

**LegCo Panel on Health Services**  
**Special Meeting on June 30, 2004**  
**Way forward on the regulation of health care personnel not**  
**currently subject to statutory registration**

**Statutory Registration of Psychologists in the HKSAR**

**Executive Summary**

1. Psychologists fall into HWFB's category of professions of "high risk level" as they have "frequent contact with patients and provide direct clinical treatment".
2. Professional psychologists, in particular clinical psychologists (CPs) and educational psychologists (EPs), provide direct clinical care and services which include diagnosis/assessment and treatment to all age groups in a variety of settings. Psychologists may provide such services without referral from and totally independent of other medical professionals. Psychologists' professional status is recognized by the law and the Government. Psychologists are accorded equal status as medical practitioners when serving as expert witness in the criminal justice system.
3. The amount of direct care and treatment provided by psychologists is tremendous.
4. Psychologists provide support to professional carers, teachers, and parents of school children. They are active in community education and the whole community potentially has indirect contact with them.
5. Malpractices in providing psychological services may result in long-term or even life-long and irreversible damage to service recipients.
6. The small number of complaints or reported incidents related to psychologists may be due to service recipients' hesitation to complain as they know society-based investigation has no legal power even if the complaine is found guilty. Besides, they may not be aware of what constitutes malpractices by providers of psychological services.
7. We estimate at least 483 psychologists are eligible for registration and the number is growing by 77-87 every two years. This size is bigger some other professions covered by statutory registration (e.g., chiropractors).

8. We estimate about 19% of psychologists are employed in the private sector. This number is likely to grow rapidly as many new graduates will have to work in the private sector due to the lack of service expansion in the public sector.
9. Many psychologists who moved into private practice recently are relatively inexperienced. They do not have the close supervision by experienced psychologists or institutional control enjoyed by their predecessors in the past. Besides, the public can easily find advertisements by providers of psychological services. Without statutory registration, it is not easy for the public to check if these individuals are qualified and abide by the relevant code of professional conduct.
10. All international practices consistently point to the need of statutory registration of psychologists.
11. The effectiveness of society-based registration in protecting the public is questionable. Individuals who do not want their work and behaviour monitored and bound by ethical codes or professional standards of practice would simply not join or withdraw from it. The Hong Kong Psychological Society (HKPS) has no power over these individuals.
12. Statutory registration of psychologists is urgently needed to protect the public. In a survey done by HKPS in 2001, only 9.3% of the respondents were of the view that the Government's regulation of psychological services was adequate and 73% agreed that statutory registration of psychologists was necessary. The data suggest that the public support statutory registration of psychologists.
13. As psychologists must practice within their competence or specialty, the use of specialty designations should be used in statutory registration to avoid confusion among the public and misrepresentation by the service providers. We urge the Government to put forward a separate public bill for statutory registration of psychologists. As some psychological specialties cannot be classified as health care personnel (e.g., industrial-organizational psychologists), a combined bill with other health care professions is not appropriate.
14. Psychologists satisfy all the criteria for statutory registration laid down by HWFB and are ready for statutory registration. HKPS has developed a mature set of professional ethics, is in the process of setting up requirements for continuing professional education for registered members, and has practiced society-based registration for 10 years.

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1. On May 14, 2004, the Health, Welfare and Food Bureau (HWFB) submitted to the LegCo Panel on Health Services a paper entitled “Way forward on the regulation of health care personnel not currently subject to statutory registration” (Paper No. CB(2)2365/03-04(04), referred to as Paper in the rest of this submission). The Hong Kong Psychological Society (HKPS) submits this paper to provide Members of the Panel with update information. We argue that statutory registration of psychologists in the HKSAR is absolutely necessary for effective protection of the public. Psychologists satisfy all the criteria for statutory regulation put forward by HWFB. They are also ready for statutory registration as they have practiced society-based registration for 10 years.

**Principles and Criteria for Statutory Regulation**

2. According to the Paper, the HWFB “generally accords higher priority to those health care personnel which are of a larger size, predominantly in the private sector, as well as more patients’ interface and higher level of harm arising from private practice (para. 11)”. In the next few sections, we shall explain why psychologists satisfy all these criteria.

**Patient Interface**

*Large Number and Diverse Groups of Recipients of Psychological Services*

3. One of the criteria for statutory registration put forward in the Paper is provision of direct clinical treatment (para. 7). Professional psychologists do in fact provide direct services to a large number of service recipients in the community.
  - 3.1 Clinical Psychologists (CPs) provide direct clinical care and services, which include diagnosis/assessment and treatment/intervention to patients of all age groups (including children, adolescents, adults, and the elderly) in various settings (e.g. child assessment, student health, specialist clinics, general and psychiatric hospitals, discipline settings (e.g. police and prison). Moreover, they provide direct clinical services to all staff of some very important public organizations (such as Hong Kong

Police Force, Correctional Services Department, Hospital Authority). They also provide direct clinical services to staff and students of some tertiary education institutions.

- 3.2 Educational Psychologists (EPs) provide direct services (including assessment and treatment) to students in primary and secondary schools, special schools, and other service-recipients covered by the Education & Manpower Bureau (EMB). Direct work with clients takes up 70-80% of EPs' work time.
- 3.3 Industrial/Organizational psychologists (IOPs) provide assessment including psychological testing, recruitment and selection, and counseling service to employees in various work settings.
- 3.4 Other professional psychologists (e.g. sports psychologists, counseling psychologists) also provide direct counseling services to their clients.

*Amount of Psychological Services Provided by Psychologists is Tremendous*

4. According to the data collected by members of HKPS in 2003, psychologists provide a tremendous amount of direct and indirect services. The figures in the following paragraphs are probably underestimates as the number of service recipients was lower in 2003 due to SARS. The data were collected from around 80% of professional psychologists and do not include the clients served by CPs & EPs in private practice and tertiary institutions.
  - 4.1 CPs working in five major public settings (including Hospital Authority, Department of Health, Social Welfare Department) provided services to around 33,000 patients/clients (head-counts) and 180,000 contact hours. In the same year, clinical psychologists in four of these five major public settings (Hospital Authority excluded) gave 880 talks/workshops to an estimated total audience of 36,000.
  - 4.2 A very conservative estimate of the number of clients directly served by EPs (in regular and special schools, and EMB) was around 7,200, involving 26,100 contact hours. They provided 14,000 hours of talks or training to around 140,000 participants.
  - 4.3 IOPs directly served about 16,000 individuals (including assessment, counseling and other direct services) for a total of about 32,000 contact-hours. They also provided 200,000 psychological tests and gave 1900 talks to an estimate of 5,500 participants.
5. Psychologists may provide services without referral from and totally independent of other medical professionals.

6. Professional psychologists provide training/talks and consultation and support to professional carers including nurses, doctors, social workers, other allied health professions (by CPs), teachers (by CPs and EPs), and parents of school children (by EPs & CPs). They play a key role in the education and training of parents, teachers and other professionals in child health and development. They also provide expert advice on issues related to psychological health and primary prevention issues. They give talks/seminars and appear on the media whenever necessary. Thus, the whole community potentially has indirect contact with psychologists.

*Recognition of Psychologists' Professional Status by HK Law and Government*

7. That psychologists are independent professionals who have direct client or patient interface is also evident in the criminal justice system where they are required to serve as expert witness in court. As expert witness, they may advise the court on the defendants' competence to stand trial, their level of risk to the community and treatment needs in relations to sentencing, as well as offering advices on litigations related to child custody and injuries compensation, etc. In view of their expertise in the field, they are accorded equal status as medical practitioners when serving as expert witness in the criminal justice system. Psychologists' reports to the court are regarded as independent professional reports.
8. Contributions of CPs and EPs have been recognized in the following areas with legal implications: a) the assessment of "mentally-incapacitated persons" in the Mental Health (Amendment) Ordinance and b) the assessment of specific learning disabilities (such as dyslexia) for eligibility for special examination provisions in public examinations. CPs have been appointed to serve on statutory bodies such as Mental Health Review Tribunal and Guardianship Board. They are also involved in the assessment of SARS patients and their eligibility for SARS funds, as well as assessment of patient's suitability for special and costly treatment procedures, e.g. organ transplant.
9. To summarize, psychologists obviously fall into HWFB's category of "high risk level" as we have "frequent contact with patients and provide direct clinical treatment" (para. 8 of the Paper). Besides, we also have frequent contact with the public and people close to the patients or clients.

### Level of Risk Associated with Malpractice

10. HWFB is of the view that the service of “health care personnel who perform invasive procedures are more prone to pose more imminent and recognizable threat to the well-being of service recipients....should be accorded with higher priority for statutory registration” (para. 9 of the paper). HKPS argues that risks and threat to the well-being of service recipients are not only limited to invasive procedures. Malpractices in providing psychological services may in fact result in long-term or even life-long and irreversible damage to service recipients. Psychologists are making important decisions and giving advice on a daily basis that involve life and death issues in work such as management of domestic violence cases. The following paragraphs explain some of the potential risks and threats from unqualified or unethical providers of psychological services.

#### *Failure to Diagnose/Assess or Misdiagnosis/Mis-Assessment*

11. Professional psychologists (especially CPs and EPs) have direct and significant roles in helping in assessment and diagnosis of mental health problems, specifically in assessment of “mental retardation” and “mentally incapacitated persons” as defined in the Mental Health Amendment Ordinance. Failure to provide proper diagnosis may
- a. affect or lead to improper treatment or rehabilitation plan of the service recipient, and the consequences can be life-long,
  - b. delay proper treatment and prolong course of illness,
  - c. inadequately assess the risk to the service recipient him/herself (e.g., suicidal risk), and
  - d. inadequately assess the risk to others (e.g., homicidal tendency, relapse of pedophiles, risk of violence).
12. Mis-assessment by unqualified IOPs may lead to inappropriate human resources policies which will adversely affect the personnel and organizations concerned.

#### *Misuse of Psychological Test*

13. Professional psychologists strictly follow standard procedures in administering psychological tests and interpreting the results. Failure to follow such procedures may result in misdiagnosis. A psychologist registered with HKPS had a client who was misclassified as “gifted” by an expatriate psychologist registered overseas. The expatriate psychologist did not use the Hong Kong norms and ended up with the wrong assessment.

14. Psychological tests take years to develop in order to achieve good validity and reliability. Therefore, psychologists must keep the content of such tests confidential or the tests will become invalid. However, there was a self-proclaimed “psychologist” who leaked the items of a standard psychological test to the public.

#### *Failure to Provide Proper Treatment/Training*

15. Failure to provide proper treatment may again result in prolonged course of illness and other detrimental consequences to the service recipient. For example, CPs, EPs and counselling psychologists (CoPs) have to handle past psychological trauma very tactfully or retraumatization may occur. A psychologist registered with HKPS once encountered a client who had been previously counselled for her child abuse experience by a self-proclaimed provider of psychological services. The client felt more depressed and suicidal due to the untactful and repeated conversations about the abuse. This case indicates that malpractice in providing psychological service could result in serious threat.
16. Improper training or counselling by unqualified IOPs could result in stress and emotional problems. The economic loss could be huge: the annual costs of absenteeism due to stress-related illness are estimated to be about US\$30 billion in USA.

#### *Abuse of Relationship*

17. The relationship between a psychologist and service recipient is based on trust. Abuse of such a relationship may result in grave emotional consequences. HKPS has received reports on sexual and psychological abuses of clients. In USA, there were 45 complaints against psychologists for having sexual misconduct with adult clients in 2001-3.

#### Small Number of Reported Incidents

18. The Paper maintains that there has been “only a small number of incidents and injury” and that such a small number “may serve as an indicator of the relatively low level of public health risk” (para. 15). This is again another grave underestimate of the potential risk. HKPS has received a total of 12 complaints in the past 14 years. However, this figure does not include the many inquiries about non-members we have received. There is also a possibility that service recipients are hesitant to complain as they know society-based investigation has no legal power even if the complainee is found guilty (Please refer to the section on society-based registration below).

19. Another possible reason for the relatively low number of complaints is that the public are not aware of the possible malpractices by providers of psychological services. Appendix 1 shows a summary of ethical complaints against psychologists in USA and UK in 2001-3. It can be seen that the nature of problems is rather diverse. For instance, the public may not know service providers are not supposed to be “practicing outside competence” as they are not aware of the different specialties of psychologists. In 2001, HKPS conducted a telephone survey on the public’s views of psychological services in Hong Kong. 613 adults responded. Among those who had received psychological services, only 10% checked the qualification of the service provider.

Size of Profession

20. HWFB proposes that professions of a smaller size should have a lower priority for statutory registration for their “relatively smaller magnitude of health risk imposed onto the community” (para. 10 of the Paper). We must point out that the numbers of psychologists in Annex A of the Paper are gross underestimates. We collected data from members of HKPS and came up with the following estimated numbers of professional psychologists in Hong Kong (as at May 2004):

Table 1. Estimated Number of Psychologists in Each Specialty

	Psychologists					
	Clinical	Educational	Industrial-Organizational	Counselling	Others <sup>1</sup>	<b>Total (%)</b>
Public	217	87	15	5	67	391 (81)
Private	30	4	35	23	0	92 (19)
<b>Total</b>	<b>247</b>	<b>91</b>	<b>50</b>	<b>28</b>	<b>67</b>	<b>483 (100)</b>

<sup>1</sup>These psychologists are mainly academic psychologists (e.g., cognitive psychologists and social psychologists) teaching in tertiary institutions.

21. It can be seen that our profession is of a bigger size than some other professions covered by statutory registration (e.g., chiropractors). Besides, our profession is growing steadily as the University of Hong Kong and the Chinese University of Hong Kong produce at least 38 CPs, 13 EPs and 6 IOPs every two years, and more than 10 - 15 graduates every year at master or doctoral level in other areas of psychology. All these graduates will be eligible for the proposed statutory registration.



### Employment Distribution in Public and Private Sectors

22. HWFB also argues that psychologists, amongst other health care personnel, are mainly employed in the public sector and “tend to pose less threat to public health...” (para. 10 of the Paper). It can be seen in Table 1 that about 19% of psychologists are employed in the private sector. This number is likely to grow rapidly as many new graduates will have to work in the private sector due to the lack of service expansion in the public sector. As far as we know, seven and five psychologists moved into private practice in 2002-3 and 2003-4 respectively. We estimate that 15 to 20 more psychologists will start their private practice in 2004-5.
23. According to HKPS’s survey in 2001, 15% of respondents who had sought psychological help sought it from private psychologists. This indicates that the demand for private psychological service is quite high.
24. Besides the fast growing number of psychologists in private practice, most of these psychologists, as pointed out in para. 22 above, are relatively inexperienced. They will not have the close supervision by experienced psychologists or institutional control enjoyed by their predecessors in the past. Professional regulation and continuing professional education stipulated by statutory registration are effective ways to ensure the quality of all psychological services.
25. The numbers of psychologists in private practice reported in Table 1 only include those we know are qualified. The public can easily find advertisement in magazines, newspapers or the telephone directory by people claiming to be psychologists and offering psychological services. A casual search of the online Yellow Pages reveals 56 entries under the category “Psychologists”. While many of the listed psychologists are indeed members of HKPS and qualified psychologists, there are others whose qualifications cannot be openly checked by HKPS or the public. Statutory registration is urgently needed to ensure that these individuals are qualified and abide by the relevant code of professional conduct.

### **Registration of Psychologists in Overseas Jurisdictions**

26. We agree with HWFB that insights should be borrowed from international practices in regulating psychologists (para. 17 of the Paper.) Unfortunately, HWFB’s insights are based on the misinformation in Annex B of the Paper. Annex B lists USA, Australia, Canada and Korea as countries with statutory registration of psychologists and UK, Singapore, and

Japan as without. The fact is that all seven countries HAVE statutory registration of psychologists in place. Starting in 2004, UK has statutory registration of all psychologists providing psychological services under the Health Professions Council. For our neighbours not on the list in Annex B, Taiwan started statutory registration of psychologists in 2001, and mainland China has also recognized the need for statutory regulation of the training and/or practice of psychological assessment and treatment. Contrary to HWFB's conclusion, all international practices consistently point to the need of statutory registration of psychologists.

### **Society-based Registration**

27. In the Paper, HWFB suggests that health professions should employ society-based registration in lieu of statutory registration (para. 18 and 21). However, our experience has told us that society-based registration suffers from serious limitations. Its effectiveness in protecting the public is questionable and by no means comparable to statutory registration.

28. Since 1994, HKPS has been running a voluntary society-based registration system to maintain a register of qualified psychologists. While most, if not all, psychologists who are willing to abide by the rules of registration have registered. Our biggest concern is those self-proclaimed psychologists who would not or are not eligible to join the voluntary registration. Individuals who do not want their work and behaviour monitored and bound by ethical codes or professional standards of practice would simply not join HKPS. Throughout the years, most of the enquiries and complaints about malpractices by "psychologists" received by HKPS involved non-members of HKPS. HKPS could neither comment nor carry out any investigation on them, though some were prima facie cases. Without statutory registration, there is no protection of the public against such individuals and their malpractices.

29. Society-based registration could be powerless even against members of HKPS. Complainees who are members of HKPS could simply withdraw from HKPS during investigation, again making themselves untouchable by HKPS.

### **Statutory Registration of Psychologists is Beneficial to the Public**

30. Statutory registration ensures that only individuals with adequate education and training in the discipline of psychology can use the title of "Psychologist", that they abide to the code of professional conduct, and that they will only practice within their competence. Statutory

registration will help regulate various continuing education and insurance requirements within the profession. This will offer quality assurance.

31. Statutory registration will assist employers to select suitably qualified psychologists for their vacancies.
32. Statutory registration will provide a transparent and accessible avenue for the public to bring queries and complaints when there are indications of professional incompetence, malpractice, negligence and/or misconduct.

### **Statutory Registration of Psychologists is Supported by the Public**

33. In the survey done by HKPS in 2001, only 9.3% of the respondents were of the view that the Government's regulation of psychological services was adequate and 73% agreed that statutory registration of psychologists was necessary.

### **Format of Registration**

34. As there are different disciplines of psychology, psychologists must practice within their competence or specialty. We propose the use of specialty designations in statutory registration to avoid confusion among the public and misrepresentation by the service providers.
35. We urge the Government to put forward a separate public bill for statutory registration of psychologists. As some psychological specialties cannot be classified as health care personnel (e.g., industrial-organizational psychologists), a combined bill with other health care professions is not appropriate.

### **Conclusion**

36. On the basis of the above arguments, HKPS urges Members of the Panel on Health Services and HWFB to put forward and pass a public bill to register psychologists in HKSAR. Psychologists satisfy all the criteria for statutory registration laid down by HWFB.
37. Furthermore, psychologists are ready for statutory registration. HKPS has been established for over thirty years and served by experienced professional and academic psychologists, many of whom are holding key positions in the Government, subvented non-government

organizations, and universities. HKPS has developed a mature set of professional ethics, is in the process of setting up requirements for continuing professional education for registered members, and has investigated different models of registration. We have formulated detailed procedures for handling professional misconducts and complaints. All we need is a formal establishment of the statutory authority for monitoring our work. We see no reason for the Government to defer statutory registration of psychologists and continue to expose the public to the potential hazards of malpractice in psychological services. We trust that HWFB will not want to put the psychological well-being of the public at risk by simply waiting for more complaints to justify the need for regulation of the profession. Prevention is always better than cure.

Preparatory Committee on Statutory Registration of Psychologists

The Hong Kong Psychological Society

June 23, 2004

## Appendix 1

### Summary of ethical complaints in the United States

	<u>2000</u>		<u>2001</u>		<u>2002</u>	
	case s	%	case s	%	case s	%
<b>Total number of new cases</b>	43	--	42	--	34	--
<b>Area of complaints</b>						
Loss of licensure	25	58	10	24	19	56
Sexual misconduct (with adult clients)	17	40	10	24	18	53
Nonsexual dual relationship	7	16	7	17	3	9
Inappropriate child custody evaluation	7	16	14	33	2	6
Confidentiality	3	7	3	7	2	6
Insurance/ fee problems	3	7	2	5	2	6
Practicing outside competence	0	0	2	5	2	6
Inappropriate follow-up/ termination	1	2	1	2	2	6

**Note:** the cumulative percentage across different areas of complaint is larger than 100 as there might be more than one area of complaint per allegation.

### Summary of ethical complaints in Britain

	2000	2001	2002	2003
<b>Total number of new cases</b>	66	86	76	83

Note: Breakdown of the area of complaints are not available.

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