

The CAPMonitor

College of Alberta Psychologists

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To serve the interests of the public and guide the Profession of Psychology.

Alberta's New Health Information Act Q & A for Psychologists

by Michael C. King

The *Health Information Act (HIA)*, passed by the Legislative Assembly of Alberta in December 1999 and proclaimed in April 2001, succeeds and supercedes the *Freedom of Information and Protection of Privacy Act (FOIPP)* with respect to personal health information. Many psychologists have questions about whether the Act applies to them in their practices and what their specific duties are under the Act.

To whom does the Act apply?

The HIA applies generally to "custodians" and "affiliates" who maintain health information about patients and who work within or are paid by Alberta's publicly funded health care system. They include, for example, Regional Health Authorities, the Alberta Mental Health Board, the Alberta Cancer Board, hospitals, nursing homes, physicians and pharmacists. The Act does not apply to private sector agencies and facilities, such as:

- insurance companies
- psychologists or other health care providers who practice in the private sector
- the Alberta Alcohol and Drug Abuse Commission

For example, suppose that a psychologist in private practice provides contract services to the local health region. This psychologist's files that involve work with patients in the health region are subject to the *HIA*, but his/her other clinical files are not.

The HIA will undergo regular review in three years. At that time, the government may extend its provisions to other organizations outside the public system. As well, federal legislation that is slated to come into force in the next few years will extend legislated privacy protections to the private sector.

What are "custodians" and "affiliates"?

Custodians are essentially the governing bodies or administrators of publicly funded agencies and institutions or providers who are paid directly by the Alberta Health Care Insurance plan. Affiliates are principally employees of, or persons under contract to, custodians. If you are a psychologist who is employed by or on contract to a health region or an AMHB clinic, you are an affiliate for the purposes of this Act.

What is "health information" as defined by the Act?

Health information is any diagnostic, treatment or care information that concerns a person's:

- physical or mental health
- health Services provided
- diagnostic test findings
- prescription drugs provided

Patient registration information, including the names of patients, is also considered health information under the Act. The Act states that certain information about health service providers is subject to its provisions, for example, information about the training and credentials of health service providers. The Act applies to all this information, regardless of the form in which it is stored.

What is the difference between the Health Information Act and FOIPP?

Health information that used to come under the provisions of *FOIPP* now comes under the provisions of the *Health Information Act*. In many respects, the Acts have similar provisions for privacy protection. The HIA offers tougher privacy protections in some ways yet allows easier sharing of health information in others.

For example, as compared to *FOIPP*, the provisions of the HIA make it easier to share health information when coordinating patient care and providing education. On the other hand, the HIA requires more systematic documentation of the disclosure of health information. The HIA also imposes more restrictions on the sharing of information outside the immediate circle of care providers and on the use of identifiable health information for research. The Act is also more prescriptive about ways to maintain the security of health information.

Consistent with international Fair Information Principles and Practices, both Acts state that only the minimum amount of information necessary for health care should be collected. As well, both Acts state that such information should be used only for the explicit purpose for which it was originally collected -- unless the patient consents to another use.

(Continued on page 2)

Under the HIA, what obligations do custodians and affiliates have when collecting and using health information?

Custodians and affiliates must:

- actively safeguard health information in their custody
- collect only the information required
- explain to patients the purpose for collecting information and their authority for doing so
- keep a log of disclosures of health information
- help patients to exercise their rights under the *Health Information Act*

Also, the Act specifies time limits for custodians to respond to a patient's request for disclosure of health information, and requires explicit documentation of actions taken (or not taken) under the Act.

What are the patient's rights under the HIA?

Patients have a right to:

- have access to, and to copy if they wish, any record containing health information about them
- be informed of why health information is being requested of them and under what legal authority
- request corrections to factual errors about them in the health record

If a custodian refuses to make a requested correction, the patient may ask the Privacy Commissioner to review that decision or ask to have a statement appended to the record indicating that the patient disagrees with the custodian's decision.

When may a custodian refuse to release health information to or about a patient?

Custodians must refuse to release health information, even with the patient's consent if such a release:

- would pose a risk of harm to the physical or mental health of the applicant or others
- would pose a risk to public safety
- might permit identification of a third party without his/her consent

Psychologists should be aware that Section 11 of the Act allows a custodian to refuse to release information about audits, standardized tests and assessments when the release of that information might prejudice the use of those instruments. In other words, under Section 11 custodians may refuse to release copies of test protocols of standardized psychological tests. However, this provision does not apply to the data or results of such assessments. Again, Section 11, like the rest of the Act does not apply to psychologists who work in the private sector, except as noted above.

When may a custodian use a patient's health information without the patient's consent?

A custodian may use a patient's health information without the patient's consent when the custodian or affiliates are:

- providing health services to the patient
- determining the patient's eligibility for health services
- conducting formal investigations, disciplinary proceedings or practice reviews
- conducting authorized research
- providing education to health service providers
- managing the internal operations of an agency or institution
- complying with another piece of legislation

What if a custodian receives a subpoena or Court Order requiring the release of certain health information?

A subpoena, warrant or Court Order overrides the authority of the *Health Information Act*. Custodians must comply with such orders. If they do not, they run the risk of legal sanctions.

These answers to commonly asked questions about the Act's provisions and application are not a substitute for reviewing the Act itself. Psychologists should be aware of the many other provisions of the *Health Information Act* – what is allowed and required concerning their patients – and they should be prepared to discuss these matters openly with patients under their care.

Most psychologists working in publicly funded agencies or institutions such as hospitals or AMHB clinics have access to an Information and Privacy Coordinator who will assist them in complying with the Act. The text of the *Health Information Act* is available at the Queen's Printer website http://www.qp.gov.ab.ca/display_acts.cfm, and the government of Alberta provides useful background information at <http://www.health.gov.ab.ca/key/keyhipa.htm>.

Michael King is a clinical neuropsychologist, Calgary Health Region and Adjunct Professor, Department of Psychology, University of Calgary.

Council and Committee News

Council Election Results

28 % of membership (541) cast a ballot in the recent election of the 2002-2003 Council of the College.

Congratulations to the following individuals who have been elected to serve on the CAP Council effective June 2002:

Sandra Collins
President Elect

Wendy Hawkins
for a two year term

Teresita Jose, Michael King
and **Bonnie Rude-Weisman**,
for three year terms.

Thank you to all who let their names stand to serve on the Council of the College.

Oral Examinations Committee

Marilyn Samuels was re-appointed as a panel chair of the Oral Examinations Committee for a two-year term.

Discipline Committee

The following individuals were re-appointed to the Discipline Committee for two year terms:

Ali Al-Asadi, Howard Saslove, Irene Estay, Michael Enman and **Kerry Bernes**.

Thanks

**Sincere thanks to all
who volunteer to serve
on the College's committees. Without your active
participation, the work
of the College could not
continue. Your work is
very much appreciated!**

College of Alberta Psychologists

Council 2001-02

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Past President

Michael King

President-Elect

Eric Haffenden

Treasurer and Public Member

Arlene Chapman

Harvey Brink

Dennis Brown

Sandra Collins

Louise Million

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Practice Review Committee

Derek Truscott

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Registration Committee

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Chair

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John Pearce

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Credential Evaluation and

Registration Coordinator

Merrilyn Sweeney

Receptionist/Office Assistant

Examinations Coordinator

Karen Croswell

News and Announcements

Amendment to the Code of Conduct

The Practice Review Committee has proposed the following amendment to the Code of Conduct. Council has approved this for the purpose of consultation with the membership.

7(2) Psychologists will afford their clients the right to request the correction of factual inaccuracies in their records. Such requests will be reviewed by the psychologist who will either:

- a) correct the factual inaccuracies and, to the extent possible, notify all parties to the information; or
- b) write an amending letter or attachment to the record and, to the extent possible, notify all parties to the information; or
- c) if the psychologist is not in agreement that there were factual inaccuracies, or if the inaccuracies were trivial and correction would entail more effort than is justified by the error, the psychologist will notify the client of this and document his/her reasons for refusing to make the requested corrections.

Please submit your comments by **March 22/02** to:

Derek Truscott, Chair,
Practice Review Committee
Derek.truscott@ualberta.ca.

Payment of Fees

Under current legislation, regulations and bylaws, psychologists and registrants must pay an annual registration fee by **March 31** in order to practice under the title of psychologist. Those who fail to submit their fees on time must be charged a late fee and informed of the possibility of de-listing on a certain date. College staff who administer fee payment policies and practices do not have the option of making exceptions to this rule.

You can avoid the annoyance and inconvenience caused by late payment of fees by noting carefully the following standard procedures:

1. The College mails out a fee notice towards the beginning of February. The College is not responsible for ensuring that the fee notices are actually delivered by Canada Post and received by the intended recipient.
2. If fees are not received by March 31, the College is obligated to send a notice to the psychologist or registrant by registered mail. This notice states that the fees are overdue, along with a late fee of \$100, and that de-listing will occur by a certain date.
3. If the fees and late fees are not received on or before the date set for de-listing, Council is obligated to de-list the psychologist or registrant.

Payment of Fees Now On-Line

You are now able to pay your membership fees on line, please visit our website at www.cap.ab.ca.

Examination Results

Summary of the Dec. 3-7, 2001 Oral Examinations

A total of 17 candidates undertook the oral examination.

16 (94%)	Passed
1 (6%)	Failed

Summary of the EPPP

A total of 19 candidates wrote the EPPP exam between November 1, 2001 and December 31, 2001.

15 (79%)	Passed
4 (21%)	Failed

Opportunities to get Involved

Credentials Evaluation Committee

The Credentials Evaluation Committee requires additional members.

To have your name submitted for consideration by Council, please contact Dr. John Pearce, Chair (john.pearce@crha-health.ab.ca) or Pierre Berube, Deputy Registrar.

The Committee will review the applications for evaluation of academic credentials of chartered psychologists and other categories of registrants. The Committee will determine if the candidate's qualifications meet the standards established in legislation, regulation, and by-laws, and will document their decision.

Resources

Practice Bulletin

The College has been asked if a deceased client's next-of-kin can access the deceased person's file from the psychologist. The answer is no, unless the next-of-kin is also the executor or legal representative of the deceased client.

There are two circumstances where psychologists can, without further inquiry, allow access to a client's records to a third party;

- a. an Order of the Court; or
- b. the third party has the written consent of the client/guardian to access psychological records (e.g. lawyers).

There are two circumstances where legal representatives or agents of the client can access a client's records subject to some qualifications;

- a. An Executor – If access to the psychological records is required in order to properly administer the estate; or
- b. An Agent under the Personal Directives Act – If the personal directive contemplates access to psychological records and the personal directive is in effect.

CAP Publications

Available on a cost-recovery basis from the College office:

Copies of CAP practice guidelines (individually or as a package)

- Addressing Recovered Memories
- Advertising and Other Public Statements
- The Use of Aversive Techniques in Behaviour Management
- Child Custody Assessment - **Revised**
- Control of Psychological Tests by Psychologists
- Non-Discriminatory Practice
- Release of Confidential Information
- Service Fees for the Provision of Copies of Client Files
- Psychological Evaluations for Child Protection Decisions
- Limits to Confidentiality and Consent for Services:
Special Issues in Working with Minors and Dependent Adults.

"Status of Codes of Ethics, Codes of Conduct & Guidelines in the Regulation of the Psychology Profession in Alberta."

"Receiving Services From a Chartered Psychologist: An Introduction to Important Professional Considerations Your Psychologist Will Follow in Working With You " (brochure)

Websites

CAP's website at www.cap.ab.ca serves two purposes: communication with the public and communication with College members. The website is updated regularly and is a good source of information for everyone.

Other useful websites for CAP members:

- Psychology Profession Act and Regulations, on-line at www.gov.ab.ca/~lab/dept/
- Health Professions Act, on-line at www.gov.ab.ca/qp
- Psychologists' Association of Alberta at www.psychologistsassociation.ab.ca
- Canadian Psychological Association at www.cpa.ca
- Association of State and Provincial Psychology Boards at www.asppb.org

Calendar

Council Meetings

March 9, 2002

May 9, 2002

Anyone planning to attend should notify the CAP office to confirm the times and location. The most recently approved minutes can be found on the CAP website.

Annual General Meeting

May 9, 2002 4:30 p.m. – 5:30 p.m.
The Coast Terrace Inn, Edmonton

Credentials Evaluation

May 13, 2002

deadline for application
April 12, 2002

July 3, 2002

deadline for application
May 31, 2002

Oral Examinations

May 27-31, 2002

deadline for application
April 15, 2002

Orientation for New Applicants

On the following dates, College staff will provide informal orientation sessions for people who are interested in becoming registered as provisional or chartered psychologists in Alberta.

Edmonton

Wednesday, April 17, 2002,
10:00 a.m. - 12:00 p.m.

Calgary

Thursday, April 18, 2002,
12:00 p.m. - 2:00 p.m.

Please register in advance by calling the College office.

Update to the Register

New Members

Congratulations and welcome to the 33 new Chartered Psychologists and 6 new Psychological Assistants who have been added to the Register between November 1, 2001 and January 31, 2002.

Chartered Psychologists

Dr. Maureen Angen
Ms. Christine Berry
Ms. Carole Bouchard
Ms. Dianna Campbell-Smith
Ms. Lisa Clyburn
Ms. Sherilyn Anne Connor
Mr. Christopher Hammer
Dr. Joy A. Hauck
Ms. Daryl Hebert
Ms. Mary Jane Henning
Ms. Carol Huber
Ms. Claire Johnstone
Ms. Nina Khehra
Ms. Louise T. Lambert
Ms. Brenda McCarty
Ms. Noorfarah Merali
Dr. J. Neil Mulholland
Ms. Brenda Peat
Dr. Christina Rinaldi
Ms. Loir Salter
Dr. Naomi Sankar-Deleeuw
Ms. Eva Mary Scott
Mr. Raymond Scott
Ms. Nicole Sheldon
Ms. Lorraine Smyth-Cassidy
Ms. Colleen Stratton
Dr. Thomas Strong
Ms. Carole Swierstra
Dr. Ava Tin
Dr. Kristin von Ranson
Mr. Ayman Wishah
Ms. C. Tami Yanish
Mr. Kevin Yeasting

Psychological Assistants

Ms. Karin Bork
Mr. Victor Cho
Ms. Jennifer Culbertson
Ms. Maria de Leon
Ms. Lisa Dietz
Ms. Brandy Lee

Reinstatements

Dr. Beth Atkinson,
Chartered Psychologist

Death

The College has learned, with regret of the death of Kathleen Ingraham and sends sincere condolences to Ms. Ingraham's family, friends and professional colleagues.

Changing Your Address?

Please notify the College promptly of changes in your address and phone/fax numbers or visit our website at www.cap.ab.ca

The **CAP Monitor** is a regular publication of the College of Alberta Psychologists.
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