

臺灣通訊心理諮商審查的爭議、影響與解決

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摘要

通訊心理諮商審查爭議有一個形成的過程，包括三個階段：首先，衛生福利部（以下簡稱衛福部）於 2016 年發布一個規定心理師不得執行網路諮商的函釋；接著，在 2019 年頒布和 2020 年修訂一個沒有法律授權的「心理師執行通訊心理諮商業務核准作業參考原則」；最後，地方衛生局制定審查作業及基準，加碼限縮心理師執業權限。衛福部違反法律授權，發布行政命令規定心理師從事通訊心理諮商應通過事先審查，於是產生違法違憲的爭議，這不僅限制心理師的專業權限和執業方式、影響民眾獲得網路諮商服務的權益，阻礙心理諮商服務於平臺經濟下的專業發展，以及在嚴重疫情或災難發生時，心理師無法迅速回應民眾網路諮商服務的需要。本文目的除了描述通訊心理諮商審查爭議的形成和內容，及其影響，摘述監察院的調查結果，並提出解決通訊心理諮商審查爭議的可能方式，包括：（1）建請衛福部廢止相關函釋和「心理師執行通訊心理諮商業務核准作業參考原則」；（2）讓網路諮商回歸心理師專業自律；（3）修訂《心理師法》，明確心理師是否可以執行網路諮商；以及（4）呼籲申請通訊心理諮商審查被駁回的心理師，在公會和法律事務所的協助之下，進行訴願與行政訴訟。

關鍵字：心理師、通訊心理諮商、通訊諮商審查、網路諮商

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壹、緒論

本文首先界定通訊心理諮商、通訊心理諮商審查，以及心理師這三個名詞。在心理諮商的文獻裡，描述透過遠距方式提供心理諮商服務的名詞，包括：網路諮商、線上諮商、遠距諮商等。通訊心理諮商這個名詞是由衛福部（2019）提出，比照通訊診療的命名方式，以及《心理師法》（2020）明定心理師的業務名稱，將網路諮商、線上諮商和遠距諮商通稱為通訊心理諮商。為了行文的方便，本文將交互使用網路諮商和通訊心理諮商。提供通訊心理諮商的心理師包括臨床心理師和諮商心理師，兩者在業務範圍雖有多和少的區別，但是在網路諮商上所面臨的法規與審查爭議是一樣的，因此，本文將兩者合併統稱為心理師，討論的內容一體適用，不予區分。

衛福部在 2016 年發布心理師不得執行網路諮商的函釋之前，網路諮商的實施是屬於心理師的執業方式之一，不需要任何的審查。自從這個函釋發布之後，心理師執行網路諮商被主管機關視為違反《心理師法》（2020），臺灣整個網路諮商服務停擺導致心理師和民眾不滿。於是衛福部（2019）在 2019 年訂頒「心理師執行通訊心理諮商業務核准作業參考原則」（以下簡稱「通訊心理諮商核准作業」），規定心理諮商所和心理治療所（以下合併簡稱心理機構）執行網路諮商前必須向地方衛生局提出通訊心理諮商實施計畫，經審查通過後才可以執行。本文所謂的通訊心理諮商審查，就是指衛福部先是透過函釋禁止心理師執行網路諮商，然後透過審查核准的方式允許部分心理機構提供網路諮商。

作者為什麼要撰寫本文呢？作者認為通訊心理諮商審查是一個嚴重阻礙網路諮商發展的重大事件，也是《心理師法》（2020）頒布施行以來，嚴重損害心理師業務範圍的爭議事件，值得心理師團體和主管機關的關切。以作者的觀點來說，通訊心理諮商審查基本上是一個主管機關曲解法律，嚴重限縮心理師業務權限的行政命令，不僅限制民眾獲得網路諮商服務的機會，更會嚴重限制數位經濟下網路諮商平台的發展。因此，通訊心理諮商審查是一個值得探討的爭議。

當部分心理諮商所向公會反映申請通訊心理諮商遇到困難時，公會除了積極與主管機關協商、參與監察院調查、召開記者會提供資訊和倡議，也同步協助和輔導會員如何撰寫申請書以便通過審查，然而心理師相關公會與學會對於主管機關針對心理機構進行網路諮商審查之適法性的質疑明顯不足。作者考察相關文獻，發現通訊心理諮商審查爭議這件事只有幾篇網路文章與新聞（李修慧，2021；吳柏軒，2021；周家瑤，2021；林家興，2018，2021a，2021b；林韋萱，2021；張玉鈴，2021）疾呼對此議題的重視。因此，完整描述通訊心理諮商審查的爭議，讓讀者了解爭議的來龍去脈、可能影響，以及尋求解決之道，這是撰寫本文的主要動機。

本文內容主要包括四個部分，首先描述通訊心理諮商審查爭議的形成與內容，其次闡述爭議沒有適當解決的後續嚴重影響，再其次摘述監察院對於此爭議的調查結果，最後提出一些可能解決爭議的方案。《心理師法》（2020）是心理師執業的母法，任何限制心理師執業範圍或職業自由的行政命令都應該有法律授權，本文內容即在描述心理師依法執行網路諮商的過程，如何被主管機關曲解法律、違反法律授權，不當限制人民職業自由的真實事件。

貳、審查爭議的形成與內容

通訊心理諮商審查爭議有一個形成的過程，包括三個階段和內容，首先衛福部發布一個規定心理師不得執行網路諮商的函釋，接著衛福部（2020）頒布一個沒有法律授權的「心理師執行通訊心理諮商業務核准作業參考原則」，最後地方衛生局制定審查作業及基準，加碼限縮心理師執業權限，分述如下。

一、以函釋不當解釋《心理師法》，禁止心理師執行網路諮商

臺灣在 2002 年以前就已經有超過 300 個提供網路諮商服務的網站(王智弘,2002)，成為民眾心理衛生服務的重要資源，並且普遍獲得使用者的肯定。2016 年有人質疑心理師在網路平台提供心理諮商的適法性，行文衛福部請求函釋。衛福部於 2016 年 9 月 1 日發布函釋，內容主要是「...查心理師法並未准許心理師得利用網路方式進行心理師業務，自不得任意為之」。這個函釋不當解釋《心理師法》（2020），禁止心理師執行網路諮商，讓許多網路諮商服務因此停擺，明顯損害民眾接受網路諮商服務的權益。

行政機關對人民自由權利與職業自由之限制，應以法律或法律明確授權之命令為之。心理師不能執行的業務，例如：手術、電療、使用藥品等醫療行為，《心理師法》（2020）第 18 條即有明文的限制。《心理師法》（2020）沒有明文禁止的其它業務，心理師自然可以從事，但是衛福部卻以函釋逾越法律來禁止心理師從事網路諮商，明顯違法違憲。

心理師提供心理諮商服務，本來就可以視當事人需要透過當面或線上方式實施，隨著網路科技的發展，網路諮商已成為世界發展的潮流。衛福部卻曲解法律，基於心理師執業登記以一處為限，擴大解釋不能從事網路諮商，這是違反數位共享經濟和網路科技潮流的作法。衛福部通過函釋禁止心理師透過網路提供諮商服務，明顯逾越法律授權，違背憲法對於人民職業自由的保障。心理師透過網路平台提供諮商服務，並無明顯對民眾造成傷害之虞，縱有風險，也應採最小限制手段，不應一律禁止。

衛福部這種對網路諮商的函釋逾越法律授權，當時擔任行政院長的賴清德在 2017 年 10 月 26 日的院會，針對行政機關的函釋做了一個裁示：「不宜用個案函釋來作通案

處理，如果函釋踰越法律過度的管制，應該馬上廢止」。於此可知，衛福部這個函釋明顯逾越《心理師法》（2020）做了過度的管制，禁止心理師執行網路諮商，理應廢止。

二、「心理師執行通訊心理諮商業務核准作業參考原則」沒有法律授權

衛福部以函釋禁止網路諮商之後，鑑於民眾確實有網路諮商的需求，開放心理師提供網路諮商有其必要，在 2017 年 12 月 6 日召開網路諮商研商會議，會議結論為：「心理師執行線上諮商有其必要性，但需嚴謹管理，其管理法源為《心理師法》（2020）第 10 條『心理師執業以一處為限，並應在所在地直轄市、縣市主管機關核准登記之醫療機構、心理治療所、心理諮商所或其他經主管機關認可之機構為之。但機構間之支援或經事先報准者，不在此限』。因此心理師以通訊方式執業原則應於執業機構內，且通訊方式執行業務屬本條後段『事先報准者』之例外情形，為確保執業品質及病人安全，原則採許可制，由各地方衛生局准駁」。

在參考心理師各個學會和公會提供的網路諮商執業準則專業自律文件、《通訊診療辦法》，以及上述研商會議結論，衛福部（2019）於 2019 年 11 月 29 日頒布「心理師執行通訊心理諮商業務核准作業參考原則」（簡稱「通訊心理諮商核准作業」），實施一年之後由於諸多窒礙難行的問題，經各方反應之後，衛福部（2020）於 2020 年 7 月 29 日重新修正公布。但在這個修正的「通訊心理諮商核准作業」裡面，除了限制當事人須滿 18 歲，以及非醫療機構執行通訊心理諮商業務應與醫療機構簽訂轉介合作計畫之外，還增加了一些限制，使得心理師從事網路諮商變得比實體諮商還要困難。例如：排除精神官能症、精神病或腦部心智功能不全患者。

衛福部比照《通訊診療治療辦法》（2024）來制定「通訊心理諮商核准作業」是有問題的。通訊診療與網路諮商有兩點明顯的區別，第一，通訊診療是醫療行為，醫師需要親自為之，網路諮商不是醫療行為，《心理師法》（2020）也沒有明文規定心理師執業要親自或當面為之；第二，通訊診療有《醫師法》（2022）第十一條的法律授權，醫師親自為之的例外或特殊情形授權衛生主管機關訂之，《心理師法》（2020）既無要求心理師執業必須親自或當面為之，也沒有授權主管機關用行政命令來限制網路諮商。

法律專家（張淑貞，2018）認為心理師於執業登記場所提供網路諮商，並未違反執業以一處為限的規定，衛福部在沒有法律授權的情形下，還要訂頒規範條文比《通訊診療辦法》還要嚴格的「通訊心理諮商核准作業」，這明顯違反法律授權和法律比例原則。衛福部基於法律保守心態，將心理諮商視同醫療行為，不當地採用過度嚴格的規格管理，將網路諮商解釋為屬於應經事先報准之例外情形，明顯錯誤解釋《心理師法》（2020）條文。

三、地方衛生局制定審查作業基準加碼管制網路諮商

衛福部所頒布的「通訊心理諮商核准作業」只是原則的規定，地方衛生局為方便公務員執行核准作業，於是進一步制定審查作業基準，在有意無意之間加碼限縮心理師的執業權限。例如，新北市衛生局在「通訊心理諮商核准作業審查作業及基準」中增列通訊心理諮商排除初談個案，通訊心理諮商前心理師應於鏡頭前出示執業執照，當事人應出示身分證，不得使用中國大陸開發的通訊軟體，以及要求提交醫療機構合作計畫書等。又例如，臺北市衛生局所制定的「通訊心理諮商核准作業審查作業及基準」，增列接受通訊心理諮商者須年滿 20 歲，以及提交合作醫療機構合約書等。

地方衛生局為執行通訊心理諮商審查，在衛福部「通訊心理諮商核准作業」的基礎上，以資訊安全和病人安全的理由加碼限制心理師和民眾使用網路諮商的方便性。其中最為嚴重的加碼是禁止未滿 18 歲或 20 歲的民眾使用網路諮商，幾乎等於剝奪中小學生使用網路諮商的權益。《心理師法》（2020）明文規定心理師經醫囑或照會得提供心理諮商給精神官能症的民眾，可是上述審查作業及基準卻限制心理師提供通訊心理諮商給那些有需要的精神官能症民眾和未成年人。

參、通訊心理諮商審查的影響

衛生主管機關不當解釋《心理師法》（2020），禁止心理師執行網路諮商之後，擋不住民意要求開放網路諮商的壓力，於是在沒有法律授權的情況下，比照通訊診療辦法，貿然頒布「通訊心理諮商核准作業」，對通訊心理諮商進行審查，開放部分心理機構執行網路諮商。當衛福部頒布「通訊心理諮商核准作業」的時候，有些人（王智弘，2019；盧映慈，2020）將主管機關發布這個沒有法律授權的行政命令稱之為網路諮商合法化，作者並不認同這個觀點。

很多人不瞭解通訊心理諮商審查這件事的嚴重性，作者認為這件爭議幾乎毀了心理師立法當初努力爭取獨立執業，避免被醫療化的成果。我們可以說這個爭議對心理師執業範圍和執業方式的打擊是空前的，對未來網路諮商平台的發展是致命的障礙，對限制全民享受優質且便利的網路諮商是深遠的，以下從四個角度來說明通訊心理諮商審查這件事情的嚴重後果。

一、嚴重限縮心理師的專業權限與執業方式

根據《心理師法》（2020），心理師本來就可以視當事人需求提供各種方式的心理諮商，包括晤談或遊戲、個別或團體、實體或線上的心理諮商。現在因為衛福部曲解《心

理師法》(2020)的函釋，違背法律授權的「通訊心理諮商核准作業」，導致心理師依法執業的專業權限和方式受到嚴重限縮，心理師運用通訊科技提供民眾有效和便利的網路諮商受到層層的限制。

心理師的執業自由受到主管機關的不當限制，產生違憲違法的爭議，如果不解決的話，心理師的執業範圍和專業權限會不斷受到限縮，導致無法充分有效的滿足民眾網路諮商服務的需求。更令人擔心的是，將來衛生主管機關會進一步比照通訊心理諮商審查限縮心理師實體心理諮商的空間。

對於心理師提供網路諮商進行行政審查和管制，參與管制的各方都會受到傷害：首先，主管機關失去威信，將不再獲得心理師團體的信任和 support，不利於心理衛生政策的推動，增加地方衛生局行政審查的社會成本；其次，廣大民眾無法獲得優質的、便利的網路諮商服務，民眾可能會尋求境外更加便利的、但是品質參差的網路諮商服務；最後，心理師無法靈活運用網路科技提供心理諮商，也無法自由選擇網路諮商的服務平台，損害心理師專業自主和服務量能。

二、嚴重阻礙網路諮商平台的發展與跨境服務

網路諮商平台在當代數位經濟快速發展的時代，已經是先進國家競相推動和發展的數位心理健康策略之一。行政院在推動數位經濟政策期間，國家發展委員會曾經委託世博國際商務法律事務所進行「平台經濟下提供專業服務之法規調適研究」(張淑貞, 2018)，探討我國醫師及心理師等專業服務，藉由平台經濟商業模式透過遠距網路通訊提供病患或消費者醫療或心理諮商服務時，現行《醫師法》及心理師之相關法規有無調適之必要性，相關配套管理法制是否充足。

張淑貞(2018)的研究結論和建議是：若我國欲開放業者可以網路平台提供心理諮商服務，《心理師法》(2020)條文所稱「一處」執業限制，應可解釋為其並非要求心理師與患者必須處於同一時空、同一地點方可進行心理諮商，準此，倘若心理師係於「一處」醫療機構、心理諮商所等機構執業，僅其提供心理諮商服務的病患係透過網路平台以遠距方式接觸，其透過網路平台提供心理諮商服務，應無悖《心理師法》(2020)第10條規定。我國若欲廣泛開放遠距心理諮商服務，行政機關若能藉由行政函釋明確釐清，當有助於解決目前實務對此議題之爭議，兼顧法律安定性，又可同時提升消費者觸及心理諮商服務之便利與即時性。

張淑貞(2018)考察美國和日本的遠距醫療和心理諮商相關法規，發現規定醫師和心理師執業以一處為限是我國獨有的規定，美國的法律並沒有要求醫師親自診療的規定，只有日本和我國才有要求醫師親自診療的規定。既然美國和日本對於心理師既沒有執業以一處為限，也沒有親自診療的規定，因此美國和日本得以快速發展眾多的網路諮商平

台。美國提供網路諮商平台的公司至少 55 家 (Owens & Scully, 2024)，同樣的，中國大陸也沒有要求心理諮詢師執業以一處為限和親自診療的規定，中國大陸提供網路心理諮詢的服務平台至少有 20 個。

臺灣在網路諮商平台的建立甚早，財團法人華人心理治療研究發展基金會於 2008 年 7 月建置「心療在線」的網路諮商平台。成立於 2016 年，曾經來臺灣向「心療在線」取經的中國大陸簡單心理 (2021)，如今已經成為知名的網路諮商平台，全球 117 個城市、近 1000 位心理諮詢師在簡單心理平台執業，提供超過 60 萬人次的心理諮詢服務。短短十年之間，大陸在網路諮商平台的數量和規模遠遠超過臺灣，臺灣目前只有五、六家網路諮商平台，入駐平台的心理師人數和服務規模都因為受限於心理師執業以一處為限的規定，導致網路諮商平台的數量和規模無法擴充。

放眼國際，各國愈來愈重視網路諮商，民眾和心理師選擇網路諮商平台的比例越來越高。美國心理學會 (American Psychological Association) 2020 年對其會員的調查，有 76% 的會員提供其當事人通訊諮商的服務 (Weinberg, 2020)。中國的簡單心理 (2022) 對於一萬名中國大陸心理諮商使用者的調查，發現有 52.48% 的個案選擇平台網路諮商。日本線上心理諮詢平台 contree 於 2012 年設置，共有 60 名臨床心理師入駐。美國網路諮商平台 Breakthrough behavioral 是第一家在全美各州提供心理網路諮商服務的公司，成立於 2009 年，共有 1300 名心理治療師入駐平台；美國另一家網路諮商平台 Talkspace 成立於 2014 年，共計有 3000 名心理師入駐平台，至 2020 年已累積 50 萬人次使用 (林柏君, 2020)。

由此可見，網路諮商是心理師的日常執業方式，也是國際趨勢，大約有一半的心理諮商業務將會透過網路進行，主管機關違反法律保留限制心理師提供網路諮商，只會阻礙多數民眾透過網路獲得應有的心理諮商服務。通訊心理諮商審查和臺灣難以發展網路諮商平台有密切的關係。通訊心理諮商審查限制既有的民間第三方網路諮商平台業者，如遠距抱抱、逍遙遊、italk 的創新發展。通訊心理諮商審查如果沒有廢止，心理師執業以一處為限的法規如果沒有鬆綁，臺灣在發展網路諮商平台跨境服務全球華人的市場上是沒有競爭力的。

三、嚴重限制民眾求助網路諮商的權益

通訊心理諮商審查不僅限制了心理師的執業範圍和執業方式，而且也限制許多民眾接受網路諮商的權益，有三種人現在可以接受實體諮商，但是卻失去接受網路諮商服務的權益，說明如下。

第一類民眾是未成年人，其中多數是中小學生，即便是家長或監護人希望未成年子女接受網路諮商，現在也被剝奪了這個權利。衛福部在沒有法律授權的情形下，用行政

命令剝奪未成年人接受網路諮商的權利，是一件嚴重的問題。在中小學從事心理諮商服務的心理師，只能採用實體方式進行諮商，對於疫情或因故不能到校的學生，是不可以提供網路諮商，這對於兒童青少年心理健康保健與輔導是一個很大的漏洞。

第二類民眾是初談的成年人，初談是指第一次心理諮商，衛福部從嚴認定心理諮商初談一定要實體見面，不可以採用網路方式進行，這個規定剝奪了很多不方便親自到諮商機構的民眾，包括行動不方便的、以及外縣市的民眾的網路諮商權益。一般情況下，一位民眾是否適合採用網路方式實施初談，通常是由心理師根據評估結果做判斷，而不是由主管機關採用這種一刀切、通案的一律禁止。

第三類民眾是精神疾病的患者，精神疾病患者原本經醫師醫囑、轉介或照會，可以接受心理師的心理諮商，現在卻只能接受實體諮商，而被剝奪了網路諮商的權利。精神疾病患者應該和一般人一樣享有網路諮商的權利，精神疾病患者是否適合透過網路方式進行諮商，理應由心理師評估判斷，而不是由主管機關用一紙行政命令加以禁止。

四、疫情或災難發生時，心理師無法迅速回應民眾網路諮商服務的需要

網路諮商的可貴之處在於不受限於距離的遠近，可以滿足非常時期的特殊需要，例如疫情或災難心理衛生服務的提供。Layne 與 Hohenshil (2005) 提到網路諮商服務能延伸到偏遠而難以抵達的地區，對於生理或心理無法離家出門到諮商機構的當事人而言，是種新的選擇。很遺憾的，過去三年臺灣經歷新冠肺炎疫情期間，實體諮商無法提供的時候，因為主管機關堅持心理師執業以一處為限，而且通訊心理諮商必須事先報備核准後在執業登記場所進行，居家辦公或異地辦公的心理師不可以提供網路諮商。當類似新冠肺炎疫情或災難發生時，實體諮商已經無法運作時，主管機關還是要求心理師在執業登記處所提供網路諮商，罔顧眾多民眾對於網路心理衛生服務的迫切需要。

根據報導者 (林韋萱, 2021) 的調查報告，即便在新冠肺炎疫情最嚴峻、在疫情三級警戒之下，民眾最焦慮、心理諮商服務被迫中斷的時候，政府對於心理諮商機構申請執行通訊心理諮商維持高規格的審查，要求心理機構要找醫療機構簽訂合作合約書，要求心理機構提出網路諮商資訊安全的說明，導致被地方衛生局頻頻退件，無法即時提供服務給民眾。臺灣通訊心理諮商的資格審核非常嚴格，甚至被描述比申請成立心理機構還要困難。

心理機構即便通過地方衛生局的審查，該機構的心理師只能在執業登記的場所提供網路諮商，這樣的限制抹煞了通訊心理諮商跨越時空的優勢。想想看在疫情嚴重或災難發生的時候，心理師需要使用移動裝置，在安全的地方或空間提供網路諮商。衛生主管機關在疫情嚴重或災難發生時，本來可以用一紙行政命令開放網路諮商，但是疫情嚴峻期間，衛福部只針對醫療機構開放通訊診療，並沒有開放心理機構網路諮商，所有心理

機構仍應依照程序提出通訊心理諮商申請(林韋萱, 2021)。在疫情期間,吳尚軒(2021)調查指出全國有超過 3 萬名憂鬱學生中斷諮商,衛福部雖開放通訊諮商,但學校諮輔中心卻因法規模糊、各縣市申請標準不一而遲遲難以通過審核,也讓大批脆弱年輕心靈求助無門,有心理師感嘆,相關支持、協助明明都可以做,卻一直被衛福部一紙行政命令擋在外面。

全球皆受到疫情衝擊,世界衛生組織(WHO, 2020)針對 130 個國家的調查資料,67% 國家的心理治療服務被迫中斷,在提供給弱勢族群的精神衛生服務方面,兒童與青少年(72%)、老年人(70%)、以及需要產前或產後服務的婦女(61%)皆受到影響,但有 70% 的國家已採用通訊諮商來克服諮商服務之中斷,尤其在通訊諮商開發最早的美國,2020 年 3 月疫情嚴峻時,各州政府便緊急發布全面開放通訊心理諮商,連實習生、學校輔導人員皆可立即採用,目的即是「排除一切個案取得資源的障礙」。

肆、監察院對於通訊心理諮商審查爭議的介入調查

通訊心理諮商審查的爭議初期只有心理師團體在關注,並沒有獲得各界的注意,直到新冠肺炎疫情發生後,由於疫情期間實體心理諮商停擺,心理機構申請通訊心理諮商審查又屢屢被退件,廣大焦慮的民眾無法獲得網路諮商的協助,於是引起媒體和監察院的注意。

監察委員紀惠容、林郁容(2022)的調查報告指出,臺灣社區感染進入第三級警戒,嚴重影響心理諮商面談服務,許多創傷處理、情緒問題與療癒之路被迫中斷。衛福部雖於 2019 年底頒布「通訊心理諮商核准作業」,開放醫療機構、心理機構申請執行通訊心理諮商業務,但是截至 2021 年 6 月,全國 200 餘家,申請通過僅有 14 件。全國心理機構在申請通訊心理諮商業務仍遭遇許多阻礙。因此決定立案調查,深入探究「通訊心理諮商核准作業」之法源依據是否有當?疫情爆發後,面對急遽升高的諮商需求,相關單位的配套規劃與因應作業如何?監察院的調查結果摘要如下。

一、通訊心理諮商審查缺乏法律授權

現行心理師執行通訊心理諮商業務,衛福部以《心理師法》(2020)第 10 條後段「經事先報准者」之例外情形,採事先申請審核制,尚乏類似《醫師法》(2022)第 11 條之例外規定,且《心理師法》(2020)亦未有關於通訊心理諮商之明文規定,易生適法性疑義,限制心理師專業判斷空間,進而衍生心理師專業未獲尊重之訾議。衛福部允宜借鏡國際趨勢及各國心理師執業之相關制度,考量國內醫療環境、社會文化與實務需求之態樣,參酌釋字 711 號解釋意旨,通盤檢視我國心理師執行業務方式之相關法規。

二、通訊心理諮商審查限制民眾權益

依據「通訊心理諮商核准作業」，心理師執行通訊諮商應與特定醫療機構簽訂相關契約，且限制通訊諮商之對象應年滿 18 歲並排除精神官能症、精神病或腦部心智功能不全患者等事項，對心理師執業之專業判斷與民眾權益保障均有重大影響，應符合司法院釋字第 443 號解釋揭示法律保留原則，涉及對人民自由權利之限制，應以法律或法律明確授權之命令為之。衛福部允宜衡酌相關國際趨勢與國際公約規定，就心理師執行通訊心理諮商業務相關規範，研議於《心理師法》（2020）具體明確規定，俾使受規範者得以預見，保障民眾權益及維護專業執業品質。

監察院於 2022 年 6 月 22 日完成調查，並將調查報告函請衛生福利部確實檢討改善並給予回覆。預計可見的未來，衛福部會召集心理師相關團體研議如何處理解決通訊心理諮商審查的爭議，並回覆監察院。

伍、通訊心理諮商審查爭議的解決

根據前面有關通訊心理諮商審查的後續不利影響，以及監察院要求衛福部解決通訊心理諮商審查適法性的問題，可知這個審查爭議一定要處理，通過各方的努力獲得妥善的解決，作者歸納四個可能的解決方式，討論如下。

一、衛福部廢止相關函釋和「通訊心理諮商核准作業」

解決爭議的第一種方式，是由衛福部召集心理師相關學會和公會開會研議，審酌國際趨勢、衡量利弊得失之後，決定廢止相關函釋和「通訊心理諮商核准作業」。這個方式對衛福部來說，可以說是解決爭議最好的方式，用最少的社會成本解決了這個爭議。然而這個方式對衛福部來說，可能也是最困難的方式，因為衛福部長官要有昨是今非的覺悟，放棄醫療與諮商一體適用的僵固法律思維，從福國利民的角度重新發布心理師可以執行網路諮商的函釋，以及廢止沒有法律授權的「通訊心理諮商核准作業」。

衛福部根據《心理師法》（2020）第 10 條，認為心理師執行網路諮商需要事前報備核准。張淑貞（2018）接受國家發展委員會的委託進行「平台經濟下提供專業服務之法規調適研究」，認為《心理師法》（2020）第 10 條規定心理師執業以「一處」之限制，僅要求心理師不得同時於多處心理諮商所／治療所執業，並未要求心理師執行業務時，必須與病患處於同一時空、同一地點以面對面方式進行心理諮商。因此，對於透過網際網路、通訊或視訊傳輸方式進行之遠距心理諮商，倘心理師係於其登記地之機構為當事

人提供遠距心理諮商服務，文義上似無直接牴觸《心理師法》（2020）第 10 條對心理師執業方式的規定。

張淑貞（2018）研究美國及日本遠距心理諮商的法規，發現美、日對於心理師執業處所與服務方式，皆未設明文限制。且美國心理師採遠距心理諮商模式，只需要事前告知病患並獲病患同意即可，因此對於心理師是否能採取遠距心理諮商，美國與日本均無法規限制。反觀國內，《心理師法》（2020）雖訂定心理師執業應以「一處」為限之管制規範。但是，《心理師法》（2020）第 10 條規定之「執業以一處為限」未必即限制心理師不能以遠距方式提供服務。我國如果想要朝向開放遠距心理諮商服務，張淑貞（2018）建議由衛福部用行政函釋明確釐清，當有助於解決目前實務對此議題之爭議。

面對網路科技結合心理諮商的服務型態，主管機關的心態需要做很大的調整，不僅消極的不要保守的解釋法律條文，成為網路諮商服務的障礙，更要積極的提供輔導和獎勵，提供有利於發展網路諮商平台的環境。衛福部應該相信民眾有足夠的智慧和判斷，可以自行選擇實體或網路型態的心理諮商服務，尊重民眾有權利從實體上、網路上或全球上，獲得自己所需要的諮商服務。作者期待衛福部對心理師執業以一處為限，給予適度放寬的解釋，如此將可以促進網路諮商平台服務的良性發展，讓民眾早日獲得網路科技所帶來的專業、便利與即時的心理諮商服務。

二、讓網路諮商回歸心理師專業自律

歐美、日本等各國通常不會針對網路諮商制定法規，這是因為網路諮商事涉專業知能屬於心理師自律範圍，心理師學會或公會已制訂網路諮商執業指引來規範會員，因此，主管機關廢止通訊心理諮商相關函釋和「通訊心理諮商核准作業」之後，有關網路諮商規範自然就回歸心理師專業自律。

衛福部當年函請各心理師相關學會提供網路諮商專業指引，並作為法規制定的參考，如此把專業指引視同法規條文，納入「通訊心理諮商核准作業」的內容。將原本屬於心理師專業自律的網路諮商指引法制化成為通訊心理諮商審查的行政命令，這是非常嚴重的錯誤。

網路諮商在國內外都是透過專業學會或公會的專業自律來規範，因為網路諮商涉及專業知識，心理師需要在複雜的和模糊地帶進行專業判斷，在遇到困難或兩難的執業困境時，需要心理諮商專業團體提供執業指引作為依據。執業指引提供心理師原則性的指導和協助，目的在於協助心理師提升心理諮商的服務品質，以維護民眾的健康福祉。

網路諮商執業指引一旦淪為法規條文，將會造成網路諮商的災難，因為網路諮商屬於新興網路科技的創新服務模式，存在著許多灰色地帶和模糊空間，需要心理師透過多年的臨床訓練、實務經驗、專業倫理守則，以及執業指引等才能進行因人而異的專業判

斷和處置。一旦網路諮商執業指引淪為法規，勢必為了方便衛生主管機關公務人員的管理和稽核，會以鉅細靡遺、白紙黑字的方式呈現心理師可以和不可以做的條文，剝奪心理師根據臨床脈絡和當事人個別差異所需要而進行的專業判斷和處置。

心理諮商發展較先進的國家對於網路諮商的規範主要依賴專業組織的執業指引，幾乎沒有透過法規來規範的先例。如日本、美國等先進國家並無以法規限制心理師執行網路諮商之規定（張淑貞，2018）。本著專業自律的期許與要求，臺灣心理師相關學會和公會皆有頒布專業倫理守則和網路諮商專業指引，為民眾之安全與權益把關。從《心理師法》（2020）到專業倫理自律，原本就已設置了安全管理機制（張玉鈴，2021）。

三、修訂《心理師法》明確心理師是否可以執行網路諮商

現行《心理師法》（2020）對於心理師是否可以執行網路諮商沒有明確的規定，因此，透過修訂《心理師法》（2020）相關條文來解決這個爭議，雖然是一個最佳的選項，但是在實務運作上卻是窒礙難行。因為，修法的歷程冗長而不可預測，無論衛福部或心理師團體大家都沒有把握。根據慣例，法律修正案只要涉及爭議性的條文，很容易就會被立法委員擱置。

《心理師法》（2020）從 2001 年公布施行以來，至今超過 20 年，主要內容幾乎沒有被修訂過，為什麼呢？這是因為《心理師法》（2020）的修訂牽一髮動全身，任何立法委員想要提修訂案，就會引來各式各樣的爭論。假設，衛福部想要在《心理師法》（2020）裡面增列通訊心理諮商審查的法律授權條文，這個提案肯定會引起心理師團體的強烈反對。心理師團體和各利益團體也會趁機提出其他各種條文修正案，例如修改業務範圍等，不論對《心理師法》（2020）要進行小修訂或大修訂，只要諮商心理師團體、臨床心理師團體、其他醫事人員團體，以及衛生主管機關之間沒有共識，估計有爭議的條文都會在修法過程中被擱置。

現行《心理師法》（2020）是當年在各方爭議中被勉強通過的法律，是各種利益團體折衝妥協的結果，其中兩類心理師業務範圍的不當切割，導致今天諮商心理師和臨床心理師相互對立難以合作的後果。任何提案修訂《心理師法》（2020）的動機都會被高度懷疑，也會引來強烈的攻防，因此，任何想要透過修改《心理師法》（2020）條文，去明確規定心理師可以或不可以執行網路諮商，都是高難度的法律攻防。

四、訴願與行政訴訟

如果衛福部不願意重新發布心理師可以執行網路諮商的函釋，透過修改《心理師法》（2020）條文去明確規定心理師是否可以執行網路諮商又是窒礙難行，最後解決通訊心理諮商審查爭議的方式便是訴諸行政爭訟。

任何申請通訊心理諮商審查被駁回的心理師或心理機構，都可以透過訴願和行政訴訟爭取應有的權益。行政爭訟是指人民遭受政府機關不利對待而認為違法侵害其權利時，依法依序進行相關之訴願與行政訴訟。心理師申請通訊心理諮商若遭駁回，該駁回即為行政處分，心理師若認為該處分違法或不當致損害權利者，依訴願法第1條第1項之規定，可先向原處分機關提起訴願，由原處分機關之上級機關進行審查。心理師的訴願若被駁回，可以向管轄之高等行政法院提起第一審訴訟程序。至若第一審敗訴後，則可再向最高行政法院提起上訴，此即第二審程序。我國行政訴訟是採三級二審制，故若最高行政法院判決敗訴者，即為終審確定判決，救濟程序即已結束而無法上訴（鄭猷燿，2022）。

假設心理師透過行政訴訟二審敗訴後，還可以向憲法法庭聲請憲法訴訟，若憲法法庭決定受理，則將於憲法法庭進行言詞辯論，若依大法官一貫立場，本案將較可能獲致大法官認為衛福部及地方政府之「通訊心理諮商核准作業」或審查作業及基準均無法律依據而違反法律保留與違憲，而之前所作成之最高行政法院及高等行政法院之判決恐均將受違憲宣告而廢棄發回重為處分，此時因支撐駁回處分之規範依據受違憲宣告之故，從而行政法院即應為本案心理師勝訴之判決（鄭猷燿，2022）。

心理師申請通訊心理諮商被駁回的法源依據，皆引用《心理師法》（2020）第10條、衛福部頒佈之「通訊心理諮商核准作業」及各縣市政府主管機關自行頒佈之「通訊心理諮商業務核准作業審查作業及基準」（以下簡稱「通訊心理諮商審查作業及基準」。而《心理師法》（2020）第10條並無明文限制心理師執業方式不得以通訊方式為諮商，因此前述衛福部及各縣市主管機關自行以「通訊心理諮商核准作業」或「通訊心理諮商審查作業及基準」為准駁之依據，此時可能面臨無法律之依據而限制人民自由權利進而違反法律保留原則之問題。

心理師團體為協助受損會員爭取應有權益，曾諮詢安恆國際法律事務所有關訴願與行政訴訟相關事宜。鄭猷燿（2022）根據國家發展委員會委託世博國際商務法律事務所的研究報告、監察院的調查報告，以及其律師專業法律見解，認為衛福部違反法律保留原則訂頒「通訊心理諮商核准作業」，影響國民心理健康甚鉅，而且嚴重侵害與限制心理師之工作權，建議心理師團體進行行政爭訟。或許有心理師認為，依主管機關之規定申請，於獲得許可後進行通訊心理諮商並無傷大雅，只是申請過程較為繁瑣爾爾，然若主管機關之後再變更前述「通訊心理諮商核准作業」或「通訊心理諮商審查作業及基準」，加入很難達成之條件，進一步剝奪心理師的工作權，屆時再要爭取恐為時已晚。

本文上述四點解決爭議的討論可以歸納為三種解決爭議的方案，第一個方案是屬於行政協商解決，第二個方案屬於修改法律解決，第三個方案屬於行政訴訟解決。這三種

解決方案其實可以同時進行，只要心理師團體同心協力，爭取各方的支持和協助，相信通訊心理諮商審查的爭議可以早日落幕。

陸、結論與建議

因網路科技發展而產生創新的服務方式席捲全球各領域，數位化的方式帶給人們豐富、便利與多元的生活，心理諮商也不例外。在推動數位經濟平台與遠距心理諮商服務的世界潮流中，衛福部應尊重心理師的專業權限與執業方式，保障民眾使用網路諮商服務的權益，鬆綁不利於網路諮商平台發展的法規，積極提供一個有利於網路諮商發展的政策與法規環境。

現行通訊心理諮商審查既缺乏法律依據，又剝奪部分民眾使用的權益，且限制心理師執業方式，引發諸多爭議，也徒增中央與地方主管機關許多不必要的審查作業成本與民怨。作者建議可採取下列三個方式來處理此爭議：

1. 建請衛福部廢止相關函釋和「通訊心理諮商核准作業」，取消心理師執行通訊心理諮商以一處為限的限制。
2. 讓網路諮商回歸心理師專業自律，由公會依據網路諮商執業指引來規範會員。
3. 呼籲申請通訊心理諮商審查被駁回的心理師，在公會和法律事務所的協助之下，進行訴願與行政訴訟。

面對網路科技和數位經濟下的心理諮商服務，主管機關的心態需要做適當的調整，不要消極錯誤的解釋法律條文，成為網路諮商服務的障礙，更要積極地提供輔導和獎勵，協助建設優質的網路諮商服務平台，讓網路諮商回歸《心理師法》（2020），相信心理師的專業自律，也相信民眾有其判斷與選擇個人所需的諮商服務。臺灣心理師執行網路諮商已經超過 20 年了，我們要與時俱進鬆綁法規，產官學共同合作，透過網路科技與數位經濟來促進全民的心理健康。

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Telecounseling Censorship in Taiwan: Controversies, Impacts and Resolutions

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Abstract

The development of controversies surrounding Telecounseling censorship involved three stages. Initially, the Ministry of Health and Welfare (MOHW) released a regulatory interpretation in 2016, declaring that psychologists were not permitted to conduct Telecounseling. Subsequently, in response to the strong demand from the general public and psychologists for Telecounseling services, the MOHW released an administrative order in 2019 which was revised in 2020. The administrative order, entitled “Rules of implementing Telecounseling services by psychologists,” was released without proper authorization from the Psychologists Act. According to these rules, psychologists are not allowed to provide Telecounseling without prior approval by local health authorities. In the third stage, local health authorities further restricted how and to whom psychologists can provide Telecounseling services through review procedures. The negative impacts of the aforementioned regulatory interpretation, Telecounseling censorship rules and review procedures are as follows: psychologists are unable to fully utilize Telecounseling to serve their clients; many of the general public are unable to obtain much needed Telecounseling services; the development of platform-based Telecounseling services is seriously hindered; and psychologists are unable to quickly respond to the urgent needs for Telecounseling during disasters and pandemic crisis. The purposes of this article are to describe the details of the controversies on Telecounseling censorship, explore their future impacts, outline the investigation report by the Control Yuan, and propose a viable resolution to the controversies. Possible resolutions include: 1. urging the MOHW to abandon the controversial regulatory interpretation and related administrative orders; 2. considering the practice of Telecounseling as parts of professional ethics, to be self-regulated by psychologists; 3. explicitly stating whether psychologists can provide Telecounseling by amending the Psychologists Act; and 4. encouraging psychologists whose application to practice

Telecounseling were rejected by local health authorities to file law suits against the MOHW and local health authorities.

Key Words: psychologist, Telecounseling, Telecounseling censorship, internet counseling

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Introduction

This article first defines the terms Telecounseling, Telecounseling censorship, and psychologist. In the counseling literature, terms describing providing counseling services through remote means include Internet counseling, online counseling, remote counseling, etc. The term Telecounseling was proposed by the Ministry of Health and Welfare (2019). According to the naming method of telemedicine and the "Psychologists Act (2020)," which stipulates the business name of psychologists, Internet counseling, online counseling, and remote counseling are collectively called Telecounseling. For the convenience of writing, this article will use Internet counseling and Telecounseling interchangeably. Psychologists who provide Telecounseling include clinical psychologists and counseling psychologists. Although the two have different business scopes, the regulations and censorship disputes faced by Internet counseling are the same. Therefore, this article combines the two. They are collectively called psychologists, and the content discussed applies to both without distinction.

Before the Ministry of Health and Welfare issued a regulatory interpretation in 2016 that psychologists were not allowed to perform Internet counseling, implementing Internet counseling was one of the practice methods of psychologists and did not require any review. Since the release of this regulatory interpretation, the competent authorities have deemed psychologists performing Internet counseling to violate the Psychologists Act. Taiwan's Internet counseling service has been shut down, causing dissatisfaction among psychologists and the public. Therefore, the Ministry of Health and Welfare (2019) promulgated the "Rules of implementing Telecounseling services by psychologists" (from now on referred to as "Telecounseling approval operations") in 2019, requiring psychological counseling clinics and psychotherapy clinics (from now on collectively referred to as psychological institutions) to implement internet counseling, a Telecounseling implementation plan must be submitted to the local health bureau. It can only be implemented after it is reviewed and approved. The so-called Telecounseling censorship in this article means that the Ministry of Health and Welfare first banned psychologists from performing Internet counseling through regulatory interpretation and then allowed some psychological institutions to provide Internet counseling through the censorship approval.

Why did the authors write this article? The authors believe that Telecounseling censorship is a significant event that seriously hinders the development of Telecounseling. It is also a controversial event that has seriously damaged the scope of psychologists' business since the promulgation of the "Psychologists Act. (2020)" It deserves the concern of psychologist groups

and competent authorities. From the author's point of view, Telecounseling censorship is an administrative order in which the competent authority misinterprets the law and severely limits the business authority of psychologists. It limits people's access to Telecounseling services and severely limits the development of online counseling platforms. Therefore, Telecounseling censorship is a controversy worth exploring.

When some psychological counseling clinics reported to the Counseling Psychologist Association that they encountered difficulties in applying for Telecounseling, the Association not only actively negotiated with the competent authorities, participated in control Yuan surveys, held press conferences to provide information and suggestions, but also assisted and coached members on how to write application forms to pass the censorship review. However, the relevant Associations and Societies of psychologists lacked the mobility to question the legality of the competent authority's Internet counseling censorship for counseling practice agencies. The authors examined relevant literature and found that there were only a few online articles and news on the Telecounseling censorship controversy (Chang, 2021; Li, 2021; Lin C. H, 2018, 2021a, 2021b; Lin W. H., 2021; Wu, 2021; Zhou, 2021) calls for attention to this issue. Therefore, a complete description of the Telecounseling censorship controversy, allowing readers to understand the ins and outs of the controversy and its possible impact and to seek solutions, is the primary motivation for writing this article.

The content of this article mainly consists of four parts. First, it describes the formation and content of the Telecounseling censorship controversy. Second, it elaborates on the subsequent severe consequences of the controversy not being adequately resolved. Then, it summarizes Control Yuan's investigation results on the controversy. Finally, this article proposes some possible solutions to the controversy. The "Psychologists Act. (2020)" is the parent law for the practice of psychologists. Any administrative order that restricts the scope of practice or professional freedom of psychologists should be legally authorized. The content of this article describes the process of psychologists performing Internet counseling by the law and how the competent authority misinterpreted the law. It's an actual incident in which competent authority violated legal authorization and improperly restricted people's professional freedom.

Review of the Formation and Content of the Dispute

The Telecounseling censorship controversy has a formation process, including three stages and contents. First, the Ministry of Health and Welfare issued a regulatory interpretation that stipulated that psychologists should not perform Internet counseling. Then, the Ministry of

Health and Welfare issued a "Telecounseling approval operations" without legal authorization. Finally, the local health bureau formulated review procedures and standards and further restricted the practicing rights of psychologists, which will be discussed below.

Improper Interpretation of the "Psychologists Act" Through Regulatory Interpretation, Prohibiting Psychologists from Performing Internet counseling

Before 2002, Taiwan had more than 300 websites providing Internet counseling services (Wang, 2002), which have become an essential resource for public mental health services and are generally recognized by users. In 2016, some people questioned the legality of psychologists providing counseling on online platforms and requested the Ministry of Health and Welfare to offer the regulatory interpretation. The Ministry of Health and Welfare issued a regulatory interpretation on September 1, 2016. The main content is that "...the Psychologists Act does not allow psychologists to use the Internet to conduct psychological services, and they are not allowed to do so arbitrarily." This regulatory interpretation improperly interprets the "Psychologists Act (2020)," thus prohibiting psychologists from performing Internet counseling, suspending many Internet counseling services, and clearly infringing upon the public's rights to access Internet counseling services.

Administrative agencies shall restrict people's freedoms, rights, and professional freedoms by laws or orders expressly authorized by law. Article 18 of the "Psychologists Act" has explicit restrictions on the services that psychologists cannot perform, such as surgery, electrotherapy, use of drugs, and other medical behaviors. No other businesses are expressly prohibited by the "Psychologists Act (2020)," so psychologists can naturally engage in them. However, the Ministry of Health and Welfare uses regulatory interpretation to go beyond the law and prohibit psychologists from engaging in Internet counseling, which is a clear violation of the law and the constitution.

Psychologists provide counseling services, which can be implemented in person or online, depending on the client's needs. Internet counseling has become a trend worldwide with the development of network technology. However, the Ministry of Health and Welfare misinterpreted the law. It expanded the explanation that psychologists cannot engage in Internet counseling because the registration of psychologists is limited to one location. This practice goes against the digital sharing economy and Internet technology trend. The Ministry of Health and Welfare prohibits psychologists from providing online counseling services through regulatory interpretation, which clearly exceeds legal authorization and violates the

Constitution's protection of people's professional freedom. There is no apparent risk of harm to the public when psychologists provide counseling services through online platforms. Even if there are risks, minimal restrictions should be adopted and should not be prohibited.

The Ministry of Health and Welfare's regulatory interpretation of Internet counseling goes beyond legal authorization. William Lai, the Dean of Executive Yuan at the time, ruled on the regulatory interpretation of administrative agencies at a meeting on October 26, 2017: "It is not appropriate to use the regulatory interpretation of individual cases as a general treatment. If regulatory interpretation exceeds the excessive control of the law, it should be abolished immediately." It is evident that the Ministry of Health and Welfare's regulatory interpretation clearly exceeds the authority granted by the "Psychologists Act (2020)," imposes excessive controls, and prohibits psychologists from conducting Internet counseling, and it should be abolished.

"Rules of Implementing Telecounseling Services by Psychologists" are not Legally Authorized

After the Ministry of Health and Welfare banned Internet counseling through regulatory interpretation, because of the public's fundamental need for Internet counseling, it was necessary for psychologists to provide Internet counseling. An Internet counseling discussion meeting was held on December 6, 2017. The meeting concluded: "—It is necessary for psychologists to perform online counseling, but it needs to be strictly managed. The source of the management law is Article 10 of the "Psychologists Act (2020)." 『 A psychologist shall practice in no more than one location and such location shall be a medical institution, psychotherapy clinic, or psychological counseling clinic approved by and registered with the local municipal or county (city) competent authority or other institutions approved by the competent authority, except for support among institutions or if prior approval has been granted. 』 Therefore, the principle of psychologists practicing through tele-communication should be within the practice institution. The execution of business using tele-communication falls under the exception of "with prior approval" in the latter paragraph of this article. A permitting system is adopted in principle and shall be approved by each local health bureau to ensure the quality of practice and patient safety.

After referring to the professional self-regulatory documents on Internet counseling practice standards provided by various psychologist societies and associations, the "Rules of Medical Diagnosis and Treatment by Telecommunications," as well as the conclusions of the

discussion mentioned above meeting, the Ministry of Health and Welfare promulgated "Rules of Implementing Telecounseling Services by Psychologists" on November 29, 2019. The rules were revised and announced by the Ministry of Health and Welfare on July 29, 2020, due to many obstacles and difficulties after one year of implementation. After feedback from all parties, the Ministry of Health and Welfare revised it. However, in this revised "Telecounseling approval operations," in addition to restricting the clients to be over 18 years old and that non-medical institutions performing Telecounseling services should sign a referral cooperation plan with medical institutions, there are also some additions restrictions make it more difficult for psychologists to engage in Internet counseling than face-to-face counseling. For example, exclude patients with neurosis, psychosis, or brain and mental insufficiency.

There is a problem with the Ministry of Health and Welfare formulating the "Telecounseling approval operations" based on the "Rules of Medical Diagnosis and Treatment by Telecommunications." There are two noticeable differences between tele-medication and Telecounseling. First, tele-medication is a medical act; doctors must do it in person. Telecounseling is not a medical act. The Psychologists Act (2020) does not explicitly stipulate that psychologists must practice in person. Or do it in person; secondly, tele-medication is legally authorized by Article 11 of the Physicians Act. Exceptions or special circumstances where doctors personally provide it are authorized by the health authorities. The Psychologists Act (2020) does not require psychologists to practice counseling in person or face to face, and the competent authority is not authorized to use administrative orders to restrict Internet counseling.

Legal experts (Chang, 2018) believe that providing Internet counseling by psychologists in registered practice locations does not violate the regulation that the practice is limited to one location. Without legal authorization, the Ministry of Health and Welfare has to promulgate normative provisions that the "Rules" of Medical Diagnosis and Treatment by Telecommunications" also requires strict "Telecounseling approval operations," which is a clear violation of legal authorization and the principle of legal proportionality. Based on a conservative attitude towards the law, the Ministry of Health and Welfare treats counseling as a medical practice and improperly adopts overly strict management standards. It interprets Internet counseling as an exception that requires prior approval, which is a clear misinterpretation of the provisions of the Psychologists Act (2020).

Local Health Bureaus Set Review Standards and Increase Controls on Internet counseling

The "Telecounseling approval operations" promulgated by the Ministry of Health and Welfare are only stipulations of principles. To facilitate civil servants in carrying out the approval work, the local health bureaus further formulated review standards and intentionally or unintentionally restricted the practice authority of psychologists. For example, the New Taipei City Health Bureau has added Telecounseling exclusion intake cases in the "Telecounseling Approval Operations Review Procedures and Standards". Before Telecounseling, psychologists should show their practicing licenses in front of the camera, and the parties concerned should show their ID cards. Psychologists cannot use communications software developed in Mainland China and must submit cooperation plans for medical institutions, etc. Another example is the "Telecounseling approval operations review procedures and standards" formulated by the Taipei City Health Bureau, which adds that clients must be at least 20 years old to accept Telecounseling and must submit a contract with a cooperative medical institution, etc.

To implement the Telecounseling censorship, the local health bureau has added restrictions on the convenience of psychologists and the public to use Internet counseling based on the Ministry of Health and Welfare's "Telecounseling approval operations" on the grounds of information security and patient safety. The most severe restriction is prohibiting people under 18 or 20 from Internet counseling, almost equivalent to depriving primary and secondary school students of their rights to use Internet counseling. The "Psychologists Act (2020)" clearly stipulates that psychologists may provide counseling to people with mental disorders upon medical order or consultation. However, the review mentioned above procedures and standards restrict psychologists from providing Telecounseling to people with mental disorders and minors in need.

The Impact of Telecounseling Censorship

After the health authorities improperly interpreted the "Psychologists Act (2020)" and prohibited psychologists from performing Internet counseling, they could not resist the pressure of public opinion to open Internet counseling. Therefore, without legal authorization, they rashly promulgated the "Telecounseling approval operations", and opening some psychological institutions to implement Internet counseling. When the Ministry of Health and Welfare promulgated the "Telecounseling approval operations", some people (Wang, 2019; Lu, 2020) called the administrative order issued by the competent authority without legal authorization the legalization of Internet counseling. The author disagrees with this view.

Many people do not understand the seriousness of Telecounseling censorship. The author believes this controversy has almost ruined the achievements of psychologists' legislation to strive for independent practice and avoid being medicalized. This controversy has an unprecedented impact on the scope and practice of psychologists, is a fatal obstacle to the future development of Internet counseling platforms, and is far-reaching in restricting the enjoyment of high-quality and convenient Internet counseling by all people. Here are four perspectives To illustrate the serious consequences of Telecounseling censorship.

Severe Restrictions on the Professional Authority and Practice Methods of Psychologists

According to the Psychologists Act (2020), psychologists can provide counseling according to the client's needs, including interviews or plays, individual or group counseling, and physical or online counseling. Now, because the Ministry of Health and Welfare has misinterpreted the regulatory interpretation of the Psychologists Act (2020) and violated the "Telecounseling approval operations" authorized by law, the professional authority and methods of psychologists' legal practice have been severely restricted. Psychologists use communication technology to provide the public with services. Practical and convenient Internet counseling is subject to layers of restrictions.

Competent authorities have unduly restricted psychologists' freedom of practice, resulting in unconstitutional and illegal disputes. If not resolved, psychologists' scope of practice and professional authority will continue to be restricted, resulting in the inability to fully and effectively meet the public's needs for Internet counseling services. Even more worrying is that in the future, health authorities will further reduce the space for face-to-face counseling by psychologists in reference to Telecounseling censorship.

For psychologists to provide Internet counseling required prior administrative censorship and control, all parties involved in the control will be harmed. First, the competent authorities lose their prestige. They will no longer gain the trust and support of the psychologist group, which is not conducive to the promotion of mental health policies and increases the social cost of administrative review by the local health bureau; secondly, the general public cannot obtain high-quality and convenient Internet counseling services, and the public may seek more convenient Internet counseling services overseas, but with varying quality; finally, psychologists cannot flexibly use the Internet technology to provide counseling, and the service platform of Internet counseling cannot be freely chosen, which damages the professional autonomy and service capacity of psychologists.

Seriously Hindering the Development and Cross-border Services of Internet Counseling Platforms

In the era of rapid development of the contemporary digital economy, the Internet counseling platform has become one of the digital mental health strategies that advanced countries are competing to promote and develop. During the period when the Executive Yuan was promoting the digital economy policy, the National Development Council commissioned the World Expo International Business Law Firm to conduct "Research on the Adjustment of Regulations on the Provision of Professional Services under the Platform Economy" (Chang, 2018) to explore the professional services such as doctors and psychologists in Taiwan. When the platform economy business model provides medical or counseling services to patients or consumers through long-distance network communications, it is necessary to adjust the current "Physician Law" and relevant regulations on psychologists and whether the relevant supporting management laws and regulations are sufficient.

Chang's (2018) research concluded and suggested that: If our country wants to open up businesses to provide counseling services on online platforms, the so-called "one place" practice restriction in the "Psychologists Act (2020)" should be interpreted as not requiring psychologists and patients to Counseling can only be performed at the same time, space, and place. Accordingly, if a psychologist practices in the "same" medical institution, counseling center, etc., only the patients who receive counseling services will be provided remotely through the Internet platform. The provision of counseling services through distanced contact through online platforms should not violate the provisions of Article 10 of the Psychologists Act (2020). Suppose our country wants to open Telecounseling services widely. In that case, if the administrative agencies can clarify it through the interpretation of administrative regulation, it will help resolve the current practical disputes on this issue, consider legal stability, and simultaneously improve the convenience for consumers to access counseling services immediately

Chang (2018) examined telemedicine and Telecounseling-related regulations in the United States and Japan and found that stipulating that doctors and psychologists be limited to one location is a unique regulation in Taiwan. The law in the United States does not require doctors to diagnose and treat in person. Only in Japan and Taiwan are there regulations that require doctors to conduct diagnoses and treatments in person. Since the United States and Japan neither limit the practice of psychologists to one location nor provide in-person diagnosis

and treatment, the United States and Japan have been able to develop numerous Internet counseling platforms rapidly. At least 55 companies in the United States provide Internet counseling platforms (Owens & Scully, 2024). Similarly, Mainland China does not require psychological counselors to limit their practice to one location and provide in-person treatment. There are at least 20 Internet counseling service platforms in Mainland China.

Taiwan has been very early in establishing Internet counseling platforms. The Taiwan Institute of Psychotherapy established the "Psychotherapy Online" Internet counseling platform in July 2008. Founded in 2016, Simple Psychology (2021) from Mainland China, which once came to Taiwan to learn from "Psychotherapy Online," has become a well-known Internet counseling platform. Nearly 1,000 counselors practice on the Simple Psychology platform in 117 cities worldwide, providing more than counseling services for 600,000 people. In just ten years, the number and scale of Internet counseling platforms in Mainland China has far exceeded that in Taiwan. Taiwan currently has only five or six Internet counseling platforms. The number of psychologists stationed on the platform and the scale of services are limited by the number of psychologists who can practice. The one-site restriction makes it impossible to expand the number and scale of Internet counseling platforms in Taiwan.

Looking internationally, countries are paying more and more attention to Internet counseling, and the proportion of people and psychologists choosing Internet counseling platforms is increasing. According to a 2020 survey of its members by the American Psychological Association, 76% of members provide Telecounseling services to their clients (Weinberg, 2020). China's Simple Psychology (2022) surveyed 10,000 counseling users in Mainland China and found that 52.48% of cases chose the Internet counseling platform. Contree, a Japanese online counseling platform, was established in 2012 and has 60 clinical psychologists. The American Internet counseling platform Breakthrough Behavioral was the first company to provide Internet counseling in every state in the United States. It was founded in 2009 and has 1,300 counselors on the platform. Another Internet counseling platform in the United States, Talkspace, was established in 2014 and has 3,000 psychologists. It has been used by 500,000 people by 2020 (Lin, 2020).

It can be seen that Internet counseling is the daily practice method of psychologists and it is also an international trend. About half of counseling services will be conducted through the Internet. The competent authorities violate the law and restrict psychologists from providing Internet counseling. It will only hinder most people from getting the counseling services they deserve through the Internet. Telecounseling censorship is closely related to Taiwan's difficulty in developing an internet counseling platform. Telecounseling censorship restricts the

innovative development of existing private third-party Internet counseling platform operators, such as FarHugs, xiaoyaoxinli, and italk. Suppose Telecounseling censorship is not abolished and the regulation that limits psychologists' practice to one location is not relaxed. In that case, Taiwan will not be competitive in the market of developing an internet counseling platform to serve the global Chinese population across borders.

Severely Restricting People's Rights to Seek Help from Internet Counseling

Telecounseling censorship limits the scope and practice of psychologists and restricts the rights and interests of many people who receive Internet counseling. Three types of people can now receive face-to-face counseling but have lost their rights to receive Internet counseling services. The explanation is as follows.

The first category of people are minors, most of whom are primary and secondary school students. Even parents or guardians who want their minor children to receive Internet counseling are now deprived of this right. It is a severe problem for the Ministry of Health and Welfare to use an administrative order to deprive minors of their right to receive Internet counseling without legal authorization. Psychologists in primary and secondary school counseling can only use face-to-face counseling. For students who are unable to go to school due to the pandemic or for some reason, they cannot provide Internet counseling. This creates a significant gap in mental health care and counseling for children and adolescents.

The second category of people are adults who are having initial counseling. The initial counseling refers to the first session of counseling. The Ministry of Health and Welfare strictly stipulates that initial counseling sessions must be conducted face-to-face and cannot be done online. This regulation deprives many people who cannot go to counseling institutions in person, including those with mobility difficulties and people from other counties and cities, of Internet counseling rights. Under normal circumstances, whether a person is suitable for initial counseling through the Internet is usually judged by a psychologist based on the assessment results rather than by the competent authorities to adopt a blanket ban.

The third category of people are patients with mental illness. Patients with mental illness were initially able to receive counseling from psychologists with a doctor's order, referral, or consultation. Still, now, they can only receive face-to-face counseling and are deprived of the right to Internet counseling. Patients with mental illness should have the same rights to Internet counseling as ordinary people. Whether patients with mental illness are suitable for counseling

through the Internet should be evaluated and judged by psychologists rather than banned by the competent authority with an administrative order.

Psychologists Cannot Quickly Respond to People's Needs for Internet Counseling Services When an Epidemic or Disaster Occurs.

According to the investigative report of "Reporter" (Lin, 2021), even during the most severe period of the COVID-19 epidemic, under the level three epidemic alert, when people were experiencing high levels of anxiety and counseling services were forced to be interrupted, the government still maintained strict censorship standards for processing applications from counseling agencies to provide Telecounseling services.

Counseling agencies must sign cooperation contracts with medical institutions and provide justifications on Internet counseling information security. As a result, applications are frequently rejected by local health bureaus, and services cannot be provided to the public immediately. The qualifications for Taiwan Telecounseling censorship are stringent and are even described as more complex than applying to establish a counseling agency.

Even if a counseling agency passes the censorship of the local health bureau, the agency's psychologists can only provide Internet counseling in places where the practice is registered. Such restrictions erase the advantages of Telecounseling across time and space. Think about it: psychologists need to use mobile devices to provide Internet counseling in a safe place or space during severe epidemics or disasters. The health authorities could have issued an administrative order to open Internet counseling when the epidemic was severe or a disaster occurred. However, during the severe outbreak, the Ministry of Health and Welfare only opened Telemedicine to medical institutions and did not open Internet counseling to psychological institutions. All counseling agencies should still submit a Telecounseling application by the procedures (Lin, 2021). During the epidemic, a survey by Wu (2021) pointed out that more than 30,000 depressed students across the country had interrupted counseling. Although the Ministry of Health and Welfare opened Telecounseling review, school counseling centers have been delayed due to vague regulations and different application standards among counties and cities. Through censorship, a large number of vulnerable young minds have no way to seek help. Some psychologists lamented that they could have provided relevant online support and assistance, but an administrative order from the Ministry of Health and Welfare prevented them from doing so.

The whole world has been affected by the epidemic. According to a survey conducted by the World Health Organization (WHO, 2020) across 130 countries, psychotherapy services were interrupted in 67% of these countries. In terms of mental health services provided to vulnerable groups, children and adolescents (72%), the elderly (70%), and women in need of prenatal or postpartum services (61%) are all affected, but 70% of countries have adopted Telecounseling to overcome interruptions in counseling services, especially in the United States, where Telecounseling was first developed. When the epidemic was most severe in March 2020, state governments issued an emergency announcement to open Telecounseling fully, and even interns and school counselors could use it immediately. The purpose was to "eliminate all obstacles to accessing resources for all cases."

Control Yuan's Intervention in the Telecounseling Censorship Controversy

In the early days, only psychologist groups paid attention to the Telecounseling censorship controversy, which did not gain attention from all walks of life. It was not until the outbreak of the new coronavirus that, due to the suspension of face-to-face counseling during the epidemic, counseling agencies' applications for Telecounseling censorship were repeatedly rejected, and many anxious people could not obtain assistance from Internet counseling, which attracted the media's and Control Yuan's attention.

The investigation report of Control Yuan's committee members Ji and Lin (2022) pointed out that Taiwan's community infection has entered the third level of alert, which has seriously affected counseling interview services, and many trauma care, emotional problems, and healing paths have been interrupted. Although the Ministry of Health and Welfare promulgated the "Telecounseling approval operations" at the end of 2019, allowing medical institutions and counseling agencies to apply to implement Telecounseling services, as of June 2021, there are more than 200 agencies across the country, and only 14 applications have been approved. Counseling agencies across the country still encounter many obstacles when applying for Telecounseling. Therefore, Ji and Lin (2022) decided to investigate whether the legal basis of "Telecounseling approval operations" is appropriate. After the epidemic, how are relevant units supporting planning and response operations in the face of a sharp increase in counseling demand? A summary of Control Yuan's findings follows.

Telecounseling Censorship Lacks Legal Authorization

When psychologists perform Telecounseling services, the Ministry of Health and Welfare adopts a prior application review system based on the exception in the second paragraph of Article 10 of the "Psychologists Act (2020)", "Those who have been approved in advance". There is no exception provision similar to Article 11 of the "Physician Act," and the "Psychologists Act (2020)" does not have express provisions on Telecounseling, which can easily lead to doubts about legality, limit the space for psychologists' professional judgment, and then give rise to the argument that the psychologists' profession is not respected. The Ministry of Health and Welfare agrees to draw on international trends and relevant systems for practicing psychologists in various countries, consider the domestic medical environment, social culture, and practical needs, and refer to the interpretation of the Constitutional Court Interpretation No. 711 to comprehensively review the laws and regulations on how Taiwanese psychologists perform their business.

Telecounseling Censorship Restricts People's Rights and Interests

According to the "Telecounseling approval operations," psychologists who perform Telecounseling should sign relevant contracts with specific medical institutions, and the clients of Telecounseling must be over 18 years old and exclude patients with neurosis, psychosis, or brain and mental insufficiency, has a significant impact on the professional judgment of psychologists and the protection of public rights and interests. It should be consistent with the principle of legal reservation revealed in the Judicial Yuan's Constitutional Court Interpretation No. 443. Restrictions on people's freedoms and rights should be restricted by law or expressly authorized by law. The Ministry of Health and Welfare should consider relevant international trends and international conventions and discuss the specific provisions in the "Psychologists Law" regarding implementing Telecounseling business regulations for psychologists to protect the rights and interests of the public and maintain the professional quality of the psychology profession.

Control Yuan completed the investigation on June 22, 2022, and sent a letter of investigation report to the Ministry of Health and Welfare to review and improve the situation and provide a response. It is expected that in the foreseeable future, the Ministry of Health and Welfare will convene psychologist-related groups to discuss how to resolve the Telecounseling censorship controversy and respond to Control Yuan.

Resolution of Disputes over Telecounseling Censorship

Based on the previous adverse effects of Telecounseling censorship and Control Yuan's request for the Ministry of Health and Welfare to resolve the legality issue of Telecounseling censorship, this review dispute must be adequately resolved through the efforts of all parties. The author summarizes four possible solutions, which are discussed below.

The Ministry of Health and Welfare Abolishes Relevant Regulatory Interpretation and "Rules of Implementing Telecounseling Services by Psychologists."

The first way to resolve the dispute is for the Ministry of Health and Welfare to convene a meeting of relevant associations and organizations of psychologists to discuss international trends, weigh the pros and cons, and then decide to abolish the relevant regulatory interpretation and "Telecounseling approval operations." For the Ministry of Health and Welfare, this method is the best way to resolve the dispute, and it solves the dispute with the least social cost. However, this method may also be the most challenging method for the Ministry of Health and Welfare because the Minister of Health and Welfare must have an awareness of what is right and what is wrong, give up the rigid legal thinking of integrating medical care and counseling, and focus on benefiting the country and the people. And reissue the regulatory interpretation that psychologists can perform Internet counseling and abolished the "Telecounseling approval operations" without legal authorization.

According to Article 10 of the Psychologists Act (2020), the Ministry of Health and Welfare believes that psychologists need to report and approve in advance to perform Internet counseling. Chang (2018) accepted the National Development Council's commissioned to conduct "Research on the Adjustment of Regulations on the Provision of Professional Services under the Platform Economy" and believed that Article 10 of the "Psychologists Act (2020)" stipulates that psychologists practice in one place and only requires that psychologists must not practice in multiple counseling centers/treatment centers at the same time, psychologists are not required to conduct face-to-face counseling with patients at the same time, space, and location when performing services. Therefore, for Telecounseling through the Internet, communication, or video transmission, if the psychologist provides remote counseling services to the client through an institution in the place of registration, there does not seem to be a direct violation of Article 10 of the Psychologists Act (2020), the regulations on the practice of psychologists.

Chang (2018) studied the regulations for Telecounseling in the United States and Japan. She found that neither the United States nor Japan has express restrictions on psychologists'

practice locations and service methods. In addition, American psychologists who adopt the Telecounseling model only need to inform the patient in advance and obtain the patient's consent. Therefore, there are no regulatory restrictions in the United States and Japan on whether psychologists can use Telecounseling. In contrast, in Taiwan, the Psychologists Act (2020) stipulates that the practice of psychologists should be limited to "one location." However, Article 10 of the Psychologists Act (2020) stipulates that "practice is limited to one location" and does not necessarily restrict psychologists from providing services remotely. If our country wants to move towards opening up Telecounseling services, Chang (2018) suggested that the Ministry of Health and Welfare should use administrative regulatory interpretation to clarify this issue, which should help resolve the current practical disputes.

In the face of the service model that combines Internet technology with counseling, the mentality of the competent authorities needs to be significantly adjusted. Not only should they be passive and not interpret legal provisions conservatively, which will become an obstacle to Internet counseling services, but they should also actively provide counseling and rewards and create an environment conducive to developing Internet counseling platforms. The Ministry of Health and Welfare should believe that people have enough wisdom and judgment to choose face-to-face or online counseling services and respect people's getting the counseling they need physically, online, or globally. The author hopes that the Ministry of Health and Welfare will give a moderately relaxed explanation of the limit psychologists can practice in one place. This will promote the healthy development of Internet counseling platform services and allow the public to gain early access to the professional, convenient, real-time services that Internet technology brings counseling services.

Let Internet Counseling Return to Psychologists' Professional Self-discipline

Countries such as Europe, the United States, and Japan usually do not formulate laws and regulations for Internet counseling. Internet counseling involves professional knowledge that falls within the scope of psychologists' self-regulation. Psychologists' societies or associations have formulated Internet counseling practice guidelines to regulate members. After the relevant regulatory interpretation and "Telecounseling approval operations" were abolished, the relevant Internet counseling regulations naturally returned to the professional self-discipline of psychologists.

That year, the Ministry of Health and Welfare requested all relevant associations of psychologists to provide professional guidelines for Internet counseling and use them as

references for formulating regulations. In this way, the professional guidelines were regarded as statutory provisions and included in the "Telecounseling approval operations." Legalizing the Internet counseling guidelines that were initially part of the professional self-regulation of psychologists into an administrative order for Telecounseling censorship is a grave mistake.

Internet counseling is regulated at home and abroad through professional self-regulation by professional societies or associations. Because Internet counseling involves professional knowledge, psychologists must make professional judgments in complex and ambiguous areas. When encountering difficulties or dilemmas in practice, counseling professional groups must provide practice guidelines. The practice guidelines provide principled guidance and assistance to psychologists, helping them improve the quality of counseling services and safeguard the health and well-being of the public.

Once the Internet counseling practice guidelines are reduced to legal provisions, it will cause a disaster for Internet counseling because Internet counseling is an innovative service model of emerging Internet technology, and there are many gray areas and fuzzy spaces. It requires psychologists to undergo years of clinical training, practical experience, professional ethics codes, and practice guidelines to make professional judgments and decisions that vary from person to person. Once the Internet counseling practice guidelines become regulations, they will inevitably present in detail and in black and white the provisions that psychologists can and cannot do to facilitate the management and audit of public servants of the health authorities, depriving psychologists of the ability to make decisions on the professional judgment and handling by the clinical context and individual differences of clients.

Countries with more advanced counseling development mainly rely on the practice guidelines of professional organizations for regulating Internet counseling, and there is almost no precedent for professional regulation through law and rules. Advanced countries such as Japan and the United States do not have rules restricting psychologists from performing Internet counseling (Chang, 2018). In line with the expectations and requirements of professional self-discipline, relevant associations and organizations of psychologists in Taiwan have promulgated professional ethics codes and Internet counseling professional guidelines to safeguard the safety and rights of the public. Safety management mechanisms have already been set up from the Psychologists Act (2020) to professional ethical self-discipline (Chang, 2021).

Amend the Psychologists Act to Stipulate Whether Psychologists Can Perform Internet Counseling Clearly

The current "Psychologists Act (2020)" does not explicitly provide that psychologists can perform Internet counseling. Therefore, although amending the relevant provisions of the "Psychologists Act (2020)" is the best option to resolve this dispute, it is a hindrance in practical operation. It is difficult. Because the process of amending the law is long and unpredictable, neither the Ministry of Health and Welfare nor the psychologist group is sure. According to usual practice, as long as legal amendments involve controversial provisions, legislators easily shelve them.

It has been over 20 years since the Psychologists Act (2020) was promulgated and implemented in 2001, and its main contents have hardly been revised. Why? This is because the amendment of the Psychologists Act (2020) affects the whole body, and any legislator who wants to propose amendments will cause all kinds of controversies. Assuming that the Ministry of Health and Welfare wants to add legal authorization provisions for Telecounseling censorship to the Psychologists Act (2020), this proposal will arouse strong opposition from psychologist groups. Psychologists' groups and interest groups will also take the opportunity to propose amendments to various other provisions, such as modifying the scope of business, etc. Suppose there is no consensus among counseling psychologists, clinical psychologists, other medical personnel groups, and health authorities on whether the "Psychologists Act (2020)" requires minor or major revisions. In that case, the controversial provisions are expected to be shelved while the law is amended.

The current "Psychologists Act (2020)" was a law that was reluctantly passed amid disputes between all parties. It was the result of compromises by various interest groups. The improper division of the business scope of the two types of psychologists has led to today's conflict between counseling psychologists and clinical psychologists. Opposition makes it difficult to cooperate. The motive of any proposal to amend the Psychologists Act (2020) will be highly suspect and will also attract strong attacks and defenses. Therefore, anyone who wants to amend the provisions of the Psychologists Act (2020) to clearly stipulate that psychologists can or cannot perform Internet counseling will be a difficult legal attack and defense.

Petitions and Administrative Litigation

Suppose the Ministry of Health and Welfare is unwilling to reissue the regulatory interpretation that psychologists can perform Internet counseling. In that case, amending the provisions of the "Psychologists Act (2020)" to stipulate whether psychologists can perform

Internet counseling will be difficult. Ultimately, the solution to the Telecounseling censorship controversy will be administrative litigation.

Any psychologist or psychological institution whose application for Telecounseling censorship is rejected can fight for their due rights through appeals and administrative litigation. Administrative litigation is when government agencies treat people adversely and believe their rights have been violated illegally. They carry out relevant petitions and administrative proceedings by law and order. If a psychologist's application for Telecounseling is rejected, the rejection will be regarded as an administrative sanction. Suppose the psychologist believes that the sanction is illegal or inappropriate and causes damage to the rights by the provisions of Article 1, Paragraph 1 of the Petition Act. In that case, he may petition the original disciplinary authority. The superior authority of the original disciplinary authority shall conduct the review. If the psychologist's appeal is rejected, he can file a first-instance lawsuit with the High Administrative Court, which has jurisdiction. You can appeal to the Supreme Administrative Court if you lose the first instance. This is the second instance procedure. Administrative litigation in our country adopts a three-level and second-instance system. Therefore, if the Supreme Administrative Court decides that the person loses the case, it will be the final judgment, the relief procedure will be over, and there will be no appeal (Zheng, 2022).

Assuming that after the psychologist loses the second instance of the administrative lawsuit, he can also apply for a constitutional lawsuit to the Constitutional Court. If the Constitutional Court decides to accept the case, there will be an oral argument in the Constitutional Court. If the justice's consistent position is followed, the case will be more likely to be ruled by the justice. It is believed that the "Telecounseling approval operations" or the review procedures and standards of the Ministry of Health and Welfare and local governments have no legal basis and violate legal reservations and are unconstitutional. The previous judgments of the Supreme Administrative Court and the High Administrative Court may be declared unconstitutional, the remand was revoked and the sanction was reinstated. At this time, because the standard basis supporting the rejection of the sanction was declared unconstitutional, the Administrative Court should have ruled in favor of the psychologist in this case (Zheng, 2022).

The legal basis for the rejection of Telecounseling applications by psychologists is based on Article 10 of the Psychologists Act (2020), the "Telecounseling approval operations" promulgated by the Ministry of Health and Welfare, and the "telecounseling approval operation review procedures and standards" enacted by the competent authorities of each county and city government. "Telecounseling Approval Operations Review Procedures and Standards" (from

now on referred to as "telecounseling review procedures and standards"). Article 10 of the "Psychologists Act (2020)" does not expressly restrict the practice of psychologists from counseling using telecommunication. Therefore, the Ministry of Health and Welfare and various county and city supervisor's agency itself relies on "Telecounseling approval operations" or "Telecounseling Review Procedures and Standards" as the basis for rejection. At this time, it may face the problem of restricting people's freedom and rights without legal basis, thus violating the principle of legal reservation.

To help injured members fight for their due rights, the psychologist group has consulted Anheng International Law Firm on matters related to appeals and administrative litigation. Zheng (2022), based on the research report of Shibo International Business Law Firm commissioned by the National Development Council, the investigation report of Control Yuan, and the professional legal opinions of his lawyer, believed that the Ministry of Health and Welfare violated the principle of legal reservation in enacting "Telecounseling approval operations," which has a significant impact on the national mental health, and seriously infringes on and restricts the work rights of psychologists. It is recommended that psychologist groups initiate administrative litigation. Some psychologists may think that it is not harmful to apply according to the regulations of the competent authority and perform Telecounseling after obtaining permission, but the application process is more cumbersome. However, if the competent authority later changes the aforementioned "Telecounseling approval operations" or "Telecounseling Review Procedures and Standards," it adds difficult conditions to achieve. Further, it deprives psychologists of their right to work. By then, it may be too late to fight for them.

This article discusses the above four points of dispute resolution and summarizes them into three options for resolving disputes. The first option is administrative negotiation, the second is legal modification, and the third is administrative litigation. These three solutions can actually be carried out simultaneously. As long as the psychologist group works together and strives for the support and assistance of all parties, we believe that the Telecounseling censorship controversy can end soon.

Conclusions and Suggestions

Innovative service methods resulting from the development of Internet technology have swept across all fields around the world. Digital strategies have brought people rich, convenient, and diverse lives; counseling is no exception. In the world trend of promoting digital economic

platforms and Telecounseling services, the Ministry of Health and Welfare should respect the professional authority and practice methods of psychologists, protect the public's rights and interests in using Internet counseling services, relax regulations that are not conducive to the development of Internet counseling platforms, and actively provide an effective policy and regulatory environment conducive to the development of Internet counseling.

The current Telecounseling censorship lacks legal basis, deprives some people of their rights to use it, and restricts the practice of psychologists, which has caused a lot of controversy and has only increased unnecessary censorship operating costs and public complaints for the central and local authorities. The author suggests the following three ways to handle this dispute:

- (1) It is recommended that the Ministry of Health and Welfare abolish relevant regulatory interpretation and "Telecounseling approval operations" and remove the restriction that psychologists can only perform Telecounseling at one location.
- (2) Let Internet counseling return to the professional self-discipline of psychologists, and the association will regulate members according to the Internet counseling practice guidelines.
- (3) Call on psychologists whose applications for Telecounseling censorship have been rejected to file appeals and administrative proceedings with the assistance of associations and law firms.

In the face of counseling services under the Internet technology and digital economy, the mentality of the competent authorities needs to make appropriate adjustments. They should not passively and incorrectly interpret legal provisions, becoming an obstacle to Internet counseling services. They should also actively provide counseling and rewards to help build high-quality services. The Internet counseling service platform brings online counseling back to the Psychologists Act (2020). We believe in the professional self-discipline of psychologists and that the public has their judgment and choice of counseling services they need. Taiwanese psychologists have been performing Internet counseling for more than 20 years. We must keep pace with the times and loose regulations and work with industry, government, and academia to promote the mental health of all people through Internet technology and the digital economy.

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