

心理師法中刑事責任 之成立與極限 —從心靈成長課程的態樣切入

The Establishment and Limit of
Criminal Liability in Psychologist Law
— From the Perspective of Spiritual Growth Courses

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摘要

對於心靈成長課程，種類繁雜因此難有單一之定性。不過可以讓受諮詢者得到基本的情緒緩解與冷靜，對於犯罪的預防也具有一定的貢獻，因此對於心靈成長課程所帶來的正面效應予肯定。心理師法於心理師法第13、14條等規範心理師的核心業務範圍，就此範圍內之業務就只能由具備專業證照者為之，否則即有心理師法第42、43條等之刑事責任。本文試就上述條文的保護法益，核心業務的認定加以討論，認為應該綜合課程所有內容，如相關課程的內容、實施方法等，實質判斷綜合評量後方可獲得結論。

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關鍵詞：心理師 (psychologist)、心理諮商 (psychological counseling)、心靈成長課程 (spiritual growth courses)、拒絕證言 (refusal to Testify)、業務洩密 (business leakage)

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Due to diverse types of spiritual growth courses, it is difficult to have a single interpretation. However, those courses can provide basic emotional relief and calmness to consultee, which makes a certain contribution to the prevention of crime. Therefore, I affirm the positive effects that bring by spiritual growth courses. The Psychologist Act regulates the core business scope of psychologists in Articles 13 and 14. Business within the mentioned scope of professional practices can only be performed by those with professional licenses. Otherwise, will have criminal responsibility from Articles 42, 43, etc. in the Psychologist Law. This paper attempts to discuss the protection of legal interests and the identification of core business from above mentioned Article. It is considered that all the contents of the courses, such as the content of related courses, implement methods, etc., should be integrated. Also, conclusions should be drawn only after making substantial judgments and comprehensive evaluations.

壹、前言——極大化心靈成長需求的現在社會

對於未來的不確定性，是身為現代人所必然要經歷並且不斷歷練。面對不同挑戰，心智的成長與整備，是現代人所必須時時加強，更是一種在時代的競爭中所不可或缺的能力。心靈成長課程就是如此在時代中因應需求而衍生的一種訓練。

本文以下將先就現行常見的心靈成長課程態樣作一歸納與分析，找出其共通的特色與功能，之後再討論心理師法對此的規範其保護法益，與規範界限何在。