Responses to HPRAC Request for Submission on the Controlled Act of Psychotherapy

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October 6, 2017

Re: Submission to HPRAC on Clarification of the Controlled Act of Psychotherapy

Dear Mr. Corcoran:

On behalf of the Canadian Association for Psychodynamic Therapy (CAPT), thank you for the invitation to provide feedback regarding clarification of “the controlled act of psychotherapy”. This is a critical issue, and one which CAPT has long actively engaged in and provided commentary on.

CAPT has provided stakeholder input on behalf of psychodynamic psychotherapists to HPRAC since 2005, when we had the opportunity to participate in the initial HPRAC Public Consultation with respect to the regulation of psychotherapy in Ontario. In its 2006 report, New Directions, HPRAC suggested that the proposed “controlled act of psychotherapy” was not viable and CAPT concurred with this conclusion.

Unfortunately, despite CAPT’s long and active involvement in this issue, we were not initially invited to provide our feedback on the possible clarification of the controlled act. Thus, we have not had time to provide or repeat our full response for this submission. However, we are pleased to provide a briefer response at this time, and to refer you below to the regulation of psychotherapy section on our website, where CAPT’s previous submissions are available and can be reviewed for the detailed substance underlying our brief responses. In addition, we attach as an Appendix CAPT’s most recent submission on this issue, in response to the CRPO’s document “Understanding When Psychotherapy is a Controlled Act” (June 2016).

CAPT is looking forward to, once again, working closely with HPRAC in the role of valued participant and contributor to the effective regulation of psychotherapy in Ontario.

Sincerely,

Canadian Association for Psychodynamic Therapy

Mary Fulford-Winsor
President, CAPT Board of Directors
**Contents of this submission:**

1. Context
2. Response to the Guidance Questions
3. Response to the Clarifying Document and a Systematic Comment on the Proposed Controlled Act

Appendix: Supporting Materials

**1. Context**

The Canadian Association for Psychodynamic Therapy (CAPT) is strongly committed to the principle that The College of Registered Psychotherapists of Ontario (CRPO) must be given the responsibility and opportunity to consult with all of its members and be a central player with respect to such issues as the scope of practice and a controlled act of psychotherapy.

CAPT has been a strong and influential member of the psychotherapy community since its inception in 2000. CAPT has over 550 individual members, and 13 free-standing Ontario training institutes as institutional members. Psychodynamic psychotherapy is the source and the most visible and well-established example of the practice of psychotherapy as a profession independent of both psychiatry and psychology.

CAPT is a recognized stakeholder in the psychotherapy regulation process and has vigorously participated in all related public consultations. CAPT supported and promoted the recognition and regulation of psychotherapy as an independent profession. Since 2005, CAPT has been recognized and consulted by both HPRAC and the Ministry of Health and Long-Term Care (MOHLTC). CAPT has consistently provided oral and written submissions to HPRAC, and CAPT was identified by MOHLTC in 2007 as one of only three psychotherapy stakeholders invited to participate in the formation of the Transitional Council and the new CRPO.

The fundamental vision that CAPT brings to this issue is the vital importance of an ongoing consultative process with members of the profession to promote the continual development and upholding of those principles and training that are essential to the safe and effective practice of psychotherapy.

Throughout this time, CAPT has been vocal and active in examining the purpose and applicability of a “controlled act of psychotherapy”. Many of our previous submissions were well received and resulted in changes to the proposed regulations for Registered Psychotherapists. We continue to seek and anticipate increased opportunities to be included in the consultative process that affects the profession of psychotherapy, and we welcome all invitations for our input. Please see **Appendix: Supporting Documents**, for the CAPT response to CRPO Re: “Understanding When Psychotherapy is a Controlled Act” (June 2016) – as well as links to CAPT’s previous relevant work.
2. Response to the Guidance Questions

1) In 2015, a Working Group consisting of five regulatory colleges created a draft Clarifying Document on the Psychotherapy Controlled Act. HPRAC will be building on the excellent work of the Colleges. After reading this document (Attachment 2), do you feel that it clearly explains the Controlled Act? If not, why?

Our position is that the draft Clarifying Document (CD) does not adequately explain the controlled act of psychotherapy. We have elaborated the reasons why in earlier submissions (see Appendix: Supporting Materials), which we ask you to refer to for the underlying details. In brief, it does not do so because:

- Due to the multiplicity and overlapping of modalities in psychotherapy, a single “act” of psychotherapy, even as a “subset”, eludes clear definition;
- The controlled act does not clearly define “serious disorder” or “seriously impair”;
- It is not clear what non-regulated persons are not allowed to do.

2) What changes would you suggest be made to improve the Clarifying Document so that the public and other health care providers (regulated and unregulated) have a better understanding of it?

CAPT does not believe that the CD could be improved because the proposed controlled act itself is unclear. The CD rather creates more ambiguity by stating that the controlled act of psychotherapy represents part of the overall practice of psychotherapy.

3) Should other health care providers, either unregulated or regulated and not members of the six colleges who would practice the controlled act of psychotherapy if this section of the Regulated Health Professions Act, 1991 (RHPA) is proclaimed, be allowed to practice the controlled act?

No. It would seem that this question presents a possibility of an ‘exception’ or ‘exemption’ from the legislation. At present, the controlled act and the CD does not allow for this. Exceptions or exemptions would exacerbate the ambiguity of the legislation.

4) Are there conditions under which health care providers, either unregulated or regulated and not members of the six colleges who would practice the controlled act of psychotherapy if this section of the Regulated Health Professions Act, 1991 (RHPA) is proclaimed, be allowed to practice the controlled act? If so, which health care providers and under which conditions?

No. While there is a need to ensure that health care providers feel safe to help those with serious disorders if the situation arises, there is no need to extend exemptions. In emergency and/or temporary situations, it is unlikely that all five elements of the practice of the controlled act would be present.
5) The five regulated colleges, along with the College of Physicians and Surgeons of
Ontario (CPSO) will be able to use the title “Psychotherapists” once the Controlled
Act is proclaimed. How important is it that the title “Psychotherapist” be protected?’

Title protection is clearly important. Both title protection and specific training in
psychotherapy developed at CRPO (and by implication demanded of the other Colleges
for their psychotherapist members) is now in place. Title protection serves the interest of
public safety.

3. Response to the Clarifying Document and a Systematic
Comment on the Proposed Controlled Act

1) Treating: The practitioner responds to an assessed need or diagnosis through
the use of therapeutic interventions or techniques.

“The practitioner responds to an assessed need or diagnosis”: this does not prescribe or
indicate who is responsible for an assessment or diagnosis. This step seems to preclude
the role of the client in assessing their own needs for psychotherapy. It is important to
note that some psychotherapeutic modalities adhere to a “medical model” approach
where the practitioner alone assesses or “diagnoses”. There are other modalities where
such assessment does not occur in a manner that can be readily quantified or
measured. Further, the client may have a major role in setting the pace or establishing
how the therapy should proceed. It is also important to remember that the many
modalities that fall under the psychotherapy category are sought out independently by
‘well’ clients who wish to engage in a deeper self-exploration and an improved sense of
emotional well-being.

2) By means of psychotherapy technique: The treatment involves one or more
interventions or approaches based on recognized psychotherapeutic theories,
models or frameworks and/or empirical evidence.

This step does not specify the recognized interventions, approaches, theories or models
to which it refers. Furthermore, the CD does not distinguish those that belong to the
controlled act and those that belong to the larger framework of psychotherapy.

3) Delivered through a therapeutic relationship

The ‘therapeutic relationship’ is not defined nor given a time frame.
If an individual is to receive “psychotherapy treatment”, how is the alliance between
practitioner and individual verified, monitored and maintained? What constitutes a
strong therapeutic alliance and, importantly, at what point in time can such a relationship
be determined?
4) An individual’s serious disorder of thought, cognition, mood, emotional regulation, perception or memory that may seriously impair…

5) …the individual’s judgment, insight, behaviour, communication or social functioning.

It is not clear whether steps 4&5 have been measured and/or examined with regard to psychotherapy guidelines and standards as required by the CRPO. For instance, how do steps 4&5 affect the requirement for ongoing continued consent? At what point does a registered psychotherapist know whether they are practicing the broader scope of psychotherapy or the subset of the controlled act? This lack of clarity appears in the inter-relationships between steps 4&5 and in the fact that all 5 elements must be present for an activity or intervention to fall within the controlled act of psychotherapy.

Additional Comments: CAPT’s Work and Prior Submissions

The proposed “controlled act of psychotherapy” has been pending while awaiting proclamation for over nine years. It is ethically imperative for legislators to appreciate that psychotherapists have been held in a legislative limbo as to what they will or will not be allowed to do in their profession. This uncertainty has created anxiety in the profession and may negatively impact access to needed services. Indeed, some psychotherapists have retired early due to their uncertainty over whether they would be qualified according to the requirements of the controlled act.

After nearly a decade, the discussions around the controlled act and attempts to clarify it have consistently revealed how problematic it would be in terms of operationalization and enforcement. If proclaimed, there are clear risks of diverse interpretations, conflicts, and potential associated costs and liabilities. These risks have been repeatedly voiced by CAPT and many other respected professionals in the field.

This concludes the brief responses in our submission, followed by an Appendix of supporting materials.
Appendix: Supporting Materials

CAPT has a large body of submissions and other materials relating to the controlled act, which can be found on the new CAPT website (to be launched on October 10, 2017): http://psychodynamiccanada.ca/advocacy-outreach. Listed in this appendix are:

(1) CAPT Response to CRPO document: Understanding When Psychotherapy is a Controlled Act (June 2016)

(2) Excerpts from CAPT Submission 2008: Controlled Act References (2008)

(3) The Controlled Act of Psychotherapy – Letter from Philip McKenna (February 2016) (reproduced with permission)
Appendix (1): CAPT Response to CRPO Document: Understanding When Psychotherapy is a Controlled Act (June 2016)

Introduction
Thank you for the opportunity to respond to your recent request for comments on the document “Understanding When Psychotherapy is a Controlled Act,” June 2016. This document states that “the controlled act of psychotherapy is a smaller aspect of the overall practice of psychotherapy.” We do not have enough information about this “subset” of psychotherapy.

The following responses to each of the 5 elements are by no means exhaustive, and are merely examples of how this document does not further our “understanding” but actually raises more questions and concerns with respect to the operationalization of the act.

Step 1: Treating
“The practitioner responds to an assessed need or diagnosis” does not prescribe or indicate who is responsible for an assessment or diagnosis. This step seems to preclude the role of the client in assessing their own needs for psychotherapy.

Step 2: By Means of Psychotherapy Technique
This step does not specify the recognized interventions, approaches, theories or models to which it refers. Furthermore, the document does not distinguish the ones that belong to the controlled act and those that belong to the larger framework of psychotherapy.

Step 3: Delivered Through a Therapeutic Relationship
If an individual is to receive “psychotherapy treatment”, how is the alliance between practitioner and individual verified, monitored and maintained? What constitutes a strong therapeutic alliance and at what point in time?

Step 4 & 5: An Individual’s Serious Disorder that Impairs...
It is not clear whether steps 4&5 have been measured and/or examined with regard to RP guidelines and standards. For instance, how do steps 4&5 affect the requirement for ongoing continued consent? At what point does an RP know whether they are practicing the broader scope of psychotherapy or the subset of the controlled act? This lack of clarity appears in the inter-relationships between steps 4&5 and in the fact that all 5 elements must be present for an activity or intervention to fall within the controlled act of psychotherapy.

In conclusion, thank you for bringing the colleges together and making this concerted effort at further clarification. This effort actually illustrates how difficult the controlled act will be to interpret, operationalize and enforce. Unfortunately, more questions have arisen and more clarity is required.
Appendix (2): Excerpts from CAPT Submission 2008: Controlled Act
References (2008)

The first difficulty arises from the fact that the Controlled Act of Psychotherapy is the only
controlled act that includes the name of a whole profession. Hence any definition of the
Controlled Act of Psychotherapy must assume and imply a definition of psychotherapy
itself. How could it be just and appropriate that the College of Psychotherapists (much
less the Transitional Council) would be only one voice among many equal voices from
other Colleges in determining the nature of and standards for the Controlled Act of
Psychotherapy?

There is an urgent need for clarification of the scope of practice of psychotherapy and
especially of the Controlled Act of Psychotherapy. These need to be dealt with internally
before being subject to an oversight body.

2.1 The scope of practice in the Psychotherapy Act, 2007 holds together, in awkward
syntax, two different models of psychotherapy: a medical model of treatment by an
expert and a relational model that sees psychotherapy as a cooperative work of two
agents in alliance. Broadly speaking, the established regulated Health Colleges
predominantly follow the medical model. However, over the last fifty years most
psychotherapy (until now understood as a distinct profession outside the health system)
has moved to the relational model. It will be a major work of the Transitional Council to
accomplish an ecumenical unity that embraces both models without the dominance of
one over the other. Before determining the nature of the Controlled Act, the Transitional
Council must clarify the two models of psychotherapy in the scope of practice, and be
ready to approach an understanding of the Controlled Act in a way that does not violate
either model.

2.2 Quite apart from the issue of the two models of psychotherapy in the scope of
practice, there are problems with the formulation of the Controlled Act in the
Psychotherapy Act, 2007. As CAPT has argued in all of its communications since the
introduction of the Health Systems Improvement Act, 2006, the Controlled Act of
Psychotherapy is unique among the controlled acts in its lack of
any clear empirical grounding. All the controlled acts except diagnosis are physical acts,
and diagnosis is rendered empirical by making the Controlled Act “communicating a
diagnosis.” There
is no such clarity for the Controlled Act of Psychotherapy. A psychotherapist, not certified
for the Controlled Act, would have no way of clearly knowing what he is not allowed to
do.

There is nothing intrinsic in the definition of the Controlled Act of Psychotherapy which
unequivocally demarcates it from the other acts of psychotherapy.

This is a terrible flaw in the legislation. CAPT has suggested an extrinsic grounding such as
interpreting the “serious disorder” as “such that requires custodial care.”

The Canadian Association for Psychodynamic Therapy (CAPT) thanks the Health
Professions Regulatory Advisory Council (HPRAC) for the opportunity to respond to the
Consultation Discussion Guide on Issues Related to the Ministerial Referral on Interprofessional Collaboration among Health Colleges and Professionals.

Though we do not yet have a College, CAPT is entering the conversation with our understanding of the general plan and with the intention of contributing to safeguarding the important principles for the practice of psychotherapy in Ontario.

CAPT is known to HPRAC from both our oral and written submissions in September and October 2005, and from our written responses in the summer of 2006 to the HPRAC New Directions report.

Moreover, following CAPT’s submission to the Standing Committee on Social Policy in April 2007, the Ministry of Health and Long-Term Care identified CAPT as one of only three psychotherapy stakeholders and the only representative of psychodynamic psychotherapy invited to an information session on the formation of the Transitional Council and new College of Psychotherapists, on October 31, 2007.

In light of the fact that CAPT is known and recognized by the Ministry, we wondered why we were not invited to the October 2007 consultations. Though our College is not yet established, as a recognized stakeholder in the psychotherapy regulation process, going forward CAPT requests participation in any future workshops and consultations.

**CAPT’s Response to Question 5**
With the Psychotherapy Act, 2007, psychotherapy comes in from the margins. Our profession has not always been treated with respect, because we generally have not followed a medicalized model. This has been a significant cultural impediment. CAPT anticipates that it will not be easy for psychotherapy to achieve respect among our fellow regulated health professions. That is another reason why it is imperative the College of Psychotherapists be permitted to independently determine the standards and competencies of the profession under the regulatory framework. Only then should the other five Colleges who share the Controlled Act and the other health professions be invited into dialogue.

**CAPT’s Response to Question 11**
CAPT recommends that the College of Psychotherapists be given the time and opportunity to interpret the Controlled Act of Psychotherapy and to interpret the scope of practice of the profession before the other established Colleges, which are given the Controlled Act of Psychotherapy, attempt to give authoritative interpretations of the Controlled Act or the scope of practice.

This is doubly important in the specific case of the College of Psychotherapists because:
- the Controlled Act as legislated has no clear empirical grounding.
- the scope of practice uneasily combines two models of psychotherapy that are not easily reconcilable.

There are two particular problems for the College of Psychotherapists:

1. **Controlled Act**
The Controlled Act of Psychotherapy, which it shares with five other Colleges, urgently needs clarification and empirical anchoring. CAPT has outlined this problem and
proposed a solution in its Brief to the Social Policy Committee on Bill 171 (the Health System Improvements Act, 2007). (Solution included following item 2 of this response.)

Every other Controlled Act is empirically anchored. In each case, a health practitioner without authority to do the Controlled Act will have complete clarity beforehand as to what he or she is not allowed to do. Twelve of the Controlled Acts have to do with bodily actions and the thirteenth, diagnosis, is empirically anchored by making the Controlled Act “communicating...a diagnosis.” There is no such clarity for the Controlled Act of Psychotherapy.

Imagine a psychotherapist who is not certified to do the Controlled Act of Psychotherapy approaching a client and being required beforehand to know whether the individual has a “serious disorder . . . that “may seriously impair” (Psychotherapy Act, 2007, Section 4). Oftentimes such a serious disorder does not immediately show itself, but emerges only over time.

2. Scope of Practice
There arises a similar problem with regard to the scope of practice of psychotherapy. The scope of practice in the Psychotherapy Act, 2007, in the manner of HPRAC’s New Directions, combines two models of psychotherapy. In the first, psychotherapy is understood to be a treatment of disturbances by an expert; in the second, it is understood as a work done by two agents in relational alliance. The Psychotherapy Act, 2007 awkwardly combines them into “treatment . . . of disturbances by psychotherapeutic means, delivered through a therapeutic relationship . . . ” (Section 3).

Again, the College of Psychotherapists needs to have the primary responsibility of bringing clarity to the scope of practice before a new “oversight body” or the existing Colleges make any determinations. This is all the more crucial in that the vast majority of members of the future College of Psychotherapists will likely favour the relational model, whereas the “treatment by expert” model is already well-established in existing health Colleges.

As we indicated earlier, one of the cornerstones of psychodynamic psychotherapy is the understanding that healing in therapy happens through relating—that concept is central to both the scope of practice and the Controlled Act in the Psychotherapy Act, 2007. (See also responses to Questions 2, 11, 22-26.)

**The Solution Posed by CAPT in its Brief to the Social Policy Committee on Bill 171, on “How to Empirically Anchor the Controlled Act”**

As it stands, the description of treating a “...serious disorder...that may seriously impair...” lacks simple clarity and easy determinability. We could anchor it empirically by adding:

The “serious disorder” is understood to be such as requires custodial care of the individual.

It would then follow that the Controlled Act of Psychotherapy would always occur within an institution. This has the added advantage for harm reduction in that the psychotherapist within a custodial environment would always be functioning as a member of a team.

5. The interprofessional collaboration issue bears particularly on shared controlled acts. New Directions considered a controlled act of psychotherapy an impossibility. The
Psychotherapy Act, 2007 gives us one. It is quite different from all the other controlled acts in that it has no simple, clear, empirical grounding. CAPT has explored this issue in some depth in our submission to the Standing Committee on Social Policy, on Bill 171 (2007), and in our response to HPRAC’s Consultation Discussion Guide on Issues Related to the Ministerial Referral on Interprofessional Collaboration among Health Colleges and Professionals (2008). We suggested a way to anchor the controlled act in a clear and unambiguous manner. It is easy to foresee a huge debate on this issue when the Transitional Council is constituted. We argue that the independent profession of psychotherapy should have the right and the time to determine the matter. Collaboration of the Colleges at this stage would be quite unfair to the beginning College of Psychotherapists and Registered Mental Health Therapists.

In general, Minister Caplan, CAPT considers that HPRAC has underestimated the special difficulties that will be faced by the Transitional Council of the College of Psychotherapists and Registered Mental Health Therapists. Issues of interprofessional collaboration should properly wait until we bring this new College to birth and healthy independence.

Again, CAPT respectfully asks for a face-to-face meeting with you to express our urgent concerns.

APPENDIX III

Ms Barbara Sullivan, Chair
Health Professions Regulatory Advisory Council 55 St. Clair Avenue West
Suite 806, Box 18
Toronto, ON M4V 2Y7

Dear Ms Sullivan:

Re: November 18, 2008 publication of March 2008 HPRAC Interim Report to the Minister on interprofessional collaboration S. 6.2 Psychotherapy

As you know the Canadian Association for Psychodynamic Therapy (CAPT) responded with a lengthy brief to HPRAC’s Consultation Discussion Guide on Issues Related to the Ministerial Referral on Interprofessional Collaboration among Health Colleges and Professionals (February 2008). In the introduction we remarked that HPRAC had not included us in the workshops and discussions that preceded the Discussion Guide. In 2007 CAPT was recognized by the Ministry of Health and Long-Term Care as one of three stakeholders with respect to psychotherapy when invited to a meeting on October 31, 2007 to discuss the formation of the four new Health Colleges. Imagine our dismay, then, to discover on November 18 that in March 2008 HPRAC delivered an interim report to the Minister of Health and Long-Term Care with an explicit section (6.2) on psychotherapy, without having consulted CAPT.

It is disturbing that an explicit report on psychotherapy went to the Minister without a breath of discussion with the stakeholders. How could this happen?
As to the advice given to the Minister in the March Interim Report, CAPT was alarmed that there was absolutely no mention of the members of the future College, specifically the current unregulated psychotherapists and their training institutes; moreover, their potential issues with respect to interprofessional collaboration were blatantly absent from the report. The members of the other Health Colleges who practice psychotherapy are unused to thinking of psychotherapy as a distinct profession with a distinct professional training in psychotherapy. The need for this was expressly stated in New Directions. The reason given in the Interim Report (March 2008) for the representation of the other Colleges on the Transitional Council is that they would bring “regulatory expertise...particularly in the development of professional standards” (p.33). CAPT understands that this is not necessary because there are already plans for the Federation of Health Regulatory Colleges of Ontario (FHRCO) to mentor the new Colleges with regard to regulatory expertise and the professional standards required by the Regulated Health Professions Act, 1991. CAPT supports this option.

We note some important historical facts:

1. In the discussions and workshops before HPRAC’s Consultation Discussion Guide on Issues Relating to the Ministerial Referral on Psychotherapy and Psychotherapists (2005) there was no representation of CAPT or any of the stand-alone psychotherapy training institutes.
2. During the public consultations in 2005 that led to New Directions we were given a verbal apology for this by HPRAC officials.
3. We were informed after New Directions (spring 2006) was published that CAPT’s intervention and the interventions of our institutional members had a major impact on the recognition of psychotherapy as an independent profession.
4. CAPT responded (summer 2006) to the request for comments on New Directions.
5. CAPT had a meeting with the Minister’s staff (spring 2007).
6. CAPT responded with a substantial brief on Bill 171 to the Standing Committee on Social Policy (spring 2007).
7. As mentioned earlier, CAPT was recognized by the Ministry as one of three stakeholders with respect to psychotherapy when we were invited to a meeting on October 31, 2007 to discuss the four new Health Colleges.

In light of this history, we raise these concerns:

- How was HPRAC in 2008 ignorant of what HPRAC in 2005 and 2006 had come to recognize?
- Why did HPRAC not consult with the Ministry about who they considered stakeholders with regard to the new College of Psychotherapists and Registered Mental Health Therapists?
Dear Minister Hoskins,

Thank you for your gracious letter to me at the conclusion of my service on the transitional Council of the College of Registered Psychotherapists. It was as you said, both challenging and rewarding.

However now that I am no longer constrained by office from direct communication with you, I feel compelled to offer you my personal view and advice with respect to the Controlled Act of Psychotherapy.

It is of course on public record that you have asked the relevant Health Colleges to advise you with an agreed clarification of the Controlled Act, with a view to possible proclamation.

I wish to assure you that in this letter I speak only of what is in the public domain. I honour my promise of confidentiality respecting the internal affairs of the CRPO and the MOHLTC. I have appended some excerpts from documents that show my long engagement with this matter of the Controlled Act.

That there is judged to be some problem with the Controlled Act is clear from the years of controversy from HPRAC in 2005 till the present, and from the hesitation to proclaim it. I will argue that the Controlled Act is not necessary, harmful, and fatally flawed.

1) The Controlled Act of Psychotherapy is not necessary.

a) There has already been affirmed a legal understanding that the “harm clause” in the RHPA includes serious psychological harm as a species of serious bodily harm. While this extension is actually subject to a similar criticism of unclarity and unjudiciability as the proposed Controlled Act, it is in fact already established. Having much the same function as the Controlled Act, it makes proclamation unnecessary.

b) Independently of the Controlled Act, the profession has responded very fully to the call to self-regulate through the CRPO. The College now has 3,022 members and slightly over 600 applications in process. Title protection alone constitutes an enormous incentive for psychotherapists to join the College. Also the training programs, both independent and University based are eager to achieve recognition by the new College. Their students and graduates will all enter a culture of expectation that they will join the College.

This ensures future generations of psychotherapists will be very well educated and competent, that they will be embraced by a sturdy Quality Assurance program and that the public will have an avenue to complain about misconduct.

This already constitutes a huge advance in public protection without the addition of a Controlled Act.
c) Throughout the HPRAC consultation and the formation and discussion of the Psychotherapy Act there was never any research undertaken to see whether the unregulated psychotherapists were harming their clients. The cases we heard of in the media were about Doctors, trying to flee sanction by their College, setting up practice as psychotherapists and being caught in various forms of harm, often sexual abuse.

Many witnesses spoke of the potential for harm because of the imbalance of power between the therapist and the client. However, this imbalance is much greater if you have medical authority and see therapy as a top down treatment of a patient, than if you see therapy as a cooperative enterprise.

2) The Controlled Act would be harmful.

a) Your predecessor Minister Kaplan made the point on several occasions that there were great numbers of people in Ontario with psychological problems ("mental health issues") who were finding no access to help and that he looked forward to a great increase in the number of workers in the field. Now I believe the proclamation of the Controlled Act would lead to a reduction of people ready to do their bit to help people in psychological need. The school counselor, the parole officer, the corrections worker, the minister, the youth worker, the police officer, the funeral director will all wonder what they are not allowed to do. They may well go the cautionary route of avoiding all engagement and potentially helping conversations with troubled people. One might argue that the Controlled Act does not bear on every conversation with a disturbed person but only formally taking on a disturbed person in a psychotherapy. This may be true but when our College conducted a survey early on we found many people from professions listed above who said they “sometimes did the Controlled Act.” Who can blame them for not quite knowing what it meant! Its unclarity would make proclamation chilling and harmful.

b) The “Stop Psychotherapy” group gets many things wrong but they are right that the boundaries of what is psychotherapy are extraordinarily unclear. Wikipedia says there are 1000 types of psychotherapy and I remember reading a book that named, I think, 714! Besides that, the Controlled Act itself is intrinsically unclear, as I will argue in my third section. So all kinds of people who are social helpers feel vulnerable to what they see as an arbitrary hammer of the State that is unable to make itself clear. This is a serious, serious social harm.

c) We must beware of a certain complacency among regulated professionals who don’t have to be worried about the vagueness of the Controlled Act because, of course, they are allowed to do it whatever it is. We have a duty of empathy for those who will be forbidden to do it when it is unclear what is forbidden. We would be causing great harm in an attempt to prevent harm.

3) The Controlled Act is fatally flawed.

It was announced at the Dec. 11, 2015 meeting of the first elected Council of the CRPO that the committee of the “mental health” Colleges had sent a document to the MOHLTC following your request that they clarify the Controlled Act. This document is not yet public so it can’t be commented on directly.

a) However, all these attempts to clarify or “operationalise” the Controlled Act only highlight its fatal flaw from the beginning. Unlike all the other thirteen Controlled Acts it is...
vague and lacks any clear empirical grounding. The framers should have asked first: “what is required of any Controlled Act?” It is astounding to me that the Ministry lawyers let this proceed. I hypothesise that political pressure of some kind trumped common sense.

The only Controlled Act that could have ended up as ungrounded was diagnosis; and it was rather elegantly anchored empirically by making the Controlled Act communicating a diagnosis. I attempted to suggest an empirical grounding for the Controlled Act of psychotherapy in one of the appended documents. The “serious disorder” would be one that required immediate custodial care because of danger to the self or others. This would no doubt be seen as a reductio ad absurdum in these deinstitutionalizing times. Indeed I accept that no possible empirical grounding has emerged in all our discussions.

b) The boundaries of psychotherapy are notoriously indistinct and given the youth and fertility of the profession will remain creatively changing for the new century. The legislation, perhaps wisely, describes the scope of practice by a circular “definition”. So there is no help here for “clarifying” the Controlled Act.

c) What the Controlled Act adds over the scope of practice is of course the “serious disorder...which may seriously impair...” This is fatally unclear for a legal Controlled Act. Some psychologists thought that the Psychotherapy Act made all of psychotherapy a Controlled Act – which they wanted. Fortunately we are protected by the RHPA’s affirmation that the scopes of practice, as such, are open to all.

The profession is in disarray, even war, in the matter of diagnosis. Every edition of the DSM comes out to a storm of critical review. Nobody thinks psychology is scientific in the way that physical medicine is. One can’t repeat experiments with human subjectivity. The dominant pharmacological psychiatry would reduce psychological disorders to matters of brain science and chemistry. Humanistic therapists are likely to consider diagnosis an arrogant and harmful treatment of a person. As Leston Havens ** pointed out, in the psychological field we lack any agreed measures of normal human being of the kind we have in medicine for our physical being. We saw what happened in Soviet psychiatry when political dissidence was treated as a “serious disorder” to be managed in a psychiatric ward. The province of Ontario would do well to keep right out of this controversy and not pretend there is a consensus about “serious disorders” in our profession.

d) We often hear it said, “The courts will decide.” However, the courts would call on expert witnesses from the profession. But the professionals cannot make a clear law out of an intrinsically unclear law. Nor should they be put in this position by the State. A badly framed law brings dishonour on the whole justice system. This particular Controlled Act would bring dishonour on the RHPA with its ingenious balance of public scopes of practice and clearly defined Controlled Acts.

Dear Minister, the Controlled Act remains unproclaimed. We have had six years to see what is problematic about it. Public protection is already enormously enhanced. The extension of the title “psychotherapist” to the other professions can easily and independently arranged by amendment. Does the Controlled Act tell someone exactly what they are not allowed to do? No, it does not! I beg you not to proclaim it.
Sincerely,
Philip McKenna RP

*At a MOH meeting with stakeholders in 2009 before the transitional Council was formed, Tim Blakley answered my objection to the Controlled Act, saying it would need to be “operationalised”.


APPENDIX

1) CAPT argued against a CA before HPRAC (Sept 2005)
(Co-authored by McKenna)

CONTROLLED ACT
All the controlled acts must be easily defined and empirically distinct. In the complex process of psychotherapy in any of its forms, it is impossible to isolate one or a set of acts that could be called “psychotherapy.” The ghost behind this question is the medical model of treatment. Oh that psychotherapy were as clear and indisputable! CAPT urges HPRAC to recommend to the Minister that psychotherapy should not be a controlled act.

2) HPRAC advised against the CA: New Directions - April 2006
7.5 Controlled Act
HPRAC considered defining a controlled act of psychotherapy and limiting its practice to those authorized to perform it under the RHPA, either as members of an existing RHPA College or of a new College. A controlled act of psychotherapy would provide the highest level of regulation and public protection. The disadvantage is that it would require a precise definition of the act of psychotherapy comparable to the wording of the 13 existing controlled acts under the statute. This is not viable, because psychotherapy is a process and cannot be characterized as a single act.

The controlled act approach would also bring with it the requirement for significant change to the Social Workers and Social Service Workers Act. 1998, including the addition of a new regulatory principle for the social work profession. A number of social workers practice psychotherapy. If changes to the Act were not made, social worker-psychotherapists would be required to qualify for dual membership in either an existing or new RHPA College in addition to their own professional College. Concerns were expressed to HPRAC that a controlled act of psychotherapy would stifle the evolution of a dynamic and maturing discipline. HPRAC concluded that adding an additional controlled act of psychotherapy in the RHPA was not a workable option.

3) Internal (CAPT) comment on Bill 171 (McKenna, JAN 1, 2007)
Controlled acts need to be clearly discernible. Almost all of them refer to cutting the skin, injecting substances into the body, and such. The only “spiritual” controlled act so far has been diagnosis, and it is made discernible by making the empirical act of communicating a diagnosis the controlled act.
In this new case, “to treat, by means of a therapeutic relationship” cannot possibly function as the easily discernible part; so all the burden of discernibility is shifted to the “serious disorder . . . that may seriously impair.”

The legislators have seemingly taken advice from that tradition of practice that is quite confident about the accuracy and reliability of preliminary diagnosis and the prediction of consequences. There is, however, much controversy about the current theory and practice of diagnosis. Thus in the long run, the controlled act will probably have to bear on what even common sense would have to see as a serious disorder, e.g., manifest, enduring psychotic behaviour.

The “high” definition of the controlled act of psychotherapy and the hint that some members of the College might not be authorized to do it (by “limitations on his or her certificate of registration”) makes one wonder whether the advisors to the legislator may be envisaging a two-tier certification.

4) CAPT’s response to Bill 171 on the CA: April 24 2007 (Co-authored by McKenna)

Bringing Clarity to the Authorized Act (Bill 171Q, Section 4)
A new controlled act should meet the standard of clarity clearly present in the other 13 controlled acts. The only other controlled act to which a fair comparison may be drawn—diagnosis—was made empirically clear and judicable by making the controlled act “communicating a diagnosis” (Regulated Health Professions Act, 1991, C. 18, S. 27).

As it stands, the description of treating a “…serious disorder . . . that may seriously impair…” lacks this simple clarity and easy determinability. We could anchor it empirically by adding: “The ‘serious disorder’ is understood to be such as requires custodial care of the individual.” It would then follow that the controlled act of Psychotherapy would always occur within an institution. This has the added advantage for harm reduction in that the Psychotherapist within a custodial environment would always be functioning as a member of a team.

We cannot hang the controlled act merely on a formal diagnosis:

2. Because diagnosis is even more unreliable as a predictor of future impairment.
3. Because after the pharmacological intervention, for example, the individual may well be able to engage in psychotherapy in an ordinary way.

We would understand the grounds for custodial care to be one of the following:

1. Enduring and manifest danger of self-harm
2. Enduring and manifest danger of harm to others
3. Enduring and manifest psychological inability to care for the self.
4. This would require amendments to all the complementary amendments (Sections 14-19)

5) CTP’s submission on Bill171: April 21 2007 (Co-authored by McKenna)

3) The new Authorized Act, as it stands, will cause serious problems. Imagine that a senior therapist (say a ten year veteran) is allowed to do the controlled act (the authorized act is clearly to be the fourteenth controlled act in RHPA (171Q 19(1))). He can approach an individual who has a disorder of any degree of seriousness since he is able to treat the most serious disorders that may “seriously impair etc.” But what of a psychotherapist whose certificate forbids him to do the controlled act? As he approaches an individual to do psychotherapy how does he discern whether the disorder is of the degree that he is allowed to treat or whether the disorder is so serious that he is not allowed to treat it? It is an impossible situation for him. With all the thirteen controlled acts, a person forbidden to do them is perfectly clear as he approaches a client or patient what he is not allowed to do. Only this new controlled act remains without empirical definition and unequivocal determinability.

New Directions insisted that a controlled act of psychotherapy was impossible. How can this legislation have created a controlled act which so lacks the unequivocal definition of the other controlled acts? The only way it can be saved is by anchoring it within empirical and clearly determinable conditions. This was done with the only other “spiritual” controlled act (diagnosis). It was rendered empirical by making the controlled act “communicating a diagnosis.”

Can we anchor the controlled act of psychotherapy in a similar way? One way would be to define “serious disorder” as referring to a disorder that is to be treated only in custodial care. Then a psychotherapist would do the controlled act only within an institutional setting. This has the added advantage that danger of harm is lessened because the therapist would be part of a health team.

Short of some clarification such as this, the definition of the controlled act of psychotherapy will bring endless confusion to our field or become a dead letter.
By E-mail: hpracsubmissions@ontario.ca

September 20, 2017

Mr. Thomas Corcoran, Chair
Health Professions Regulatory Advisory Council
56 Wellesley Street West
12th Floor
Toronto ON M5S 2S3

Dear Mr. Corcoran:

Re: Submission to the Health Professions Regulatory Advisory Council (HPRAC) regarding the Controlled Act of Psychotherapy

The College of Occupational Therapists of Ontario welcomes the opportunity to offer comments and input to the process undertaken by HPRAC to provide advice to the Minister of Health and Long-Term Care about the controlled act of psychotherapy and its clarifying document. Since the adoption of the Regulated Health Professions Act, 1991 (RHPA), the College has held the opinion that psychotherapy is a high-risk activity, which warrants designation as a controlled act in the interest of public protection. Over the past years, the College has taken steps to ensure occupational therapists (OTs) recognize the risks associated with psychotherapy and follow the standards of practice to ensure safe, effective, ethical care.

1. In 2015, a Working Group consisting of five regulatory colleges¹ created a draft Clarifying Document on the Psychotherapy Controlled Act. HPRAC will be building on the excellent work of the Colleges. After reading this document (Attachment 2), do you feel that it clearly explains the Controlled Act? If not, why?

We recognize the language of the legislation and the definition of controlled acts, in full or in part, is written to specify regulatory accountability for regulated health professionals. There is a level of complexity in all controlled acts, and psychotherapy is not an exception. The difference with psychotherapy is that rather than being a discreet task or activity (as are the other 13 controlled acts) it is an approach or modality. It is not surprising that the public is challenged with the language of this controlled act.

As part of the working group that developed the clarification document, it is our opinion that the document sufficiently explains the controlled act to regulated health professionals who, in turn, have a responsibility to ensure client understanding of service delivery and expected outcomes, as is the case with delivery of any other controlled act.

While the controlled act, as written in the RHPA, is complex and arguably imperfect, feedback indicates general understanding of this act is enhanced by reviewing the

¹ College of Registered Psychotherapists of Ontario (CRPO), College of Occupational Therapists of Ontario (COTO), Ontario College of Social Workers and Social Service Workers (OCSWSSW), College of Nurses of Ontario (CNO) and the College of Psychologists of Ontario (CPO)
clarification document. Professionals sufficiently trained in the process of psychotherapy understand when their client has a serious disorder that is causing them serious impairment.

2. **What changes would you suggest be made to improve the Clarifying Document so that the public and other health care providers (regulated and unregulated) have a better understanding of it?**

The College has collaborated extensively with both the Ministry of Health and Long-Term Care and the Colleges of the five other regulated professions with proposed access to the controlled act to research and debate the best way to clarify the controlled act. At this time, the College is not recommending any changes to the current document.

3. **Should other health care providers, either unregulated or regulated and not members of the six colleges**\(^2\) **who would practice the controlled act of psychotherapy if this section of the Regulated Health Professions Act, 1991 (RHPA) is proclaimed, be allowed to practice the controlled act?**

The College suggests that the controlled act was conceived with the notion that the public most at risk, would only have qualified and accountable professionals involved in their care. Individuals receiving a modality as intrusive as psychotherapy are often at their most vulnerable. While recognizing the value of having other providers deliver a multitude of needed and complementary services, the College would not support the involvement of unregulated individuals in the delivery of the controlled act of psychotherapy. Occupational therapists who provide psychotherapy are trained to provide this modality and to recognize and manage adverse effects. This training is critical to ensure the delivery of safe, effective services. Furthermore, occupational therapists must comply with the established standards of practice for the profession.

4. **Are there conditions under which health care providers, either unregulated or regulated and not members of the six colleges who would practice the controlled act of psychotherapy if this section of the Regulated Health Professions Act, 1991 (RHPA) is proclaimed, be allowed to practice the controlled act? If so, which health care providers and under which conditions?**

Given the seriousness of the conditions requiring the controlled act of psychotherapy and the training and accountability required to safely deliver this intervention, the College is not aware of other individuals or groups that should be given such authority.

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\(^2\) This is in reference to the above five colleges plus the College of Physicians and Surgeons of Ontario (CPSO).
5. The five regulated colleges, along with the College of Physicians and Surgeons of Ontario (CPSO) will be able to use the title “Psychotherapist” once the Controlled Act is proclaimed. How important is it that the title “Psychotherapist” be protected?

The protection of the title ‘psychotherapist’ is a significant public protection measure. A protected title is directly tied to professional qualifications, accountabilities and responsibilities. As such, protection of the title “psychotherapist” should be enacted for those professions named as having authority to perform the controlled act, including occupational therapists. Title protection is particularly important due to the wording of the controlled act itself, which controls only part of the provision of the modality of psychotherapy. This means that provision of any other psychotherapy services that do not meet the definition of the controlled act will continue to be in the public domain, permitting anyone the ability to say they are providing psychotherapy. Enacting protection to the title ‘psychotherapist’ will assist the public in knowing when the psychotherapy services they are receiving are provided by someone who has received adequate training and is accountable to a regulatory body. Regulated health professionals must adhere to standards of practice and meet defined training requirements to provide psychotherapy services safely and ethically. Regulated health professionals are held accountable to their respective Colleges for this safe and ethical service through regular quality assurance activities, expectations for adherence to standards of practice, and the complaints and discipline processes of the College.

The College believes risk to public safety would be mitigated by moving forward with the controlled act and its delivery by regulated health professionals. While the College appreciates the importance of public understanding, we believe the focus should be on designating psychotherapy as a controlled act. Regulated health professionals have accountability for ensuring understanding and there will be opportunities to address any issues and build greater public awareness of the act itself as we move forward. The College is committed to continuing to work in a collaborative manner to address any resulting issues with our members, the public and other stakeholders.

Thank you for the opportunity to participate in the consultation and to provide these comments.

Yours sincerely,

Elinor Larney
MHSc, OT Reg. (Ont.)
Registrar, College of Occupational Therapists of Ontario

cc Ms. Jane Cox, President, College of Occupational Therapists of Ontario
By E-mail: hpracsubmissions@ontario.ca

September 19, 2017

Mr. Thomas Corcoran, Chair
Health Professions Regulatory Advisory Council
56 Wellesley Street West
12th Floor
Toronto, ON M5S 2S3

Dear Mr. Corcoran:

Re: Submission to the Health Professions Regulatory Advisory Council regarding the Controlled Act of Psychotherapy

The College of Psychologists of Ontario welcomes the opportunity to make a submission in response to the questions posed in the letter of September 8, 2017. As you will read, our responses are consistent with the information shared with you during our recent meetings.

The College of Psychologists is the regulatory body for the profession of Psychology in Ontario. As such, the College regulates the registration of, and services provided by, Psychologists and Psychological Associates. Our members work in hospitals, school boards, universities, agencies, correctional services, clinics and in private practice, and provide a variety of psychological services to clients of all ages and backgrounds. There are currently approximately 3350 Psychologists and 450 Psychological Associates actively providing services in Ontario.

1. In 2015, a Working Group consisting of five regulatory colleges1 created a draft Clarifying Document on the Psychotherapy Controlled Act. HPRAC will be building on the excellent work of the Colleges. After reading this document (Attachment 2), do you feel that it clearly explains the Controlled Act? If not, why?

As part of the Working Group that developed the clarification document, it is our opinion that this document sufficiently explains the controlled act as defined in the Regulated Health Professions Act (RHPA). While it can be argued that the definition of the controlled act itself might be flawed, general understanding of the controlled act, while complex, is enhanced by the clarification document.

It has been suggested that the clarification document does not adequately explain the intention of the controlled act with respect to the meaning of a “serious” disorder or a

1 College of Registered Psychotherapists of Ontario (CRPO), College of Occupational Therapists of Ontario (COTO), Ontario College of Social Workers and Social Service Workers (OCSWSSW), College of Nurses of Ontario (CNO) and the College of Psychologists of Ontario (CPO)
“serious” impairment. It is our opinion that qualified professionals who are engaged in the process of psychotherapy are sufficiently trained to understand when their client has a serious disorder that is causing them serious impairment.

2. What changes would you suggest be made to improve the Clarifying Document so that the public and other health care providers (regulated and unregulated) have a better understanding of it?

The College is not recommending any changes to the current document.

3. Should other health care providers, either unregulated or regulated and not members of the six colleges\(^2\) who would practice the controlled act of psychotherapy if this section of the Regulated Health Professions Act, 1991 (RHPA) is proclaimed, be allowed to practice the controlled act?

The College suggests that the controlled act was developed to protect the public most at risk and vulnerable, that is, those with a serious disorder causing a serious impairment. The intention of the controlled act is to ensure that these individuals would have only qualified and regulated professionals involved in their care. The College believes it would be contrary to the intention of the controlled act, as defined, to permit unregulated individual to provide such services. Many other non-regulated providers may be involved in the care of these individuals offering a multitude of necessary and beneficial services, but this should not include psychotherapy as defined as the controlled act. With regard to other regulated providers, we are not aware of practitioners from other health colleges who practice psychotherapy.

4. Are there conditions under which health care providers, either unregulated or regulated and not members of the six colleges who would practice the controlled act of psychotherapy if this section of the Regulated Health Professions Act, 1991 (RHPA) is proclaimed, be allowed to practice the controlled act? If so, which health care providers and under which conditions?

The College is not aware of other individuals or groups that should be given such authority.

5. The five regulated colleges, along with the College of Physicians and Surgeons of Ontario (CPSO) will be able to use the title “Psychotherapist” once the Controlled Act is proclaimed. How important is it that the title “Psychotherapist” be protected?

The restriction of the use of the title “psychotherapist” is a very important public protection measure since the protections afforded by the wording of the controlled act only relate to a small segment of the population receiving psychotherapy services; that is, those experiencing a serious disorder resulting in a serious impairment. The provision of psychotherapy to other members of the public would continue to be in the public domain,

\(^2\) This is in reference to the above five colleges plus the College of Physicians and Surgeons of Ontario (CPSO).
thus permitting anyone, regardless of qualifications or training, to provide psychotherapy to them.

We believe that restricting the use of the title will assist the public in knowing that if they are receiving psychotherapy services from a “psychotherapist”, these services are being provided by a regulated practitioner. That is, a professional who has been assessed, by a health college, to be adequately trained and qualified, and who is accountable to a regulatory body. This protection would be afforded to everyone receiving psychotherapy from a “psychotherapist” regardless of whether the service fell within the definition of the controlled act.

Regulated health professionals must adhere to standards of practice, meet appropriate training requirements to provide psychotherapy services safely and ethically and are subject to the College’s complaints and discipline process. The restriction of the use of the title assures any member of the public receiving services from a “psychotherapist” of these protections.

6. Other

I am confident that we have the processes and tools to address any confusion or concerns our members, or the public they serve, may encounter as a result of the proclamation of the controlled act. I believe it would be most productive to address actual issues that may arise after proclamation as they are brought to our attention, rather than delaying proclamation in an effort to anticipate all of what these might be.

Thank you for the opportunity to provide these comments.

Yours sincerely,

Rick Morris, Ph.D., C.Psych.
Registrar & Executive Director

cc: Dr. Lynette Eulette, President
    College of Psychologists of Ontario
September 20, 2017

Mr. Thomas Corcoran, Chair
Health Professions Regulatory Advisory Council
56 Wellesley Street West, 12th Floor
Toronto, Ontario M5S 2S3
By E-mail: hpracsubmissions@ontario.ca

Re: Submission to the Health Professions Regulatory Advisory Council regarding the Controlled Act of Psychotherapy – September 20, 2017

Dear Mr. Corcoran,

The College of Registered Psychotherapists of Ontario (CRPO) is pleased to make a submission in response to the questions posed in your letter of September 8, 2017.

Established under the Psychotherapy Act, 2007 which was proclaimed on April 1, 2015, CRPO currently has 4,900 members. We anticipate significant growth over the coming year as we consider applications under the grandparenting route to registration. Registered Psychotherapists provide services across the province to people of all ages and backgrounds. They work in many settings including private practice, as part of primary care teams, in hospitals, mental health and addictions facilities, rehabilitation programs and schools.

1. In 2015, a Working Group consisting of five regulatory colleges¹ created a draft Clarifying Document on the Psychotherapy Controlled Act. HPRAC will be building on the excellent work of the Colleges. After reading this document (Attachment 2), do you feel that it clearly explains the Controlled Act? If not, why?

   While it has been identified that the definition is imperfect, we believe that the Clarification Document adequately explains the controlled act of psychotherapy and contributes to the understanding of that act.

   Regulated professionals who provide psychotherapy will have the requisite knowledge to understand the concept of ‘serious’ and ‘serious impairment’ and to be able to appreciate when they are engaged in the controlled act.

2. What changes would you suggest be made to improve the Clarifying Document so that the public and other health care providers (regulated and unregulated) have a better understanding of it?

   CRPO does not recommend that the Clarifying Document be changed.

¹ College of Registered Psychotherapists of Ontario (CRPO), College of Occupational Therapists of Ontario (COTO), Ontario College of Social Workers and Social Service Workers (OCSWSSW), College of Nurses of Ontario (CNO) and the College of Psychologists of Ontario (CPO)
3. Should other health care providers, either unregulated or regulated and not members of the six colleges\(^2\) who would practice the controlled act of psychotherapy if this section of the Regulated Health Professions Act, 1991 (RHPA) is proclaimed, be allowed to practice the controlled act?

Regulated providers are subject to entry to practice and ongoing competency development and maintenance requirements that ensure that they are qualified to practice safely and professionally.

A controlled act is an activity that can cause harm if performed by an unqualified person. The fact that individuals who seek psychotherapy intervention or treatment are often vulnerable means that this risk of harm could be significant.

For this reason, CRPO cannot recommend or support that unregulated providers be authorised to practice psychotherapy.

4. Are there conditions under which health care providers, either unregulated or regulated and not members of the six colleges who would practice the controlled act of psychotherapy if this section of the Regulated Health Professions Act, 1991 (RHPA) is proclaimed, be allowed to practice the controlled act? If so, which health care providers and under which conditions?

The CRPO is not aware of other individuals or groups that should be given the authority to perform the controlled act or of circumstances that would justify having the controlled act be performed by anyone who was not regulated and therefore accountable.

There are a number of unregulated providers who are involved in the care of individuals where those individuals may be receiving the controlled act of psychotherapy from a regulated member of their care team. These unregulated providers do important work and make meaningful contributions to the health and well-being of those who are recipients of care. These contributions can include - but are not limited to - activities or interventions such as those that help to foster life skills, teach techniques for coping with acute situations, provide immediate support as well as follow up referrals, and facilitate crisis intervention or de-escalation.

While CRPO acknowledges the value and importance of the work done by unregulated providers, we are of the opinion that they are not providing the controlled act of psychotherapy, where the intention is to engage in a structured, formal, supportive interchange for the purpose of assessing and/or treating disturbances related to cognition, emotion, decision-making, relationships, or behaviour.

5. The five regulated colleges, along with the College of Physicians and Surgeons of Ontario (CPSO) will be able to use the title “Psychotherapist” once the Controlled Act is proclaimed. How important is it that the title “Psychotherapist” be protected?

For the purpose of public protection, it is of critical importance that the title “Psychotherapist” be protected.

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\(^2\) This is in reference to the above five colleges plus the College of Physicians and Surgeons of Ontario (CPSO).
Given that the controlled act definition encompasses psychotherapy provided to those individuals with a serious disorder resulting in serious impairment, in the absence of the protected title the provision of the broader scope of psychotherapy would otherwise be available to anyone who wishes to provide it, regardless of their training or ability to practice in a way that is ethical, competent or safe.

The accountability that comes with obtaining and maintaining registration with a regulatory college – and being able to use the protected title - is crucial to ensuring that Ontarians are protected when they are receiving psychotherapy, whether that psychotherapy falls within the controlled act or not.

Protecting the title “Psychotherapist” provides the means to inform and assure the public that the provider from whom they are receiving mental health care has met rigorous entry to practice standards, is undertaking relevant professional development and meeting quality assurance requirements and are accountable through the complaints and discipline processes of their regulatory body.

The current situation allows a risk of harm to the public by creating and sustaining public confusion about who is qualified to provide psychotherapy. Given this, we believe that there is considerable benefit to having proclamation limit the authority for the provision of the controlled act to regulated professionals. We do not believe that proclamation will limit access to needed mental health services, rather that it will ensure that those services are provided by competent, safe and accountable practitioners. We are confident that CRPO has the requisite processes and tools to address any actual confusion or concerns that result from the proclamation. We are also of the belief that it is better to address any confusion that may arise after proclamation rather than trying to anticipate what this might be.

We urge you to recommend the proclamation of the controlled act and commit to continuing our efforts to ensure the ongoing quality and safety of psychotherapy services available to the people of Ontario.

Thank you for the opportunity to make this submission. Sincerely,

Andrew Benedetto, RP
MHSc, CHE President

Deborah Adams, MA,
Registrar
October 23, 2017

Dr. Thomas Corcoran
Chair, Health Professions Regulatory Advisory Council
56 Wellesley St W.,
12th Floor
Toronto, Ontario, Canada
M5S 2S3

Dear Dr. Corcoran:

RE: Psychotherapy Act, 2007

I am writing on behalf of the province’s 24 publicly funded postsecondary education (PSE) colleges to express concerns about the impact of the Psychotherapy Act, 2007, on Child and Youth Care Program graduates and employers, and, most importantly, the children and youth who rely on their services.

Our publicly funded PSE colleges have been the primary educators of the province’s Child and Youth Care practitioners (CYCPs) since the colleges were established in the 1960s. Currently, 19 of 24 PSE colleges offer Child and Youth Care Programs. According to the most recent data from the Ministry of Advanced Education and Skills Development (MAESD), colleges have prepared approximately 6,000 graduates for careers as CYCPs in the past five years alone.

At present, the College of Psychotherapists and Mental Health Practitioners does not recognize the CYCP discipline as one that is authorized to practice psychotherapy. If the Psychotherapy Act is proclaimed without further consideration given to the role of CYCPs, they will no longer be able to carry out some of their functions.

We are aware of instances where employers are changing job descriptions to eliminate the CYCP role in anticipation of the new legislation. If this trend continues, the decline in practitioners will have an adverse impact on the unique type of mental health support this discipline provides to vulnerable children, youth and families.

Our sector fully appreciates the role of the Health Professions Regulatory Council as an independent source of evidence-based advice on matters related to health professions and associated health policy. We also understand the need to protect the public from harm resulting from the use of inappropriate or incorrect psychotherapy techniques. In formulating your advice to Minister Hoskins on the implementation of the Psychotherapy Act, we request that you take into account the important and unique role that graduates of our Child and Youth Care programs fulfill in supporting the mental health of children and youth and families.
We ask that you consider the information below during your deliberations:

- All the Child and Youth Care programs offered by our colleges are required to adhere to the Ministry of Advanced Education and Skills Development (MAESD) 2014 Program Standards for Ontario College Advanced Diploma in Child and Youth Care, a copy of which is attached.

- The curriculum of each college program includes course content on the theoretical knowledge that underpins the application of therapeutic skills required by a competent practitioner. In accordance with the Program Standards, students learn the foundational skills necessary for the use of psychotherapy techniques.

- Students also learn to provide front-line support through therapeutic relationships. Education programs include supervised practice in settings such as residential treatment facilities, schools and community organizations. On graduation and entry into the workforce, CYCPs may practice in a variety of areas, for example, parent education and family support, community mental health, pediatric health care, child protection and youth justice. The Preamble section on pages four and five of the Program Standards provides more details on the role that the graduates are expected to fulfil.

- The Synopsis of the Vocational Learning Outcomes on pages six to 16 of the standards provides a list of outcomes that students must reliably demonstrate in order to graduate, as well as the elements of performance to be attained for each standard. All colleges must develop their curricula to meet or exceed these requirements. In addition to the Vocational Standard, graduates must attain the Essential Employability Skills and demonstrate they have met the General Education Requirement, as outlined in the document.

- Colleges evaluate students’ abilities based on rigorous, field specific competencies that adhere to rigorous quality assurance processes, for example, program reviews and external accreditation mechanisms.

- According to page five of the standards, graduates “adhere to professional codes of ethics and all legislation governing child and youth care services. Practitioners are committed to evidence-based research and evidence-informed practice, and engage in continuing professional education to support ongoing professional growth and competence in child and youth care practice.” These behaviours and practices are supported by the professional standards, code of ethics and commitment to continuing professional education, all of which have been put in place by the provincial association of CYCPs.

- Employers value the role of CYCPs in forming relationships with this vulnerable population to help them make positive changes in their lives. Employer satisfaction, one of the key performance indicators (KPIs) measured by MAESD, is very high for this program at 85 to 90 percent. Graduate satisfaction is equally high.
On behalf of our sector, I request that the Council recognize that graduates of our Child and Youth Care programs possess foundational knowledge, skills and abilities in psychotherapy techniques and, in doing so, recommend to Minister Hoskins that CYCPs be added to the list of disciplines authorized under the Act.

If you require any clarification or further details about the Child and Youth Care programs, please do not hesitate to contact me.

Sincerely,

Linda Franklin
President and CEO

Encl.

Copies: Nina Chomuklieva, Executive Coordinator, HPRAC
        Hon. Eric Hoskins, Minister of Health and Long-term Care
        Hon. Deb Matthews, Minister of Advanced Education and Skills Development
Dear Regulatory Advisory Council,

My name is Magdalena N. Mook, and I am CEO and Executive Director of the International Coach Federation (ICF). I am writing to you on behalf of our 33,000 highly trained member coaches, almost 250 of whom practice in Ontario, to request the addition of professional Business and Life Coaching to the list of exempted professionals included in Controlled Act of Psychotherapy.

While ICF believes that coaching does not meet the initial (5) criteria defined by the Controlled Act of Psychotherapy, we would like to confirm that HPRAC understand our interpretation the same. In addition, we would see improvement in the document if this distinct difference between Coaching & Psychotherapy is noted via the Clarifying Document on the Psychotherapy Controlled Act.

Coaching supports personal and professional growth based on self-initiated change in pursuit of specific, actionable outcomes. Coaching is distinct from psychology and, as such, both require highly specific education. ICF coaches have completed at least 60 hours of education; many have exceeded 200 hours of coach-specific education. In most cases, psychologists do not have this coach-specific training.

ICF has taken measures to ensure that the public can rely on professional coaches. All ICF coaches pledge to uphold a rigorous Code of Ethics, and our Ethical Conduct Review Process and Independent Review Board (IRB) protect consumers and ensure adherence to this code. ICF has also defined curriculum standards to ensure consistency in coach training, and our ICF Credentialing system includes a three-year renewal requirement to ensure Credential-holders’ pursuit of continuous education.

While coaching is a relatively new field, it is now nationally recognized and taught separately from psychology in universities across the country, including Minneapolis’ University of St. Thomas (which offers a graduate certificate in Executive Coaching), Georgetown University, Columbia University and New York University, among others.

Several leading organizations in the public and private sectors are using coaching with great results, including many prominent organizations headquartered in Ontario, including 3M, Best Buy, Cargill, Faegre Baker Daniels, General Mills, Mall of America, The Mosaic Company, Supervalu and Target. Coaching in North America is a $956 million industry annually, according to the 2016 ICF Global Coaching Study.

ICF will be happy to offer more information about professional coaching and its distinct role in the marketplace. For further discussion or comments please contact Denis Levesque of ICF Ontario.

Sincerely,

Magdalena N. Mook
CEO & Executive Director
International Coach Federation
Coachfederation.org
Questions to Guide Written Submissions on the Psychotherapy Controlled Act

Purpose

Key stakeholders are being invited to provide written submissions on their understanding and views of the controlled act of psychotherapy and how it affects patients and providers, both regulated and unregulated. Submissions will be used as part of the process to inform the advice which the Health Professions Regulatory Advisory Council (HPRAC) will provide to the Minister of Health and Long-Term Care.

How to complete the submission

Please provide a written response to each question. You may include additional comments at the end of the submission. Please submit your organization’s written feedback by Monday, September 20, 2017, to the following email: hpracsubmissions@ontario.ca. Late submissions may also be considered.

Note that, with consent, written submissions will be made publically available on HPRAC’s website. Please indicate in writing whether or not you consent to make your submission public.

Guidance Questions for input on the Controlled Act of Psychotherapy

1. In 2015, a Working Group consisting of five regulatory colleges [1] created a draft Clarifying Document on the Psychotherapy Controlled Act. HPRAC will be building on the excellent work of the Colleges. After reading this document (Attachment 2), do you feel that it clearly explains the Controlled Act? If not, why?

No I find this document ambiguous. The statement “The controlled act of psychotherapy is a smaller aspect of the overall practice of psychotherapy.” This statement is confusing in that parameters for when the controlled act is initiated and then terminated is not defined. This statement also leaves to question what is not covered in the controlled act. Also the definition provided, “Treating, by means of psychotherapy technique, delivered through a therapeutic relationship, an individual’s serious disorder of thought, cognition, mood, emotional regulation, perception or memory that may seriously impair the individual’s judgment, insight, behaviour, communication or social functioning.” is very broad and could apply to many individuals. The terms “difficulty” and “persistent” are used to describe many of the elements described as a serious disorder, however, further clarity on the level of impairment is required to be able to distinguish who should receive the controlled act. Many clients with chronic illness or within the acute phase of their illness would qualify. The term "psychotherapy technique” needs to be clearly defined as many people practise
a wide range of interventions; which ones are considered psychotherapy is not addressed. The document also states that all 5 of the practice elements must be met to be considered psychotherapy. In reading these areas, there are a number of situations where someone could respond that they are practicing psychotherapy. Perhaps the framework should include methods to discern who can receive the controlled act, and who does not meet the requirements.

2. What changes would you suggest be made to improve the Clarifying Document so that the public and other health care providers (regulated and unregulated) have a better understanding of it (document attached)?

The definition of psychotherapeutic techniques needs to be clarified

I also think that in order to have all five of these elements present in order to be considered to practicing psychotherapy is a disservice. Some clinicians have stated that they do not meet all of the criteria because they do not use psychotherapy skills in all sessions. So, they may reinforce CBT skills in one appointment session and the next session they might review medications as an example. These clinicians therefore say that they do not practice psychotherapy according to the definition. At what point does review of CBT skills psychotherapy vs. counselling vs. psycho-education. This lack of clarity is troublesome, and certainly not in keeping with the spirit in which the act was intended.

There is fear that there could be legal challenge at some point against a nurse who is does not feel that they were practicing psychotherapy and some harm was brought to a client. Also, what would the consequences be if someone was found to be practicing psychotherapy?

3. Should other health care providers, either unregulated or regulated and not members of the six colleges[2] who would practice the controlled act of psychotherapy if this section of the Regulated Health Professions Act, 1991 (RHPA) is proclaimed, be allowed to practice the controlled act?

Given that there is not clear definitive definitions, it would be difficult to say if and unregistered care provider was or was not practising psychotherapy at any given point. Without a clear definition, clients are at risk of receiving psychotherapy from those who are not self-regulated.

4. Are there conditions under which health care providers, either unregulated or regulated and not members of the six colleges who would practice the controlled act of psychotherapy if this section of the Regulated Health Professions Act, 1991 (RHPA) is proclaimed, be allowed to practice the controlled act? If so, which health care providers and under which conditions?
There are a number of disciplines who currently draw on psychotherapeutic techniques—clergy, life coaches, etc. Training, supervision, and expertise who are not regulated. Likewise, social workers and other allied health professionals are able to provide the of practice psychotherapy. There needs to be a forward thinking to system-level changes in our province, with RNs as front-line healthcare permitted to practice this controlled act with an expanded scope of practice professional within both the hospital and community-based setting. RNs currently practice psychotherapy in Ontario. At LHINs, CCAC-RNs and hospital-based settings, RNs provide both psycho-education and behaviourally-based motivational interviewing training to counsel clients toward change in smoking cessation and in substance misuse and harm reduction clinics.

5. The five regulated colleges, along with the College of Physicians and Surgeons of Ontario (CPSO) will be able to use the title "Psychotherapists" once the Controlled Act is proclaimed. How important is it that the title Psychotherapist be protected?

I do feel there is a place for this legislation. There are many instances where there needs to be some type of intervention for clients protection. Also, if all the colleges can practice psychotherapy, then I think this needs be clear to the public. Practice expectations should be the same across all colleges and governing bodies.

Any other comments:

Please provide any other comments which you feel will assist HPRAC in providing advice to the Minister of Health and Long-Term Care.

Thank you for your feedback.
Re: Input on the Controlled Act of Psychotherapy to HPRAC

Dear Mr. Corcoran,

The Ontario Association of Child and Youth Care (OACYC) is pleased to provide input to the Health Professions Regulatory Advisory council to help to inform the response to the Minister.

The OACYC represents Child and Youth Care Practitioners (also known as Child and Youth Workers, Child and Youth Counsellors and Child Care Workers) in Ontario. As you may be aware, Child and Youth Care Practitioners (CYCPs) provide therapeutic intervention to the most vulnerable children and youth within our communities. Our practice unfolds within numerous settings including; child welfare, youth justice, health and mental health, special education, residential treatment facilities, addictions programs, and other community based agencies. CYCPs offer support through developmentally responsive relational practice using a variety of evidence informed models. As such, we are concerned about the Psychotherapy Act in Ontario and how it will impact our scope of practice and service delivery of these therapeutic models of care. Our scope of practice is unique and our work includes psychotherapy technique, however many Child and Youth Care Practitioners do not qualify for the College of Registered Psychotherapists of Ontario.

Our concern is that some of the therapeutic models of care, that CYCPs utilize within mental health and community settings, fall within the recent definition of psychotherapy as a controlled act put forth by the CRPO (in collaboration with the five colleges who regulate members authorized to perform the controlled acts). This definition, outlined in the document, Understanding When Psychotherapy is a Controlled Act (2016), identifies the controlled act as: “treating by means of psychotherapy techniques delivered through a therapeutic relationship an individual’s serious disorder of thought, cognition, mood, emotional regulation, perception or memory that may seriously impair the individual’s judgment, insight, behavior, communication or social functioning.”

The Ontario Association of Child and Youth Care (OACYC) has been requesting regulation for Child and Youth Care in Ontario for over 20 years. To date, our request has not been recognized and we remain an unregulated profession. Therefore, we fear the proclamation of the Controlled Act of Psychotherapy will negatively impact our ability to do the work we have been educated and hired to perform. This we believe will decrease service and increase risk to vulnerable children and youth.
1. In 2015, a Working Group consisting of five regulatory colleges\(^1\) created a draft *Clarifying Document on the Psychotherapy Controlled Act*. HPRAC will be building on the excellent work of the Colleges. After reading this document (Attachment 2), do you feel that it clearly explains the Controlled Act? If not, why?

While we recognize the excellent work of the regulatory colleges, we do not feel that the Clarifying Document clearly explains the Controlled Act.

   I. “Treating” – Therapeutic interventions or techniques is a broad term that can be applied to many different interventions used by many different practitioners. This does not provide clarity.

   II. “By means of psychotherapy technique” – We believe that a list of recognised psychotherapeutic theories, models and frameworks and/or empirical evidence must be provided for all to understand this element of the controlled act.

   III. The final three elements in the description of the controlled act provide adequate information for the public and for practitioners.

   IV. When looking at this as a whole, there are gaps in the understanding and it is far reaching and all encompassing. This description, even with the understanding that all elements must be present, represents the work of many other service providers who may not view their work as psychotherapy or may view their work as informed by psychotherapy.

   V. This description does not clearly identify the specialty of the controlled act. Rather it is far too inclusive of the work that is being done by many. This does not capture the specific essence of psychotherapy and runs a risk of negatively impacting the scope of practice of other practitioners who are providing necessary and professional services in an ethical way to those who require them.

   VI. The inclusive description ends up being exclusive in that it could prevent service providers from doing the work they are trained to do.

   VII. There are also concerns about the controlled act and the five regulatory colleges. There are questions as to the specific qualifications of all members of the 5 regulatory colleges to practice the controlled act of psychotherapy.

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\(^1\) College of Registered Psychotherapists of Ontario (CRPO), College of Occupational Therapists of Ontario (COTO), Ontario College of Social Workers and Social Service Workers (OCSWSSW), College of Nurses of Ontario (CNO) and the College of Psychologists of Ontario (CPO)
2. What changes would you suggest be made to improve the Clarifying Document so that the public and other health care providers (regulated and unregulated) have a better understanding of it?

It would be to the benefit of the general public and other health care providers if a more fulsome description of interventions that make up treatment and a list of recognised psychotherapeutic theories, models and frameworks and/or empirical evidence was provided for all to understand these elements of the controlled act. It requires more specificity and to clearly address the difference between counselling and psychotherapy. For example, counselling may be for more mild disorders where the counsellor would implement teaching and educational methods such as coping skills while psychotherapy is for more serious diagnosis such as personality disorders. There is significant overlap between counselling and psychotherapy that has not been addressed in the clarifying document and has left many questioning their understanding of psychotherapy technique.

Additionally, it is not clear if all members of the identified regulatory colleges would be automatically qualified as psychotherapists able to practice the controlled act. This leads to further questions about various levels of education in psychotherapy theory and technique. For example, we believe that Nurses may complete an Introduction to Psychology and a Developmental Psychopathology course. Does this qualify a Nurse to practice the controlled act? Does a Social Services Worker (SSW) have equal rights to do this work as a Social Worker? An SSW having completed a 2 year generalised diploma program, may not have the same basic education as a Nurse or Social Worker in psychology and psychodynamic theory. How qualified is a Family Doctor and can they practice the controlled act?

A Child and Youth Care Practitioner in Ontario has completed a postsecondary level of education. The BA CYC degree provides an Introduction to Psychology and a Developmental Psychopathology course. The CYC 3-year Advanced Diploma provides an Introduction to Psychology and a Therapeutic Interventions course that covers Psychodynamic Theory. Both provide additional training that is relevant to the practice of Child and Youth Care and the controlled act including group work, therapeutic programming, counselling and child and youth growth and development.

The clarifying document does not help the public or practitioners to understand how these professions are different and the reason that some are able to practice while others can not. Is it simply based on being a regulated profession or are there additional educational qualifications that some members of the colleges have that especially qualifies them? There is a need for more communication and a greater understanding.

The current expectations for registration with the CRPO seems to require a graduate level of education to become a registered psychotherapist and yet there seems to be some disparity in the requirements within the other 5 regulatory colleges included.
3. Should other health care providers, either unregulated or regulated and not members of the six colleges\(^2\) who would practice the controlled act of psychotherapy if this section of the *Regulated Health Professions Act, 1991* (RHPA) is proclaimed, be allowed to practice the controlled act?

It is imperative that some unregulated and regulated service providers be able to practice the controlled act of psychotherapy when providing services to the public, after this section of the act is proclaimed. There are many service providers who are valued members of the health care team who provide this service as described in the current description in the clarifying document. If they could no longer practice the controlled act as you have defined it, their scope of practice would be diminished and services to the public would be negatively impacted. At the very least it could drastically increase wait times for services.

Many of the unregulated practitioners offer these important services at a reduced cost and not every mental health need requires a psychiatrist, a psychotherapist or a doctor. In fact, many other service providers may be more qualified and more appropriate to respond in certain situations such as in residential care or community based programs. The requirement for this to be provided by a member of one of the six regulatory colleges would put undue strain and pressure on the current system especially on budgets during a time of fiscal restraint and responsibility.

4. Are there conditions under which health care providers, either unregulated or regulated and not members of the six colleges who would practice the controlled act of psychotherapy if this section of the *Regulated Health Professions Act, 1991* (RHPA) is proclaimed, be allowed to practice the controlled act? If so, which health care providers and under which conditions?

Because public safety is the primary goal behind regulation, it would be necessary to identify clear circumstances for other service providers to be able to practice the controlled act.

Child and Youth Care Practitioners offer essential services to young people in our province. These practitioners are currently unregulated, however, their scope of practice could be viewed to include the controlled act as it has been described in your clarifying document. These practitioners offer services across the province, across Ministries, and across sectors. They are valued members of multi-disciplinary teams supporting vulnerable young people in the spaces where they live their lives. This service may not be initially identified as psychotherapy as it happens on the go, in the community, in the home and in the moments that matter to young people and their families. This service is provided during moments of crisis and during moments of celebration and recognition and during daily life events.

\(^2\) This is in reference to the above five colleges plus the College of Physicians and Surgeons of Ontario (CPSO).
Child and youth Care Practitioners must be able to work within their full scope of practice to offer all of the services for which they are educated to deliver via our highly respected Postsecondary Education System in Ontario.

We believe that Child and Youth Care Practitioners should be able to practice the controlled act under the following conditions:

I. They have completed a degree or advanced diploma in Child and Youth Care.
II. They work within the scope of practice of Child and Youth Care.
III. They are members of the provincial association which requires that they commit to a code of ethics and complete yearly professional development activities.
IV. Through their place of employment or through contract they engage in appropriate supervision.

5. The five regulated colleges, along with the College of Physicians and Surgeons of Ontario (CPSO) will be able to use the title “Psychotherapists” once the Controlled Act is proclaimed. How important is it that the title “Psychotherapist” be protected?

Once the controlled act has been clearly defined we believe it is important that the title “Psychotherapist” is protected. Exempt practitioners will have no need to identify their services as being psychotherapy as they will be performing their duties as set out by their own scope of practice.

Any other comments?

The proclamation of this controlled act as currently described in the clarifying document would have a serious and negative impact on mental health services to young people in this province unless exemptions are provided to those who are providing necessary, ethical, educated and valuable services every day across sectors. The result is likely a serious disruption in service delivery as Child and Youth Care Practitioners are no longer able to do their jobs, the jobs they were trained to do at Ontario Colleges and Universities. Resulting issues could include the closing of programs, vulnerable and high risk children and youth will be placed at an increased risk, the termination of employment of some of our experienced, valued, and established staff, and an increase in wait times. Additionally, this will affect budgets due to the cost of hiring new differently trained staff members who will require additional professional development to ensure they can perform some of the work of the professional Child and Youth Care Practitioner. The needs of children are different and we must ensure that a full range of services are available and are provided by different practitioners with different specialties, requiring different remuneration.
Child and Youth Care Practitioners are engaged in providing services to children and youth in many ways including the controlled act. We are aware of situations in the past six months in which job postings have been changed to require a regulated professional to do the work of Child and Youth Care Practitioners because of their regulated status, and despite their lack of some of the necessary training and education to provide the best supports in these environments. The holistic approach to mental health services currently in place, which should be expanding, will be at risk.

At a time when we should be increasing services, this situation will in fact decrease available support to children who are already waiting far too long for urgent mental health services. This will impact service provision in hospital settings, schools, youth justice services, community service programs and residential care facilities which will likely then put additional pressure on the children’s mental health system.

We ask at this time for more clarity about the controlled act and about the qualifications of all of those who are eligible to practice it. We ask that members of the OACYC who have met our specific educational requirements, committed to our code of ethics for Child and Youth Care Practitioners, working within the scope of practice as outlined by the OACYC and the Canadian Council of Child and Youth Care Associations, be exempt from this act as we pursue our own college to legislate our work. Let’s work together to ensure that all of those who have trained in Ontario to be valuable team members in the provision of mental health services to our young people can continue to provide these services in a timely and meaningful way.

We invite you to refer to our report Safeguarding the Other 23 Hours: Legislation of Child and Youth Care Practice in Ontario. http://oacyc.org/attachments/article/65/Safeguarding_FINAL_WEB_VERSION.pdf

Sincerely,

Christine GaItens
President of the Board of Directors of the OACYC

Michelle Shelswell
Vice President of the Board of Directors of the OACYC
Dear Mr. Corcoran,

I very much appreciate this opportunity to comment on the draft *Clarifying Document on the Psychotherapy Controlled Act*, on behalf of the Ontario Association of Naturopathic Doctors.

We are requesting that Naturopathic Doctors be explicitly exempted from the performance of the controlled act of psychotherapy.

The Naturopathy Act, 2007, was proclaimed on July 1, 2015, and our regulatory college created long after discussions and processes had started to define the controlled act of psychotherapy. As a result we were late to the game and the current definition of what psychotherapy entails, could be easily misconstrued as describing the everyday counselling and psychological counselling that is an essential part of what Naturopathic Doctors do in Ontario.

The draft definition in the “Understanding When Psychotherapy is a Controlled Act” document includes elements that are quite vague and have the potential to be interpreted by the College of Naturopaths of Ontario (CONO) as restrictive of our members’ practices.

The document refers to five elements, all of which must be present for an activity or intervention to be considered the controlled act of psychotherapy.

When the elements are stated, the definition reads: “Treating (1), by means of psychotherapy technique (2), delivered through a therapeutic relationship (3), and individual’s serious disorder of thought, cognition, mood, emotional regulation, perception or memory (4), that may seriously impair the individual’s judgement, insight, behavior, communication or social functioning (5).”

Based on what is written here, one could easily come to the conclusion that Naturopathic Doctors perform these activities/undertake such interventions, which I am sure is not the intent.

Let me provide examples of how this definition could easily be misconstrued to describe care currently offered by Naturopathic Doctors in Ontario. It is clear that each of these five elements could easily be satisfied, thus significantly restricting our patient interactions, hence our request for an exemption.

**Element 1: Practitioner responds to a patient’s complaint**

This is the nature of every interaction between a patient and their Naturopathic Doctor.
Element 2: By means of psychotherapy technique

“Psychotherapy technique” here, can just be “empirical evidence” according to the definitions provided. Such observation is essential to a naturopathic patient visit (as it is with most practitioners).

Element 3: Delivered through a therapeutic relationship

Such a “therapeutic relationship” is what is described in the Naturopathy Act, 2007, and enforced by the RHPA.

Element 4: An individual’s (patient’s) “serious disorder” of thought, cognition, mood, emotional regulation, perception or memory

A “serious disorder is described as any of these, so I will address two of them: cognition and memory. Cognition includes “Persistent difficulty in understanding the meaning or importance of something, learning new things, concentrating or making decision.” I’m sure you will agree that this is somewhat vague definition could afflict anyone reading the newspaper in the morning, let alone a patient describing very basic stress to their Naturopathic Doctor. Similarly, memory is described as “Difficulty storing and retrieving or recalling information about their abilities and previously experienced connections, sensations, impressions, information or ideas.” This is a very vague definition, that it could be argued describes a memory of almost anything.

That may seriously impair... Element 5: The individual’s (patient’s) judgement, insight, behavior, communication or social functioning

Insight is defined here as “Difficulty recognizing mistakes, drawing connections between a problem, action and its consequences, or lack of awareness of the impact behaviours may have on oneself and/or others, or have difficulty formulating a plan.” Social Functioning as “Difficulty with day-to-day functioning that interferes with performance at work or school, in relationships, taking care of self or connecting with others.”

I do not want to appear facetious here, but would this not include virtually any teenager who hasn’t yet gained the ability to learn from their mistakes, whether they are talking to their parents about this, to their Naturopathic Doctor, or their high school teacher or anyone else?

I am concerned that Naturopathic Doctors will be caught up by a definition of psychotherapy that could easily be interpreted as limiting virtually all verbal patient interactions that start with the question, “So how are you feeling?”

I am sure that you will agree after a discerning read of these definitions, that they describe, or could be read to describe, many common states of mind.

These seem to be pretty all-inclusive disorders, and restricting counselling on such issues to the closed group of those five practitioners is a significant challenge for us. It’s important that we consider how such definitions could be misconstrued by regulators erring on the side of a conservative interpretation, because they see that as their role.

Yours truly,

John Wellner, CEO
September 20, 2017

Thomas Corcoran, Chair
Health Professions Regulatory Health Council
56 Wellesley St W., 12th Floor
Toronto ON M5S 2S3

Dear Mr. Corcoran,

Thank you for the opportunity for the Ontario Association of Social Workers (OASW) to provide feedback to Health Professions Regulatory Advisory Council’s (HPRAC) review of the definition of the controlled act of psychotherapy.

Proclaiming the entirety of the Psychotherapy Act, including the controlled act, is of utmost importance to our membership and the 17,000+ social workers who provide a wide-range of mental health supports, including psychotherapy services, in a variety of settings across the province.

OASW wants to ensure Ontarians receive the treatment they need by qualified practitioners, and to ensure they are always protected by a regulated college.

OASW was pleased to work with the government when the Health System Improvements Act 2007 was first introduced, to ensure that members of the Ontario College of Social Workers and Social Service Workers (OCSWSSW) could continue to practice psychotherapy and perform the controlled act of psychotherapy, in compliance with the Social Work and Social Service Work Act (SWSSWA), and its regulations.

In addition, we worked closely with the provincial government in 2009 when the Regulated Health Professions Statute Law Amendment Act, 2009 included amendments to the SWSSWA to authorize a member of the OCSWSSW to perform the controlled act of psychotherapy and use the title “psychotherapist” (SWSSWA s.47.2).

This was followed by over two years of discussion, revisions and consensus on the definition of the controlled act of Psychotherapy amongst the six regulated colleges to ensure it both protected the public and clearly defined the practitioners qualified to practice the controlled act of psychotherapy. Given all these efforts, OASW’s overarching position is that the controlled act be proclaimed ahead of the December 31, 2017 deadline to ensure those practicing psychotherapy are qualified and those receiving these services are always protected.

Below please find responses to each of your questions and we look forward to the opportunity to meet with yourself and the HPRAC Council to further discuss OASW’s perspective as part of this review.

Sincerely,

Joan MacKenzie Davies
Executive Director
OASW’s responses to HPRAC’s Questions on the Definition of the Controlled Act:

1) In 2015, a Working Group consisting of five regulatory colleges created a draft Clarifying Document on the Psychotherapy Controlled Act. HPRAC will be building on the excellent work of the Colleges. After reading this document (Attachment 2), do you feel that it clearly explains the Controlled Act? If not, why?

The process to proclaim the controlled act itself is approaching the ten-year statute for proclamation. The six regulatory colleges have worked for several years to develop consensus around both a definition and Clarifying Document regarding the controlled act of psychotherapy. OASW is grateful to all of these colleges for the extensive amount of time and effort that they put into developing these documents and we believe that the current Clarifying Document clearly explains and lays out the controlled act of psychotherapy and its application to ensure it is practiced by qualified practitioners in such a way that the public is always protected.

2) What changes would you suggest be made to improve the Clarifying Document so that the public and other health care providers (regulated and unregulated) have a better understanding of it?

OASW believes that the Clarifying Document, which was developed and approved by the regulatory colleges, clearly explains and lays out the controlled act of psychotherapy and its application. We do not believe that further revisions or changes are needed. Rather, it would be important for public education materials to be developed following the proclamation of the controlled act to help both the public and practitioners understand how the definition impacts scope, application, and when unregulated practitioners should refer to those covered under the act to eliminate confusion and ensure the public is protected.

3) Should other health care providers, either unregulated or regulated and not members of the six colleges who would practice the controlled act of psychotherapy if this section of the Regulated Health Professions Act, 1991 (RHPA) is proclaimed, be allowed to practice the controlled act?

Proclaiming the controlled act of psychotherapy is an essential matter of public protection and will make sure all Ontarians have access to quality mental health services from qualified and highly-trained practitioners. OASW, therefore, feels strongly that the overarching imperative is to proclaim the controlled act ahead of the December 31, 2017 10-year deadline as the public continues to be at risk until that point. Following proclamation, it would be important for the government to provide public education to assist both the public and all health care providers understand its scope, applicability and application.

4) Are there conditions under which health care providers, either unregulated or regulated and not members of the six colleges who would practice the controlled act of psychotherapy if this section of the Regulated Health Professions Act, 1991 (RHPA) is proclaimed, be allowed to practice the controlled act? If so, which health care providers and under which conditions?

Proclaiming the controlled act of psychotherapy is an essential matter of public protection and will make sure all Ontarians have access to quality mental health services from qualified and highly-
trained practitioners. OASW feels strongly that the overarching imperative is to proclaim the controlled act ahead of the December 31, 2017 10-year deadline.

This prolonged delay in proclaiming the controlled act of psychotherapy has resulted in both public confusion, and in some cases, reduced the access to these services by Ontarians. It is imperative that we proclaim the act and authorize access to the title to the five existing regulated professions, many of whom have been longstanding providers of psychotherapy services. This will help eliminate public confusion, ensure access to these services and protects the public.

Following proclamation, it would be important for the government to provide public education to assist both the public and all health care providers understand its scope, applicability and application and address any outstanding issues related to non-regulated professions.

5) The five regulated colleges, along with the College of Physicians and Surgeons of Ontario (CPSO) will be able to use the title “Psychotherapists” once the Controlled Act is proclaimed. How important is it that the title “Psychotherapist” be protected?

OASW recognizes the extensive amount of time and effort taken to ensure social workers could continue to perform the controlled act of psychotherapy, in compliance with the Social Work and Social Service Work Act (SWSSWA), and its regulations.

We had expected the controlled act to be proclaimed by December 2015, and every day that goes by, qualified providers cannot call themselves “Psychotherapists” which downgrades their services in the eyes of the public, limits access to care and potentially threatens patient safety.

Given this, we believe the controlled act must be proclaimed and that the title Psychotherapist be protected for those health practitioners qualified to practice psychotherapy as a declaration of qualifications and to ensure that the public is protected by ensuring only those qualified to perform psychotherapy have use of the protected title of Psychotherapist.

September 20, 2017
Dear Mr. Corcoran,

The Ontario Chiropractic Association (OCA) is pleased to provide feedback to your guidance questions on the Controlled Act of Psychotherapy.

The OCA represents Ontario’s chiropractors by serving our members and the public through advancing the understanding and use of chiropractic care. Chiropractors are musculoskeletal (MSK) experts, providing assessment, diagnosis and care for various MSK issues in the back, neck, and extremity areas. A key component of chiropractic care involves screening for “yellow flags” among patients, such as low or negative moods, social withdrawal, and more. Screening and addressing yellow flags is important to change a patient’s self-defeating behavior that can get in the way of improving their musculoskeletal condition. As such, the principles of cognitive behavioural therapy are commonly used by chiropractors to treat patients with yellow flags. Consequently, chiropractors may perform some combination (or all, depending on the definitions of “serious disorder” and “seriously impair”) of the five elements identified in the Clarifying Document on the Psychotherapy Controlled Act.

Enclosed below are our responses to the five guidance questions, which we consent to making publicly available.

**Guidance Questions for Input on the Controlled Act of Psychotherapy**

1. In 2015, a Working Group consisting of five regulatory colleges created a draft *Clarifying Document on the Psychotherapy Controlled Act*. HPRAC will be building on the excellent work of the Colleges. After reading this document (Attachment 2), do you feel that it clearly explains the Controlled Act? If not, why?

We appreciate the efforts of the five regulatory colleges to attempt to articulate the components of the controlled act “psychotherapy.” After reading the document, we feel there are some areas that lack clarity in explaining the Controlled Act.

Specifically, we believe more clarity and explanation is needed for the terms “serious disorder” and “seriously impair” found in element four, as these are critical to understanding when an activity or intervention falls under the controlled act. It would be helpful to include some examples of patient scenarios of psychotherapeutic situations or conditions not considered to
fall under the controlled act. These may help practitioners delineate where the line between performing the controlled act and not, is drawn.

As we noted in the January 2017 consultation, it is well recognized that many types of pain, including back pain is an interplay between psycho-social-biological factors. In formulating a diagnosis, chiropractors conduct a comprehensive assessment that includes screening for “yellow flags.” These “yellow flags” are psycho-social factors that increase the risk of developing or perpetuating long-term disability. Examples of yellow flag symptoms that chiropractors screen for include: low or negative moods, social withdrawal, problems at work, poor job satisfaction, lack of support, and more. For some patients, it could be the belief that “hurt equals harm” and a preference for passive treatments over active participation in treatment and recovery.

A goal of chiropractic care is to change a patient’s self-defeating behaviour that gets in the way of improving their musculoskeletal condition. The principles of cognitive behavioural therapy are commonly used by chiropractors to treat patients with “yellow flags.” Depending on the definition of “serious disorder” and “seriously impair” in element four, chiropractors may perform all elements of “psychotherapy” or will at least perform some combination of the five elements, such as using therapeutic interventions or techniques based on recognized psychotherapeutic theories, models or frameworks that are delivered through a therapeutic relationship (elements 1-3).

In the College of Chiropractors of Ontario (CCO) Standard of Practice S-001: Chiropractic Scope of Practice, it is recognized that chiropractors use a variety of diagnostic and therapeutic procedures in providing chiropractic care to patients and that doing such is acceptable for clinical purposes if it is taught in the core curriculum, post-graduate curriculum or continuing education division of an accredited educational institution.

To avoid confusion, we suggest it is made clear that health care providers, such as chiropractors may perform some combination of the five elements, or all, depending on whether the definitions of “serious disorder” “seriously impair” constitute any yellow flags that chiropractors screen for and if it is within their scope of practice.

2. **What changes would you suggest be made to improve the Clarifying Document so that the public and other health care providers (regulated and unregulated) have a better understanding of it?**

To improve the document so that the public and other health care providers have a better understanding of it, we suggest providing a clearer explanation and additional definition of the terms “serious disorder” and “seriously impair”, including examples. How these terms are defined will impact whether chiropractic interventions, such as screening for and addressing “yellow flags” fall under the controlled act. Additionally, it should be made clear that health care
providers, such as chiropractors, may perform some (or all, depending on the definitions of “serious disorder” and “seriously impair”) combination of the five elements if it is within their scope of practice, that that this would not be restricted.

3. Should other health care providers, either unregulated or regulated and not members of the six colleges¹ who would practice the controlled act of psychotherapy if this section of the Regulated Health Professions Act, 1991 (RHPA) is proclaimed, be allowed to practice the controlled act?

As mentioned above, depending on how “serious disorder” and “seriously impair” is defined, chiropractors may practice the controlled act of psychotherapy. Ontario chiropractors are regulated health care providers who are accountable to the CCO. In the CCO’s Standard of Practice S-001: Chiropractic Scope of Practice, it is recognized that chiropractors use a variety of diagnostic and therapeutic procedures in providing chiropractic care to patients and that doing such is acceptable for clinical purposes if it is taught in the core curriculum, post-graduate curriculum or continuing education division of an accredited educational institution.

To avoid confusion, we suggest clear definitions, with examples of “serious disorder” and “seriously impair.” If such definitions or examples constitute any “yellow flags” that chiropractors screen their patients for (ie. low or negative moods, social withdrawal, problems at work, poor job satisfaction, lack of support, belief that “hurt equals harm”, and/or a preference for passive treatments over active participation in treatment and recovery), we strongly advise that chiropractors should be allowed to practice the controlled act of psychotherapy.

4. Are there conditions under which health care providers, either unregulated or regulated and not members of the six colleges who would practice the controlled act of psychotherapy if this section of the Regulated Health Professions Act, 1991 (RHPA) is proclaimed, be allowed to practice the controlled act? If so, which health care providers and under which conditions?

Please see response to question 3.

5. The five regulated colleges, along with the College of Physicians and Surgeons of Ontario (CPSO) will be able to use the title “Psychotherapists” once the Controlled Act is proclaimed. How important is it that the title “Psychotherapist” be protected?

We understand the importance of protecting the title “Psychotherapists” to ensure that unqualified professionals are not performing psychotherapy and the public is clear about the qualifications of individuals providing psychotherapy. As we’ve stated throughout our response however, it should be recognized that other health care providers who may be outside of the

¹ This is in reference to the above five colleges plus the College of Physicians and Surgeons of Ontario (CPSO).
included five regulated colleges, such as chiropractors, may use some combination or all of the five elements of psychotherapy if it is within their scope of practice.

**Conclusion**

Thank you for the opportunity to provide input into the Controlled Act of Psychotherapy. We believe that our suggestions to more clearly define and explain “serious disorder” and “seriously impair”, as well as make it clear that health care professionals, such as chiropractors may perform some combination, or all of the five elements if it is within their scope of practice will improve the Clarifying Document so that the public and other health care providers have a better understanding of it. Please do not hesitate to contact us if you have any questions regarding our submission.

Sincerely,


Dr. Bob Haig, D.C.
Chief Executive Officer
Ontario Chiropractic Association
Response to: Health Professions Regulatory Advisory Council (HRPAC)
Written Submissions on the Psychotherapy Controlled Act

Summary

The Ontario Coalition of Rape Crisis Centres (OCRCC) thanks the Health Professions Regulatory Advisory Council (HRPAC) for the invitation to respond to Written Submissions on the Psychotherapy Controlled Act. When examined in a therapeutic setting (such as counselling, therapy or assessment) the impacts of sexual violence are most commonly understood and articulated via trauma or mental health frameworks. Yet sexual violence cannot be separated from a broader context – one in which the victim-survivor, the offender, and the violation itself (or threat of the violation) exist in a larger system of social norms, relations and inequities. Community-based sexual assault centre services for survivors, particularly supportive and crisis services, are rooted in a comprehensive and socially-contextualized analysis of sexual violence. In this way, Centre counselling models can differ in essential ways from medical and mental health frameworks for understanding sexual violence prevalence and impacts. This creates complexities in our sector’s (and workers’) capacity to identify as practicing the Controlled Act of psychotherapy or not.

Specific responses to Questions to Guide Written Submissions on the Psychotherapy Controlled Act follow on page 5-6 of this submission.

Sexual Assault Centres and Sexual Violence: Backgrounder

When examined in a therapeutic setting (such as counselling, therapy or assessment) the impacts of sexual violence are most commonly understood and articulated via trauma or mental health frameworks. Yet sexual violence cannot be separated from a broader context – one in which the victim-survivor, the offender, and the violation itself (or threat of the violation) exist in a larger system of social norms, relations and inequities. Consider, for example:

- A 2011 summary on police reported crime, which found that sexual crimes were by far the most common offence committed against girls.
- Women and young women from marginalized racial, sexual and socioeconomic groups are more vulnerable to being targeted for sexual violence.
- Over 80% of women who are sexually assaulted do not report due to humiliation or fear of re-victimization in the legal process.
- Many prevailing societal attitudes justify, tolerate, normalize and minimize sexual violence against women and girls.

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1 Canadian Centre for Justice Statistics. Released on February 25, 2013. Measuring violence against women: Statistical trends. 15
2 Wolfe and Chiodo, CAMH, 2008, p. 3.
Our sector contends that conventional biomedical understandings of trauma and mental health often do not account for the fact that “women and minorities experience different crime patterns, prejudice and bigotry” and other inequities, and that these experiences “lead to different life stresses and ways of coping.” Even where attempts are made within a medicalized framework to address the intersections of violence with sexism, racism, ableism and other components of social location, it is often at a superficial level. Certainly, these limitations to conventional approaches have implications for victim-survivors of sexual violence.

Feminist-identified anti-violence support, such as peer counselling models, counselling models situated in acknowledging social justice discourse, other counselling models and advocacy for survivors of violence, were developed many years ago “as a reaction to the insufficiency and ill-fittingness of psychiatric and psychological responses to women’s experiences of violence and social inequity.” In particular, feminist approaches to therapeutic interactions act as “a corrective to the pathologization and misnaming of these experiences as illnesses and disorders” in women’s lives, emphasizing that women are not to be blamed for the violence they experience nor their traumatic reactions, including complex coping responses, to it.

The first rape crisis centre in Ontario opened in 1974, driven by an explicitly identified need for more comprehensive and socially-contextualized support to women survivor-victims. Today, there are 30 anglophone sexual assault centres in the province. Services include 24-hour crisis counselling; accompaniment to the hospital, court and/or police station; advocacy for victims and referrals; face to face counselling; outreach support including diversity work; information and support for partners, families and friends of survivors; and public education on sexual violence. Sexual assault centre staff and volunteers hold expertise related to the realities of sexual violence, its prevalence, as well as the barriers facing survivor-victims in relation to their healing. Centres directly serve, without charge, hundreds of thousands of survivors in Ontario who have experienced recent or historical sexual violence. Sexual violence addressed by centres includes any violence, physical or psychological, carried out through sexual means or by targeting sexuality including: sexual abuse, sexual assault, rape, incest or interfamilial sexual abuse, childhood sexual abuse and rape during armed conflict. It also includes sexual harassment, stalking, indecent or sexualized exposure, degrading sexual imagery, voyeurism, cyber harassment, and sexual exploitation. In addition, many centres have developed programs and services to meet the unique needs of individual communities including Aboriginal survivors of sexual violence, lesbian, gay, bisexual, tran and queer identified survivors of sexual violence, services for refugee, immigrant and racialized survivors of sexual violence (including women raped in the context of armed conflict), services for Deaf women and with disabilities and services for children, youth and men. Centres also offer specific services to groups of survivors in institutional settings, including those residing in correctional facilities, addiction treatment programs, shelters and youth residential programs. Comprehensive community awareness and public education programs on sexual violence are also offered by all member centers of our Coalition as part of their core services in Ontario communities.

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7 Ontario Coalition of Rape Crisis Centres. *Herstory*. Online: http://www.sexualassaultsupport.ca/page-418416
8 Ontario Coalition of Rape Crisis Centres. *About Us: Ontario Sexual Assault Centres in your Communities*. Online: http://www.sexualassaultsupport.ca/page-411845
9 Ministry of the Attorney General notes that in one year alone, Ontario Sexual Assault centres responded to 50,000 crisis line calls. This does not include case management or ongoing counselling services to survivors.
The Ontario Coalition of Rape Crisis Centres\(^\text{11}\) (OCRCC), a network of Ontario sexual assault centres, is engaged in a broad range of research, public education and awareness activities dealing with sexual violence. In 2011, OCRCC's advocacy lead to the development of Ontario's first provincial Sexual Violence Action Plan\(^\text{12}\); in 2015, OCRCC remains actively involved in the 2015 *It's Never Okay: An Action Plan to End Sexual Violence and Harassment*\(^\text{13}\). Clearly, service providers in these centres – including frontline staff providing counselling support to women who have experienced sexual violence – maintain innovative practices and much expertise in these areas.

Community-based sexual assault centre services for survivors, particularly supportive and crisis services, are rooted in a comprehensive and socially-contextualized analysis of sexual violence\(^\text{14}\). In this way, Centre counselling models can differ in essential ways from medical and mental health frameworks for understanding sexual violence prevalence and its impacts. Anecdotal information suggests that specific sexual assault centre counselling competencies includes such things as:

- a holistic, anti-oppression approach that does not focus solely on symptoms or diagnoses
- the ability to therapeutically frame sexual violence as a social problem, as opposed to a mental health malfunction that the survivor must be cured of\(^\text{15}\)
- an ongoing recognition of the skills and knowledge survivors bring to healing work
- holding “perpetrators accountable for [their acts of] violence” and the impact of these acts\(^\text{16}\)
- a recognition of widespread societal sexual assault myths and misconceptions, which function to minimize sexual assault and its impact on women victim-survivors\(^\text{17}\)
- a recognition that gender, race, age and other social determinants influence the targets of sexual violence\(^\text{18}\).

Health researchers Chloe Bird and Patricia Reiker align with this approach, noting that: “Much of clinical research tends to minimize or ignore the social processes that can influence health differentiality and to reify biomedical models that portray men’s and women’s health disparities as inherently biological.” Further, they agree that health researchers ought to “…recognize that both social and biological factors intersect in complex ways and that this interaction explains not only health or illness at the individual level but also the observed patterns of men’s and women’s health and longevity in general” (emphasis in original)\(^\text{19}\).

The community-based work of sexual assault centres suggests a long history of incorporating social, relational and other contexts into their approach with service provision. In fact, much mainstream and medical understandings of complex issues experienced by survivors (i.e. self-harming coping strategies, dissociative responses such as eating problems, and concurrent challenges such as addictions and trauma) were informed by strategies developed by the anti-rape movement, including “community actions for survivors,” various forms of feminist-informed counselling models, and

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\(^{11}\) Ontario Coalition of Rape Crisis Centres. *About Us: Ontario Coalition of Rape Crisis Centres*. Online: http://www.sexualassaultsupport.ca/page-411845


\(^{14}\) See: Ontario Coalition of Rape Crisis Centres. *Organizational Profile: Basis Of Unity*. Online: http://www.sexualassaultsupport.ca/page-418415


\(^{16}\) Ibid, 25


\(^{18}\) METRAC Sexual Assault Fact Sheet. Online: http://www.metrac.org/programs/info/prevent/ass_fact.htm . As example, risk of victimization increases if one is very young, a woman of color, non-heterosexual or poor. 50 percent of all Canadian women will survive at least one incident of sexual or physical violence, for example; but for Aboriginal women in the same country, this number climbs to eight in ten (80 percent).

publications on the subject of sexual violence and its impacts, “ranging from the work of feminists in medicine, such as Judith Herman (1992), to survivors’ own stories”\textsuperscript{20}. A lack of research querying non-biomedical models (such as the approach of sexual assault centres) means that “accepted notions of what it means to be ‘mentally healthy’ or ‘ill’ are assigned to women surviving physical and sexual violence”\textsuperscript{21}, often inappropriately. For these reasons, sexual assault centres have often strategically resisted alignment with mental health and medical approaches to understanding the impacts of violence.

The recent \textit{It’s Never Okay: An Action Plan to End Sexual Violence and Harassment}\textsuperscript{22} acknowledges that sexual assault centres hold a unique role in sexual violence work in Ontario\textsuperscript{23}. Yet, while this information is important, community-based sexual assault support services sector, due to moderate funding allocations\textsuperscript{24}, service sector pressures, and public resistance to systemic understandings of violence against women\textsuperscript{25}, has had limited capacity to explicitly articulate the distinct value of our approach to service. At times, this has resulted in a constructed deskilling of workers, an absence of a definitive framework, and an overall vulnerability of the sector and its accumulated expertise.

In contrast, we are aware that a regulatory body has been created to oversee the controlled act of psychotherapy in Ontario. The role of the Regulated Health Professions Advisory Council (HPRAC) is to regulate professionals who are psychotherapists, registered mental health workers or those “practicing psychotherapy” in the province. As part of this work, the HPRAC draws a distinction between psychotherapy and counselling as follows:

\begin{itemize}
  \item \textit{Psychotherapy} is “most often characterized by an intense client-therapist relationship which often involves the examination of deeply emotional experiences, destructive behaviour patterns and serious mental health issues”; and
  \item \textit{Counselling} is “where the focus is on the provision of information, advice-giving, encouragement and instruction; and spiritual counselling, which is counselling related to religious or faith-based beliefs\textsuperscript{26}.”
\end{itemize}

The benefit of a regulatory body is that it aims to bring ethical guidelines, consistency and safety to service-users; they also aim to define accountability measures for professionals. However, there are disadvantages to this specifically for the sexual assault support services sector. Regulatory bodies can create further constructed-disparities between the approach identified by the HPRAC, and the efficacy of community-based support organizations such as sexual assault centres. This distinction is evident in the differentiation between “psychotherapy” and “counselling” where psychotherapy is more directly connected to a medical model and positioned as more complex, measurable or therapeutic work. Such constructed disparities can function to minimize the real expertise, efforts and value of sexual assault centre work, having a direct impact on the public’s perception of sexual assault centres, their expertise, their capacity to support survivors of sexual violence and their work in Ontario communities. By extension, these trends can impact these agencies’ viability and, thus, ultimately options for those who have experienced violence and are seeking support in their communities.

\textsuperscript{21} Ibid, 26
\textsuperscript{24} For many years, Ontario sexual assault centres saw cutbacks, (5% 1995) nominal increases (5% 2004-2005; 3% 2007-2008) and no core increases at all (2005-2007 and 2007-current). A component of the Sexual Violence Action Plan (2011 and again in 2015) includes a now-permanent commitment from the Ministry of the Attorney General to increase funding support to Ontario’s Sexual Assault Centres.
\textsuperscript{26} Ontario Coalition of Mental Health Professionals. April 2006. \textit{Executive Summary: Chapter 7 ‘Regulation of Psychotherapy’ New Directions: Regulation of Health Professions in Ontario}. Health Professions Regulatory Advisory Council.
Questions to Guide Written Submissions on the Psychotherapy Controlled Act

1. In 2015, a Working Group consisting of five regulatory colleges\textsuperscript{27} created a draft \textit{Clarifying Document on the Psychotherapy Controlled Act}. HPRAC will be building on the excellent work of the Colleges. After reading this document (Attachment 2), do you feel that it clearly explains the Controlled Act? If not, why?

Yes, the draft \textit{Clarifying Document on the Psychotherapy Controlled Act} explains the Controlled Act at a high (broad) level.

2. What changes would you suggest be made to improve the Clarifying Document so that the public and other health care providers (regulated and unregulated) have a better understanding of it?

We suggest that you include an index or appendix which clearly identifies the following terms/phrases included in the \textit{Clarifying Document}:

- “therapeutic interventions or techniques” (found under 1, \textit{Treating}\textsuperscript{28})
- “interventions or approaches based on recognized psychotherapeutic theories, models or frameworks and/or empirical evidence” (found under 2, \textit{By means of psychotherapy technique}\textsuperscript{29}). We suggest a list of examples of these

This will support care providers (regulated and unregulated) in better understanding the phrases or criterion described. We imagine that some providers may understand what these techniques, interventions, models or frameworks may be, while others do not. We also imagine that sexual assault centre staffs providing counselling are engaged in some (though not all) of these interventions, techniques and interventions. However, in the current \textit{Clarifying Document} and with clear definitions not provided, it is hard for us to identify these similarities and differences.

3. Should other health care providers, either unregulated or regulated and \textit{not} members of the six colleges\textsuperscript{30} who would practice the controlled act of psychotherapy if this section of the \textit{Regulated Health Professions Act, 1991} (RHPA) is proclaimed, be allowed to practice the controlled act?

We don’t have a clear answer to this question. We wish to state that, as our above Backgroundr has identified, there are philosophical barriers to regulation impacting our sector – a sector which has historically (and often strategically) chosen not to align itself with medical models of supportive treatment, even though we do provide many varieties of support.

We also wish to state that there are financial barriers to regulation (fees associated with ongoing membership to a regulatory body, for example, including the systemic realities of an under-funded sector\textsuperscript{31}) to our sector, as non-profit organizations and as a collective of workers (care providers). These barriers impact some individual providers who practice some aspects of the controlled act, and may wish to consider being a member of a regulatory body.

\textsuperscript{27} College of Registered Psychotherapists of Ontario (CRPO), College of Occupational Therapists of Ontario (COTO), Ontario College of Social Workers and Social Service Workers (OCSWSSW), College of Nurses of Ontario (CNO) and the College of Psychologists of Ontario (CPO)

\textsuperscript{28} Health Professions Regulatory Advisory Council (HRPAC) and Working Group consisting of five regulatory colleges, 2015. Draft \textit{Clarifying Document on the Psychotherapy Controlled Act}.

\textsuperscript{29} Ibid.

\textsuperscript{30} This is in reference to the above five colleges plus the College of Physicians and Surgeons of Ontario (CPSO).

\textsuperscript{31} For many years, Ontario sexual assault centres saw cutbacks, (5% 1995) nominal increases (5% 2004-2005; 3% 2007-2008) and no core increases at all (2005-2007 and 2007-current). A component of the Sexual Violence Action Plan (2011 and again in 2015) includes a now-permanent commitment from the Ministry of the Attorney General to increase funding support to Ontario’s Sexual Assault Centres.
In addition, some providers in community-based violence against women support agencies may be using some of the techniques, interventions, models or frameworks referenced in the *Clarifying Document;* while others are not.

Moreover, choosing to be/not be a member of a regulatory body has implications for the reputability of our work, and the work of all other community-based violence against women agencies, whether we join or not. For example, one agency staffed by regulated providers can incidentally appear to de-legitimize or minimize the skills and expertise of all other sister women’s agencies staffed by non-regulated providers.

With these contexts in mind, an “either/or” option (that is, to choose to be formally regulated, or not to be regulated) does not resolve these challenges for us.

4. Are there conditions under which health care providers, either unregulated or regulated and not members of the six colleges who would practice the controlled act of psychotherapy if this section of the *Regulated Health Professions Act, 1991* (RHPA) is proclaimed, be allowed to practice the controlled act? If so, which health care providers and under which conditions?

Please see our above responses to (3) and in the Backgrounder, above. We believe that this summary creates legitimate conditions under which care providers in the community-based sexual assault centre sector who practice the controlled act of psychotherapy (if this section of the *Regulated Health Professions Act, 1991* (RHPA) is proclaimed) should be allowed to practice the controlled act, even if they are not regulated.

We do not wish to see our interventions, techniques and interventions -- which in some cases, align with those of the controlled act of psychotherapy -- become (1) invisibilized under the contexts outlined here, and/or (2) deskilled, as a result of an “either-or” system of categorization, as developed by the Health Professions Regulatory Advisory Council.

5. The five regulated colleges, along with the College of Physicians and Surgeons of Ontario (CPSO) will be able to use the title “Psychotherapists” once the Controlled Act is proclaimed. How important is it that the title “Psychotherapist” be protected?

Workers (care providers) at community-based violence against women support agencies do not use the title “Psychotherapist” in our work/agencies. We are not the right population to speak to the importance of the title "Psychotherapist" being protected. We hope that you receive more helpful responses from self-identified psychotherapists on this question!

Thank you again for the invitation to respond to Written Submissions on the Psychotherapy Controlled Act. If you have any questions or comments on this submission, please do not hesitate to contact me at 905-299-4428 or ocrcccoordinator@hotmail.com.

Sincerely,

Nicole Pietsch
Coordinator, Ontario Coalition of Rape Crisis Centres (OCRCC)
Tel: 905-299-4428
Email: ocrcccoordinator@hotmail.com

Nicole Pietsch is a Coordinator of the Ontario Coalition of Rape Crisis Centres and a community research associate with The Learning Network on Violence Against Women.
Mr. Thomas Corcoran, Chair
Health Professions Regulatory Advisory Council
56 Wellesley Street West
16th Floor
Toronto, ON M5S 2S3

Dear Mr. Corcoran:

Re: Submission to the Health Professions Regulatory Advisory Council regarding the Controlled Act of Psychotherapy—September 20, 2017

The Ontario College of Social worker and Social Service Workers (OCSWSSW) welcomes the opportunity to make a submission in response to the questions posed in your letter of September 8, 2017. As you will see, our responses below are consistent with the information shared with you during our recent meetings.

With over 19,500 members, the OCSWSSW is the regulatory body for social workers and social service workers in Ontario. Its mandate is to serve and protect the public interest through self-regulation of the professions of social work and social service work.

1. In 2015, a Working Group consisting of five regulatory colleges¹ created a draft Clarifying Document on the Psychotherapy Controlled Act. HPRAC will be building on the excellent work of the Colleges. After reading this document (Attachment 2), do you feel that it clearly explains the Controlled Act? If not, why?

The OCSWSSW was part of the working group that collaborated in the development of the clarification document. In our view, the clarification document clearly explains the controlled act as defined in the RHPA. While it has been suggested that the definition of the controlled act itself is in some ways problematic, in our view the clarification document provides information which enhances general understanding of the controlled act.

We are also of the view that those professionals who are qualified to provide psychotherapy are able to recognize when a client has a serious disorder that is causing serious impairment.

¹ College of Registered Psychotherapists of Ontario (CRPO), College of Occupational Therapists of Ontario (COTO), Ontario College of Social Workers and Social Service Workers (OCSWSSW), College of Nurses of Ontario (CNO) and the College of Psychologists of Ontario (CPO)
2. What changes would you suggest be made to improve the Clarifying Document so that the public and other health care providers (regulated and unregulated) have a better understanding of it?

We do not believe that any changes to the current document are required.

3. Should other health care providers, either unregulated or regulated and not members of the six colleges who would practice the controlled act of psychotherapy if this section of the Regulated Health Professions Act, 1991 (RHPA) is proclaimed, be allowed to practice the controlled act?

It is our understanding that the decision to define a controlled act of psychotherapy was made in order to protect those members of the public who are most at risk and most vulnerable—namely those with a serious disorder causing serious impairment. Therefore, in our view, only qualified and regulated professionals should be providing the controlled act of psychotherapy. We believe it would be contrary to the intention behind the legislation to permit unregulated providers to perform the controlled act. While we recognize that some of these providers provide many necessary and beneficial services, we suggest that these services do not fall within the controlled act of psychotherapy.

We are not aware of any other regulated professionals who provide psychotherapy services.

4. Are there conditions under which health care providers, either unregulated or regulated and not members of the six colleges who would practice the controlled act of psychotherapy if this section of the Regulated Health Professions Act, 1991 (RHPA) is proclaimed, be allowed to practice the controlled act? If so, which health care providers and under which conditions?

Please see our response above. We are not aware of other unregulated or regulated providers who should be authorized to provide the controlled act of psychotherapy.

5. The five regulated colleges, along with the College of Physicians and Surgeons of Ontario (CPSO) will be able to use the title "Psychotherapist" once the Controlled Act is proclaimed. How important is it that the title "Psychotherapist" be protected?

Restricting the use of the title "psychotherapist" is, in our view, a critical public protection measure. The protection afforded by the wording of the controlled act is limited to a small segment of the population receiving psychotherapy services –

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2 This is in reference to the above five colleges plus the College of Physicians and Surgeons of Ontario (CPSO).
namely, those who have a serious disorder resulting in a serious impairment. The provision of psychotherapy to other members of the public would continue to be in the public domain.

We believe that the restriction of the use of the title will address some of the current confusion about psychotherapy and who is qualified to provide it. Title protection will provide assurance to the public by assisting them in understanding that the psychotherapy services that they are receiving from a "psychotherapist" are being provided by a regulated practitioner - that is, a provider who is qualified to provide psychotherapy. Through their registration, regulated professionals demonstrate that they have met registration requirements, are bound by standards of practice, are accountable through complaints and discipline processes, and are required to engage in ongoing learning through continuing competence or quality assurance programs. Protection would be afforded to everyone receiving psychotherapy from a "psychotherapist" regardless of whether the service fell within the definition of the controlled act.

I would like to thank you once again for the opportunity to respond to consultation questions in writing. The OCSWSSW is confident that it will be in a position to address any actual confusion or concerns from either our members or the public following proclamation of the controlled act. Furthermore, we suggest that it would be most effective to address any issues that arise after proclamation, rather than trying to anticipate them.

Sincerely,

Lise Betteridge, MSW, RSW
Registrar
Submission to HPRAC on Clarification of the Controlled Act of Psychotherapy

From Philip McKenna (T.P. McKenna) RP, PhD  Sept 20th 2017

(Permission to publish is granted)

This submission will be in three parts:

1. A brief reply to the 5 Guidance Questions

2. A commentary on the five Colleges’ Clarifying Document

3. A systematic comment on the Controlled Act

Reply to the 5 Guidance Questions

1.1 In general the Clarifying Document (CD) fails to address the decisive clarification that is needed for any controlled act- what simply and clearly are non-regulated persons not allowed to do? This is surely the main reason that proclamation was delayed. I’m sure the Minister hoped for some precision to “serious disorder” and “seriously impair”. What he got instead was an interesting description of disorders and impairments all of which admit degrees of seriousness either in themselves or in their persistence. Nowhere is there the clarity or precision of all the other controlled acts. There are no “red lines”.

Why is this? I would argue it is because such clarity and precision is impossible in the psychotherapy process. (HPRAC argued thus in New Directions—earlier “excellent work”.)

1.2 The CD missed an opportunity for helpful clarification in its first three sections. If something is not psychotherapy then it is not the controlled act of psychotherapy. For something to be psychotherapy there must be: a) an expressed intention by the therapist to help the client or patient with their self-presented psychological problems, b) an expressed consent of the client to enter into the work of psychotherapy, and c) a communication from the therapist about
the boundaried methods/techniques to be used (especially mention of what interventions will not be used).

1.3 Other health care providers (I would prefer to say “social helpers”) may often have occasion to deal with seriously disturbed people. This does not mean they are taking on specifically the therapeutic care of this person. A drop-in worker might help to calm down a person in a psychotic outburst, and maybe he does it often- depending on having established a relationship with the person. They are not thereby taking on the psychotherapy treatment of that person’s disorder. So the answer to the question is ‘No’.

1.4 Again the answer is ‘No’. All this anxiety about exemptions arises from concentrating exclusively on the latter part of the controlled act—the ‘serious disorder..’ which may ‘seriously impair...’ All kinds of social helpers will engage and converse with people who have serious disorders, with all kinds of intentions that are different from psychotherapy aimed at the disorder itself. They should remain assured that they are in no way targeted by this controlled act.

As with other controlled acts, we should allow for emergencies. For example, a social helper might take on the care of a psychotic person in a remote area where there are no psychotherapists and no telecommunication possible with psychotherapists. He should not, however, call himself a psychotherapist and should refer on as soon as possible.

1.5 Title protection is most important. The two most important factors for public protection are these two new developments: a) the title protection, and, b) the clarified specific training in psychotherapy developed at CRPO (and by implication demanded of the other Colleges for their psychotherapist members). I consider these are sufficient and clear. The addition of a controlled act is unnecessary and of a confused controlled act, harmful.
A Commentary on the five Colleges’ Clarifying Document

2.1 The somewhat bizarre English – “Treating by means of psychotherapy technique delivered through a therapeutic relationship...” is due to the effort to include quite different views of psychotherapy. The medical model starts with diagnosis and then plans and ‘delivers’ a treatment. The non medical models start with a co-operative dialogical relationship and where it goes (the treatment) is worked out by the two together. Hence the first three phrases are read very differently in different modalities.

The boundaries of what is psychotherapy are not established by the Psychotherapy Act since both the scope of practice and the controlled act include in their ‘definition’ a reference to “psychotherapeutic means” (the scope) and “by means of psychotherapy technique” (the controlled act).

The CD makes no effort to clarify the boundaries of psychotherapy as I did in 1.2 above. This leads to the overemphasis on the seriousness of disorders and impairments (which do not admit of precision)

2.2 The attempted clarification of “Treatment by means of psychotherapeutic technique...” by “The treatment involves one or more interventions or approaches...” generates more confusion. How could psychotherapy ever consist in one intervention? This controlled act cannot be one act if it is a treatment.

Secondly “approaches“ are not acts at all, so how can we make sense of “interventions or approaches”? “involves“ is a typical muddying term that avoids clarity. My English teacher would put a red line through it.

2.3 This is better and comes closer to what I suggest in 1.2. It could be improved by making explicit that the psychotherapist commits to work with the psychological problems of the client and that there is explicit consent of the client to enter the process of psychotherapy.

2.4 Here is the greatest failure of the CD. They have added some interesting descriptions of the disorders named in the controlled act but each of their additions also admit of degrees of seriousness. No one reading these would be
any closer to knowing where the line of seriousness falls. No one could discern from these clarifications what he is not allowed to do if he is not allowed to do the controlled act.

Given the years of public controversy about the controlled act it is astounding that the CD does not address this problem for the Minister. I hope HPRAC tackles this knot.

2.5 Unfortunately the same criticism applies to the description of impairment. These are helpful elaborations of impairment but each one admits of degrees of seriousness. Also there is no clear distinction between the disorders and the supposedly consequential impairments. The DSM is no help here as it eschews causal language for clusters of symptoms.

The CD floats above these difficulties. The controlled act adds a second difficulty for the person trying to find out what he is not allowed to do. Not only must he assess a serious disorder but he must predict whether it may seriously impair the prospective client.

In sum we have to say that the CD has failed to address almost all the problems of the controlled act, all of which have been explicit in public discussions since 2005 or certainly since 2007.
A Systematic Comment on the Controlled Act

3. In February of 2016 I wrote to Minister Hoskins asking him to leave the controlled act unproclaimed. I also suggested he proceed to amend the RHPA to allow the six Colleges to use the title ‘psychotherapist’ uncoupling this matter from the controlled act. I will adapt to this context what I wrote to the Minister.

I will argue that the Controlled Act is: not necessary, harmful, and fatally flawed.

3.1 The Controlled Act of Psychotherapy is not necessary.

a) There has already been affirmed a legal understanding that the “harm clause” in the RHPA includes serious psychological harm as a species of serious bodily harm. While this extension is actually subject to the same criticism of unclarity and unjudiciability as the proposed Controlled Act, this extension is in fact already established in the RHPA. Having much the same function as the Controlled Act, it makes proclamation unnecessary.

b) Independently of the Controlled Act, the profession has responded very fully to the call to self-regulate through the CRPO. The College now has 4,910 members (Sept.2017) and many applications in process. Title protection alone constitutes an enormous incentive for psychotherapists to join the College. Also the training programs, both independent and University based, are eager to achieve recognition by the new College. Their students and graduates will all enter a culture of expectation that they will join the College.

This ensures future generations of psychotherapists will be very well educated and competent, that they will be embraced by a sturdy Quality Assurance program and that the public will have an avenue to complain about misconduct.

This already constitutes a huge advance in public protection without the addition of a Controlled Act.

c) Throughout the HPRAC consultation and the formation and discussion of the Psychotherapy Act there was never any research undertaken to see whether the unregulated psychotherapists were harming their clients. The cases we heard of in the media were about Doctors, trying to flee sanction by their College, setting
up practice as psychotherapists and being caught in various forms of harm, often sexual abuse.

Many witnesses spoke of the potential for harm because of the imbalance of power between the therapist and the client. However this imbalance is much greater if you have medical authority and see therapy as a top down treatment of a patient, than if you see therapy as a cooperative enterprise.

We can’t emphasise enough how differently positioned the profession of psychotherapy is today in Ontario. Until 2007 we had the Psychological Association of Ontario arguing there was no such profession—“Psychotherapy is just one of the things we do”. Many psychotherapists had no formal training but relied on hours of supervision as a guantee of competence. Now we clearly require a Master’s level of education and training central to psychotherapy, many hours of supervised practice, specific training for the safe and effective use of self in the therapeutic relationship, and a sturdy Quality Assurance program.

The controlled act is not necessary in this new environment.

3.2 The Controlled Act would be harmful.

a) Minister Kaplan made the point on several occasions that there were great numbers of people in Ontario with psychological problems ( “mental health issues”) who were finding no access to help and that he looked forward to a great increase in the number of workers in the field. Now I believe the proclamation of the Controlled Act would lead to a reduction of people ready to do their bit to help people in psychological need. The school counselor, the parole officer, the corrections worker, the minister, the youth worker, the police officer, the funeral director will all wonder what they are not allowed to do. They may well go the cautionary route of avoiding all engagement and potentially helpful conversations with troubled people. One might argue that the Controlled Act does not bear on every conversation with a disturbed person but only formally taking on a disturbed person in a psychotherapy. This may be true but when our College conducted a survey early on we found many people from professions listed above who said they “sometimes did the Controlled Act.” Who can blame them for not
quite knowing what it meant! Its unclarity would make proclamation chilling and harmful.

There were in fact two surveys. The one done by the Transitional Council of the CRPO was initiated because some on the Council wanted to make the College a “big tent” and they wanted many social helpers out there to see themselves as potential Registered Mental Health Therapists. If they did the controlled act they would have to join the College. So, without explanation or clarification they were asked if they ever did the controlled act. Many said yes because they had dealings with very disturbed people. The whole thing was really a travesty.

The other one was initiated by the Ministry of Health for motives unclear to me. But there was the same absence of any clarificatory help to understand the controlled act, just the bare text of the law. The results I understand were similar.

b) The “Stop Psychotherapy” group gets many things wrong but they are right that the boundaries of what is psychotherapy are extraordinarily unclear. Wikipedia says there are 1000 types of psychotherapy and I remember reading a book that named, I think, 714! Besides that, the Controlled Act itself is intrinsically unclear, as I will argue in my third section. So all kinds of people who are social helpers feel vulnerable to what they see as an arbitrary hammer of the State that is unable to make itself clear. This is a serious, serious social harm.

c) We must beware of a certain complacency among regulated professionals who don’t have to be worried about the vagueness of the Controlled Act because, of course, they are allowed to do it whatever it is. We have a duty of empathy for those who will be forbidden to do it when it is unclear what is forbidden. We would be causing great harm in an attempt to prevent harm.
3.3 The Controlled Act is fatally flawed.

It was announced at the Dec.11, 2015 meeting of the first elected Council of the CRPO that the committee of the “mental health” Colleges had sent a document to the MOHLTC following the Minister’s request that they clarify the Controlled Act. This is the CD commented on above in 2.

a) However, all these attempts to clarify or “operationalise”* the Controlled Act only highlight its fatal flaw from the beginning. Unlike all the other thirteen Controlled Acts it is vague and lacks any clear empirical grounding. The framers should have asked first: “what is required of any Controlled Act?” It is astounding to me that the Ministry lawyers let this proceed. I hypothesise that political pressure of some kind trumped common sense.

The only Controlled Act that could have ended up as ungrounded was diagnosis; and it was rather elegantly anchored empirically by making the Controlled Act communicating a diagnosis.

I attempted to suggest an empirical grounding for the Controlled Act of psychotherapy in an earlier document. The “serious disorder “ would be one that required immediate custodial care because of danger to the self or others. Then the controlled act would always and only be psychotherapy in custodial care. This would no doubt be seen as a *reductio ad absurdum* in these deinstitutionalizing times. Indeed I accept that no possible empirical grounding has emerged in all our discussions.

b) The boundaries of psychotherapy are notoriously indistinct and given the youth and fertility of the profession will remain creatively changing for the new century. The legislation, perhaps wisely, describes the scope of practice by a circular “definition”. So there is no help here for “clarifying” the Controlled Act.

c) What the Controlled Act adds over the scope of practice is of course the “serious disorder...which may seriously impair...” This is fatally unclear for a legal Controlled Act. Some psychologists thought that the Psychotherapy Act made all of psychotherapy a Controlled Act – which they wanted. Fortunately we are
protected by the RHPA’s affirmation that the scopes of practice, as such, are open to all.

The profession is in disarray, even war, in the matter of diagnosis. Every edition of the DSM comes out to a storm of critical review. Nobody thinks psychology is scientific in the way that physical medicine is. One can’t repeat experiments with human subjectivity. The dominant pharmacological psychiatry would reduce psychological disorders to matters of brain science and chemistry. Many humanistic therapists are likely to consider communicating a diagnosis an arrogant and harmful treatment of a person. As Leston Havens ** pointed out, in the psychological field we lack any agreed measures of normal human being, of the kind we have in medicine for our physical being. We saw what happened in Soviet psychiatry when political dissidence was treated as a “serious disorder” to be managed in a psychiatric ward. The province of Ontario would do well to keep right out of this controversy and not pretend there is a consensus about “serious disorders” in our profession.

d) We often hear it said “The courts will decide.” However the courts would call on expert witnesses from the profession. But the professionals cannot make a clear law out of an intrinsically unclear law. Nor should they be put in this position by the State. A badly framed law brings dishonour on the whole justice system. This particular Controlled Act would bring dishonour on the RHPA with its ingenious balance of public scopes of practice and clearly defined Controlled Acts.

The Controlled Act remains unproclaimed. We have had six years to see what is problematic about it. Public protection is already enormously enhanced. The extension of the title “psychotherapist” to the other professions can easily and independently arranged by amendment. Does the Controlled Act tell someone exactly what they are not allowed to do? No, it does not! It should never be proclaimed.
*At a MOH meeting with stakeholders in 2009 before the transitional Council was formed, Tim Blakley answered my objection to the Controlled Act, saying it would need to be “operationalised”.

RNAO Submission to HPRAC:
The Controlled Act of Psychotherapy

Sept 20, 2017
**Summary of RNAO Recommendations**

**Recommendation 1.** Provide a clear definition of psychotherapy which includes a wellness approach to further clarify the aspects of this practice which would make it a controlled act.

**Recommendation 2.** Ensure that standards are put in place for psychotherapy and are consistent across the authorized professional colleges.

**Recommendation 3.** Ensure members of the six colleges be entitled to use the protected title of “psychotherapist” without having to hold dual membership with their professional college and the College of Registered Psychotherapists of Ontario (CRPO).

**Recommendation 4.** Ensure members of the six (6) Colleges are authorized to initiate and perform the controlled act of psychotherapy, without seeking an order from a prescriber.
Background

The Registered Nurses' Association of Ontario (RNAO) is the professional association representing registered nurses (RN), nurse practitioners (NP), and nursing students in all roles and sectors across Ontario. Since 1925, RNAO has advocated for healthy public policy, promoted excellence in nursing practice, increased nurses' contributions to shaping the health system, and influenced decisions that affect nurses and the public they serve.

RNAO supports HPRAC’s general approach to regulation as it works within the structure of existing professional colleges who have been granted the authority to practice psychotherapy. Enabling them to set standards and educational requirements for psychotherapy will avoid the need for dual registration for professionals with the College of Registered Psychotherapist of Ontario (CRPO) and their own Colleges.

RNAO is of the opinion that this clarifying document does not provide clarity. Furthermore, it shows a lack of understanding about how psychotherapy is practiced. This has led to a superficial and over simplified model which is not realistic or effective for practitioners or patients. Specific comments follow.

Guidance questions for input into the Controlled Act of Psychotherapy

1. In 2015, a Working Group consisting of five regulatory colleges1 created a draft Clarifying Document on the Psychotherapy Controlled Act. HPRAC will be building on the excellent work of the Colleges. After reading this document (Attachment 2), do you feel that it clearly explains the Controlled Act? If not, why?

RNAO is of the opinion that the clarifying document does not provide clarity regarding the controlled act of psychotherapy. Moreover, the document serves to perpetuate misconceptions surrounding mental health services.

The definition of psychotherapy is vague. There is not a clear definition of a “serious” disorder, thus it is left to interpretation by the practitioner. In fact, it could be argued that all five elements identified as the controlled act of psychotherapy are present in all psychotherapy treatment sessions. For example, people who are seeking psychotherapy treatment likely have some level of alteration in mood, thought, cognition, emotional regulation, memory or perception which affects their ability to function, be it in terms of judgment, insight, behaviour, communication, or social functioning. This makes criteria for components four and five in the model particularly ambiguous.

The vague definition of psychotherapy is particularly problematic for registered nurses (RNs), as if and when the act is proclaimed, the College of Nurses of Ontario (CNO) will require RNs to obtain a physician or nurse practitioner order to initiate the controlled act of psychotherapy. This means that RNs who are treating their patients with less complex mental illness using the psychotherapy technique would have to stop treatment if their patient moves into the realm of the controlled act; and seek an order from a prescriber to continue treatment; thus de-facto delay or discontinue treatment at a time critical for patients. Moreover, this would

1 College of Registered Psychotherapists of Ontario (CRPO), College of Occupational Therapists of Ontario (COTO), Ontario College of Social Workers and Social Service Workers (OCSWSSW), College of Nurses of Ontario (CNO) and the College of Psychologists of Ontario (CPO)
disrupt the therapeutic relationship further undermining patient health. Such situations will be further exacerbated if the RN does not have timely access to a practitioner who can write an order (i.e., homeless shelters; women shelters, first nation reserves).

RNs represent the largest health workforce in Ontario and are on the frontline of care. Those who practice psychotherapy often treat the most vulnerable populations who have serious mental health issues. RNs work in settings such as shelters, refugee centres, schools, prisons, and First Nations communities. They treat patients who experience a wide range of health issues such as; postpartum depression, cancer, chronic illness, and serious and persistent mental illness. RNs work with patient populations such as: victims of incest, abuse and other traumatic events; those living with addictions - including opioids abuse; members of the LGBTQ community; refugees; and those who live on the streets. Denying RNs who have the knowledge and training to practice psychotherapy the ability to initiate the controlled act will hinder access to vital mental health services for Ontario’s most marginalized populations.

Therapeutic relationships between practitioner and patients are built over time, often taking months or years to establish the trust and comfort required for a patient to reveal their underlying issues and traumatic experiences. This is in part due to the continued gender, gender identity, and racial discrimination that exacerbate the lived realities of vulnerable persons; and the stigmatization of mental illness and substance use in our society. According to RNAO’s best practice guideline entitled Establishing Therapeutic Relationships, the therapeutic relationship is “central to all nursing practice. For example, in mental health and community nursing, the therapeutic relationship may be the primary intervention to promote awareness and growth and/or to work through difficulties.”

RNAO is gravely concerned that the current definition of psychotherapy is rooted in a disease - or dysfunction - oriented framework which is the root of the problem in clearly defining the elements of the controlled act. A definition that supports practitioners through a wellness approach to psychotherapy must be developed and integrated into the model. Psychotherapy is defined throughout the literature as an interpersonal process that involves different treatment approaches (e.g. techniques or interventions such as cognitive behavioural therapy) and thus psychotherapy may be a health promotion and/or disease prevention strategy that promotes wellness and functioning.

RNAO recommends an alternative approach whereby the specificities of the psychotherapeutic intervention that are considered a controlled act be stated. There are a range of psychological therapies used by mental health nurses. They include and are not limited to: cognitive behaviour therapy (CBT), supportive counseling, solution-focused therapy, recovery model, group therapy, dialectical behaviour therapy, psychoanalytic therapy, narrative therapy, mindfulness, acceptance and commitment therapy, motivational interviewing (MI), family therapy, transactional analysis, gestalt therapy, cognitive analytical therapy, and relaxation therapy. Research has found that the majority of nurses use a mixture of different therapies to suit the circumstance at the time.

**RNAO recommendation 1.** Provide a clear definition of psychotherapy which includes a wellness approach to further clarify the aspects of this practice which would make it a controlled act.

2. **What changes would you suggest be made to improve the Clarifying Document so that the public and other health care providers (regulated and unregulated) have a better understanding of it?**
RNAO proposes changing the definition of psychotherapy to be in line with the literature as follows: psychotherapy is the provision of a psychological intervention or interventions, delivered through a therapeutic relationship for the prevention and treatment of psychiatric illness, as well as to promote mental, behavioural, and/or emotional health and address cognitive, emotional, or behavioural disturbances.7

In practice, it is only through the development of a therapeutic relationship that an RN will learn of the issues a patient is experiencing. To suspend treatment while waiting for an order – due to a definition based on the severity of the mental health – is an unreasonable request and denies the patient access to a necessary mental health service in an already strained system. In fact, patients will interpret such an action as “abandonment.” Therefore, RNAO recommends – in the strongest possible terms - that the definition of psychotherapeutic technique be clarified in this document and that the six colleges allowed to practice psychotherapy be able to do so in cases where they have the knowledge, skill, and ability to do so without restriction, and not requiring an order from a prescriber.

CNO is the only regulatory body of the professions granted authority to perform psychotherapy, to require its members who have been practicing psychotherapy for years to obtain an order from a prescriber to continue treatment. CNO has provided no sound rational and/or evidence for its decision. As a result, our members have expressed frustration and demoralization that their knowledge and skills have not been recognized, leading some to seek recognition from other Colleges to maintain their autonomy. Others have decided to suspend their private practice. For the sake of our patients, there needs to be equity amongst the professionals authorized to perform psychotherapy whereby all those who meet standards that are set to practice the controlled act can do so independently. RNs who practice psychotherapy have extensive education and training and represent one of the largest groups of practitioners who provide this service.

In addition to a clearer definition of psychotherapy, consistent standards should also be put in place across the six colleges so that those practising psychotherapy have the necessary skills, knowledge and ability. The College of Occupational Therapists of Ontario has developed standards for psychotherapy which should serve as the gold standard for other Colleges to follow.8

RNAO recommendation 2. Ensure that standards are put in place for psychotherapy and are consistent across the authorized professional colleges.

3. Should other health care providers, either unregulated or regulated and not members of the six colleges2 who would practice the controlled act of psychotherapy if this section of the Regulated Health Professions Act, 1991 (RHPA) is proclaimed, be allowed to practice the controlled act?

Addictions workers who are provincially certified should be included as long as they meet the minimal standards to be certified with the College of Registered Psychotherapist of Ontario (CRPO). Excluding this group of people will result in a sharp decline in mental health services for Ontarians. Persons with adequate

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2 This is in reference to the above five colleges plus the College of Physicians and Surgeons of Ontario (CPSO).
training and supervision should be required to register with the CRPO, since belonging to a regulated body of professionals will set the standards to practice psychotherapy.

Elders in native communities as well as those working in rural, remote, and northern areas of the province in inaccessible communities who are supervised and trained should be allowed to continue to provide mental health services in their respective communities.

4. Are there conditions under which health care providers, either unregulated or regulated and not members of the six colleges who would practice the controlled act of psychotherapy if this section of the Regulated Health Professions Act, 1991 (RHPA) is proclaimed, be allowed to practice the controlled act? If so, which health care providers and under which conditions?

We are in great need of providing psychotherapy services to the public. Many unregulated practitioners provide a variety of services which could be considered as using psychotherapy techniques as mentioned above. Basic rules that protect the vulnerable from usury should be in place for all health practitioners, and basic standards with exams and requirements should be implemented for those who wish to practice psychotherapy. Therefore if an unregulated practitioner has the education and training to perform psychotherapy, they should be required to be registered with the College of Registered Psychotherapists in order to practice.

5. The five regulated colleges, along with the College of Physicians and Surgeons of Ontario (CPSO) will be able to use the title “Psychotherapists” once the Controlled Act is proclaimed. How important is it that the title “Psychotherapist” be protected?

The title of psychotherapist should be protected in order for the public to be clear on those regulated to provide this service. Moreover, members of all six colleges should be entitled to use the protected title without having to hold dual membership with their professional college and the College of Registered Psychotherapists of Ontario (CRPO).

RNAO recommendation 3. Ensure members of the six colleges be entitled to use the protected title of “psychotherapist” without having to hold dual membership with their professional college and the College of Registered Psychotherapists of Ontario (CRPO).

Any other comments:

Please provide any other comments which you feel will assist HPRAC in providing advice to the Minister of Health and Long-Term Care.

RNAO has strongly advocated for RNs who have the appropriate education and training to continue to initiate the controlled act of psychotherapy. The College of Nurses of Ontario (CNO) has decided to bar nurses from initiating this treatment without an order from a prescriber (NP or physician). This decision was made despite
recommendations from HPRAC that each of the colleges should outline appropriate guidelines and standards for their members and avoid dual memberships, and despite the fact that RNs who are mental health nurses typically have even more extensive education and experience initiating and delivering psychotherapy than some other members of the five colleges, such as occupational therapists. Furthermore, with independent RN prescribing moving forward, it is difficult to understand CNO’s rationale for RNs to require an order to perform the controlled act of psychotherapy.

We believe CNO is failing RNs who have been providing safe and competent psychotherapy for decades, with their decision to not pursue an initiation regulation under Part Three of the General regulation under the Nursing Act which would allow RNs who have the knowledge, skill, and ability to practice psychotherapy to do so independently. Furthermore, in doing so CNO is failing to protect the public by limiting access to psychotherapy. The CNO’s action creates an undue barrier for Ontarians to access valuable mental health services especially for vulnerable persons across the province living in shelters, refugee centres, schools, prisons, and First Nations communities to mention a few. CNO is also creating undue barriers, thus failing to protect all persons living in rural and remote communities with limited access to NPs and physicians.

There is a large body of evidence which supports the need for mental health services, especially in primary care settings, in addition to the need for professionals who have the adequate skills, training and knowledge to deliver them. From a regulatory perspective, establishing direct accountability for initiating and performing psychotherapy as a controlled act will best protect the public. RNAO has repeatedly urged CNO to reconsider its approach to psychotherapy initiation since 2014. The CNO has not provided any sound rationale for its decision to allow treatment and not initiation. This will force RNs who have been safely performing psychotherapy for years, and in some cases decades, to abandon their patients while they seek an order from a prescriber.

RNAO asserts that RNs who meet the conditions for initiating a controlled act, as with others who have the authority to practice psychotherapy, are best situated to assess their own knowledge, skill, and judgment, a specific patient’s condition, the appropriateness of intervention, and accept sole responsibility for initiation.

As a result of CNO’s decision -- which is unfounded and inconsistent with the other five (5) regulatory colleges -- we have heard from our members that a number of RNs are leaving the profession in order to register with the CRPO. Unfortunately, many of them are being denied registration with CRPO as their education and training is not being recognized. If CNO does not set an initiation regulation and standards for RNs to competently and safely practice psychotherapy, a large number of RNs will be forced to leave the profession and this would exacerbate barriers to access and fail many Ontarians who are struggling daily to access high quality mental health and addiction services.

**RNAO recommendation 4.** Ensure members of the six (6) Colleges are authorized to initiate and perform the controlled act of psychotherapy, without seeking an order from a prescriber.
References
3 Slade, M. (2010). Mental illness and well-being: the central importance of positive psychology and recovery approaches. BMC Health Services Research. 10(26).
6 Ibid
Sick Kids – Submission to HPRAC

Questions to Guide Written Submissions on the Psychotherapy Controlled Act

Purpose

Key stakeholders are being invited to provide written submissions on their understanding and views of the controlled act of psychotherapy and how it affects patients and providers, both regulated and unregulated. Submissions will be used as part of the process to inform the advice which the Health Professions Regulatory Advisory Council (HPRAC) will provide to the Minister of Health and Long-Term Care.

How to complete the submission

Please provide a written response to each question. You may include additional comments at the end of the submission. Please submit your organization’s written feedback by Friday, October 6, 2017, to the following email: hpracsubmissions@ontario.ca. Late submissions may also be considered.

Note that, with consent, written submissions will be made publically available on HPRAC’s website. Please indicate in writing whether or not you consent to make your submission public.

Guidance Questions for input on the Controlled Act of Psychotherapy

1. In 2015, a Working Group consisting of five regulatory colleges¹ created a draft Clarifying Document on the Psychotherapy Controlled Act. HPRAC will be building on the excellent work of the Colleges. After reading this document (Attachment 2), do you feel that it clearly explains the Controlled Act? If not, why?

Response:

The Clarifying Document provides a clear explanation of the controlled act of psychotherapy except that it does not specify that psychotherapy requires a specific contract for treatment, including goals, frequency and duration. This contract should be discussed openly with the patient/client whose consent should be clearly documented. It is important that the capacity of the patient/client to give that consent be understood by the practitioner. Furthermore, the contract for treatment should include the notion that goals and progress are regularly reviewed.

The document should make clear that psychotherapy is an intervention that is not only provided to individuals. It can take place in group and family contexts as well. Equally, it is delivered to children, youth as well as to adults. People with cognitive differences receive psychotherapy as well as do those whose ways learning and communicating are idiosyncratic. It is important that issues of consent be made clear and that these be managed in ways that accommodate these differences.

Psychotherapy may happen through a variety of venues that are both face to face and technology enabled. It would be important that the principles underpinning the regulation be observed in any medium. The principles should apply

¹ College of Registered Psychotherapists of Ontario (CRPO), College of Occupational Therapists of Ontario (COTO), Ontario College of Social Workers and Social Service Workers (OCSWSSW), College of Nurses of Ontario (CNO) and the College of Psychologists of Ontario (CPO)
regardless of therapeutic modality.

2. What changes would you suggest be made to improve the Clarifying Document so that the public and other health care providers (regulated and unregulated) have a better understanding of it?

Response

In the sections #3 “Delivered through a therapeutic relationship”, it would be beneficial to include a statement that the relationship between the practitioner and the individual is governed by an agreement to provide treatment which the individual being treated understands. The fact that the method, risks and possible benefits of treatment have been explained should be clearly documented by the practitioner. As well, many individuals may have the necessary qualifications and belong to one of the regulated professions, but do not have the specific qualifications to provide a given psychotherapeutic modality. Somewhere there should be an expectation of minimum requirements to deliver any given psychotherapeutic modality, and ongoing maintenance of that qualification through continuing education, supervision or peer support.

3. Should other health care providers, either unregulated or regulated and not members of the six colleges who would practice the controlled act of psychotherapy if this section of the Regulated Health Professions Act, 1991 (RHPA) is proclaimed, be allowed to practice the controlled act?

Response

It is a concern that child and youth workers providing skill development, psychoeducation or other milieu based interventions within an accredited or provincially sanctioned treatment program might be excluded by the proposed approach. Some, though not all, of these clinicians are represented by a regulating college through which they could be brought under the act. One mechanism to manage this could be to require that clinicians working within a sanctioned treatment centre be required to be overseen by a clinician who is covered by the RHPA if they are providing a clinical intervention that falls within the definition of the controlled act.

4. Are there conditions under which health care providers, either unregulated or regulated and not members of the six colleges who would practice the controlled act of psychotherapy if this section of the Regulated Health Professions Act, 1991 (RHPA) is proclaimed, be allowed to practice the controlled act? If so, which health care providers and under which conditions?

Response

Students/trainees working under the supervision of a regulated health professional who is allowed to practice the controlled act and who would subsequently be eligible for membership in one of the six colleges should be eligible to practice the controlled act within the framework of clinical supervision.

5. The five regulated colleges, along with the College of Physicians and Surgeons of Ontario (CPSO) will be able to use the title “Psychotherapists” once the Controlled Act is proclaimed. How important is it that the title “Psychotherapist” be protected?

Response

This is in reference to the above five colleges plus the College of Physicians and Surgeons of Ontario (CPSO).

RNAO Submission to HPRAC on the Controlled Act of Psychotherapy
It is important that members of the public be able to distinguish a professional who is overseen by a college, required to meet standards of practice and using an evidence informed method or technique from one who is not. In this sense, the title ‘psychotherapist’ should be protected.

Any other comments:

Responses provided by:

Neill Carson, MSW, (RSW). Clinical Director, Sick Kids Centre for Community Mental Health, formerly The Hincks-Dellcrest Centre

Dr. Diane Phillip, MD, FRCPC, Medical Director, Sick Kids Centre for Community Mental Health, formerly The Hincks-Dellcrest Centre

Dr. Tony Pignatiello, MD, FRCPC, Associate Psychiatrist in Chief, The Hospital for Sick Children

Please provide any other comments which you feel will assist HPRAC in providing advice to the Minister of Health and Long-Term Care.

Thank you for your feedback.
THE EMPOWERMENT COUNCIL
A Voice for the Clients of the Centre for Addiction and Mental Health

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THE CONTROLLED ACT OF PSYCHOTHERAPY
Sept 19, 2017

The Empowerment Council
The Empowerment Council, Systemic Advocates in Mental Health and Addictions, is a nonprofit organization funded by the Centre for Addiction and Mental Health and directed entirely by people with personal experience of mental health and/or addiction issues. The Empowerment Council (EC) represents the client voice at every level of government, at CAMH, and through judicial proceedings such as Charter cases before the Supreme Court of Canada and inquests in Ontario. The EC is also engaged in education, community development and research in the fields of mental health and addiction.

Psychotherapy Advocacy
For over two decades the EC and its forerunner the Queen Street Patients Council have advocated for greater availability of publicly funded psychotherapy. It is well established in literature that the great majority of people with mental health and addiction problems are survivors of trauma. Living with trauma can often create problems managing education and employment. Yet without significant income, psychotherapy is inaccessible for many Ontarians. What is accessible is a prescription. As a result, many people suffer the diminished quality and even quantity of life that can result from psychiatric medication, without the ability to truly recover or choose the most effective means or combination of mean of doing so.

This is the context in which the EC is evaluating the Psychotherapy Controlled Act. Regulation may enhance the government’s confidence in psychotherapists who could more economically deliver therapy that is government funded, and conceivably expand the availability of psychotherapy. In addition, the EC is naturally concerned that psychotherapy be an experience of healing and self-development, not harmful, exploitive, or even simply ineffective.

The Definition of Psychotherapy as a Controlled Act:

Presumably, the inclusion of the term "serious" is rooted in the idea that people in states of mind considered not to be serious would be less vulnerable to Psychotherapy that is unregulated. There are a few issues to consider regarding this perspective:

• People are seldom in a steady state. “Serious” is a descriptor that could be difficult to apply consistently across practitioners and over time. For example, a person who hears voices can be teaching at a university and manage their situation perfectly well, yet could have what would be considered a “serious” diagnosis, such as “paranoid schizophrenia”. A person who
has a persistent inability to enjoy life might not be considered “serious”, yet needs help to avoid a lifetime of antidepressant side effects or simply low quality of life.

- Such terms can create a category of low expectation, despite a therapist’s conscious intent.
- If the assumption is that only regulated professionals can succeed in treating "serious" conditions, that is not clearly established in evidence, though it is also an area in need of more study. Some studies suggest otherwise (e.g. Soteria House studies by Loren Mosher)
- People who are not in a state of mind that might initially be considered “serious” can still be harmed and exploited by psychotherapists

Thus we suggest removing the word “serious” from the definition.

The draft Clarifying Document on the Psychotherapy Controlled Act does not seem to describe an ideal therapeutic relationship or perspective, it leans toward describing a relationship in which the therapist is the actor, and the individual a passive object for the therapist to understand and act upon? There is no mention of working from a perspective of perceiving the clients' strengths, or insight into themselves. Abundant research indicates that most people with mental health and addiction issues are survivors of trauma, abuse being particularly common. It would be worthwhile to indicate that all therapists must have the ability to deliver trauma informed care.

The definition of Treating should include "self identified need". Listing only "assessed need or diagnosis" is treating the person receiving the therapy as an object to be acted upon, almost as if their insight and agency in their own therapy is irrelevant.

One of the elements should include informed consent, a legal requirement. The end of the second element could add "to which the client has given their informed consent".

To the third element add "The practitioner is able to discuss the relationship productively, and seeks additional guidance when required."

In the Fourth element take out the words "serious" and "seriously" as this terminology can cause increased prejudice toward the individual - it is often conflated with being hopeless. (In fact, evidence suggests that recovery is possible no matter the psychiatric diagnosis - schizophrenia, for example). Under Mood replace "affective" with "emotional". To Memory, perhaps add: “to a degree that is causing the person distress and/or difficulty functioning". Although suggesting this fine tuning, the better option would be to replace this section, that focuses on the person's problems, and instead have a section on different kinds of assistance that psychotherapy can provide. For example, therapy can assist with reality testing, relationship skills, self knowledge and regulation…So much the same ground would be covered, but the focus would be on what psychotherapists can deliver.

Regulation
People who are not members of the six colleges and call themselves psychotherapists can still be regulated, which can give the public some greater degree of confidence that they agree to abide by certain standards. Self regulation as practiced by the Colleges is, however, often perceived to operate for the benefit of the College members more than for the people on the receiving end of their services. Self regulation has an inherent difficulty of conflict of interest.

People who choose to be unregulated can call themselves counselors, indicating that they practice independently of the regulatory body. However, there should remain some protection under the law
from counselors using the relationship to exploit the individual sexually or financially, or from abusing people emotionally.

Footnote #2 should state that the individual may show more or less impairment as a result of taking medication. Therapists should acquaint themselves with psychiatric medication side effects as well as intended effects, so they can assist the individual to understand their state of mind and make an informed choice e.g. antidepressants can generate suicidality, violence, loss of libido; neuroleptics can cause unbearable restlessness, extreme weight gain, etc. Side effects can be mistaken for symptoms if therapists do not educate themselves to some extent about medications taken by their clients.

Jennifer Chambers
Empowerment Council
Executive Director
Questions to Guide Written Submissions on the Psychotherapy Controlled Act

Purpose

Key stakeholders are being invited to provide written submissions on their understanding and views of the controlled act of psychotherapy and how it affects patients and providers, both regulated and unregulated. Submissions will be used as part of the process to inform the advice which the Health Professions Regulatory Advisory Council (HRPAC) will provide to the Minister of Health and Long-Term Care.

How to complete the submission

Please provide a written response to each question. You may include additional comments at the end of the submission. Please submit your organization’s written feedback by Monday, September 20, 2017, to the following email: hpracsubmissions@ontario.ca. Late submissions may also be considered.

Note that, with consent, written submissions will be made publically available on HPRAC’s website. Please indicate in writing whether or not you consent to make your submission public.

Guidance Questions for input on the Controlled Act of Psychotherapy

1. In 2015, a Working Group consisting of five regulatory colleges¹ created a draft Clarifying Document on the Psychotherapy Controlled Act. HPRAC will be building on the excellent work of the Colleges. After reading this document (Attachment 2), do you feel that it clearly explains the Controlled Act? If not, why?

   We believe there are a couple of areas that require further clarification.

2. What changes would you suggest be made to improve the Clarifying Document so that the public and other health care providers (regulated and unregulated) have a better understanding of it?

   The document refers to an individual’s serious disorder and that the practitioner would respond to an assessed need or diagnosis. This appears to be based upon a medical

¹ College of Registered Psychotherapists of Ontario (CRPO), College of Occupational Therapists of Ontario (COTO), Ontario College of Social Workers and Social Service Workers (OCSWSSW), College of Nurses of Ontario (CNO) and the College of Psychologists of Ontario (CPO)
model’s language and could be misleading or misunderstood when it comes to mild or moderate conditions. This repeats in the treatment element and in the descriptions.

3. Should other health care providers, either unregulated or regulated and not members of the six colleges who would practice the controlled act of psychotherapy if this section of the Regulated Health Professions Act, 1991 (RHPA) is proclaimed, be allowed to practice the controlled act?

It is our opinion that other health care providers, either unregulated or regulated and not members, should not be allowed to practice the controlled act. However, we also believe each College has the responsibility to have a process in place to determine their standards of practice and training guidelines.

4. Are there conditions under which health care providers, either unregulated or regulated and not members of the six colleges who would practice the controlled act of psychotherapy if this section of the Regulated Health Professions Act, 1991 (RHPA) is proclaimed, be allowed to practice the controlled act? If so, which health care providers and under which conditions?

n/a

5. The five regulated colleges, along with the College of Physicians and Surgeons of Ontario (CPSO) will be able to use the title “Psychotherapists” once the Controlled Act is proclaimed. How important is it that the title “Psychotherapist” be protected?

It is very important otherwise the act has no value.

Any other comments:

There is no mention of trauma informed practice which could be included in the descriptions.

Please provide any other comments which you feel will assist HPRAC in providing advice to the Minister of Health and Long-Term Care.

Thank you for your feedback.

2 This is in reference to the above five colleges plus the College of Physicians and Surgeons of Ontario (CPSO).