



Adapting to the Regulation of Psychotherapy in Ontario

A CMHO Member Toolkit

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Disclaimer. This toolkit offers guidance on how to understand the regulation of psychotherapy in Ontario and makes recommendations on how to work toward compliance and minimize risk. Following these recommendations will reduce risk but will not eliminate it. This toolkit is not a substitute for legal advice.

Background and Context

In 2006, the Health Professions Regulatory Advisory Council (HPRAC), recommended that several professions, including psychotherapy, be regulated under the [Regulated Health Professions Act, 1991](#) (RHPA).

In 2007, in the [Health System Improvements Act](#), the provincial government introduced legislation to enable the regulation of psychotherapy and added the “controlled act of psychotherapy” under the RHPA. With the inclusion of the controlled act of psychotherapy, the RHPA now identifies 14 “controlled acts” and limits the performance of these controlled acts to a select set of regulated professionals. The controlled act of psychotherapy is defined as:

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.

In 2017, ten years after being introduced in legislation—and after considerable reflection and feedback from stakeholders—the controlled act of psychotherapy was proclaimed into force and became law.

At the same time, the government instituted a two-year transition period, ending on December 31, 2019, to allow workers in the mental health sector to become registered with one of the appropriate colleges or to restrict their services so that they are no longer performing the controlled act.

During the transition period, there are no restrictions on who can perform the controlled act of psychotherapy. However, at the end of the two-year period, only members of the following six colleges¹ will be authorized to do so: the College of Nurses of Ontario; the College of Occupational Therapists of Ontario; the College of Physicians and Surgeons of Ontario; the College of Psychologists of Ontario; the College of Registered Psychotherapists of Ontario; and the Ontario College of Social Workers and Social Service Workers².

While the regulatory colleges for each of these professions will regulate the use of the controlled act of psychotherapy within their respective professions, at the time the transition period was instituted, the government specifically tasked the College of Registered Psychotherapists of Ontario (CRPO) with providing more clarity on the meaning of the controlled act of psychotherapy and what practices would be exempt. To this end, CRPO has released a compiled suite of resources, which you can access on their website [here](#).³

The focus of this toolkit is on providing an overview of what child and youth mental health (CYMH) agencies need to know about the controlled act of psychotherapy and how to work toward ensuring compliance by the end of the transition period.

¹ Each regulated health profession has its own legislation alongside the RHPA, which outlines the profession's scope of practice, authorized acts, and a range of provisions with respect to self-regulation and governance. For example, in the case of psychotherapists, the relevant legislation is the *Psychotherapy Act*; for psychologists, it is the *Psychology Act*, etc.

² Social workers and social service workers are not regulated *health* professionals under the RHPA, but they are a regulated profession under the *Social Work and Social Service Work Act, 1998*; and under the RHPA, members of the Ontario College of Social Workers and Social Service Workers are authorized to perform the controlled act of psychotherapy.

³ Notably, CRPO only regulates psychotherapy for its members—and not for all professions with the authority to perform the controlled act. Most other colleges are not defining the controlled act beyond what was included in the 2017 [clarification document](#). Still, we believe that that the approach taken by CRPO in defining the controlled act of psychotherapy provides the best path forward in terms of practice.

What You Need to Know – Questions & Answers

By the end of 2019, any individual who is performing the controlled act of psychotherapy must be registered with one of the six regulatory colleges whose members are authorized to do so. To provide context and important details about what this means for you and your staff, this section attempts to answer frequently asked questions.

Understanding the Legislation and Regulations

What Are “Controlled Acts”?

The [Regulated Health Professions Act, 1991](#) (RHPA), and associated health profession Acts (e.g., the *Psychology Act*, the *Psychotherapy Act* etc.), set out the governing framework for regulated health professions in Ontario. Key features of the RHPA include health regulatory colleges and “controlled acts”; profession-specific Acts define scopes of practice.

Controlled acts are procedures or activities which may pose a risk to the public if not performed by a qualified practitioner, and therefore are explicitly limited to specific professions who are deemed to have the competency and ability to perform those acts. The RHPA identifies 14 “[controlled acts](#)”—including the controlled act of psychotherapy. Other examples of controlled acts include communicating a diagnosis to a patient or client, setting or casting a fracture of a bone or a dislocation of a joint, and administering a substance by injection or inhalation.

What is the “Controlled Act of Psychotherapy”?

The controlled act of psychotherapy is defined in the *RHPA* as: “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.”

Who Can Perform the Controlled Act of Psychotherapy?

Only members of the following six colleges will be authorized to use the controlled act of psychotherapy: The College of Nurses of Ontario; the College of Occupational Therapists of Ontario; the College of Physicians and Surgeons of Ontario; the College of Psychologists of Ontario; the College of Registered Psychotherapists of Ontario; and the Ontario College of Social Workers and Social Service Workers (OCSWSSW).

In the case of members of the OCSWSSW, it is important to note that registered social service workers *can* perform the controlled act of psychotherapy. It may be helpful to review the OCSWSSW’s [Practice Guidelines for Performing the Controlled Act of Psychotherapy](#) to learn more.

Although the controlled act of psychotherapy was proclaimed in December 2017, a two-year transition period—ending on December 31, 2019—was instituted to allow additional time for individuals to become registered with one of the appropriate colleges or to restrict their services so that they are no longer performing the controlled act. During this transition period, use of the controlled act of psychotherapy remains unrestricted.

What's the Difference Between the "Psychotherapy Act" and the "Controlled Act of Psychotherapy"?

The [Psychotherapy Act, 2007](#) is the legislation that regulates the profession of psychotherapists in alignment with the *Regulated Health Professions Act* and was proclaimed into force on April 1, 2015. Conversely, the "controlled act of psychotherapy" refers to a restricted form of psychotherapy—or a limited, more specific aspect of the overall practice of psychotherapy—which is defined in the RHPA and broken down in [Understanding When Psychotherapy is the Controlled Act](#); its use is restricted to six regulated professions, including Registered Psychotherapists.

Psychotherapy in Practice

What Counts as the Controlled Act of Psychotherapy?

In the winter of 2017, five of the colleges whose members are authorized to perform the controlled act of psychotherapy jointly released a document, [Understanding When Psychotherapy is the Controlled Act](#), which breaks down the five components of the definition of the controlled act of psychotherapy, including more details on how to understand each component. The definition's five components are:

- Treating,
- by means of psychotherapy technique,
- delivered through a therapeutic relationship,
- an individual's serious disorder of thought, cognition, mood, emotional regulation, or perception of memory
- that may seriously impair the individual's judgment, insight, behavior communication or social functioning.

It is important to emphasize that *all five* elements must be present for an activity or intervention to fall within the controlled act of psychotherapy. As it was felt that this document still left room for interpretation of the definition, the government tasked CRPO with providing additional clarity on the definition of the controlled act. To this end, CRPO has developed a compiled suite of resources—discussed in the next section and available [here](#).

What Does This Mean for Staff?

For staff who *are* registered with one of the colleges whose members are authorized to perform the controlled act and perform the controlled act as part of their duties, they may continue to do so as required by their role, and in accordance with the requirements of their respective college.

For staff who are *not* registered with one of the relevant colleges and who do not use the controlled act to fulfill the duties of their role, they may also continue their work as usual.

However, if you have staff at your agency who currently perform the controlled act of psychotherapy as part of their duties and who are *not* currently registered with one of the relevant colleges, then, by the end of the transition period on December 31, 2019, they must either:

- Successfully register with one of the relevant colleges; or
- Refrain from performing the controlled act.

Registration and Supervision

What Options Are there for Staff to Become Registered Professionals?

Prior to April 1, 2017, CRPO offered a time-limited grandparenting route to registration for established practitioners. Many child and youth care practitioners (CYCPs) and other previously unregistered staff from CYMH agencies throughout the province became Registered Psychotherapists via this route.

Since April 1, 2017, applicants to CRPO must apply through the [regular route](#), which requires a range of specific requirements, including advanced education and training requirements that many CYCPs and other unregistered staff may not meet.

Another option for currently unregistered staff is to apply to the OCSWSSW as a [social service worker](#); our understanding is that CYCPs often meet the registration requirements. Registered social service workers—as members of the OCSWSSW—have the authority to perform the controlled act of psychotherapy. It may be helpful to review the OCSWSSW's [Practice Guidelines for Performing the Controlled Act of Psychotherapy](#) to learn more.

It should be emphasized that registration with a regulatory college brings additional professional responsibilities; it is important to understand what being a registered member of one of these colleges entails before registering.

Who Can Supervise Who?

In clinical settings, cross-professional supervisory relationships are common. For example, many CYMH agencies have psychologists supervising psychotherapists, and various other arrangements. Having said this, each college sets its own standards about what is expected and required of supervisees and supervisors. If you have specific questions about supervisory relationships, we recommend you contact the appropriate colleges:

- For supervision information from CRPO, click [here](#).
- For supervision information from the College of Psychologists of Ontario (CPO), click [here](#).
- For supervision information from the OCSWSSW, click [here](#) (page 9).⁴

It is important to highlight a limitation on cross-professional supervisory relationships. Specifically, the RHPA limits supervision of controlled acts when the supervisee is a student. The student must be fulfilling the requirements to join the same college as their clinical supervisor if the clinical supervision will involve supervision of a controlled act. For example, if a psychologist is supervising a student who expects to become a member of CRPO, the psychologist will not be able to supervise the student in the controlled act of psychotherapy; instead, the student would have to be supervised by a current member of the CRPO. Having said that, the CPO has put out a [Questions and Answers document](#) indicating that during the transition period, “the College is of the view that it would be appropriate to permit members to supervise individuals who are preparing to become a member of the CRPO.” Again, this is further indication that if you have any questions related to supervision of the controlled act, you should contact the relevant college(s).

⁴ Notably, the OCSWSSW has less general information about supervisory requirements, but the linked resource provides information specific to social workers and supervision within the context of the controlled act of psychotherapy.

Understanding Potential Consequences and Enforcement

What Are the Potential Consequences of Performing the Controlled Act While Not Registered?

[Section 27](#) of the RHPA sets out restrictions on who can perform controlled acts.

[Section 40](#) outlines the potential consequences for individuals who are found to be performing controlled acts without the authority to do so.

[Section 42](#) outlines the potential consequences for employers and for directors of corporate employers of individuals who are found to be performing controlled acts without the authority to do so.

While CMHO cannot offer legal advice, we encourage you to review these sections of the legislation (and other sections, such as [section 29](#), which outlines exceptions to section 27) and seek legal advice as appropriate.

What is the Regulatory Approach to Enforcement?

In a spring 2017 letter from CRPO to CMHO, Addictions and Mental Health Ontario, and the Canadian Mental Health Association Ontario, CRPO described their approach to enforcing compliance with respect to the controlled act of psychotherapy. Specifically, CRPO notes:

In general, CRPO does not plan to take enforcement action with respect to individuals who:

- *Are appropriately trained in an unregulated mental health field*
- *Practise within their scope of practice*
- *Belong to a recognized professional association in their field*
- *Work under appropriate supervision*
- *Are employed within a publicly funded or accountable organization*
- *Are not using the titles “psychotherapist”, “Registered Psychotherapist” or any abbreviation thereof (e.g., RP)*

The letter can be found on [CMHO’s website](#). While CRPO cannot speak for other regulatory colleges, we believe that this is consistent with the approaches of other regulatory colleges as well.

This communication from CRPO should provide reassurance that the CRPO is not looking to seek out and punish staff in CYMH agencies. As will be discussed, this approach is also consistent with their efforts to provide greater clarity to the definition of the controlled act.

Having said this, it is still important to keep in mind:

- Each case in question would (and will, as necessary) be evaluated on an individual basis.
- CRPO’s approach still takes for granted that where staff are performing the controlled act of psychotherapy, those staff and the agency know this is the case, and staff are registered as necessary.
- While this approach to enforcement suggests a low risk to our members and their staff, it does not mean there is no risk. So, it is important to be working in earnest toward compliance with the legislation. Recommendations for how to do this are provided in the next section.

How to Prepare – A Step by Step Guide

How Can We Work Toward Compliance?

Following the leadership of members who have been ahead of the curve with respect to working toward compliance, CMHO advises members to go through a process of reviewing all frontline positions at your agency, and determining which positions require the use of the controlled act. Consider the following example of such an evaluation process, based on Kinark Child and Family Services' approach:

1. Evaluate the Positions at Your Agency

- Use a tool to review all positions, based on documented roles and responsibilities, relative to the five core elements of the definition of the controlled act of psychotherapy, to determine which positions at your agency require use of the controlled act. For an example of such a tool, please see the [appendix](#).

2. Develop and Execute a Communications Strategy

- Communicate to staff to describe the purpose and plan for the evaluation process, including where staff can direct questions.
- Plan regularly scheduled updates for staff and answer questions.

3. Assess Human Resources Needs and Respond

- Work with both unionized and non-unionized groups as needed.
- Develop a plan to support affected staff as appropriate.
- Develop a plan to recruit new regulated professionals as required.

4. Ensure Supervision Practices Are Up-to-Date

- Review current supervision models, compared against the relevant colleges' requirements for supervision of frontline staff and of supervisor positions.

As will be highlighted in the next section, CRPO's [Self-Assessment Tool for Unregulated Practitioners](#) (beginning on page 9, [here](#)) will help you work through decisions about which positions at your agency require use of the controlled act!

This process may not meet the needs of all organizations and this is not the only way to perform such an evaluation; it's just one model. But whichever way you proceed, here are a few things to keep in mind:

- For staff in positions that are deemed to require use of the controlled act, but who are not currently registered, it will be important to support them in exploring options to become registered. If that is not a possibility, it will be important to consider if there are adjusted roles they could play in the agency.
- For staff in positions that are deemed not to require use of the controlled act, it is important to help staff understand the scope of their position—both to ensure they are practicing within that scope, and to help them appreciate that the organization values the significant contributions they make.
- Going forward, position descriptions and responsibilities should be updated to explicitly include or exclude the expectation to perform (or be restricted from performing) the controlled act of psychotherapy.

How Do We Determine Whether Someone is Performing the Controlled Act?

Even if pursuing the type of process described in the previous section seems reasonable, you may still have questions about how to determine whether a staff member in a given position is using a “psychotherapy technique”, what constitutes a “therapeutic relationship” or when something is considered “serious”. This section tries to provide guidance on such questions, using [CRPO’s Self-Assessment Tool for Unregulated Practitioners](#) (beginning on page 9).

What Counts as a Psychotherapy Technique?

What Is Not Psychotherapy?

Question 1 of CRPO’s Tool outlines a range of activities which, in isolation or in the absence of a psychotherapeutic relationship, do not count as the controlled act of psychotherapy. Some of these activities include:

- Coaching
- Counselling and support (e.g., advising; assisting in improvement of coping strategies; safety planning)
- Milieu therapy / milieu-based interventions
- Problem solving (e.g., information and advice giving; social skill development; emotional regulation)
- Single session counselling
- Teaching (e.g., social skill development; emotion regulation; prescriptive programs)

Please take a look at [CRPO’s Tool](#) (page 9) for the full listing of activities.

What Is Psychotherapy?

Question 4 of CRPO’s Tool identifies five categories of therapies that involve psychotherapy (as well as examples):

- Cognitive and Behavioural therapies
- Experiential and Humanistic therapies
- Psychodynamic therapies
- Somatic therapies
- Systemic and Collaborative therapies

CRPO notes on page 2 of their compiled suite of resources that “Practitioners who are not able to trace their modality back to one of the prescribed categories are likely not working within the scope of psychotherapy and so would not need to be registered with CRPO or one of the other regulatory colleges whose members are authorized to provide the controlled act”.

Please take a look at [CRPO’s Tool](#) (page 11) for the list of examples within each of the five categories.

What Constitutes a Psychotherapeutic Relationship?

Question 2 of [CRPO’s Tool](#) (page 10) distinguishes a “therapeutic relationship” from a “psychotherapeutic relationship”, noting that: “Unregulated providers [...] often establish genuine and therapeutic relationships with their clients to improve health outcomes and well-being. While the providers may use some psychotherapeutic

techniques as an ancillary to their duties, the goals for meeting and the relationship created are not, nor intended to be explicitly psychotherapy.”

It is important to be aware of this distinction made by CRPO, even though the RHPA does not make this same distinction; and it is important to follow CRPO on this point. (While CRPO only regulates psychotherapy for its members, our understanding is that the approach taken by CRPO in defining the controlled act of psychotherapy is consistent with the approaches of the other colleges.)

The Tool then identifies specific elements of an ongoing psychotherapeutic relationship:

- There is an explicit intent to engage in psychotherapy.
- You are responsible for having a conversation with clients about the benefits, risks and expected outcome(s) of the psychotherapy.
- You are responsible for gaining the client’s informed consent.
- You are responsible for developing, with the client, a mutually agreed upon goal or plan for the psychotherapy.
- You ensure that each therapy session has a clear beginning and a clear end where problems or concerns are presented and discussed and outcomes are explored.
- You demonstrate the appropriate use of boundaries to create a safe and confidential environment.
- You are responsible for ensuring that the client’s well-being is at the forefront of the relationship.
- You work with the client to gather relevant information that will support the formulation of a plan for psychotherapy.
- You continuously evaluate outcomes of each session and the impact on overall treatment goal(s).

What is Considered “Serious”?

Leading into Questions 5 and 6 in [CRPO’s Tool](#) (pages 11-12), CRPO notes: “In order to determine if you are performing the controlled act of psychotherapy, service providers must assess the seriousness of an individual’s disorder and impairment. [...] Assessment is a process that is ongoing and issues that may require the controlled act are not always immediately identifiable.” The Tool identifies three components of the assessment:

- The client’s subjective assessment of the level of seriousness of their condition.
- The clinician’s subjective assessment of the level of seriousness of the client’s condition.
- The assessment by another care provider of the level of seriousness of the client’s condition

Notably, what counts as “serious” in the case of children and youth may be different from what is “serious” for an adult, given a range of developmental factors—which should be considered in the course of the assessment.

More Questions?

If you have specific questions not addressed here, it is recommended you contact CRPO at info@crpo.ca.

Appendix – Sample Evaluation Template

Position	Qualifications	Specific Responsibilities and Roles	Controlled Act of Psychotherapy – Definition Dimensions					Registration Required?
			<i>Treating</i>	<i>by means of psychotherapy technique</i>	<i>delivered through a therapeutic relationship</i>	<i>an individual's serious disorder of thought, cognition, mood, emotional regulation, or perception of memory</i>	<i>that may seriously impair the individual's judgment, insight, behavior communication or social functioning</i>	
Child and Youth Care Practitioner - Community Counsellor	<ul style="list-style-type: none"> • CYC diploma • 3 years relevant experience • Ability to demonstrate diversity competency • Experience in delivery of evidence-based programs such as solution-focused brief therapy • Advanced knowledge of group dynamics 	Provide direct clinical interventions with children, youth, and families						
		Provide evidence-based treatment interventions						
		Case coordination, including advocacy and service navigation						
		Ongoing education to agency staff with respect to cultural awareness of diverse populations						
		Work closely with community partners to establish effective partnerships for service delivery						
Child and Youth Care Practitioner - Residential Treatment	<ul style="list-style-type: none"> • CYC diploma • 1-2 years related experience • Knowledge of DBT an asset • Training and understanding of UMAB • Understanding group dynamics and strong skills in group and individual counselling 	Member of an inter-disciplinary team						
		Participate in the development and implementation of treatment plans						
		Provide a safe therapeutic environment in which individual client goals are actualized						
		Maintain therapeutic relationships with clients, families and model positive social and problem-solving skills						
		Support activities of daily living in a community environment						