



**Canadian Association for Psychodynamic Therapy**

**Response to**

**The Standing Committee on Social Policy**

**Concerning**

**Bill 179,**

***Regulated Health Professions Statute Law***

***Amendment Act, 2009***

***September 25, 2009***

316 Dupont Street, Toronto, ON M5R 1V9

416-964-7919

Info@PsychodynamicCanada.org

<http://www.PsychodynamicCanada.org/>

## TABLE OF CONTENTS

<b>EXECUTIVE SUMMARY .....</b>	<b>3</b>
<b>INTRODUCTION .....</b>	<b>4</b>
<b>I. RESTRICTED TITLES.....</b>	<b>4</b>
<b>II. INTERPROFESSIONAL COLLABORATION.....</b>	<b>5</b>
<b>III. COLLEGE SUPERVISOR .....</b>	<b>7</b>
<b>IV. EXPERT COMMITTEES .....</b>	<b>9</b>
<b>CONCLUDING COMMENTS.....</b>	<b>11</b>

## EXECUTIVE SUMMARY

### I. RESTRICTED TITLES

The Canadian Association for Psychodynamic Therapy (CAPT) applauds the proposed amendments in Bill 179 concerning the protected title of “registered psychotherapist” and the requirement for members of other Health Colleges authorized to perform the Controlled Act of Psychotherapy to use the abbreviated title “psychotherapist” *only* in conjunction with either the name of their College or their own protected title. CAPT hopes the Standing Committee on Social Policy will resist any arguments to remove this requirement of dual titles from Bill 179, as the clarity in the dual title is important for the protection of the public.

### II. INTERPROFESSIONAL COLLABORATION

CAPT supports the approach towards a co-operative, collegial enterprise that would enhance a patient-centred view of health care, and which would encourage the Colleges and their members to work collaboratively at the college and educational levels, rather than competitively—and to work collaboratively specifically out of their own professional expertise. CAPT is pleased that the proposed amendment to the RHPA recognizes that the “unique character” of each health profession is to be respected in any interprofessional collaborative endeavour.

### III. COLLEGE SUPERVISOR

Understanding that this amendment has been included to provide a last-resort measure for the protection of the public, CAPT offers some suggestions for the addition of clarifying language to reduce the current vagueness of the proposed amendment. If there were some critical and urgent disfunctionality on a College Council,

1. the Minister would be required to advise the Council of the reasons for appointing a supervisor
2. the Minister would also be required to demonstrate that the situation could not reasonably be dealt with by any other means, for example, through the use of the Minister's extensive statutory powers with respect to College regulations
3. the College Council would be afforded the opportunity, within a specified time, to respond to the stated reasons for appointment of a supervisor
4. the period of the supervisor's tenure would be as short as possible, and in any event, never beyond the usual date set for the election and appointment of a new Council.

#### ***Timely Establishment of Regulations***

There is nothing in the proposed amendments in Bill 179 that addresses the issue of timely establishment of development and approval of Health Colleges' regulations. CAPT respectfully suggests that the Ministry set up a dedicated group within the Ministry to deal with this. Perhaps, as a result, concerns about the possible need for a College supervisor would dissipate.

### IV. EXPERT COMMITTEES

In the shadow of considerable controversy over the Controlled Act of Acupuncture and the Controlled Act of Psychotherapy, CAPT urges that it be a requirement for the expert committees to be comprised of members selected by the affected Colleges.

## **INTRODUCTION**

The Canadian Association for Psychodynamic Therapy (CAPT) appreciates the opportunity to respond, once again, to proposed government legislation, this time to the proposed amendments to the *Psychotherapy Act, 2007* and the *Regulated Health Professions Act, 1991*. We thank the Standing Committee on Social Policy for your attention to our comments.

As you are, no doubt, aware, CAPT was one of three psychotherapy stakeholders invited to a meeting at the Ministry of Health and Long-Term Care on October 31, 2007, when stakeholders of the four new Health Colleges were gathered at the Ministry for an explanation of the *Regulated Health Professions Act, 1991* (RHPA) and the process of College formation. We are pleased to be continuing our conversation with the government.

Concerning the proposed amendments to the *Psychotherapy Act, 2007* and the *Regulated Health Professions Act, 1991*, CAPT

- commends the government for the changes related to the protected title
- makes some comments on the changes concerning interprofessional collaboration
- and offers some suggestions on the amendments involving the appointment of a College supervisor and the formation of expert committees.

## **I. RESTRICTED TITLES**

CAPT agrees with all the amendments to the *Psychotherapy Act, 2007* that refer directly to psychotherapy and the protected title for psychotherapists.

*Bill 179, Item 23 re Psychotherapy Act, 2007, Subsections 8 (1) and (2)*

1. In the proposed amendments “registered psychotherapist” becomes the restricted title for members of the College of Psychotherapists and Registered Mental Health Therapists. This retains, defends, and emphasizes the historic recognition in the *Psychotherapy Act, 2007* of psychotherapy as an independent profession.

*Bill 179, Item 24 (6) re Regulated Health Professions Act, 1991 (RHPA), Section 33.1 (1) – (3)*

2. The amendments call for members of other Health Colleges who are authorized to perform the Controlled Act of Psychotherapy to also call themselves psychotherapists but always either using the name of their own College or their own protected title before the abbreviated title “psychotherapist.” CAPT is delighted with this amendment as it is precisely what we have argued for in every brief since our response to the Health Professions Regulatory Advisory Council’s (HPRAC’s) *New Directions* at the request of the Minister of Health and Long-Term Care in 2006. We have consistently maintained that the use of such dual titles better informs the public, and makes clear to patients and clients with which College any complaint should be lodged.

In a previous response to HPRAC’s two *Interim Reports* we argued that this latter reason should be decisive against HPRAC’s advice<sup>1</sup> to share the title without qualification with the other health professions.

**CAPT hopes the Standing Committee on Social Policy will resist any arguments to remove this requirement of dual titles from Bill 179, as the clarity in the dual title is important for the protection of the public.**

## **II. INTERPROFESSIONAL COLLABORATION**

*Bill 179, Section 24 (11) re Subsection 3 (1) of Schedule 2 of the RHPA is amended by adding the following paragraph:*

*4.1 To develop, in collaboration and consultation with other Colleges, standards of knowledge, skill and judgment relating to the performance of controlled acts common among health professions to enhance interprofessional collaboration, while respecting the unique character of individual health professions and their members.*

CAPT is pleased to note that in this proposed amendment there is a balanced affirmation of “the unique character of individual health professions and their members”—even while it promotes a new level of collaboration. This corresponds with what CAPT has been suggesting in its several responses to HPRAC and the Minister of Health and Long-Term Care. CAPT supports the approach towards a co-operative, collegial enterprise that would enhance a patient-centred view of health care, and which

---

<sup>1</sup> CAPT response to two *Interim Reports* in March and September 2008, January 2009

would encourage the Colleges and their members to work collaboratively at the college and educational levels, rather than competitively—and to work collaboratively specifically out of their own professional expertise.

That's why CAPT has argued consistently that it is important that the College of Psychotherapists and Registered Mental Health Therapists first be given the time to determine the competencies of the psychotherapy profession, after which time collaboration at the College level could mean a sharing of ideas and approaches towards a truly patient-centred health care system. The College of Psychotherapists and Registered Mental Health Therapists is the primary College governing psychotherapy, and needs to have the primary responsibility of setting its standards of practice and bringing clarity to the Controlled Act and the scope of practice, even though five other Colleges share the same Controlled Act. Development of shared standards of knowledge, skill and judgment relating to the performance of the Controlled Act of Psychotherapy among all the Colleges that share the same Controlled Act then makes profound sense.<sup>2</sup>

In light of that, with regard to the clause in the proposed amendment about “respecting the unique character of individual health professions and their members,” it is important to note,<sup>3</sup> that psychotherapy at the clinical level must have a degree of insulation from collaboration in order to protect its essentially confidential structure. Provisions for the requirement of confidentiality must be factored into any collaborative arrangement, in order to protect the patient's/client's rights and care—this would be one way of “respecting the unique character of individual health professions and their members.”

**CAPT is pleased that the proposed amendment to the RHPA recognizes that the “unique character” of each health profession is to be respected in any interprofessional collaborative endeavour.**

---

<sup>2</sup> For a further consideration of the proposed requirement for standards of knowledge, skill and judgment among Colleges that share the same Controlled Act, see our section on Expert Committees, below, pages 9-11.

<sup>3</sup> As CAPT has previously explained in its response to HPRAC's *Consultation Discussion Guide on Issues Related to the Ministerial Referral on Interprofessional Collaboration among Health Colleges and Professionals* (May 2008)

### III. COLLEGE SUPERVISOR

*Bill 179, Section 24 (2). The RHPA is amended by adding Section 5.0.1 (1) – (11) on the College supervisor.*

*5.0.1 (1) The Lieutenant Governor in Council may appoint a person as a College supervisor, on the recommendation of the Minister, where the Minister considers it appropriate or necessary to do so.*

**Factors to be considered**

*(2) In deciding whether to make a recommendation under subsection (1), the Minister may consider any matter he or she considers relevant, including, without limiting the generality of the foregoing,*

*(a) the quality of the administration and management, including financial management, of the College;*

*(b) the administration of this Act or the health profession Act as they relate to the health profession; and*

*(c) the performance of other duties and powers imposed on the College, the Council, the committees of the College, or persons employed, retained or appointed to administer this Act, the health profession Act, the Drug and Pharmacies Regulation Act or the Drug Interchangeability and Dispensing Fee Act....*

CAPT offers some suggestions regarding the proposed amendment on the College supervisor. We understand that this amendment has been included in order to provide a mechanism for the Ministry to assume control and to continue operations on an urgent basis, in the public interest—as a last-resort measure for the protection of the public. However, CAPT recommends that some clarifying language be included to indicate

- the circumstances under which such intervention would be warranted
- the steps to be taken prior to such a supervisor being appointed, steps that would foster the democratic nature of the College Council (of which the majority of members are elected; this elected body, of course, must be given full respect under the legislation).

Under the proposed amendment, the grounds on which the Minister could recommend to the Lieutenant Governor in Council the replacement of the College Council with a supervisor are completely vague. It does not put in place the criteria under which the recommendation for the appointment of a College supervisor could occur. Currently, the only limitation in the proposed legislation is a public 14-day notice of the Minister's intentions. This vagueness permits, then, non-transparent action.

CAPT respectfully suggests some criteria that could be incorporated into the amendment to ensure transparency and respect the democratic and regulatory framework of the self-governing Colleges. These suggestions are in keeping with the spirit of the RHPA, which created a respectful balance between an efficient health system and self-governing professions.

### ***Suggestions for Additional Amendments***

If there were some critical and urgent disfunctionality on a College Council,

1. the Minister would be required to advise the Council of the reasons for appointing a supervisor
2. the Minister would also be required to demonstrate that the situation could not reasonably be dealt with by any other means, for example, through the use of the Minister's extensive statutory powers with respect to College regulations
3. the College Council would be afforded the opportunity, within a specified time, to respond to the stated reasons for appointment of a supervisor
4. the period of the supervisor's tenure would be as short as possible, and in any event, never beyond the usual date set for the election and appointment of a new Council.

We underscore this fourth point. If there should occur some utterly critical, urgent disfunctionality on a College Council that could not be resolved in any other democratic way or according to existing regulations, **CAPT suggests that the Minister be allowed to recommend the appointment of a College supervisor for only a specific, short period, and never beyond the usual date for the election and appointment of a new College Council.** This would serve the dual functions of intervening to protect the public, if there were a dire need to do so, while respecting the already existing democratic and regulatory framework of the self-governing Health Colleges.

### ***Timely Establishment of Regulations***

There is nothing in the proposed amendments in Bill 179 that addresses the issue of timely establishment of regulations. In *New Directions* (2006) HPRAC went to great lengths (pp 62-71) to describe the systemic failures in the timely establishment of College regulations. *New Directions* concluded that a timely, responsive regulation approvals process is a critical component in the delivery of quality accessible health

systems. In *Critical Links* (2009) HPRAC proposed a new oversight body (CHPRE) to midwife regulations from the Colleges within 60 days. CAPT is not recommending that approach, but we recommend that the Ministry set up a dedicated group within the Ministry to deal with the timely facilitation of the development and approval of Health Colleges' regulations. If that process were to become more efficient perhaps concerns about the possible need for a College supervisor would dissipate.

#### **IV. EXPERT COMMITTEES**

*Bill 179, Section 24 (9); the RHPA is amended by adding Section 43.2*

*43.2 The Lieutenant Governor in Council may make regulations,*

*(a) establishing one or more expert committees for the purposes of this Act, the Code and health profession Acts;*

*(b) specifying the functions, duties, powers and membership of a an expert committee;*

*(c) requiring an expert committee to provide reports and information to the Minister and providing for the content of such reports and information;*

*(d) requiring information to be provided by a College or Council to an expert committee, and governing the content of the information and the form and manner and time within which the information is to be provided to the committee.*

CAPT also offers some suggestions regarding the proposed amendment to add Section 43.2 to the RHPA, which would permit the Lieutenant Governor in Council to make regulations establishing one or more expert committees with the function and power of his determination, for the purposes of the RHPA, the Procedural Code, and health profession Acts. Accordingly, the Lieutenant Governor in Council would be able to specify “the functions, duties, powers and membership of an expert committee” (43.2 (b)).

To contextualize our suggestions, we begin with reference to the requirements concerning Drug Lists. CAPT notes that the purpose of an expert committee is revealed in amendments to some health Acts. For example, amendments to Drug Lists for chiropractors must be made by incorporating in regulations a document from such an expert committee (*Bill 179, Section 2 (4), adding to the RHPA Section 13 (5)*).

Such an expert committee might, for example, be the single committee suggested in HPRAC's *Critical Links* as the Drug and Therapeutics Formulary Committee for all Drug List approvals for all health professions. However, according to the *Critical Links*

recommendations, the (appointed) members of the Formulary Committee would have some degree of representation from the affected Colleges.

CAPT has no specific comment on how Drug Lists are regulated as that will have no impact on psychotherapy or the functioning of the College of Psychotherapists and Registered Mental Health Therapists. However, the proposed amendment in Bill 179 permits the establishment of expert committees for other purposes as well.

The proposed amendment already mentioned in this submission, the amendment adding a new directive for all the Colleges under the RHPA on interprofessional collaboration,<sup>4</sup> would require the creation of “common standards of knowledge, skill and judgment relating to the performance of controlled acts common among health professionals....”

We know there is already considerable controversy over the Controlled Act of Acupuncture and the Controlled Act of Psychotherapy.

In the shadow of that it would make good sense that members of the expert committees for those Colleges that share a controlled act be chosen and approved by the affected Colleges. As the proposed amendment on expert committees currently stands, the membership of the committees is undefined and the Colleges have no say in their selection. **CAPT urges that it be a requirement for the expert committees to be comprised of members selected by the affected Colleges.**

HPRAC, in its Interim Reports (March and September 2008) and in *Critical Links* (2009), advised the formation of Interprofessional Standards Committees for Colleges which share the controlled acts. In a previous submission, CAPT argued that HPRAC's recommendation of Interprofessional Standards Committees was incoherent in its details—but HPRAC's recommendation would have given the College Councils the right of representation and defined the committees as advisory. If the intent of the amendment to the RHPA concerning expert committees is to ensure interprofessional collaboration, **CAPT recommends that language be incorporated into the legislation to ensure that expert committees, specifically, be required to respect “the unique character of individual health**

---

<sup>4</sup> *Bill 179, Section 24 (11) re proposed amendment to Subsection 3 (1) of Schedule 2 of the RHPA*

**professions and their members”** (*Bill 179, Section 24 (11) re proposed amendment to Subsection 3 (1) of Schedule 2 of the RHPA*).

To this end, CAPT recommends:

1. that members of expert committees dealing with Drug Lists would have to be acceptable to the Colleges affected.
2. that members of expert committees dealing with other controlled acts be chosen by the affected Colleges. Each College must approve the whole committee.
3. that the decisions of expert committees on controlled acts other than Drug Lists be advisory to the affected College Councils.

### **CONCLUDING COMMENTS**

Many thanks to the Standing Committee on Social Policy for the opportunity to respond to the proposed amendments in Bill 179, the *Regulated Health Professions Statute Law Amendment Act, 2009*. Thank you for your consideration of our suggestions, particularly those for the inclusion of clarifying language in the amendment on the College supervisor and the inclusion of a requirement for expert committees to be comprised of members selected by the affected Colleges. We welcome any queries or comments you may have. CAPT looks forward to further discussions with the government on matters to do with the regulation of psychotherapy in the province.