

Report on the Status of the Regulation Process

Presented by Philip McKenna at the CAPT AGM, November 2, 2007

I. THE STATE OF THE LAW AT THE MOMENT

- Bill 171 passed third reading
- Psychotherapy Act (171Q) is not yet proclaimed, except for the sections that refer to setting up and managing the Transitional Council (TC). Tim Blakley, at the Oct. 31st information meeting at the Ministry of Health and Long-Term Care, predicted that it would take 2 to 3 months or longer to set up the TC and that it would take 2 to 3 years or longer for the TC to complete the establishment of the College. Only then will the whole Psychotherapy Act come into force. We are not regulated till then.
- At the Oct 31st meeting we were instructed in the philosophy of the Regulated Health Professions Act which will govern psychotherapy as a health profession. Regulation is effected by:
 - i. scopes of practice that are non-exclusive, and general enough to admit of new developments
 - ii. protected titles
 - iii. controlled acts
 - iv. the harm clause (which now includes psychological harm)

Tim gave two examples. Anyone may legitimately do some of the things a physiotherapist does as long as he or she doesn't do any controlled act, doesn't claim to be a physiotherapist, and doesn't cause bodily harm. Secondly, someone might advertise "kinesiology services" without claiming to be a kinesiologist. The legal "teeth" are in the title protection and the controlled acts.

The good news here for psychodynamic therapists is that nothing can ultimately stop us doing our work. You can work outside the regulation as long as you do no harm, do not use the protected titles, and do not perform the controlled act.

- Important to emphasize that only a specific part of psychotherapy is established as a controlled act (treating...a serious disorder...which may seriously impair).

Unfortunately for us our controlled act has no empirical anchoring whereby a therapist who is not allowed to do the act could clearly know as he approached a client what he is not allowed to do. Tim Blakley said the TC will have the task of "operationalizing" the controlled act.

II. CAPT'S YEAR

- What was gained above all in the year previous to this was the firm recognition from HPRAC that psychotherapy is an independent profession. We have it on the authority of an official of HPRAC that CAPT's brief and those of our institutional members had a decisive impact in bringing about this recognition. Against tremendous lobbying from the OPA the independence of psychotherapy is now enshrined in the Psychotherapy Act.
- In spite of the tumultuous year on the CAPT Board and in the A&O committee we ended the year on a note of happiness as we were recognized by the MOHLTC as one of the 3 stakeholders in psychotherapy for their information meeting October 31. The other 2 were the Coalition and APTI, which was originally founded by some of our institutional members following CAPT's June 2006 meeting.
- At the October 31 meeting we got to see the MOHLTC staff who work on this file and the lawyer (Christine Henderson) who advises them. They showed us great respect and repeatedly asked for our continued collaboration and input.
- We began the year deciding to support the passage of the Bill and to do our best to protect the psychodynamic modality and recommend that it be well represented on the Transitional Council. We were advised that any brief we submitted to the Standing Committee on Social Policy would constitute a file for the later deliberations of the TC. The other part of the strategy was to raise our profile at the MOHLTC as representing the psychodynamic modality. This was very important because the Coalition was claiming to represent all the unregulated practitioners and had seemingly been accepted as such by the Minister. Dan Dempster was hired as a consultant. A meeting was arranged with Alexander Young and Tim Blakley. Stephen van Beek and Caroline Mardon represented CAPT.
- When the Bill was in committee we also had a letter-writing campaign to our members' MPPs to make all parties aware of our concerns. This was managed by Ingrid Phaneuf. Most of you took part in this.
- We never had contact with the people actually framing the Bill and its amendments. One of those amendments, the change of name of the College to include "Registered Mental Health Therapists," could be bad news going forward. We will have to guard against a stealth inclusion of counsellors on the one hand and establishment of "classes" of therapists on the other hand.
- I read all the briefs. Only 2 stood out as really substantial: APTI's because they offered a possible curriculum for psychotherapy training agreed to by 17 training institutes; and CAPT's because we offered constructive solutions to the question of counsellors; the empirical anchoring of the controlled act; the question of grandparenting.
- With respect to counsellors CAPT's position is that counselling as such is not covered at all by the new Bill. Counsellors who in fact are trained as psychotherapists may enter the College as psychotherapists. We insisted the new Registered Mental Health Therapists must be fully trained in psychotherapy in order to be members of the College.
- With respect to the controlled act, our brief suggested that "the serious disorder which may seriously impair" should be understood as the kind of disorder that

required custodial care (because of proximate danger of self harm, harm of others or radical inability for self care).

- With respect to grandparenting, measures that maximize the availability of psychotherapy throughout the province should be taken—for example, recognition of years of irreproachable practice, of training, of supervision. Opportunity for upgrading standards should be generous and not too onerous. Even though a personal psychotherapy will almost certainly not be a common requirement of training, with regard to grandparenting, full weight should be given to its importance in the formation of psychodynamic therapists. The grandparenting part of the brief was largely worked out by Lisa Darrach.

III. THE WAY FORWARD

- The way the TC is set up, almost all the details about psychotherapy except the independence of the profession remain to be decided. Furthermore the Act explicitly provides for control of the TC membership and agenda by the Minister.
- Over the next year, CAPT needs to work very hard at articulating the forms of regulation that best suit our psychodynamic modality. We need to protect our identity as so much broader than a health service. We must correctly communicate in season and out with the TC and also with the MOHLTC. Those on the TC cannot act as partisan representatives and must give primacy to the public interest. They emphasized that no organization may be represented as such. The whole Council, however, will need the help of practitioners in the field and of the considered input of their professional associations.

TC meetings will be public, so CAPT representatives will be able to attend.

All this is happening in Ontario, but if we do it well here it will have incalculable benefit to our cause all over Canada and beyond.

It deserves and needs a committed group of CAPT members on the A&O committee. We need passion for psychotherapy, intelligence and skilled writers. It will change your life!