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Psychotherapy Takeover Fears II: Québec's Example DISCUSSION PAPER

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This discussion paper builds on my first paper dated September 21, 2014, available [here](#). It is meant to add to the discussion and dispel misinformation that is circulating. This should not be construed as legal advice.

As most of those following this issue are aware, the [Psychotherapy Act](#) was proclaimed on April 1, 2015. It has gone through all of the steps necessary to become law.

The problematic definition of the controlled act of psychotherapy and other sections of the [Regulated Health Professions Act \(RHPA\)](#) were not proclaimed. For now, the title, not practice is restricted in Ontario. In its [May 11 Communiqué](#), the College of Regulated Psychotherapists of Ontario (CRPO) explains that the Ministry of Health and Long-Term Care prompted the six regulatory colleges¹ whose members will be authorized to perform the controlled act of psychotherapy to further define its meaning.

This ought to be good news. However, as previously discussed, the definition is overbroad and leaves many practitioners wondering whether they risk facing enforcement actions from the CRPO. Please continue putting pressure on your MPP, the Ministry of Health and Long-Term Care and the CRPO by explaining how your practice may be at risk because of the lack of clarity between counselling and psychotherapy definitions. Your professional associations should have clear standards and scope of practice guidelines, as discussed in the earlier paper. It's important for these groups to be providing leadership on your concerns as well.

Is Québec setting an example?

Québec has regulated the practice of psychotherapy since June 21, 2012. This past May 20, La Presse² reported Québec's first ever prosecutions for the illegal practice of psychotherapy.³ Of 850 complaints, a total of eight prosecutions are expected to be commenced by the end of June. The news article gives one example of a woman who presents herself as a "coach and gypsy" faced with a \$2000 fine and requirements to immediately alter her practice. She denies "practicing therapy, rather focusing on personal development". This example illustrates the concerns raised by many in the natural health field: will their practice be deemed psychotherapy?

The number of complaints is somewhat astounding. In the past two years, La Presse reports the *Ordre des psychologues* (Québec's regulatory college for psychologists) received almost three and half times more complaints concerning psychotherapy than the *Collège des médecins* received for quackery: 657 vs. 190.

¹ Members of the CRPO and the following regulated professions: nurses, occupational therapists, physicians, psychologists and psychological associates, and social workers and social service workers.

² La Presse is a French-language daily newspaper published in Montreal.

³ Marie-Claude Malboeuf, "Premières poursuites pour exercice illégal de la psychothérapie", *La Presse* (May 20, 2015):

<http://www.lapresse.ca/actualites/sante/201505/20/01-4870947-premieres-poursuites-pour-exercice-illegal-de-la-psychotherapie.php>

Regulatory Differences Across Provinces

Readers should note that the regulatory landscape in Québec differs from Ontario and the rest of Canada. The province regulates more specialties and psychotherapy permits are granted by the *Ordre des psychologues du Québec*. Doctors and psychologists may practice psychotherapy while regulated counsellors, occupational therapists, nurses, psychoeducators, social workers, and sexologists may do so after applying for and receiving a permit.

Recall the criticism discussed in my first paper that Ontario's definition is too broad. It is difficult to interpret its practical meaning, elements like "psychotherapy technique" and "serious disorder" are not further defined. There are exceptions for counselling and spiritual counselling but it is unclear where most natural health practices would fall given the breadth of the controlled act and the overlap between counselling and psychotherapy. Ontario defines the controlled act of psychotherapy as follows:

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 judgement, insight, behaviour, communication or social functioning.⁴

Québec wisely avoids a circular definition with the use of "psychological treatment" instead of the term "psychotherapy technique". The definition also differentiates counselling. To further clarify scope, the *Office des professions du Québec* is responsible for listing interventions that are not psychotherapy. Québec defines psychotherapy as follows:

Psychotherapy is psychological treatment for a mental disorder, behavioural disturbance or other problem resulting in psychological suffering or distress, and has as its purpose to foster significant changes in the client's cognitive, emotional or behavioural functioning, his interpersonal relations, his personality or his health. Such treatment goes beyond help aimed at dealing with everyday difficulties and beyond a support or counselling role.

The Office shall establish by regulation a list of actions which relate to psychotherapy but do not constitute psychotherapy within the meaning of the second paragraph, and shall define those actions.⁵

The interventions that do not constitute psychotherapy, as defined by the *Office des professions du Québec*, are as follows:

6. The following interventions do not constitute psychotherapy within the meaning of the second paragraph of [section 187.1](#) of the [Professional Code](#) (chapter C-26):

- (1) accompaniment and support of a person through regular or sporadic meetings, so that the person may express his or her difficulties. In such a context, the professional or intervener may give advice or make recommendations;
- (2) support intervention to support a person so that the person may maintain and consolidate acquired skills and adaptation strategies by targeting strengths and resources through regular or sporadic meetings or activities. The intervention includes reassuring, advising and providing information related to the person's condition or the experienced situation;
- (3) conjugal and family intervention designed to promote and support the optimal functioning of the couple or family by means of interviews that often involve all the family members. Such intervention is intended to change the factors in the functioning of the family or couple that impede the couple's or family members' blossoming or to offer assistance and advice in the face of everyday life's difficulties;

⁴ *Regulated Health Professions Act, 1991*, SO 1991, c 18, s. 27(2)(14): <http://canlii.ca/t/2sj>.

⁵ *Professional Code*, CQLR c C-26, s. 187.1: <http://canlii.ca/t/52cw6>.

(4) psychological education intended to teach skills through the information and education of the person. Such education may be used at every step of the care and service process. It consists in the teaching of specific knowledge and skills to maintain or improve the person's autonomy or health, in particular to prevent the appearance of health or social problems, including mental problems or the deterioration of the person's mental condition. Such teaching may pertain for instance to the nature of the physical or mental illness, its symptoms, its treatments including the role that may be played by the person in the maintenance or restoration of his or her health, as well as stress management techniques, relaxation techniques, or assertiveness techniques;

(5) rehabilitation aiming at helping a person to deal with the symptoms of an illness or improving the person's skills. Such rehabilitation is used, among other things, with persons suffering from significant mental health problems so that they may reach an optimal level of autonomy towards recovery. It may form part of meetings to accompany or support the person and include, for instance, the management of hallucinations and the practice of day-to-day and social skills;

(6) clinical follow-up that consists in meetings to update a disciplinary intervention plan. It is intended for persons who display behaviour problems or any other problem causing suffering or psychological distress, or health problems, including mental problems. It may involve the contribution of various professionals or interveners grouped in interdisciplinary or multidisciplinary teams. Such follow-up may be part of an intervention plan within the meaning of the [Act respecting health services and social services](#) (chapter S-4.2) or the [Education Act](#) (chapter I-13.3), take the form of meetings or interventions to accompany or support the person and also include psychological rehabilitation or education. It may also include the adjustment of pharmacotherapy;

(7) coaching to update one's potential by developing talents, resources or skills in a person neither in distress nor in pain, but who expresses particular needs in terms of personal or professional achievements;

(8) crisis intervention consisting in an immediate, short and directing intervention adjusted to the type of crisis, the characteristics of the person and of the person's surrounding. It is intended to stabilize the condition of the person or the person's environment in connection with the crisis situation. That type of intervention may involve exploring the situation and assessing possible consequences, for instance, the danger potential, suicidal risk or risk of decompensation, defusing, support, the teaching of adaptation strategies to deal with the experienced situation and orientation towards services or care more adapted to the needs.⁶

This list is an improvement over Ontario's definition. A clear effort was made to delineate common practices that could be mistaken for psychotherapy. I summarize the categories as follows: support and listening, advice-giving, family counselling, psychological education, rehabilitation, behavioural intervention, coaching, and crisis intervention. On first analysis, the categories are helpful but many natural health practitioners may still struggle to categorize their practice. Nutritionists might fall under exceptions 4 and 6. It appears that body workers who do not provide "psychological treatment" would not run afoul of the rules.

For those who have a counselling-based practice, it may still be difficult to determine whether they are exempt under the Québec model. Psychotherapy goes beyond counselling and advice giving but the line will remain unclear for many.

Practicing Within One's Scope of Practice Likely Insufficient

Some may argue that practice within one's scope of practice would provide protection against allegations of the illegal practice of psychotherapy. It certainly helps to belong to an organized, strong professional body that has clearly defined its scope of practice. I encourage this participation and clarity. While I expect that proving practice within one's scope may be part of a defence, please be mindful that this

⁶ *Regulation respecting the psychotherapist's permit*, CQLR c C-26, r 222.1: <http://canlii.ca/t/52fc9>.

should not be taken as peace of mind. Legislators would not name professions that may practice a controlled act if it simply came down to scope of practice.

Action Steps: Make Your Voice Heard

The number of complaints in Québec may be an omen for Ontario. Imagine the result if the definition remains as vague and broad as currently drafted in Ontario. Review my [first paper](#) for a detailed analysis of the problems with the controlled act of psychotherapy as defined. Little information is public about the Québec cases and may never be known unless heard by a court. Waiting for courts to further clarify definitions in either province could take years while practitioners and clients suffer.

Please take advantage of this delay in proclamation of the definition by voicing your concerns. Get legal advice specific to your circumstances. Write your MPP, the Ministry of Health and Long-Term Care, CRPO directly and ask your professional associations to give examples of how Ontario's definition may, or may not, apply to you and why it's inappropriate to your unique practice and how your clients would be affected.