



PROFESSIONAL BOARD FOR PSYCHOLOGY

Report of the Working Group on Promulgation of Regulations

February 2018

Executive Summary

The purpose of this document is to describe the recommendations compiled by the Working Group on Promulgation of Regulations in response to the Court Order of the Western Cape High Court that declared the Amendment Regulations Defining the Scope of the Profession of Psychology (published GNR 704 in GG 34581 of 2 September 2011) invalid, but suspended the declaration for 24 months to avoid a regulatory vacuum and afford the Professional Board for Psychology (hereafter Board) the opportunity to rectify the situation. This document lists the recommendations of the Working Group that was appointed by the Board, and provides the rationale for these recommendations and the processes that led to them.

Key points are as follows:

- a) Dissatisfaction with the Regulations Defining the Scope of the Profession of Psychology (published GNR 704 in GG 34581 of 2 September 2011) is widespread;
- b) This dissatisfaction stems from efforts to define scopes of practice that are perceived by some as being mutually exclusive, ambiguous, poorly aligned with training and many practitioners' legitimate competencies and/or biased to the benefit of clinical psychology over others;
- c) The profession has seen a great deal of anger, dissatisfaction and conflict amongst practitioners, particularly in private practice settings, as some medical aid schemes have interpreted the regulations to justify the exclusion of some categories from accessing medical aid reimbursements;
- d) Save for the efforts in the late 1990s that were for the most part never implemented, the regulation and training of professional psychologists is little changed since the promulgation of the Health Professions Act of 1974, when psychology was seen as a profession for the benefit primarily of white people;

- e) The profession of psychology is largely untransformed and does not reflect the demographics of the country;
- f) Access to psychological services is still largely skewed in favour of middle class, English- and Afrikaans-speaking, white South Africans;
- g) The Board has increasingly received the ire of those unhappy with the historical position; and
- h) The court order, therefore, is a welcome opportunity to promulgate new regulations and implement other measures so that the profession of psychology is better placed to serve the needs of all South Africans.

The Working Group on Promulgation of Regulations recommends the following:

- a) The proposed definitions of the categories of psychologist and professions of registered counsellors and psychometrists be adopted by the Board;
- b) The promulgation in accordance with the law of a set of new regulations to define the scope of the profession of psychology and the scopes of practice of specific categories in psychology, based on extensive engagements with stakeholders, informed by research, and designed to serve the various mental health and psychological needs of the population, within the timeframe provided by the court;
- c) The new regulations should merge those relating to the scope of the profession and scope of practice (currently R704 and R993);
- d) A process for transverse registration across categories, to ameliorate any unintended absolute barriers affecting psychologists who are able to satisfy the Board that they have the requisite competence, experience, training and qualifications to practice in another category for which they have successfully applied;
- e) To develop a longer-term plan that articulates a new vision for psychology, including a review of the current training and regulatory landscape to ensure that the profession is best placed to respond to the mental health and psychological needs of all South Africans. This includes

the proposed introduction of a generalist psychologist category at master's degree level and specialist categories at a post-master's degree level.

1. Background

Psychology has burgeoned as a profession in South Africa over the last seven decades. However:

“Organised psychology's historical role and evolution has often mimicked and mirrored socio-historical developments within the South African social formation at different historical junctures, thus acting as a microcosm of South African society at different periods” (Suffla, Stevens, & Seedat, 2001, p. 28).

With the advent of the 1916¹ University Act of South Africa, psychology was taught as a distinct discipline in South Africa. Wilcocks was appointed Professor of Logic and Psychology at Stellenbosch in 1917 and Rayburn was appointed Chair of Psychology at Cape Town in 1920 (Cooper & Nicholas, 2012). Following the developments in many Western jurisdictions where psychology became fashioned as a profession between the two world wars (Cooper & Nicholas, 2012), Prime Minister Smuts² appointed Stellenbosch's Malherbe to head Intelligence during the 2nd World War and the University of the Witwatersrand's Biesheuvel to establish the Aptitude Tests Section of the Air Force³

The clamour for formal registration and licensing rose as universities produced more Masters psychology graduates in clinical psychology⁴. The SA Psychological Association (SAPA) and the Psychological Institute of the Republic of SA (PIRSA)⁵ lobbied government for statutory recognition. The SA Medical and Dental Council Act was amended as Act 56 of 1974, assented to on 9 October

1 This created the University of Cape Town (previously South African College), the University of Stellenbosch (previously Victoria College), the University of South Africa (incorporating other colleges), and the South African Native College (later Fort Hare) for blacks.

2 Smuts completed a psychobiography of Walt Whitman in 1895, having founded 'holism' in 1926, which inspired Alfred Adler, Fritz Perls and other Gestalt psychologists.

3 This became the National Institute for Personnel Research, some of whose researchers attempted to provide a “‘scientific’ basis for the inferiorization of blacks”.

4 Following the medical model of clinical psychology adopted in Boulder, USA in 1949.

5 PIRSA broke away from SAPA in 1962, some five years after the application from a black psychologist for membership was eventually agreed, by which time she had left SA.

1974, and the Professional Board for Psychology was established as an auxiliary of the Medical and Dental Council, with the first two Boards being chaired by a psychiatrist⁶. The Board in its first term had applications from a few persons who wished registration as counselling psychologists. There being no accredited training, internship sites or supervisors, the Board agreed to a novel self-report of self-supervision. Thus began the category of counselling psychology⁷.

As in other colonial countries where teacher training informed higher education, educational psychology was a subject at universities, but separated from the psychology departments. This anachronism which also applies to industrial psychology⁸ has survived the mergers in the higher education landscape in the early part of this century. Teachers who were Masters graduates in educational psychology then applied for statutory recognition, which the Board granted. Pre-democracy, the Boards granted special dispensations to the public sector where services were needed (e.g., the various departments of education and the departments of police, military, and labour). The intention was to enable persons working in the public sector who had four years of psychology to perform psychological acts without being regarded as violating the Act, which proscribed those acts reserved for psychologists. The categories of Psychometrist and Psychotechnician⁹ were thus created. Ignatius van W. Raubenheimer¹⁰ was amongst the prominent Afrikaner industrial psychologists who influenced the Board to open the register in that category. Certain academics advocated for statutory recognition of research psychology, although *bona fide* academics in the course of their education and training duties at universities are entitled to use the legally protected title of psychologist. The creep

6 Robbertze, who gained registration as a psychologist, was SA's Director of Mental Health in the early 1980s and defended notorious apartheid-era torturers at the TRC. The Editor of the SA Journal of Psychology, Ricky Mauer, then assumed the chair, but the Medical and Dental Council continued to appoint medical practitioners to represent its interests, particularly as the private medical scheme industry's trajectory grew.

7 Andrew Swart, a student counsellor at Wits, was a forerunner.

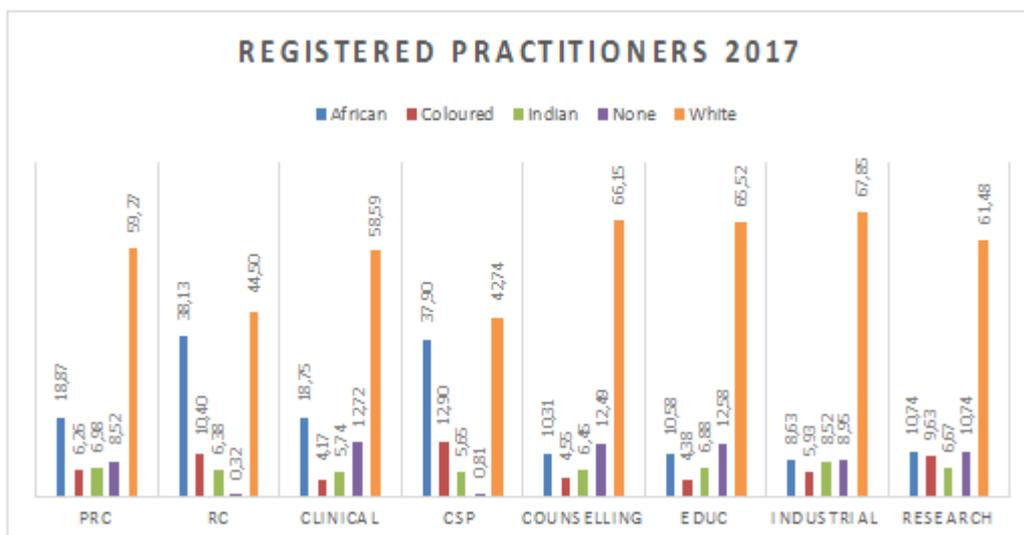
8 Only Wits retains industrial psychology in the Psychology Department. All other industrial psychology departments are located in the business/commerce faculties.

9 The psychotechnician register has been closed since 2000 when the new practice framework was under discussion.

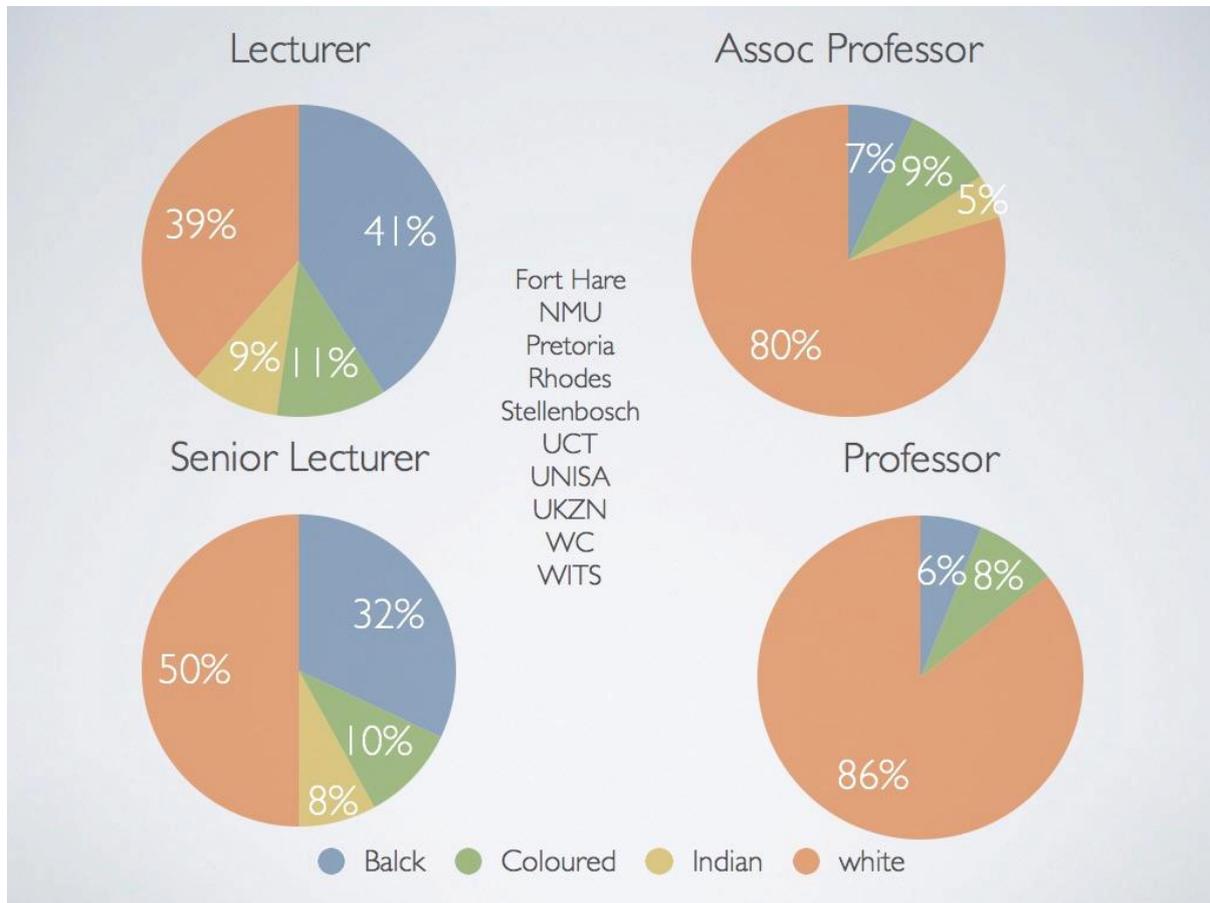
10 "Naas" who headed industrial psychology at UNISA, Stellenbosch and RAU, in 1975 founded what is now the SA Journal of Industrial Psychology retaining editorship until 1995.

into the various applied psychology domains began as medical schemes determined the billing rates for their members within the very limited private healthcare space, which continues to serve a fraction of the elite.

From the outset of registration and licensing of clinical and the other categories, an uncritical Western model was adopted. The entry level for professionals who may use the protected title of psychologist remains a specialist category of clinical, counselling, educational, industrial and research psychology. In the post-apartheid era black enrolment in psychology grew, but the demographics still favour whites who comprise less than 9% of SA's population. The advent of the first two black psychologists on the Board in 1994, nominated by the Psychological Society of SA (PsySSA) saw the composition of the Board transform and the 6th Board (1999-2004) urged university training programmes to admit an equal number of blacks and whites to meet the needs of the country in the hope that by 2010 psychology would better reflect SA's demographics. Unfortunately, white practitioners continue to dominate all of the registers, as the table below indicates (PRC: Psychometrists; RC: Registered Counsellors; CLINICAL: Clinical Psychologists; CSP: Community Service Practitioners (i.e., Clinical Psychologists in Community Service); COUNSELLING: Counselling Psychologists; EDUC: Educational Psychologists; INDUSTRIAL: Industrial Psychologists; RESEARCH: Research Psychologists).



This skewed racial pattern appears to correlate with the staffing pattern of South African universities, as the charts below suggest.



Although the introduction of the Registered Counsellor register opened up the profession, the current psychology profile is untenable and undesirable. The Board, embracing the necessity for transformation and maintaining international benchmarking, introduced community representatives in the late 1990s, which has become the norm with all the Boards in the HPCSA. Additionally, the Board pre-registration examination pass mark is set at 70%, with the emphasis having been on ethics (cf. the TRC recommendations), relevant legislation in line with our constitutional dispensation, knowledge of culture, diversity and issues like violence which are of major concern in our society. Despite Board attempts, classified psychometric tests are overwhelmingly Euro-American, with many outdated.

Acknowledging the unhappiness with our inherited professional dispensation which does not meet the growing needs of our people, where most practitioners are in private practice or privately

engaged, the 6th Board introduced transvers registration, which some of the litigants (see section 3 below) were offered but chose not to pursue. This historical moment provides the opportunity to seriously transform the profession to not only address those who are disaffected but importantly lay the foundation for a dynamic recalibration of the psychological landscape so that future generations will be freed to serve all of SA to the best of their ability, without regard to race, language, class, gender and other such limitations. As Kuhn (2012) avers, “paradigm shifts become necessary when the plausibility structure of the previous paradigm becomes so full of holes and patchwork ‘fixes’ that a complete overhaul, which once looked utterly threatening, now appears as a lifeline.”

2. The Regulations

For the purpose of the discussion to follow, we refer to the following:

- a) Regulations Defining the Scope of the Profession of Psychology, published in GNR 993 of 16 September 2008 as “the 2008 Scope of the Profession Regulations”. These regulations were intended to delineate and protect the various acts of psychology from unregistered persons, though are often incorrectly thought to define the ‘core competencies’ of all psychologists.
- b) The Regulations Defining the Scope of the Profession of Psychology, published in GNR 704 of 2 September 2011 as “the 2011 Scopes of Practice Regulations”. The purpose of the 2011 Regulations was to establish the following professional categories within the profession of psychology in which a psychologist must register, in order to practise. Those categories are: (i) clinical psychologist; (ii) counselling psychologist; (iii) educational psychologist; (iv) research psychologist; (v) industrial psychologist; (vi) neuropsychologist; and (vii) forensic psychologist. Additionally, the regulations also define the scopes of practice for the professions of (ix) registered counsellors and (x) psychometrists. The obligation to register in a professional category was originally provided for in the policies of the Board (specifically Form 224); however, it did not have force of law. The purpose of the 2011 Regulations was to formalise

the obligation on psychologists to register in a particular professional category through the creation of subordinate legislation to that effect.

3. Legal Timeline

On 2 August 2013, the Recognition of Life Long Learning In Psychology Action Group¹¹ (ReLPAG) (1st applicant) and Justice Alliance of South Africa (JASA) (2nd applicant) filed a notice of motion to the High Court of South Africa in response to the 2011 Scopes of Practice Regulations.

The respondents were listed as the then chair of the Board, Professor Tholene Sodi (1st respondent), the Professional Board for Psychology (2nd respondent), the Health Professions Council of South Africa (3rd respondent), the Minister of Health (4th respondent) and the Board of Healthcare Funders of Southern Africa (5th respondent).

The Rural Health Advocacy Project (Section 27), Clinical Psychology Forum and Educational Psychology Association of SA were recognised as Amici Curiae. The Clinical Psychology Forum filed an affidavit to oppose the motion by the applicants while the other two organisations were in support of the applicants.

The applicants sought two forms of relief:

Part A. In the first instance, they sought a declaratory order that all registered psychologists are entitled to practice in any area within the bounds of their competence based on formal education and training, supervised practice and/or other professional experience.

Part B. In the alternative, the applicant sought an order reviewing and setting aside the Minister's decision to promulgate the 2011 Scopes of Practice Regulations.

¹¹ ReLPAG participated in various meetings of the 7th Board (2005-2010) and agitated for inclusion of certain acts that educational psychologists may perform. The formulation of the current scope and the various guidelines were a consequence of this.

The view of the Board was that it was imperative to defend the matter to avoid the risk of serious negative implications for the continued regulation of the profession to protect the public. The Executive Committee, therefore, in August 2013 resolved that the firm of attorneys approved by the HPCSA, Gildenhuis Malatji Attorneys, be appointed to represent the Board to oppose the notice of motion submitted by ReLPAG and JASA.

After many consultations, meetings and exchange of legal papers, the matter was called on 25 April 2016 in the Western Cape High Court, Cape Town, before his Lordship Mr Justice Monde Samela. However, prior to the matter being called, Advocate Maenetje, SC had identified the fact that the applicants had not published a notice as contemplated in Rule 16 A, indicating their intention to raise a constitutional point.

Justice Samela appeared to agree that the matter could not proceed and encouraged the parties to find a suitable date to which the matter could be postponed. During the discussions regarding the postponement, the applicants' representatives raised the question of whether there was possibility for a settlement. A settlement proposal was received, but this was rejected as there was doubt regarding the lawfulness of some of the proposals. In the meantime, the Board met with representatives for the Educational Psychology Association of South Africa (EPASSA), various medical aid schemes and participated in meetings with ReLPAG that were facilitated by the Psychological Society of South Africa (PsySSA) to attempt to find a suitable settlement agreement.

Because no settlement agreement could be reached, the matter was set down for hearing in the Cape Division of the High Court, Cape Town, from 14 to 18 November 2016. The Judge President had allocated two judges to hear the matter, Madam Justice Elizabeth Baartman and Madam Justice Elize Steyn.

The Minister's legal team, in its supplementary heads of argument filed on or about 16 September 2016, conceded that there is insufficient evidence on the record to prove that the minister had interacted with the comments received from stakeholders in response to the draft regulations that

became the 2011 Scopes of Practice Regulations and that he had consulted with the HPCSA as required by the Health Professions Act of 1974. The Minister had effectively conceded the review application on procedural grounds, thus precluding the substantive arguments of the Board from being considered further.

Given the concession and the technical nature of the regulations, the judges directed that the parties discuss a remedy with the view to reaching agreement on the terms of the order. Agreement was reached and on 14 November the Court ordered that:

1. Part A of the application, including the question of costs in relation to Part A, is postponed sine die.
2. The application for condonation is granted in Part B.
3. The Regulations Defining the Scope of the Profession of Psychology (published GNR 704 in GG 34581 of 2 September 2011) (“the Regulations”) are declared invalid.
4. The fourth respondent’s decision to promulgate the Regulations is remitted for reconsideration.
5. The order of invalidity, referred to in paragraph 3 above, is suspended for a period of 24 months.
6. During the period of suspension, the first to third respondents shall consider, in each case of pending disciplinary proceedings against a practitioner for acting outside the scope of his or her registered scope of practice, postponing disciplinary proceedings pending the promulgation of new regulations by the fourth respondent.
7. The parties record that their agreement in relation to paragraph 6 above is without prejudice to their respective contentions in relation to Part A.
8. Each party shall pay its own costs occasioned by the postponement ordered on 22 August 2016.

9. The third and fourth respondents shall pay the applicants' costs in relation to Part B of the application, including the costs of the striking out application, jointly and severally, the one paying the other to be absolved.
10. The third respondent shall pay the applicants' costs in relation to the applicants' application in terms of uniform rule 6(5)(e) and to strike out, dated 25 October 2016, up to 1 November 2016, being the date of delivery of the confirmatory affidavit of Prof B Pillay (the current Board Chairperson), dated 26 September 2016.
11. All costs orders shall include the costs of two counsel.
12. A copy of this order shall be served by the applicants' attorneys on the fifth respondent and on the Council for Medical Schemes.

Most significantly, the order is that the 2011 Scopes of Practice Regulations are declared invalid, and that this declaration of invalidity be suspended for a period of 24 months to allow the Minister to promulgate new regulations, preferably on or before 14 November 2018 to avoid a regulatory vacuum.

The terms of the order have provided the Board a welcome opportunity to reconsider the regulations defining the different categories of psychology practitioners and the professions of registered counsellors and psychometrists. Indeed, at the time of the agreed Court Order, the Board had already for some years been working on a number of projects to inform the necessary revisions to the scopes of practice with a view to promulgating new regulations to ensure that the profession is better placed to serve the needs of the population of South Africa.

4. Work Done in Response to the Various Issues Raised, 2012 to 2017

In addition to the establishment of a Task Team in 2012 and Working Group on Promulgation of Regulations in 2017 (which are discussed below), the Board has been actively engaged with the profession by participating in a number of meetings and conferences with many different

stakeholders. In particular, the Board members have attended and presented, in their official capacities, at the following conferences:

- 8th and 9th International Test Commission (Affiliated Members of ITC)
- PsySSA Conferences
- 1st PAPU Conference
- SIOPSA Conference
- Western Cape Department of Education Conference
- 1st and 2nd Sports Psychology Conference
- 5th International Congress on Licensure, Certification and Credentialing in Psychology
- 14th National SACNA Conference
- 16TH Annual Conference for The Employee Assistance Professionals Association Of South Africa (EAPA-SA)

The Scope of Practice Guidelines for Educational Psychologists was finalised in in January 2017. The purpose of the document is to provide clarity for practitioners who had complained about the vagueness and misinterpretation of the regulations. Similar guidelines were being prepared for other categories but this work was suspended with the outcome of the court case and the requirement to prepare new regulations.

4.1 The Scope Task Team, 2012 to 2017

The Scope Task Team was constituted by the Executive Committee in 2012, chaired by Dr van Vuuren. It had started its work in January that year with proposed amendments to the Scope of the Profession and the Scope of Practice Regulations¹². Additionally the Task Team commissioned a benchmark analysis, a qualitative analysis of submissions from practitioners in response to the proposed

¹² These amendments were never promulgated as events were soon overtaken by the ReLPAG/JASA litigation.

amendments to the regulations and, finally, a survey of all psychology practitioners. The Task Team was re-convened in 2016 and chaired by Professor Young.

4.1.1 HPCSA Research and Best Practice Benchmarking, October 2012

This project involved an analysis of websites and available literature on academic search engines pertaining to the scope of the profession and practise of psychology in seven countries, namely the RSA, the USA, the UK, Canada, India, Brazil and Australia. The WHO website was also consulted. Due to the language barrier, information on psychology in India and Brazil was limited. The research sought to locate the Board's regulatory frameworks within the broader international practices.

Findings indicate that most countries have regulators and formal requirements for registration, which include practical training. Most of the HPCSA's categories exist under the same or similar names elsewhere in the world. Indeed, the regulatory framework that exists in South Africa is quite consistent with practices elsewhere.

4.1.2 Findings of the Analysis of Input Received from Stakeholders on The Revised Scope of Practice and Scope of Profession of Psychology, 26 November 2012

After many concerns were raised about the wording and grammar of the 2011 Amendment Regulations, the Board made certain proposed revisions to the scope of practice and scope of the profession documents, and at an open stakeholders meeting on 21 August 2012 at Emperors Palace requested written feedback on the new documents by 3 September 2012. All relevant stakeholders including the 1st applicant and universities participated. The narrow timeframe was stipulated by law for a period to consider revisions after the promulgation of the regulations. Despite the short time, 45 documents were included in the data analysis: 19 of these from professional associations/societies/task teams, 9 from educational institutions, and 17 from individual professionals. Professor Claire Wagner was contracted to do a qualitative analysis of the various documents to summarise the views of stakeholders and to present the findings in a report for the Task Team. A summary of her findings is as follows:

The issue for stakeholders that was of most concern is the demarcation or overlap between the different categories. Concern was expressed that the scopes are not aligned with the training and practice of many practitioners and that this would prevent many practitioners from being allowed to continue to work within their full range of competencies. The overwhelming majority of submissions argue that the boundaries between categories should recognise the overlap between them. In particular, much concern was expressed about the problematic demarcation between the acts of clinical and counselling psychologists, interpreted by many as being overly restrictive on counselling psychology and/or too permissive of clinical psychology. Significantly, a number of submissions call for regulations that better provide for the mental health needs of the underserved sectors of the population of South Africa.

Her recommendations are:

- Create an opportunity for wider stakeholder consultation, especially by making all the HPCSA registered psychologists aware of the revised scope of profession and scope of practices documents and requesting their comments within a reasonable timeframe;
- Related to this, request more submissions especially from educational institutions that did not respond;
- Align definitions in the scope of profession and scope of practice;
- Reconsider the definitions and wording used in the documents (as detailed by stakeholders);
- Consider the lack of a test classification framework and investigate ways to address this concern;
- Investigate the scope of practice of counselling versus clinical psychology and the perceived bias towards clinical psychologists;
- Look into international best practice about the demarcation between categories;
- Consider the need for a grandfather clause or transverse registration for existing practitioners who practice outside the proposed scope;

- Ensure that the revised scope documents will address the needs of all South Africans to access mental health care;
- Consider the financial and legal implications of having the specialities of neuropsychologists and forensic psychologists instead of categories.

4.1.3 Report of the National Survey of All Registered Psychology Practitioners, February 2017

This national survey was commissioned by the Task Team and conducted by Quantify Research (Pty) Ltd, an independent service provider. Data was collected by means of an online survey, sent to all the email addresses of registered psychology practitioners on the HPCSA database. The proposal to conduct the survey was reviewed by and received ethical approval from the Rhodes University Ethical Standards Committee (RU-HSD-16-05-0004).

Towards the end of 2016, 2645 practitioners responded to the invitation to complete the survey that explored all the major aspects of their professional practice, including their own demographics, qualifications, professional activities, client demographics, and work settings, which resulted in 2081 completed surveys, which is almost 20% of the registers of the Board. To date, this is the largest South African survey of psychology practitioners that has ever been undertaken. The results, as expected, are revealing. However, because the dataset is massive, only a few of the main findings are reported here, though interested practitioners can download a more detailed report on the HPCSA website.

Before discussing the main findings, it is important to acknowledge that the use of race categories as a demographic variable in South Africa is controversial because they represent apartheid-era distinctions and their continued use contradicts the national commitment to non-racialism. On the other hand, race remains a social reality for most South Africans and is, unfortunately, still an indicator of life opportunities. Therefore, while we use race categories as one of a number of demographic variables to describe an important aspect of the social reality of the profession of psychology and to gauge progress with social redress, we reject the racist ideology on which these categories are based.

The results of the survey confirm that the majority of practitioners in the different categories are white women between the ages of 31 and 40 years of age, with a few notable exceptions. Counselling and educational psychologists have an older age profile than the other categories, with a large proportion that are over the age of 50 years, while psychometrists and registered counsellors have the youngest age profile. About three quarters of all practitioners are white, with registered counsellors being the youngest and most representative of black African practitioners. When comparing the demographics of the client groups of the different categories, a stark picture emerges: Black African practitioners are much more likely to see black African clients than are white practitioners. Similarly, most consultations take place in English (60%), with Afrikaans the second most commonly used language (20%). Clearly, much remains to be done to ensure that the profession can claim to be representative of the people of South Africa, and to ensure that psychological services are accessible to all.

Also interesting is that despite the fact that only a small minority of South Africans have medical aid insurance, approximately half of the total work time of clinical, counselling and educational psychologists is conducted in private practice settings. Private practice is also the most popular setting for registered counsellors, accounting for 28% of their time, while psychometrists are torn between private organisations and private practice, each accounting for 26% of their work time. In contrast, the most popular work settings for industrial psychologists are private organisations, which accounts for 35% of their time, while 32% of the work time for research psychologists takes place at universities.

Indeed, the data also show that while there is overlap between categories, these are still quite distinct and relevant. For example, while clinical and counselling psychologists spend 24% and 28% of their time, respectively, working with children and adolescents, this proportion of time for educational psychologists is 62%. Assessment, diagnosis and intervention are the main activities of clinical, counselling and educational psychologists, while prevention and development is an activity that features prominently for counselling and educational psychologists. Grief, trauma and crisis counselling are amongst the most prominent activities of counselling psychologists, while

psychoeducational intervention and parental guidance feature prominently for educational psychologists. Short-term rather than longer-term psychotherapies feature most prominently for clinical, counselling and educational psychologists.

The survey is a useful start to better describe the activities of practitioners and to track changes to this and to the demographics of the profession over time. With the recent upgrade to the Council's IT systems that allows practitioners to renew their registrations and update their contact details online, the expectation is that the database will become much more complete and accurate to ensure higher response rates.

Significantly, while there is overlap between categories, there are also differences, suggesting that they remain relevant, and also that much more needs to be done to ensure that the profession provides high-quality service to the majority of the population.

4.2 Work of the Working Group on Promulgation of Regulations, 2017 to 2018

By early March 2017, the Scope Task Team had finalised its work. Following this and the Judgment of the High Court in November 2016, the Executive Committee of the Board resolved to constitute the Working Group on Promulgation of Regulations chaired by Board Chairperson, Professor Basil Pillay, to take the process further and prepare in consultation with stakeholders the draft regulations for promulgation.

4.2.1 Consultations with Stakeholders, 2017

Following the Order of the Court and the subsequent constitution of the Working Group on Promulgation of Regulations, all practitioners¹³ and professional associations¹⁴ were invited to give

¹³ The largest number of individual practitioner submissions was received from counselling psychologists, followed in decreasing order by educational psychologists, clinical psychologists, registered counsellors, industrial psychologists, psychometrists and research psychologists.

¹⁴ Professional associations included the Association of Registered Counsellors in South Africa (ARCSA), Clinical Psychology Forum (CPF), Counselling Psychology South Africa (CPSA), Educational Psychology Association of South Africa (EPASSA), Private Practitioners for Psychological Services in South Africa (PP4PS), Psychological Society of South Africa (PsySSA), Recognition of Life Long Learning in Psychology Action Group (ReLPAG), South African Clinical Neuropsychological Association (SACNA), South African Psychoanalytic Confederation (SAPC),

input to the Board on issues relating to the Scope of the Profession and the Scopes of Practice. The comment period was 26 May 2017 to 16 June 2017. In addition to their written submissions, professional associations were afforded the opportunity to engage with the Working Group to make their presentations. These interactions took place on 22 and 23 June 2017.

Additionally, the universities¹⁵ and internship sites¹⁶ were also invited to make submissions on the scopes of practice. These institutions were also invited to engage with the Working Group to make their presentations on 14 and 15 September 2017.

In many respects, the input from the individual practitioners, associations, university training institutions and internship sites is much the same as the input received in 2012 that is described in the report by Professor Claire Wagner. Perhaps one new addition is the number of submissions that call for bold interventions to remedy what are perceived as major divisions within and dysfunction of the profession rather than a simple tweaking of the existing regulations.

From the various submissions, the Working Group noted the following:

- There is much confusion about the purpose of the 2008 Scope of the Profession Regulations. While many interpret these to define the core competencies of all psychologists, their primary purpose is intended to rather protect an unsuspecting public from unregistered people - who fall outside the regulatory purview of the Board - from performing psychological acts that have serious consequences, and which are statutorily reserved for the psychology profession. To

South African School Psychologists' Association (SASPA), Society for Educational Psychology of South Africa (SEPSA), and Society for Industrial & Organizational Psychology of SA (SIOPSA).

¹⁵ Written submissions were received from Stellenbosch University, University of Cape Town, University of Kwa-Zulu Natal, University of South Africa, University of Pretoria, University of the Witwatersrand, University of the Western Cape, Walter Sisulu University, Rhodes University, Nelson Mandela University, and University of Venda.

¹⁶ Internship sites included CEB (Gartner), Khanya Family Centre, Johannesburg Parent & Child Counselling Centre, Training Sites on the Witwatersrand Academic Platform (Charlotte Maxeke Johannesburg Academic Hospital, Chris Hani Baragwanath Academic Hospital, Rahima Moosa Mother Child Hospital, Sterkfontein Specialist Psychiatric Hospital, Tara H. Moross Psychiatric Hospital), Weskoppies Hospital, The Department of Behavioral Medicine/Durban Hospital Complex and North West Department of Education. The Internship sites linked to UCT made a submission with UCT.

avoid this confusion, the new regulations should ideally incorporate and align the scope of the profession of psychology and the regulations defining the scopes of practices of the different categories in psychology and the psychometrist and registered counsellor professions.

- Some practitioners have stated that they were trained in integrated programmes prior to 2011 and claim competencies that exceed those stipulated by the regulations defining their scopes of practice.
- There is a widespread perception amongst practitioners that the 2011 Scopes of Practice Regulations are overly restrictive on counselling and educational psychology and/or too permissive of clinical psychology. This has been a major source of conflict in the profession, which is exacerbated by the limitations imposed by medical aid schemes.
- While clinical psychologists appear more likely than counselling and educational psychologists to be generally satisfied with their own scope of practice, some are concerned by what they perceive as the intrusion into their scope of practice by other practitioners and categories. In contrast, some other clinical psychologists expressed concern about the perceived overly narrow scopes of practice for counselling and educational psychology.
- In general, practitioners, associations and internship sites expressed a poor understanding of the scope and training of other categories.
- There are calls for a mechanism to allow those who have legally acquired appropriate training and experience to apply for transverse registration from one category to another.
- There is confusion about the purpose of Continuing Professional Development (CPD). Viewed by some practitioners as a mechanism to acquire competencies in order to justify acting outside of one's scope of practice, the actual purpose CPD is to assist health professionals to maintain and acquire new and updated levels of knowledge, skills and ethical attitudes within

their scopes of practice¹⁷. Registration in any category is a matter of formal education and training and not CPD activities.

- A proposal was made to change the name of the Registered Counsellor category to Psychological Counsellor to distinguish from the many lay counsellors who fall outside of the profession of psychology.
- A question posed was whether research psychologists should continue to be registered by the Board when they do not perform the psychological acts of assessment, diagnosis and intervention of individuals and groups for healthcare purposes. The benefit of registration is the use of the protected title of psychologist.
- Concern was expressed about the current model of training where professional training happens in a one-year masters degree followed by a one-year internship, both considered by some to be insufficient to prepare trainees for the demands of the profession.
- Universities have not always updated their training in line with the Board's requirements and there is possibly too much variety in terms of the different curricula and training standards.
- The de-linking of internships and the academic programmes at some universities has negatively affected the continuity of training.
- The inequitable funding model for professional training in psychology is a problem that puts financial strain on universities and threatens the sustainability of the various accredited training programmes.
- The issue of funding of posts and community service only for clinical psychologists was raised as a concern. Community service is a contractual obligation to the state and not an additional year of training as sometimes erroneously thought.

¹⁷ The document *Continuing Professional Development: Guidelines For The Health Practitioners* (approved by Council July 2017) states. "Practitioners may obtain their units within their own discipline, speciality or sub-speciality or within another relevant discipline, speciality or sub-speciality that is relevant to their own professional practice."

- The refusal of some medical aids to pay certain categories of psychology, particularly educational psychology, was repeated and expressed as a major concern.¹⁸
- A number of submissions call for a generalist category and for the existing categories to become specialist categories. The expansion of the hierarchy of professions creates greater opportunities for career progression.

4.2.2 Defining the Categories of Psychology Practitioners, 2017

For the past two years, the Board has renewed efforts to determine and specify the competencies expected of newly-qualified practitioners in the different categories. Allied to this, the Working Group has undertaken a project to define the different categories in order to inform the Scopes of Practices. The approach was to collect and analyse the various international definitions, and to draw from these the best phrases to adapt for the specific needs of South Africa. Definitions were obtained from the American Psychological Association, American Board of Professional Psychology, Canadian Psychological Association, New Zealand Psychologists Board, Psychological Society of Ireland, Australian Psychological Society, British Psychological Society, Association of Educational Psychologists, and International School Psychology Association. The definitions were captured on an Excel spreadsheet and the component clauses dismantled and those judged to be the clearest and most detailed used to assemble draft versions that were adapted by consensus of the Working Group for the particular demands of the South African contexts. English is the common language for these entities and their respective jurisdictions. Additionally, input on the definitions and the competencies was obtained from educational institutions in January 2017, as part of the process of updating the relevant documents by the Education, Training and Registrations Committee.

In preparing these definitions, we found it useful to distinguish deferent levels of mental health interventions to delineate the different types of psychological practitioners. The stepped-care model

¹⁸ Medical aid companies have complained to the Board that psychologists often over-service their clients by providing far too many sessions then is justified by the diagnosis and/or charging exorbitant rates.

in the UK makes the distinction between high- and low-intensity psychological interventions (e.g., Bennett-Levy et al., 2010; Bower et al., 2013; Clark, 2011; Richards & Borglin, 2011; Roth & Pilling, 2008). The idea is that psychological interventions can range from low to high intensity and should ideally be delivered in a stepped-care system, so that people who obtain inadequate benefit from low-intensity interventions are referred to a practitioner who can offer high-intensity psychological interventions. For our purposes, we have added a medium-intensity level to distinguish a generalist psychologist from a specialist psychologist.

Low-intensity psychological interventions are evidence-based interventions that have been modified to be delivered by registered counsellors who do not require highly specialist training to provide more accessible mental health care that reaches a larger number of people in contexts of limited resources (Bennett-Levy et al., 2010). These low-intensity interventions include guided and non-facilitated self-help, mindfulness training, behavioural activation, psychoeducational groups and other interventions that are generally very brief, usually no more than six sessions, cost effective and typically supplemented with reading material, computer-based exercises, audiobooks and audio-visual recordings.

Medium-intensity psychological interventions are defined as brief, evidence-based psychological therapies delivered to individuals and groups. These brief psychological interventions should usually not exceed twelve one-hour sessions and can, if necessary, incorporate, aspects of low-intensity therapies.

High-intensity psychological interventions, which can also incorporate components of low- and medium-intensity interventions, may exceed 12 sessions and are generally reserved for groups and individuals who have not or are unlikely to benefit from low- or medium-intensity psychological therapies (e.g., Clark, 2011). High-intensity therapies should draw on the relevant empirical research and should be appropriately matched to the therapist's clinical expertise and the preferences of the client.

The Working Group proposes that the current categories of psychologist and professions of registered counsellor and psychometrist be defined as follows:

- a) Clinical psychology is a specialist category within professional psychology that provides continuing and comprehensive mental and behavioural healthcare to individuals and groups across the lifespan. This includes the assessment, diagnosis, evaluation, and treatment of psychological and mental health disorders that range from mild to severe and complex. Psychological assessment, diagnosis and formulation are based on biological, social and psychological factors. Clinical psychologists deliver a range of high-intensity psychological interventions with demonstrated effectiveness in treating mental health disorders.
- b) Counselling psychology is a specialist category within professional psychology that promotes the personal, social, educational and career functioning and well-being of individuals, couples, families, groups, organisations and communities. Counselling psychologists assist people with normal developmental issues, and also prevent and alleviate psychological and mental health disorders that range from mild to moderate severity. Psychological assessment, diagnosis, and formulation draw on a holistic appreciation of people's lived experiences and their sociocultural contexts. Counselling psychologists deliver a range of high-intensity psychological interventions that take into account the therapeutic potential of positive relationships, and people's strengths and resources.
- c) Educational psychology is a specialist category within professional psychology that promotes the learning, academic performance, and the behavioural, social and emotional development of learners of all ages, with an emphasis on children and young people, in the context of schools and other educational settings. Educational psychologists work not just directly with learners, but also with their parents, families and with others who teach and care for them, as well as with the broader educational system. They provide psychological assessment, diagnosis and a range of high-intensity psychological interventions to prevent and alleviate

learning difficulties, disability, mental health, social and emotional problems, as well as more complex developmental disorders.

- d) Industrial Psychology is a specialist category within professional psychology concerned with the performance and wellness of people at work and with how individuals, groups and organisations behave and function. Its aim is to help individuals pursue meaningful and enriching work, and to assist organisations in the effective management of their human resources. Industrial psychologists provide psychological assessment, diagnosis and interventions to address psychological factors of critical relevance to organisations and their members.
- e) Research Psychology is a category within professional psychology concerned with the development and application of research methodologies, and the advancement of psychological knowledge and the understanding of human behaviour.
- f) Neuropsychology is a specialist category within professional psychology concerned with the assessment, diagnosis, evaluation and rehabilitation of people of all ages with neurological problems, including traumatic brain injury, stroke, toxic and metabolic disorders, tumours and neurodegenerative disease.
- g) Forensic Psychology is a specialist category within professional psychology that provides psychological expertise within the legal and criminal justice systems. Forensic psychologists assess the psychological functioning of individuals to assist with clinical-legal decisions in civil and criminal matters, and intervene to rehabilitate offenders and to prevent recidivism. They work with the perpetrators and victims of crime as well as with law enforcement agencies, correctional services, legal practitioners and the courts.
- h) Registered Counsellor is the entry-level category within professional psychology that offers low-intensity psychological interventions and assessment to individuals and groups to prevent and alleviate psychological challenges and /or enhance psychological functioning and wellbeing.

- i) Psychometrist is the entry-level category within professional psychology that offers psychometric assessment of individuals and groups.

Additionally, it is proposed that in the future that work to define a new vision for psychology include a consideration of a new category of psychology, a generalist psychologist, as defined as follows:

- j) General Psychology is a general practitioner category in professional psychology that offers assessment, diagnosis and a range of medium-intensity psychological interventions to individuals and groups to prevent and alleviate psychological conditions and/or mental health disorders.

A notable finding from this exercise is that the category of forensic psychology exists in only a few jurisdictions. In most cases, it appears that clinical-legal decisions are made, when necessary and appropriate, with the expert input of clinical, counselling, educational, industrial and research psychologists (or their equivalent categories). For example, the American Psychological Association considers forensic psychology to refer to the professional practice by any psychologist working within any sub-discipline of psychology when applying knowledge of psychology to address legal matters (American Psychological, 2013). The approach recognises that practitioners require a foundation in one of the existing categories in order to acquire the requisite expertise to assist the courts. Because the training requirements and grand-parenting criteria are still under consideration by a Task Team for Forensic Psychology, the proposed amendments to the regulations should not include, for the time being, the scope of practice for the category.

Also noteworthy is that psychometry is a professional category that appears to be unique to South Africa. Until 1999, with the introduction of the Registered Counsellor, persons registered in this category were not licensed from practising independently and were under the supervision of a licensed senior psychologist. During the review of practice framework by the 5th Board, it was decided to enable independent practice for Psychometrists. Simultaneously, the register for Psychotechnicians, a category created for those in public service who met minimum requirements to be professionally

registered and practice within the public sector, would close. The register for Psychotechnicians remains as there still some on this register.

5. Amended Regulations for Psychology

What is clear from the formal submissions from individuals, training institutions and associations in 2012 and again in 2017 is that dissatisfaction with the 2011 Scopes of Practice Regulations is widespread. It appears that the dissatisfaction stems from the efforts to define scopes of practice that are perceived as being mutually exclusive, ambiguous, poorly aligned with training and the legitimate competencies of many practitioners, especially those who trained in integrated programmes prior to the promulgation of the regulations in 2011, and biased to the benefit of clinical psychologists. The result is that the profession is deeply divided, best illustrated by legal actions and this court case with associations of professional psychologists pitted against each other in the protracted legal dispute. While these divisions are most evident amongst private practitioners, where psychologists compete for the ever-diminishing pool of medical aid reimbursements that less than one in seven of our population can afford, the divides extend beyond these settings. For example, more than one university made recommendations are mutually destructive. The worst example was a set of conflicted submissions that came from different groups representing the different categories, yet all housed in the same academic department.

In the meantime, access to psychological services remains skewed in favour of middle class, English- and Afrikaans-speaking, white South Africans, while the majority who endure the burden of adversity have few opportunities to obtain the professional assistance that psychological practitioners can provide. Related to this is that the demographics of the profession are little changed from the end of apartheid and remain far removed from the demographic profile of the country. Similarly, apart from the proposed changes in the late 1990s that ultimately were not implemented because two major English-speaking white universities resisted the changes, the training and practice of psychology in South Africa is much as it was when the profession received legal recognition and protection in 1974.

There is, therefore, a need for real change to ensure that the profession is better poised to meet the psychological health needs of all South African and the constitutional commitment to social redress, and to remain viable. This historical moment is an opportunity to transform the profession, to not only address those who are disaffected, but importantly lay the foundation for a dynamic recalibration of the psychological landscape. In this respect, the amended regulations are only the crucial start; these should not only address the procedural defect in the promulgation of the 2011 Scopes of Practice Regulations, but also deal with many of the substantive issues discussed above.

In light of all the above, the working group has prepared draft regulations, that:

- a) Define and merge the scope of the profession of psychology and the scopes of practice of the categories in psychology;
- b) Are informed by the extensive engagements with stakeholders and the various research projects, including international benchmarking, and designed to better serve the needs of the country;
- c) Are deliberately worded in a concise manner in accordance with international understanding of best practice, to place the responsibility of proper interpretation to individual practitioners, recognising that practitioners are postgraduate professionals with the requisite qualifications and training. The Board will guide the profession and monitor the situation to meet the country's needs, and act in terms of its statutory powers when complaints are received¹⁹; and
- d) Include all of the categories listed in the 2011 Scopes of Practice Regulations, with the exception of the category of forensic psychology.

6. Recommendations

The working group on promulgation of regulations, therefore, recommends the following:

¹⁹ Interestingly, a report listing all the complaints that were made against psychological practitioners from 2009 to April 2016 suggests that Scope of Practice complaints are very rare.

- a) The definitions of the categories of psychologist and professions of registered counsellors and psychometrists be adopted by the Board;
- b) The promulgation in accordance with the law and within the timeframe determined by the court the proposed regulations;
- c) The Board prescribe a clearly defined process for transverse registration across categories, to ameliorate any unintended absolute barriers affecting psychologists who are able to satisfy the Board that they have the requisite competence, experience, training and qualifications to practice in another category for which they have successfully applied;
- d) The Board initiate a longer-term process to reconsider the training framework of psychology to bring much needed change to the profession to ensure that it is best placed to meet the various mental health and psychological needs of our population. This New Vision for Professional Psychology, should be developed by consultation over the course of 2018.

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