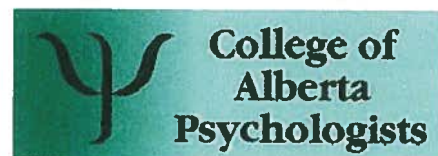


Professional Guidelines for Psychologists

Limits to Confidentiality and Consent for Services:

Special Issues in Working with
Dependent Adults

*Adopted by CAP November 2001
Revised March 2010*



**Limits to Confidentiality and Consent for Services:
DRAFT: Special Issues in Working with Dependent Adults**

Preamble

These guidelines provide an overview of the legal and ethical issues that apply when a psychologist is working with a dependent adult.

Psychologists may provide a variety of roles with dependent adults, including clinical, consultative, or therapeutic roles, and are mentioned in several pieces of legislation (such as the *Dependent Adults Act*¹, the *Personal Directives Act*, and the *Powers of Attorney Act*) as authorized assessors in the evaluation of an adult's decision-making capacity. Awareness of the relevant Alberta legislation is therefore important, as is awareness regarding the guidelines of The College, in order to maintain professional and ethical practice. Service provision can be important and yet quite complex with Dependent Adults, and awareness of issues such as informed consent, vigilance for possible abuse or exploitation of this population, and the potential for conflict of interest due to dual roles is quite important.

The reader should be advised that an adult's substitute decision maker may be referred to as a guardian or trustee (as defined in the *Dependent Adults Act*), agent (as defined in the *Personal Directives Act*), or attorney (as defined in the *Powers of Attorney Act*). Whereas guardians and agents make decisions in non-financial matters for the dependent adult, trustees and attorneys make decisions regarding financial issues.

It is important to consider that the term "guidelines" refers to statements that suggest or recommend specific professional behaviour, endeavours, or conduct for psychologists. Guidelines are intended to facilitate the continued systematic development of the profession and to help assure a high level of professional practice by psychologists. Guidelines are not intended to be mandatory or exhaustive, and may not be applicable to every professional and clinical situation. Rather, guidelines are a bridge between the aspirational intent of the Code of Ethics and the minimum requirements set by the Standards of Practice. They are not definitive and they are not intended to take precedence over the judgment of a psychologist. As legislation is subject to change, psychologists should endeavour to keep abreast of the relevant legislation referenced in this document.

¹ Soon to be revised as the *Adult Guardianship and Trusteeship Act* which is awaiting proclamation at the time of issuance of this set of guidelines.

1. Psychologists working with a dependent adult should first determine the type of substitute decision maker that has been implemented for a dependent adult, and the extent of the authority of that individual.

With some exceptions, the age of majority in Alberta is 18 years of age. Clients normally cannot provide consent for services until they are 18 or older. However, when an adult has been designated as a dependent adult, they are also unable to provide consent for certain decisions. According to the Province of Alberta *Dependent Adults Act*, dependent adults are those Albertans aged 18 years or older who are deemed to be repeatedly and continuously unable to care for themselves, and who are unable to make certain personal, financial, and or non-financial decisions. A lack of capacity for decision making may have resulted from various conditions including a mental disability, acute or chronic mental illness, brain injuries or damage, or age-related diseases. A psychologist is one of the recognized professionals that are legally authorized to determine whether an adult lacks the capacity to make decisions in their own best interests.

It is also important for the psychologist to be aware that if a person has been declared unable to make decisions in his or her own best interests, this declaration may result in a substitute decision maker, such as a guardian or a trustee, being appointed. This can have significant implications for the psychologist as a service provider. While a trustee is responsible for financial decisions, such as payment for assessment or counselling sessions, a guardian is responsible for any or all of 10 different non-financial domains of decisions regarding the adult, including consent for healthcare decisions, such as whether to undergo assessment or counselling with a psychologist.

People who have decision-making capacity may also develop personal directives and enduring power-of-attorney documents. These documents allow the person to specify who will act as their decision maker, should they eventually be deemed incapable of making their decisions. These documents may be very specific as to the decision-making areas within which the agent or attorney can act on behalf of the adult. Should the adult not have written power-of-attorney documents or personal directives prior to being incapacitated by an illness or a mental disability, then a guardianship or trusteeship order may be implemented.

Furthermore, in some cases, when a guardian or trustee is implemented, and should a family member not be available or suitable to fulfill this role, then a public guardian or public trustee may be implemented.

When a psychologist provides services to dependent adults, he or she must therefore address three important contextual issues prior to providing service:

- the type of substitute decision maker that has been implemented;
- who that person is; and
- the specific areas of decisions which are affected for the dependent adult.

Therefore, as a general rule, prior to commencing service, it is advisable for the psychologist to obtain a copy of the guardianship or trusteeship order, personal directive, or enduring power-of-attorney document to verify the role of the substitute decision maker and the extent of their decision-making authority.

The existence of an alternate decision maker and the domains over which an alternate decision maker has authority affect the dependent adult's limits to confidentiality and his or her ability to consent to services.

2. A psychologist must inform a dependent adult of possible limits to confidentiality.

Once the type of service to be provided is established with the guardian or agent, the psychologist must inform the dependent adult that, in addition to the usual limits to confidentiality, his or her guardian or agent has the right of access to all information revealed during the provision of services. The assent of the dependent adult is an important and respectful component to service provision. However, if this poses a problem for the dependent adult, the psychologist has the option of implementing section 19 of the CAP Standards of Practice, whereby an agreement is reached in advance with the guardian of the dependent adult that certain issues will not be disclosed to the guardian.

3. With the exception of emergency intervention, a psychologist must obtain the consent of the dependent adult's guardian before providing services.

If, in the best professional judgment of the psychologist, a client is not able to provide informed consent for treatment or assessment, and there is no guardianship order, agent, or certificate in place, no service other than emergency services should be provided.

This document is scheduled for review by 2015. After this date, users are encouraged to contact the CAP Practice Advisory Committee to confirm that this document remains in effect.

REFERENCES

College of Alberta Psychologists. (2005). *Standards of Practice*. Edmonton, Alberta: Author.

Government of Alberta. (2008). *Dependent Adults Act*. Chapter D-11 RSA 2000.

Government of Alberta. (2000). *Personal Directives Act*. Chapter P-6 RSA 2000.

Government of Alberta. (2003). *Family Law Act*. Chapter F-4.5 RSA 2003.

Government of Alberta. (2000). *Powers of Attorney Act*. Chapter P-20 RSA 2000.