

Documents from the front line

This section is intended to include material of a non-academic, practical and immediate nature, representing ongoing psycho-political process – including manifestos, course hand outs, leaflets, petitions, round-robins and epherma of all kinds. All contributions will be gratefully received.

Professional Pluralism and Partnership: Strategies for Resistance and Action

In Aotearoa New Zealand, the term ‘psychotherapist’ is regulated by statute under the Health Practitioners Competence Assurance Act 2003 (‘the *Act*’). Since 15 October 2007, when the Order in Council, made earlier on 21 May that year, came into effect, whereby psychotherapy was included as a ‘health profession’ under the *Act*, the term ‘psychotherapist’ has become a protected one. Practitioners who wish to refer to and advertise themselves as psychotherapists must register with the ‘responsible [regulatory] authority’ for psychotherapy i.e. the Psychotherapists Board of Aotearoa New Zealand (‘PBANZ’ or ‘the Board’) (see <http://www.pbanz.org.nz/index.php?Home>), or risk prosecution and/or fine – and, it transpires, harassment.

The move to the state regulation of psychotherapy and the statutory registration of psychotherapists was, for many, uncontroversial and uncontentious and, according to Bailey (2004) – the prime mover in recent times of psychotherapy registration – it was not contended. Others who were around at the time report, rather, that challenge, opposition and dissent to this move were dismissed. Despite the literature available at the time which challenged the arguments for regulation, including some five books on the subject, and the fact that, in most countries of the world, psychotherapy was – and still is – not regulated by state or statute, the majority of psychotherapists, or at least those within the New Zealand Association of Psychotherapists (NZAP), agreed with or were persuaded by arguments or assertions that regulation and registration were desirable. While the NZAP was the key stakeholder in the move to, and the discussions about registration, it is important to note there were and are many psychotherapists – or people practising psychotherapy – who are members of other professional organisations and associations such as the New Zealand Association of Counsellors (NZAC).

As in the UK, the opposition and resistance to the statutory regulation of psychotherapy and the state registration of psychotherapists in Aotearoa New Zealand have

encompassed both psychoanalysts and radical humanistic therapists, with, significantly, Māori therapists who object to the fact that the *Act* has no reference to Te Tiriti o Waitangi (the Treaty of Waitangi) – a treaty which many view as the founding document of the nation. Unlike the UK and most other countries in the world, practitioners in Aotearoa New Zealand inhabit a post-regulation professional landscape, governed by a Board which has extended – and continues to extend – its remit beyond the scope of the *Act* – actions about which the Board has been and continues to be challenged. In this context, a group of ‘psy’ practitioners and activists have come together under the title and organisation *Independently Registered Psychotherapy Practitioners (IRPP)* to provide some leadership which promotes pluralism and supports those who continue to practise independently and who do not register as a state ‘registered psychotherapist’; and to offer a critique of the *Act*, and the Board and its increasing regulation of the field beyond what the profession originally envisaged. As a part of this leadership and struggle we have put together a book, *The Turning Tide: Pluralism and Partnership in Psychotherapy in Aotearoa New Zealand* (Tudor, 2011), which chronicles the history of the moves towards the statutory regulation of psychotherapy and the state registration of psychotherapists in Aotearoa New Zealand; offers a detailed critique of the *Act* and the Board; elucidates the arguments for and against regulation and registration; clarifies the distinction between the regulation of title and the licence to practise; includes an indigenous perspective from tangata whenua or the people of the land; encompasses different theoretical perspectives; reclaims a pluralistic perspective on the practice of psychotherapy; and outlines existing practical alternatives for ‘health care providers’ practising psychotherapy. As such, it stands as a case study of the challenges and pitfalls of regulation and, as Adjunct Professor Bernie Neville has commented in his endorsement of the book, ‘gives a clear warning to be careful what we wish for’. Similarly, Professor Andrew Samuels has written that:

This is a timely, measured and well-informed explanation of why state regulation of psychotherapy can never go well. Given the uncontrollable subject matter of the work of psychotherapy, there is something implausible about the whole project. Trying to regulate the impossible profession causes politicians and bureaucrats to work themselves up into a colonising frenzy of over-control in which no-one is protected, and certainly not ‘the public’.

As we, the IRPP, as a group have gathered together to discuss and debate regulation and registration, and to encourage others to do so, to support each other, and to research the literature and government policy, we have discovered that we are not alone, and that we have what might appear to be some surprising allies, including the Ministry of Health (2010), which has noted: ‘In New Zealand, registered health practitioners are regulated by the *Act* and unregistered practitioners may be regulated by an employer’s standards for service delivery or through self-regulation.’ (p. 6, our emphasis) Nor are we alone internationally, as events this year in the UK have demonstrated. In its policy document confirming that it has rejected the statutory regulation of health and social care workers, the British government, in the form of the Secretary of State for Health, has stated:

By freeing society from unnecessary laws, the Government aims to create a better balance of responsibilities between the state, business, civil society and individuals, and to encourage people to take greater personal responsibility for their actions. The Government therefore believes that the approach to professional

regulation must be proportionate and effective, imposing the least cost and complexity consistent with securing safety and confidence for patients, service users, carers and the wider public. The current economic climate makes it all the more important to ensure that there are no unnecessary costs in the professional regulation system. (Secretary of State for Health (2011, p. 3)

In doing so, it has acknowledged that:

Effective regulation of healthcare workers and social workers can support and develop the notion of professionalism by promoting self-regulation at an individual level. In the rare and troubling circumstances when things do go wrong, the regulators can take action to prevent or reduce the likelihood of instances of misconduct, or indeed incompetence, from being repeated. However, it does not follow inevitably that compulsory and centralised statutory regulation is the most effective or efficient way of ensuring high quality care. (Secretary of State for Health, 2011, p. 4)

Nor in Aotearoa New Zealand are we alone or isolated in this resistance. 'Ehara taki toa i te taki tahi, engari he toa taki tini' ('I am not a lone warrior, but I am a warrior amongst many'). This Māori proverb catches something of the sense of social being and belonging which is represented in the ideas in *The Turning Tide*. As one of the chapters in the book makes clear, for the past 170 years Māori have been struggling with the Crown over many of the same issues and for many of the same reasons (Morice and Woodard, 2011). The dominant ideologies of our era prescribe a disastrous political and economic choice: either the markets or the state. We choose neither. Rather, we embrace a third alternative, a civil society founded on an ethics and economics of stewardship, kaitiakitanga, with regulation through association, through pluralism, diversity and relationship, and most particularly through a bicultural partnership guided by Te Tiriti o Waitangi. Offering tangata whenua protection, participation, and partnership turns out to mean offering this to non Māori as well. Enlisting ourselves in the service of Māori practitioners, we do service to the entire kaupapa whānau or indigenous Māori family systems of psychotherapy, thereby reinforcing and strengthening its core values and virtues.

The struggle continues, and we continue to advocate pluralism both within the current law whereby unregistered practitioners can refer to themselves as 'health care providers' practising psychotherapy and, looking to the future, whereby people could be 'state-registered psychotherapists' and independent 'psychotherapists'. As a part of this, we have identified a number of strategies to pursue, collectively, in associations, in small groups, and individually. Note that these are not specific or particular aims of the IRPP, rather options for us and others to pursue.

Regarding the Health Practitioners Competence Assurance Act 2003

- To argue for the repeal of the Health Practitioners Competence Assurance Act 2003.
- To argue that psychotherapy should be taken out of the *Act*.
- To lobby for a change in the *Act* to insert 'state' before the term 'registered practitioner'. This would mean that there would be psychotherapists and state-registered psychotherapists, similar to the situation with social workers.
- To organise submissions to the next review of the *Act* (due in 2012), including, as a part of the 'policy settings' of the *Act*, that it needs to reference Te Tiriti o Waitangi (the Treaty of Waitangi).

Regarding the Psychotherapists Board of Aotearoa New Zealand

- To write to the Ministry of Health expressing concern about the work and attitude of the Board, and the appointment of the so-called ‘representatives’ from the profession; and to ask the Minister to instruct the Board to withdraw that part of its notice (Psychotherapists Board of Aotearoa New Zealand, 2008) which pertains to the extension of the scope of practice of the title ‘psychotherapist’, and to consult with the profession as required under Section 14(2) of the *Act*.
- To complain to Parliament about the Board.
- To seek representation on the Board.

Regarding other legislation

- To lobby for a separate Psychotherapists’ Registration Act or, perhaps more strategically, a Psychological Professionals’ Registration Act, which could include counsellors, music therapists, art therapists, etc., and which, like the Social Workers Registration Act 2003, would allow for registered and non-registered practitioners.

Regarding the New Zealand Association of Psychotherapists

- To lobby the membership of NZAP and the NZAP Council to reissue the Association’s Annual Practising Certificate (APC) for all members, registered and unregistered, who have met the APC criteria.
- To lobby the membership to keep the profession true to its vocation, by continually and continuously reflecting on, engaging with and seeking to understand psychotherapeutically every decision it makes at all levels of management and governance.
- To lobby the Association to reaffirm its commitment to public psychotherapy services and to a low-cost, low-key, low-impact Registration Authority that works collaboratively with all psychotherapists to develop public psychotherapy services.

Regarding the IRPP

- To recruit members and support for the values and principles of the IRPP, which include:
 - Accessibility – expressed in terms of a commitment to the development of public psychotherapy services.
 - Freedom of assembly and expression – expressed in terms of an advocacy of dual registration, Māori pathways to registration, and plurality in professional association.
 - Biculturalism – expressed in a commitment to Te Tiriti o Waitangi (the Treaty of Waitangi), and to the development of cultural competence.
 - Psychodynamics and social dynamics – expressed in terms of a recognition of the unconscious factors that help to shape public policy, governance, and regulatory and bureaucratic authority.
 - Reciprocity – in terms of relationships between colleagues, associations, and authorities.
 - Participation – expressed in all matters to do with organisation and association.
- To develop links with other professional groups, associations, and organisations in Aotearoa New Zealand such as the Australia and New Zealand Psychodrama Association,

Australia and New Zealand Society of Jungian Analysts, the New Zealand Association of Child and Adolescent Psychotherapists, the New Zealand Association of Counsellors, the New Zealand Association of Psychotherapists, the New Zealand Transactional Analysis Association, and Waka Oranga (the Māori group of psychotherapists/psychotherapy practitioners and NZAP's treaty partner).

- To develop international links with other like-minded groups and associations.
- To develop the IRPP newsletter and website (www.irpp.org.nz).

Public statute

- Health Practitioners Competence Assurance Act 2003.
- Social Workers Registration Act 2003.

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