions in Ontario. One outcome was the adoption by HPRAC of nine criteria for adding a new profession to the *RHPA*, and six for adding a Controlled Act (see details in Appendix C).

Criteria for Adding a New Profession	Criteria for Adding a New Controlled Act
<ol style="list-style-type: none"> <li>1. Risk of harm</li> <li>2. Sufficiency of supervision</li> <li>3. Alternate regulatory mechanism</li> <li>4. Economic impact of regulation</li> <li>5. Educational requirements for entry-to-practice</li> <li>6. Leadership's ability to favour the public interest</li> <li>7. Membership's willingness/support</li> <li>8. Public need for regulation</li> <li>9. Distinctive body of knowledge</li> </ol>	<ol style="list-style-type: none"> <li>1. Risk of harm</li> <li>2. Sufficiency of supervision</li> <li>3. Alternate regulatory mechanism</li> <li>4. Economic impact of regulation</li> <li>5. Educational requirements for entry-to-practice</li> <li>6. Appropriate enforcement</li> </ol>

These criteria reflect five broad themes to be considered in addressing the Minister's questions:

- public protection and risk of harm;
- standards and quality;
- access;
- enforcement; and
- economic implications.

### **Public protection and risk of harm**

In determining whether to regulate a profession or activity, the public interest, including risk of harm, is the paramount consideration.

Psychotherapy is often conducted in private, unsupervised settings with emotionally vulnerable patients/clients. The consequences of substandard or negligent practice may not always be obvious. This poses a particular challenge in gathering objective evidence that a person has been harmed as a result of psychotherapy. However, survey data, professional disciplinary cases and litigation cases reveal that incidents of abusive and negligent behaviour with serious consequences for patients/clients, and sometimes third parties, do occur. This is one of the rationales cited by other jurisdictions for regulating the practice of psychotherapy.

By its nature, psychotherapy is intense, probing and self-revealing. It is intended to bring out and address underlying vulnerabilities that may be contributing to an

individual's psychological or emotional difficulties. The relationship between therapist and patient/client can create a significant power imbalance because of a therapist's access to a patient's/client's inner life. As a consequence, patients/clients may be less capable of protecting themselves from possible harm arising during or as a result of their treatment.

Patient/client groups at highest risk are those who have been victims of sexual or physical abuse. In addition, patients/clients with certain diagnoses (such as borderline personality disorder or post-traumatic stress disorder) and individuals facing adverse life circumstances are at increased risk of harm.

There are two major sources of potential harm for patients/clients receiving psychotherapy, stemming from:

- the nature of the relationship between patient/client and therapist; and
- failure to properly implement or assess for specific psychotherapeutic interventions.

Examples of harm arising from the therapeutic relationship could include:

- exploitation and/or abuse of the patient/client;
- engaging in sexual contact or a prolonged sexual relationship with the patient/client; and
- breaching the patient's/client's privacy/confidentiality through unsanctioned disclosure of clinical information.

Examples of harm arising from failure to properly implement or assess could include:

- employing inappropriate treatment approaches, thereby causing delay in appropriate management or resolution of the problem, and possible exacerbation of the patient's/client's condition; and
- failure to identify physical or mental health issues requiring other forms of treatment.

### **Standards and quality**

As part of his question to HPRAC, the Minister asked how standards should be set. A review of standards in other jurisdictions reveals considerable commonality of approach.

In most U.S. states where psychotherapy is regulated to some degree, criteria for providing psychotherapeutic services consist, at a minimum, of a graduate degree in an applicable field; supervised, practical clinical experience; and in

many cases, passing a theory and practice exam. For marriage and family therapists (regulated in 48 of 50 states), professional standards are set by the American Association of Marriage and Family Therapists and adopted by state legislatures.

The New Zealand Association of Psychotherapy identified six criteria for competent, ethical practice of psychotherapy:

- adequate knowledge base;
- ability to apply psychotherapeutic knowledge effectively;
- ability to conduct psychotherapy successfully;
- ability to manage the context of therapy;
- ethical attitudes and values; and
- adherence to professional standards of practice.

Other jurisdictions set out other indicators of quality practice and professional regulation, such as:

- identification of professional competencies (including knowledge, judgement, technical and interpersonal skills) and entry-to-practice requirements;
- continuing education and on-going re-examination;
- required minimum hours of practice;
- peer reviews, clinical practice reviews;
- standards of practice; and
- complaints, discipline and enforcement processes.

The Ontario Ministry of Health and Long Term Care communicated its Principles for Quality Assurance Programs and Regulations under the RHPA to health regulatory Colleges in 1996. That document sets out three components of Quality Assurance programs:

- identifying members who are incompetent or unfit to practise, or whose deficiencies can be improved through remedial activities, and programs to address these issues;
- maintaining and improving members' competence; and
- raising "the collective bottom-line performance of the profession, by focusing on patient outcomes and 'what works best.'"

An important element of quality assurance is the existence of a distinctive body of knowledge – one of nine criteria identified by HPRAC for regulating a new profession (see Appendix C for more on regulatory criteria). A distinctive body of knowledge provides the basis for appropriate education and training, and development of clinical practice guidelines.

### **Access**

Any change in the regulatory environment must address the impact of regulation on the availability of practitioners and the delivery of psychotherapeutic services to people with specific cultural, accessibility or linguistic needs. The potential impact on access for marginalized populations must also be considered.

If regulation were to reduce the number of practitioners providing psychotherapeutic services, costs to patients/clients might increase and access to mental health services might be reduced. This could have a particular impact on rural or underserved areas. However, this possible outcome must be balanced against the potential harm that broad access to unqualified providers and their services may have on those seeking care.

### **Enforcement**

The goals and objectives of any regulatory intervention can be achieved only if the legislation or regulatory mechanism is enforced effectively.

At present in Ontario, enforcement is the responsibility of individual regulatory Colleges. This can be an expensive and complex process. It is important to consider who will be responsible for enforcement in the event of a new regulatory framework for psychotherapy.

Currently, unregulated practitioners who are voluntary members of professional organizations may be required to adhere to certain rules and regulations, and may be subject to discipline in order to remain members in-good-standing of those bodies. Voluntary associations, however, lack statutory powers of enforcement.

If it is recommended that psychotherapists and/or psychotherapy be regulated, enforcement will be a critical function. The goal of enforcement is to protect the public from harm, and to ensure that regulated professionals are accountable and meet established standards. Any regulatory intervention will require a process for complaints, investigations, discipline, appeals and enforcement.

## **Economic implications**

If it is recommended that psychotherapy and/or psychotherapists be regulated, there will be financial implications for both patients/clients and providers. In addition, there may be wider impacts on labour mobility and entry-to-practice for foreign-trained individuals.

Fees to cover registration and administrative costs, including establishing minimum qualifications, practice guidelines, quality assurance programs, disciplinary procedures and other operations are a necessary feature of any regulatory scheme. The effect may be to pass these costs on to patients/clients.

If more than one regulatory body were to be involved in a new regulatory scheme, fees might differ from one body to another, reflecting the level of activity each must undertake and the number of practitioners registered with it.

Under the *RHPA*, each profession bears the cost of the regulatory apparatus through collection of fees from its members. The cost of membership in a regulatory body may dissuade some practitioners from applying for membership. Any reduction in the number of providers could lead to increased costs and decreased access for patients/clients. An increase in the number of providers, on the other hand, could be expected to decrease overall costs and improve access to services.

## PART 3: ISSUES AND QUESTIONS

Part 2 of this Discussion Guide provides background information on specific issues to be considered in developing a response to the Minister's request for advice on possible regulation of psychotherapists and/or psychotherapy.

Part 3 is intended to elicit comment and to encourage discussion on the Minister's referral to HPRAC. Responses to the Discussion Guide (submissions) should address questions posed in Part 3, keeping in mind HPRAC's Criteria for adding a Controlled Act or regulating a new profession under the *RHPA*, and the themes identified in Part 2.

### 1. Defining Psychotherapy

In order to discuss possible regulation of psychotherapy as a Controlled Act, or psychotherapists as a regulated health profession, it is useful to have a working definition of psychotherapy. That said, it must be acknowledged that psychotherapy is not easily defined. Almost as many definitions of psychotherapy exist as there are jurisdictions. Despite this, numerous jurisdictions have constructed definitions that form the basis of their regulatory approach.

The definition below is presented as a **working definition** for discussion purposes. In addition, various definitions of psychotherapy from other jurisdictions and professional associations are attached as Appendix F.

#### Working definition of psychotherapy

*Psychotherapy is the treatment of a person or persons (who have cognitive, emotional, behavioural or social dysfunctions) through psychological, psychosocial or interpersonal methods. The nature of psychotherapy is often probing and intensive, and a specific treatment plan guides the application of these procedures. The practice of psychotherapy can be distinguished from both counselling, where the focus is on the provision of information, advice-giving, encouragement and instruction, and from spiritual counselling, which is counselling based on religious or faith-based belief systems.*

#### Questions

- (1) Is it necessary to define psychotherapy in order to effectively regulate it? If so, is broad agreement on a definition necessary?
- (2) Please comment on the working definition. Are there elements that should be included or deleted?

## 2. Is there a need for regulatory intervention?

Having considered a definition for purposes of this paper, the next issue for consideration is whether there is a need for regulatory intervention.

Risk of harm and the public interest are threshold considerations in determining whether regulatory intervention is necessary for public protection. In addition to these paramount considerations, other benefits of professional regulation in the context of psychotherapy and/or psychotherapists could be:

- legal enhancement of patients'/clients' rights, consent to treatment procedures and protection of privacy;
- increased accountability and recourse through a complaints and discipline process;
- entry-to-practice requirements;
- professional practice guidelines, including a professional code of ethics and conduct; and
- mandatory insurance.

Some disadvantages to regulatory intervention may include:

- reduced access to services;
- increased costs to practitioners and government; and
- possible confusion for those already part of a regulatory framework.

Advantages and disadvantages of regulation will vary depending on the degree of regulatory intervention. There is a need to balance public protection/risk of harm by untrained practitioners against the potential impact of regulation on those currently practising psychotherapy.

### Questions

- (3) Does the practice of psychotherapy pose a risk of harm to the public? If so, how?
- (4) Would regulatory intervention decrease the risk of harm to patients/clients? If so, how?
- (5) Please identify any other factors that weigh for or against regulatory intervention.

If there is a decision that some form of regulatory intervention is required, the following issues must be addressed:

- whether psychotherapists (the practitioners) or psychotherapy (the practice) or both, should be regulated;
- degree of regulation required to protect the public; and
- possible options for regulation.

### 3. Psychotherapists

Currently, psychotherapists are unregulated in Ontario. Any individual in Ontario may use the title “psychotherapist” regardless of credentials, training or the services they offer.

#### Regulating psychotherapists

Regulating psychotherapists by creating minimum standards and qualifications for persons wishing to call themselves or hold themselves out to be psychotherapists, would increase public protection by ensuring practitioners have appropriate qualifications and training.

Use of the title “psychotherapist” could be limited to existing regulated professions (e.g. psychologists, social workers, physicians and nurses) or it could be expanded to include currently unregulated practitioners, so long as they are able to meet appropriate standards and qualifications.

To be effective, this approach requires that Colleges have enforceable professional standards and qualifications for provision of psychotherapeutic services – this may or may not be the case currently.

While this approach may provide some assurance to the public through title protection and restrictions on “holding out,” regulating only the title and not limiting who may provide psychotherapeutic services may undermine regulation. People who do not qualify to call themselves psychotherapists might simply call themselves by another title and continue to provide psychotherapy outside the regulatory framework.

#### Questions

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|--|
| <p>(6) Would a significant public need be met by regulating psychotherapists?</p> <p>(7) Should the title “psychotherapist” be restricted? If so, to whom?</p> <p>(8) Should psychotherapists be regulated without regulating psychotherapy?</p> <p>(9) Are there any other issues relating to the regulation of psychotherapists, as distinct from psychotherapy, you would like to comment on?</p> |
|--|

## 4. Psychotherapy

Currently in Ontario any individual, regulated or unregulated, trained or untrained may provide psychotherapy services.

### Regulating psychotherapy

Regulating the act of psychotherapy (limiting the act of providing psychotherapeutic services to certain qualified practitioners), would increase public protection by ensuring practitioners have appropriate qualifications and training. Identifying who is to be regulated and setting minimum qualifications would need to be determined.

### Questions

- (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?

## 5. Possible Options for Regulation

Available options cover a range of regulatory interventions – from voluntary registration on a roster, to title protection, to comprehensive legislation that includes a clear definition of psychotherapy and restrictions on which professions are authorized to provide psychotherapeutic services. If it is recommended that psychotherapists and/or psychotherapy be regulated, any of these mechanisms could be considered.

### Regulating psychotherapists under the *RHPA*

#### 1. Authorizing only currently regulated professionals to practise psychotherapy

In this approach, only currently regulated health professionals under the *RHPA*, and social workers/social service workers under *the Social Work and Social Service Work Act* would be authorized to practise psychotherapy. Currently unregulated practitioners would not be authorized to practise psychotherapy. (Note: *The Social Work and Social Service Work Act* is not currently under the *RHPA*.)

## **2. Adding practitioners to an existing College**

Currently unregulated practitioners wishing to use the title psychotherapist would be required to align with an existing College. New members/registrants would be required to meet standards and qualifications established by those College(s). Current members of the Colleges who practise psychotherapy would also be required to meet new requirements. (This option does not address the problem of therapists who may use another title and continue to practise outside the regulatory framework.)

## **3. Creating a new profession and a new College**

Currently unregulated practitioners wishing to use the title psychotherapist would be required to align with a newly created college. Current members of the Colleges who practise psychotherapy would also be required to meet new requirements. In this model, potential duplication/conflict for affected members of existing colleges would need to be addressed. (This option does not address the problem of therapists who may use another title and continue to practise outside the regulatory framework.)

## **Regulating psychotherapy under the *RHPA***

### **4. Making psychotherapy a Controlled Act**

If psychotherapy were to be made a Controlled Act under the *RHPA*, the practice of psychotherapy would be limited to those professions specifically granted access to the Controlled Act of psychotherapy.

There are two ways practitioners not currently regulated under the *RHPA* could gain access to the Controlled Act (assuming they are deemed eligible). They could be brought under the umbrella of an existing College or a newly created College under the *RHPA*; or certain groups could be delegated to use the Controlled Act in question.

### **5. Describing in legislation the activities of psychotherapists**

This approach has been used in other jurisdictions and could be employed in Ontario as an alternative to including psychotherapy as a Controlled Act. It involves regulating psychotherapy practice by describing (not defining) in legislation specific activities that comprise psychotherapy practice, and designating who may perform them (e.g. psychologists, social workers, physicians, nurses and qualified, currently unregulated practitioners). Then persons either holding themselves out as psychotherapists or performing activities described as comprising psychotherapy would be subject to regulation. This approach goes

beyond title protection. It captures everyone providing psychotherapeutic services no matter what title they use or what they call their services.

## **Other regulatory options**

While the Minister's referral letter to HPRAC makes reference to the *RHPA*, other possible approaches could include the following:

### **6. A new statutory scheme**

Another means of regulating psychotherapy/psychotherapists could be through creation of a new comprehensive statute. Such legislation could address matters such as definitions, title protection, scope of practice, restrictions on who may practice psychotherapy, and exceptions. It could also create complaints, investigations and discipline processes and grandparenting/ transition processes.

Under this scheme existing Colleges would need to develop qualifications and practice standards for psychotherapy consistent with those established under the new statutory scheme. Potential duplication/conflict for affected members of existing Colleges would also need to be addressed.

### **7. Amending the *Mental Health Act***

The practice of psychotherapy could be regulated by defining psychotherapy in the *Mental Health Act* and including a limitation as to which professions are authorized to perform it.

The Act articulates the rights and responsibilities of physicians, patients/clients, and others in regard to such matters as mental competency, treatment, clinical records, review mechanisms and estates. It also defines and regulates the circumstances under which certain mental health treatments and procedures may be performed.

### **8. Describing in legislation the activities of psychotherapists**

This approach is identical to option 5 above, except it would be done using an existing or new regulatory framework outside the *RHPA*.

### **9. A hybrid approach**

A hybrid approach would address both regulated and unregulated practitioners. It would maintain the status quo for existing regulated health professionals who provide psychotherapy services, and create a new oversight mechanism for all others who want to hold themselves out as

psychotherapists or providers of psychotherapy services – either by creating a new College or by expanding the mandate of an existing College.

## Questions

If there is a decision to regulate psychotherapists and/or psychotherapy:

- (13) Is the *RHPA* the most appropriate statutory framework to use to regulate psychotherapists and/or 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 the *RHPA*?
  - a) Should psychotherapists be regulated as part of an existing health 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?

## 6. Exceptions and Exemptions

In many jurisdictions that regulate psychotherapy, exceptions have been made for counselling and spiritual counselling.

Sections 28 and 29 of the *RHPA* provide the following practice and practitioner exceptions:

- counselling for the purpose of emotional, social, educational or spiritual matters; and
- treating a person by prayer or spiritual means in accordance with the tenets of the religion or the person giving the treatment.

In addition, aboriginal healers and aboriginal midwives providing traditional healing services to aboriginal persons or members of an aboriginal community are exempt from provisions of the *RHPA*.

With regard to exceptions and exemptions, it is worth noting that inclusion of a clear definition of psychotherapy in any regulatory framework would reduce the need to make exceptions/exemptions for particular groups or acts. With a clear definition, anyone providing services outside the definition, counsellors for example, would not be captured by the regulatory framework.

A potential difficulty is the need to create a clear and precise distinction between regulated acts and exceptions. For example, many people believe counselling and psychotherapy to be on a continuum of care, so it is a challenge to define where counselling ends and psychotherapy begins. Moreover, creating exceptions could result in decreased public protection.

### **Question**

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

## **7. Preparing a Transition to a New Regulatory Environment**

If it is recommended that psychotherapy and/or psychotherapists be regulated, whether as a Controlled Act and/or a new profession under the *RHPA* or other regulatory framework, a number of implementation and transitional issues will need to be addressed.

Often, a statute or sections of a statute do not come into force (are not proclaimed) until some time after the legislation has been passed by the Legislature. During this interim period, organizations and stakeholders affected by the new legislation have time to plan for the changes ahead. The transition timeframe may be set out in the legislation or in subsequent regulations.

### **Establishing qualifications**

If there is to be regulatory intervention, any regulatory framework would need to establish minimum qualifications for practising psychotherapy, or practising as a psychotherapist.

Currently, unregulated professions may have standards but they do not have the statutory power to impose them. Regulated professions, on the other hand, have well-established processes to determine and evaluate the qualifications of applicants; these may need to be revised under a new regulatory scheme.

Some members of unregulated and regulated professions currently engaged in psychotherapy may not meet new or revised education and/or training requirements.

Generally, a regulatory framework grants Colleges or Boards the power to make regulations prescribing standards and qualifications for registration, i.e. entry-to-practice. Application procedures for membership in newly regulated professions often include the following:

- submission of a detailed application listing the individual's educational qualifications, training, formal mentoring and supervised practice;
- number of years of practice;
- deadline to apply for grandparenting;
- membership in a credible voluntary organization with a code of professional ethics and conduct;
- references from a credible independent third-party attesting to the applicant's competence and professionalism; and
- a written or practical exam.

With regard to psychotherapy or psychotherapists, a transition period could allow for:

- development of registration criteria (education/training, clinical experience requirements, mandatory insurance, etc.) for all practitioners;
- code of ethics;
- modification of training programs, as required;
- communication programs by existing Colleges/associations to inform their members of regulatory changes and how they may be affected;
- setting of exams, as required;
- establishing infrastructure for any new College or Board; and
- a public awareness campaign about the new legislation and how it enhances public protection.

## Grandparenting

A key item to be considered in any transition process is whether qualified unregulated practitioners who provide psychotherapeutic services should be “grandparented.” Typically, grandparenting is a one-time privilege that grants status to experienced, established practitioners who meet minimum qualifications and who were practising prior to introduction of the new regulatory scheme.

Those who do not qualify for grandparenting could be granted a transition period to meet new minimum qualifications and standards. Possibly, such practitioners could be permitted to continue providing psychotherapeutic services during this period, so long as they submit basic data such as their name, the services they provide and their training/qualifications, to an appropriate body.

### Questions:

If there is a decision to regulate psychotherapists and/or psychotherapy:

- (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?

## 8. Next Steps

Responses to this Discussion Guide, along with feedback from a series of public consultations to be held across Ontario this fall, will be considered by HPRAC in formulating advice and a report to the Minister.

HPRAC welcomes all responses to this document. **The deadline for written submissions is October 21, 2005**, and HPRAC encourages submissions prior to that date. Responses should be addressed to:

**Karen Lane**

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

Electronic submissions can be made to: [HPRACSubmissions@moh.gov.on.ca](mailto:HPRACSubmissions@moh.gov.on.ca)

Please continue to monitor HPRAC's web-site at <http://www.hprac.org> for information on public consultations and ongoing updates.

## **Appendix A – Glossary of Terms**

These Glossary definitions were developed in the context of the Discussion Guide.

### **Colleges**

Professional Colleges are not teaching institutions but are governing bodies whose primary duty is to serve and protect the public interest. As with many regulatory bodies, Colleges' responsibilities include developing, establishing and maintaining qualifications for membership in the College, approving professional and ongoing education programs, establishing and enforcing professional and ethical standards and receiving and investigating complaints against members of the College, and dealing with the issues of discipline, professional misconduct, incompetence and incapacity.

### **Counselling**

Counselling focuses on providing information, encouragement and advice about coping with problems related to stressful life events and challenging life circumstances. Counselling is different from psychotherapy in that treatment is much less formal, shorter in duration, and involves less emotional intensity.

### **Grandparenting**

This is often used to describe a process by which individuals currently practising an act or a profession, apply for regulatory status such as a license, certification, or registration. The term implies that some of these individuals may be "qualified and trained" but may not have the necessary credentials (e.g. education) set by the new regulatory regime.

### **Harm Clause**

The Harm Clause is a section of the *Regulated Health Professions Act* that covers potentially dangerous activities in addition to those specifically prohibited as Controlled Acts. "No person, other than a member (of a regulated health profession) treating or advising within the scope of practice of his or her profession, shall treat or advise a person with respect to his or her health in circumstances in which it is reasonably foreseeable that serious physical harm may result from the treatment or advice or from an omission from them." *RHPA* Section 30. (1)

### **Health Professions Legislation Review (HPLR)**

HPLR was an extensive formal review of the health professions in Ontario that took place from 1982 to 1989 and recommended legislation to create a regulated health professions Act and a health professions regulatory advisory council.

### **Health Professions Regulatory Advisory Council (HPRAC)**

The Health Professions Regulatory Advisory Council is an autonomous body that provides advice to the Minister of Health and Long-Term Care on matters relating to the regulation of health professions in Ontario.

### **Licensure**

Licensure is a term primarily used in the United States. It gives a profession an exclusive

scope of practice or the right to perform/provide certain activities/services, as well as the exclusive use to a specific title or designation.

### **Psychotherapy (working definition)**

Psychotherapy is the treatment of a person or persons (who have cognitive, emotional, behavioural or social dysfunctions) through psychological, psychosocial or interpersonal methods. The nature of psychotherapy is often probing and intensive, and a specific treatment plan guides the application of these procedures. The practice of psychotherapy can be distinguished from counselling where the focus is on the provision of information, advice-giving, encouragement and instruction, and from spiritual counselling, which is based on religious or faith-based belief systems (also see Appendix F for other jurisdictions' definitions).

### **Psychotherapist**

The individual trained or employed to perform the act of psychotherapy or psychotherapeutic services. In Ontario the title "psychotherapist" and the act of "psychotherapy" are currently not protected.

### ***Regulated Health Professions Act (RHPA)***

The *Regulated Health Professions Act, 1991*, provides a comprehensive framework for regulating 24 health professions in Ontario. The Act regulates both practitioners and professional practice. It includes such elements as scopes of practice, Controlled Acts, and the Harm Clause, and also affects unregulated practitioners who provide health services by restricting the acts and procedures they may perform.

### **Scope of Practice**

Under the *RHPA*, each profession-specific Act includes a scope of practice describing the general range of activities a qualified member of that profession may perform. Scopes of practice do not grant exclusivity.

### **Spiritual Counselling**

Spiritual Counselling introduces religious tenets/issues of faith to the helping relationship and utilizes counselling interventions based on belief systems rather than secular or scientific psychotherapeutic skills.

### **Title Protection**

Title Protection limits who may use a title or designation. For example in Ontario under the *Social Work and Social Service Work Act*, the title of "Social Worker" is protected and reserved for individuals registered with the College of Social Workers and Social Service Workers. No other practitioners may call themselves or hold themselves out as Social Workers.

## **Appendix B – Complete List of Controlled Acts**

Controlled Acts, as outlined in the *Regulated Health Professions Act*, are those procedures that, if not done correctly and by a competent person have a high element of risk.

1. Communicating to the individual or his or her personal representative a diagnosis identifying a disease or disorder as the cause of symptoms of the individual in circumstances in which it is reasonably foreseeable that the individual or his or her personal representative will rely on the diagnosis.
2. Performing a procedure on tissues below the dermis, below the surface of a mucous membrane, in or below the surface of the cornea, or in or below the surface of the teeth, including the scaling of teeth.
3. Moving the joints of the spine beyond the individual's usual physiological range of motion using a fast, low amplitude thrust.
4. Setting or casting a fracture of a bone or a dislocation of a joint.
5. Administering a substance by injection or inhalation.
6. Putting an instrument, hand or finger
  - a. beyond the external ear canal,
  - b. beyond the point in the nasal passages where they normally narrow,
  - c. beyond the larynx,
  - d. beyond the opening of the urethra,
  - e. beyond the labia majora,
  - f. beyond the anal verge, or
  - g. into an artificial opening into the body.
7. Applying or ordering the application of a form of energy prescribed by the regulations under this Act (i.e. *RHPA*).
8. Prescribing, dispensing, selling or compounding a drug as defined in subsection 117 (1) of the *Drug and Pharmacies Regulation Act*, or supervising the part of a pharmacy where such drugs are kept.
9. Prescribing or dispensing, for vision or eye problems, subnormal vision devices, contact lenses or eye glasses other than simple magnifiers.
10. Prescribing a hearing aid for a hearing impaired person.
11. Fitting or dispensing a dental prosthesis, orthodontic or periodontal appliance or a device used inside the mouth to protect teeth from abnormal functioning.
12. Managing labour or conducting the delivery of a baby.
13. Allergy challenge testing of a kind in which a positive result of the test is a significant allergic response (*RHPA*, section 27).

## **Appendix C – HPRAC Criteria**

### **Criteria for Adding a New Controlled Act**

#### *1. Risk of Harm*

- The nature and extent of harm either inherent in the act or when the act is applied to select populations must be significant.

#### *2. Alternative Regulatory Mechanism*

- Including the act in the *RHPA* must be a more appropriate response than institutional or other controls.

#### *3. Sufficiency of Supervision*

- The act must be practised without direct supervision or supervision exercised through institutional and/or agency protocols.

#### *4. Appropriate Enforcement*

- The restriction on the act must be enforceable.

#### *5. Education and Training*

Practitioners must be adequately trained in current educational programs to perform the act.

#### *6. Economic Considerations*

- Prohibitive costs or unreasonable rigidities should not be imposed on the health care delivery system by controlling the act.

### **Criteria for Regulating a New Profession**

#### *1. Risk of Harm*

- A substantial risk of physical, emotional or mental harm to individual patients/clients arises in the practice of the profession.

#### *2. Sufficiency of Supervision*

- A significant number of members of the profession do not have the quality of their performance monitored effectively; either by supervisors in regulated institutions, by supervisors who are themselves regulated professionals, or by regulated professions who assign these professions' services.

#### *3. Alternative Regulatory Mechanism*

- Regulation under the *RHPA* must be a more appropriate means to regulate the profession than other means.

#### *4. Body of Knowledge*

- The members of this profession must call upon a distinctive, systematic body of knowledge in assessing, treating or serving their patients/clients. The core activities performed by members of this profession must be discernible as a clear and integrated whole and must be broadly accepted as such within the profession.

#### *5. Educational Requirements for Entry-to-Practice*

- To enter the practice of the profession, the practitioner must successfully complete a post-secondary program offered by a recognized educational institution. The educational program must be available in Canada.

#### *6. Leadership's Ability to Favour the Public Interest*

- The profession's leadership has shown that it will distinguish between the public interest and the profession's self-interest and in self-regulating will favour the former over the latter.

#### *7. Membership's Support and Willingness to be Regulated and Likelihood of Complying with Regulation*

- The members of the profession support self-regulation for themselves with sufficient numbers and commitment that widespread compliance is likely
- The practitioners of the profession are sufficiently numerous to staff all committees of a governing body with committed members and are willing to accept the full costs of regulation
- The profession must be able to maintain a separate professional association.

#### *8. Economic Impact of Regulation*

- The profession must demonstrate an understanding and appreciation of the economic impact of regulation on the profession, the public and the health care system.

#### *9. Public Need for Regulation*

- The profession must demonstrate that a significant public need would be met through regulation.

## **Appendix D – List of Health Profession Colleges in Ontario**

1. College of Audiologists and Speech-Language Pathologists of Ontario (CASLPO)
2. College of Chiropractors of Ontario
3. College of Chiropractors of Ontario
4. College of Dental Hygienists of Ontario
5. College of Dental Technologists of Ontario
6. College of Denturists of Ontario
7. College of Dietitians of Ontario
8. College of Massage Therapists of Ontario
9. College of Medical Laboratory Technologists of Ontario
10. College of Medical Radiation Technologists
11. College of Midwives of Ontario
12. College of Nurses of Ontario
13. College of Occupational Therapists of Ontario
14. College of Opticians of Ontario
15. College of Optometrists of Ontario
16. College of Physicians and Surgeons of Ontario
17. College of Physiotherapists of Ontario
18. College of Psychologists of Ontario
19. College of Respiratory Therapists of Ontario
20. Ontario College of Pharmacists
21. Royal College of Dental Surgeons of Ontario

## **Appendix E – Complete List of Discussion Guide Questions**

1. Is it necessary to define psychotherapy in order to effectively regulate it? If so, is broad agreement on a definition necessary?
2. Please comment on the working definition. Are there elements that should be included or deleted?
3. Does the practice of psychotherapy pose a risk of harm to the public? If so, how?
4. Would regulatory intervention decrease the risk of harm to patients/clients? If so, how?
5. Please identify any other factors that weigh for or against regulatory intervention.
6. Would a significant public need be met by regulating psychotherapists?
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, that you would like to comment on?
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?
13. If there is a decision to regulate psychotherapists and/or psychotherapy, is the *RHPA* the most appropriate statutory framework to use to regulate psychotherapists and/or psychotherapy?
14. If there is a decision to regulate psychotherapists and/or psychotherapy, should psychotherapy be a Controlled Act under the *RHPA*? If so, what professions should be authorized to perform the Controlled Act of psychotherapy?
15. If there is a decision to regulate psychotherapists and/or psychotherapy, should Psychotherapists be regulated as a new profession under the *RHPA*?
  - a) Should psychotherapists be regulated as part of an existing health regulatory College or under a new, separate College?
  - b) Should psychotherapists be regulated as a class within an existing College?

16. If there is a decision to regulate psychotherapists and/or psychotherapy, should some other regulatory framework (under a new or existing statute) be used to address all matters relating to the issue of regulating psychotherapy/ psychotherapists?
17. If there is a decision to regulate psychotherapists and/or psychotherapy, are there any other regulatory models that should be considered?
18. If there is a regulatory intervention, should exceptions be made? If so, for what professions and/or services?
19. If there is a decision to regulate psychotherapists and/or psychotherapy, should there be a transition period during which all practitioners must qualify? If so, how long should it be?
20. If there is a decision to regulate psychotherapists and/or psychotherapy, should those currently practising psychotherapy be permitted to continue to practise throughout a transition period without meeting certain requirements?
21. If there is a decision to regulate psychotherapists and/or psychotherapy, 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. If there is a decision to regulate psychotherapists and/or psychotherapy, how and by whom should minimum qualifications and standards be identified and set, including those for grandparenting?

## Appendix F - Definitions of Psychotherapy

Organization	Definition
From <a href="#">Wikipedia</a> , the free Encyclopedia	Psychotherapy is a set of techniques believed to cure or to help solve behavioral and other psychological problems in humans. The common part of these techniques is direct personal contact between therapist and patient, mainly in the form of talking. Due to the nature of these communications, there are significant issues of patient privacy and/or client confidentiality.
World Health Organization	Psychotherapy refers to planned and structured interventions aimed at influencing behaviour, mood and emotional patterns of reaction to different stimuli through verbal and non-verbal psychological means. Psychotherapy does not comprise the use of any biochemical or biological means.
Canadian Psychiatric Association	At its meeting on May 1st, 1976, the Board of Directors accepted in principle the following definition of psychotherapy recommended by the Professional Standards and Practice Council of the CPA and provided by the CPA Nucleus Committee on Psychotherapy: Psychotherapy is a selected form of psychiatric treatment which employs specialized communication techniques practised by a properly trained physician for the purpose of curing or reducing the psychiatric disability of the patient. In psychiatric practice, psychotherapy is usually carried out at intervals, for a definite time duration, most often an hour or a fraction thereof.
Canadian Mental Health Association	Psychologists, psychiatrists and some social workers practise psychotherapy. Getting treatment by psychotherapy means talking with a trained person who helps you solve problems by developing more positive thoughts and feelings. There are many different theories and schools of thought regarding effective psychotherapy techniques. Common techniques include: a) Group Therapy - Several people talk about their problems and receive help from each other's remarks. A trained therapist leads the group. b) Individual Psychotherapy - The individual talks about problems without going deeply into the subconscious mind. (Note: the "subconscious" is that part of the mind which is not fully conscious, yet is able to influence our actions.) c) Psychoanalysis - Therapists seek to uncover causes of mental health problems by searching into a person's early experiences. Dream analysis and free association (talk about anything that comes to mind) are used to get to the subconscious mind.

Organization	Definition
<p>Standards and Guidelines for the Psychotherapies – P. Cameron, J. Ennis and J. Deadman, eds. <i>Standards and Guidelines for the Psychotherapies</i></p>	<p>Psychotherapy is any form of psychological intervention for psychiatric or emotional disorders, behavioural maladaptations and/or other problems that are assumed to be of a psychological nature, in which a practitioner deliberately establishes a professional relationship with a patient/client for the purposes of removing, modifying or retarding existing symptoms, or attenuating or reversing disturbed patterns of behaviour, and of promoting positive personality growth and development. Intervention or therapy is initiated after a thorough assessment of the patient/client's presenting complaints, including exploration of biological, psychological, social and cultural factors contributing to the patient/client's disorder. The relationship established between patient/client and practitioner is used to facilitate change in maladaptive patterns and to encourage the patient/client to learn and test new approaches. Psychotherapy includes psychoanalysis, psychodynamic psychotherapy, cognitive therapy, behaviour therapy, conditioning, hypnotherapy, couple therapy, group therapy and all other forms of treatment/intervention in which the major technique employed is communication, although drugs and other somatic agents may be used concurrently.</p>
<p>The British Confederation of Psychotherapists (BCP)</p>	<p>Psychoanalytic psychotherapy draws on theories and practices of analytical psychology and psychoanalysis. It is a therapeutic process which helps patients understand and resolve their problems by increasing awareness of their inner world and its influence over relationships both past and present. It differs from most other therapies in aiming for deep seated change in personality and emotional development. Psychoanalytic psychotherapy aims to help people with serious psychological disorders to understand and change complex, deep-seated and often unconsciously based emotional and relationship problems thereby reducing symptoms and alleviating distress. However, its role is not limited only to those with mental health problems. Many people who experience a loss of meaning in their lives or who are seeking a greater sense of fulfilment may be helped by psychoanalytic psychotherapy.</p>
<p>United Kingdom Council for Psychotherapy (UKCP)</p>	<p>Psychotherapy is the provision by qualified practitioners of a formal and professional relationship within which patients/clients can profitably explore difficult, and often painful, emotions and experiences. These may include feelings of anxiety, depression, trauma, or perhaps the loss of meaning of ones life. It is a process which seeks to help the person gain an increased capacity for choice, through which the individual becomes more autonomous and self determined. Psychotherapy may be provided for individuals or children, couples, families and groups.</p>

Organization	Definition
The British Psychoanalytical Society and The Institute of Psychoanalysis	<p>Psychoanalysis is the most intensive form of the talking therapy, devised by Sigmund Freud one hundred years ago, but developed continuously and radically since then. Patients attend five fifty minute sessions weekly, usually for several years, working with their psychoanalyst to examine and to explore unconscious conflicts of feeling, emotion and phantasy that are at the root of their symptoms and the problems that are troubling them.</p>
Psychotherapy and Counselling Federation of Australia	<p>While counselling and psychotherapy overlap considerably, there are some distinctive differences. The focus of counselling is more likely to be on specific problems or changes in life adjustment. Psychotherapists are more likely to work intensively with deeper issues and/or more deeply disturbed clients who are seen more frequently and over a longer period of time.</p> <p>It is recognized that a wide range of professions may use a variety of counselling skills as part of their practice, and that the term counselling is part of everyday language with different meaning in different contexts. This has led to difficulties in reaching consensus about the distinctive nature of counselling and psychotherapy as a profession. Compared with most other health professions, counselling and psychotherapy are in a relatively early stage of development as a profession, providing us with both opportunities and challenges in self-definition.</p>
New Zealand Standard Classification of Occupations, Statistics New Zealand	<p>Description: Treats emotional distress and/or psychological disturbance occurring within and between individuals, families and groups.</p> <p>Tasks: Undertakes initial assessment to establish a provisional diagnosis and formulation regarding the course of Psychotherapy, taking into account identified changes required in cognition, affect and behaviour. Develops a detailed understanding of the influence of early experience on current functioning and the extent to which unconscious process relates to present difficulties. Maintains the therapeutic relationship as a basis for discovering and exploring previously subconscious material and assists the process of integrating this experience into consciousness. Reviews assessment, formulation and progress of Psychotherapy and the process of change. Maintains clinical supervision and attends to personal and professional education and development as a continuing process throughout working career.</p>
Ordre des Psychologues du Québec (Quebec regulatory body for psychologists)	<p>Psychotherapy is a structured interactional process that, based on a diagnosis, aims to treat a mental disorder by using psychological methods recognized by the scientific community. It is a personal process in which the psychologist helps you to see more clearly, to explore and to take actions that lead to change.</p>

Organization	Definition
American Psychotherapy Association	Psychotherapy is a ‘talking cure’ in which unconscious thoughts, feelings and motives are brought into awareness. The objective is to integrate this conscious and unconscious material into a plan to reduce suffering and bring about constructive change.
State of California	The use of psychosocial methods within a professional relationship, to assist the person or persons to achieve a better psychosocial adaptation, to acquire greater human realization of psychosocial potential and adaptation, to modify internal and external conditions which affect individuals, groups, or communities in respect to behavior, emotions, and thinking, in respect to their intrapersonal and interpersonal processes. <i>Business and Professions Code, Section 4996.9</i>
State of Colorado	The treatment, diagnosis, testing, assessment, or counselling in a professional relationship to assist individuals or groups to alleviate mental disorders, understand unconscious or conscious motivation, resolve emotional, relationship, or attitudinal conflicts, or modify behaviors which interfere with effective emotional, social, or intellectual functioning. Psychotherapy follows a planned procedure of intervention, which takes place on a regular basis, over a period of time, or in the cases of testing, assessment, and brief psychotherapy, it can be a single intervention.  Colorado Mental Health Statute, 2004 Section 12-43-201(9)
State of Minnesota	Psychotherapy in clinical social work practice means the application of social work theory, methodology, and values in the treatment of a person or persons who have cognitive, emotional, behavioral, or social dysfunctions through psychosocial, psychological, or interpersonal methods. The treatment is a planned and structured program which is based on information from a differential diagnostic assessment, and is directed toward the accomplishment of goals provided in a plan of care. The person-in-situation/ environment configuration is considered and integrated into the diagnosis and treatment.  Minnesota Statutes 2004, CHAPTER 148B, section 148B.18
State of Nebraska	A specialized formal interaction between a mental health practitioner and a client in which a therapeutic relationship is established to help to resolve symptoms of mental disorder, psychosocial stress, relationship problems and difficulties in coping in the social environment. Some specific types of psychotherapy may include, but are not limited to, psychoanalysis, family therapy, group psychotherapy, supportive treatment, gestalt therapy, experiential therapy, primal therapy, psychosocial therapy, psychodrama, behavioral therapy, clinical hypnosis, addiction therapy, and cognitive therapy.  Title 172 Professional And Occupational Licensure; Chapter 94

Organization	Definition
State of New York	<p>The treatment of mental, nervous, emotional, behavioral and addictive disorders, and ailments by the use of both verbal and behavioral methods of intervention in interpersonal relationships with the intent of assisting the persons to modify attitudes, thinking, affect, and behavior which are intellectually, socially and emotionally maladaptive</p> <p>Article 163 of the Education Law, 2002</p>
State of Vermont	<p>"Psychotherapy" means the provision of treatment, diagnosis, evaluation or counselling services to individuals or groups, for a consideration, for the purpose of alleviating mental disorders. "Psychotherapy" involves the application of therapeutic techniques to understand unconscious or conscious motivation, resolve emotional, relationship or attitudinal conflicts, or modify behavior which interferes with effective emotional, social or mental functioning. "Psychotherapy" follows a systematic procedure of psychotherapeutic intervention which takes place on a regular basis over a period of time, or, in the case of evaluation and brief psychotherapies, in a single or limited number of interventions. If a person is employed by or under contract with the agency of human services, this definition does not apply to persons with less than a master's degree, to persons providing life skills training or instruction, such as learning to make friends, to handle social situations, to do laundry and to develop community awareness, or interactions of employees or contracted individuals with clients whose job description or contract specifications do not specifically mention "psychotherapy" as a job responsibility or duty.</p> <p><i>Title 26: Professions and Occupations Act, Chapter 65</i></p>
State of Wisconsin	<p>Psychotherapy means the diagnosis and treatment of mental, emotional and behavioural disorders, conditions and addictions through the informed and intentional application of clinical methods and interpersonal stances derived from established psychological principles for the purpose of assisting people to modify their behaviors, cognitions, emotions, and/or other personal characteristics in directions that the participants deem desirable, which may include the understanding of unconscious processes, intrapersonal, interpersonal and psychosocial dynamics.</p> <p>Licensure Bill 2001 Wisconsin Act 80 – Chapter 457.01</p>
State of Wyoming	<p>"Psychotherapy" means the treatment, diagnosis, testing, assessment or counselling in a professional relationship to assist individuals or groups to alleviate mental disorders, understand unconscious or conscious motivation, resolve emotional relationships, or attitudinal conflicts, or modify behaviors which interfere with effective emotional, social or intellectual functioning;</p> <p><i>Title 33 Professions and Occupations Act</i></p>

**Appendix G – Members of HPRAC Council**

Barbara Sullivan	Chair
Barry Brown	Council Member
Kevin Doyle	Council Member
Ennis Fiddler	Council Member
Mary Mordue	Council Member
Peter Sadlier-Brown	Council Member

## **Appendix H – HPRAC Staff**

Brian O’Riordan	Executive Co-ordinator and Chief Operating Officer
Jessica Deuerlein	Administrative Assistant
Eleanor Hill	Executive Assistant
Karen Lane	Consultation Co-ordinator
Sheila Mawji	Policy Analyst
Deanne Montesano	Policy Analyst
Sasmita Rajaratnam	Policy and Research Assistant
Joyce Rowlands	Senior Project Manager
Barbara Thompson	Administrative Assistant