

# The CAP Monitor

Winter 2005 - Issue 20

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College of Alberta Psychologists

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



College of  
Alberta  
Psychologists

# Professional Boundaries by Derek Truscott & Kenneth Crook

This article is an excerpt from *Ethics for the Practice of Psychology in Canada* (2004: University of Alberta Press).

*Professional boundaries are the framework within which the psychologist/client relationship occurs and they define a set of role expectations for the participants (Smith & Fitzpatrick, 1995). Boundaries make the relationship professional, safe for the client, and set the parameters within which psychological services are delivered. Professional boundaries typically include service(s) to be delivered, fees, frequency and duration of services, personal disclosure, nature and extent of any physical contact, and the general tone of the relationship.*

## Role Boundaries and dual relationships

Dual relationships occur where the psychologist functions in one professional role and another significant role in relationship to the same person. The other significant role can be professional, authoritative, emotional, or some other. Dual relationships should be avoided because the expectations of one role may be incompatible or interfere with the other, resulting in harm to the client or the delivery of inferior services.

Overlapping relationships (Brown, 1991), where a psychologist has contact but no other significant professional, authoritative, or emotional role in relationship to the client, can be problematic but are not completely avoidable. Such overlapping relationships can occur in situations where, for example, the psychologist is of a particular religious or cultural affiliation and tends to practice within this community, is active in the gay and lesbian community and works with gay or lesbian clients, or has a child with a learning disability and is active in a local support association, and also does learning disability assessments. Overlapping relationships need to be managed on a case by case basis.

Psychologists should avoid relation-

ships with their clients outside of the professional relationship where either they or their clients are in a position to give special favours, or to hold any type of power over the other. For example, psychologists should refrain from requesting favours from clients, such as babysitting, typing, or any other assistance that involves another relationship in addition to the primary professional relationship.

There are a number of areas in which maintaining professional role boundaries is challenging. Below are some of the more common areas that can present difficulties.

## Bartering and business relationships

The practice of bartering is problematic because it can create a harmful dual relationship. When bartering for services, for example, one takes on the role of the client's employer for the duration of the service. The professional contract is jeopardized in many of the same ways as in other dual relationships. The client's power to complain about working conditions or address problems in the service arrangement, for example, is limited. If the client expressed discontent with the barter, will he or she then worry that the psychologist will terminate professional services? In addition, the emotional role expectations can easily become confused when a client views his or her psychologist as an employer. Such confusion can reverse psychotherapeutic gains for the client. The psychologist's professional stance can also be compromised by the investment in the service the client is providing. If a client is bartering carpentry services for psychotherapy, for example, and the client completes therapy before the carpentry work is completed, the psychologist may feel tempted to prolong therapy. Conversely, the psychologist may feel tempted to foreshorten services if the

carpentry is completed before the client recovers in therapy.

Also, if the psychologist is not satisfied with the quality of the client's work, it can be very difficult to address one's concerns without compromising the professional relationship.

## Social relationships

Generally, psychologists should avoid becoming friends with clients and should refrain from socializing with them. Although there are no explicit guidelines that prohibit friendships from developing once professional services have terminated, psychologists must use their best judgment in assessing the appropriateness for the individual client. Potential power imbalances may continue to exist and influence the client well past the termination of the formal professional relationship.

In the course of providing professional services psychologists may, on occasion, engage in activities that resemble friendship, such as going on an outing with a child or adolescent, or attending a client's play, wedding, or special event. Such activities can be an important component of their services, particularly when working from a feminist perspective to minimize role expectations that entrench the power differential between themselves and their clients (Brabeck, 2000). In all cases, however, it remains their responsibility to ensure that the relationship remains professional and in the best interest of their clients.

## Rural practice

Psychologists in large urban centres have a much easier time avoiding dual relationships because of the large client pool from which to draw; they can more easily separate their workplace from their home life, and they can refer clients to other profes-

## Professional Boundaries (Cont'd)

sionals in the same centre. Urban psychologists have the benefit of the relative anonymity of the large city so that overlapping relationships run little risk of harm.

Rural psychologists, by contrast, have dramatically different experiences as a result of different demographics and cultural norms. The pool of potential clients is much smaller, so turning away referrals can represent a very real financial hardship, and referral sources are limited and distant so that clients can be severely disadvantaged. And unless one is willing to live as a hermit, overlapping relationships are a fact of life. Thus, the management of role boundaries and dual relationships is far more complex in rural settings.

In a rural setting the potential for harm by turning away a client with whom we have another significant relationship must be weighed more heavily against the potential for harm resulting from the dual relationship. Jennings (1992) recommends that rural psychologists make a deep commitment to the core ethical values of the profession and develop a generous capacity for tolerating ambiguity in their relationships. On a more practical note, rural psychologists should make use of extensive, informed consent procedures, and consider providing briefer and less intense services to clients with whom they have more involved non-professional relationships (Jennings, 1992).

### Forensic services

Some of the most troublesome professional role relationship conflicts, for both client and psychologist, occur in the forensic setting. Clients who are involved in legal proceedings typically have much at stake, from custody of their children to personal liberty. Psychologists participating in such proceedings run the risk of having their client feel betrayed.

Those specializing in forensic practice should be aware of the need for additional training beyond that required for entry into the profession, but even those who do not choose to practice in forensic settings can find themselves involved. The most common means by which this can occur is when serving in the role of therapist and being asked by the client to provide an opinion to the courts. Whereas the role of therapist is expected to be supportive, accepting, and empathic, when psychologists enter the legal arena in the role of an opinion-provider they have the legal system as a client and are expected to provide an opinion that is neutral, objective, and detached.

Psychologists must take extra care, therefore, to be clear about the nature of role expectations with clients when entering into a legal role. Potential problems should be discussed thoroughly ahead of time and often thereafter as events proceed or change.

### Sexual Boundaries

Sexual exploitation of clients by psychologists has come increasingly to the fore of public and professional consciousness. It has now become clear that for years professionals (and indeed many persons in authority) have taken advantage of their clients to further their own sexual and power needs with relative impunity. Fortunately, the courageous actions of increasing numbers of victims have forced the professional community and society at large to deal with the issue.

Physical sexual relations between a psychologist and a client, sexual touching, or behaviour or remarks of a sexual nature toward a client are professionally prohibited in all jurisdictions in Canada that have adopted a Code of Conduct. Under Canadian law sexual contact between

a psychologist and his or her client is considered assault whether the client gives consent or not.

There are no circumstances in which sexual activity between a psychologist and a client is acceptable. Sexual activity between a client and psychologist is always detrimental to the client's best interest, regardless of what rationalization or belief system a psychologist might choose to use to excuse it. Because of the unequal balance of power and influence inherent in a professional relationship, it is impossible for a client to give meaningful consent to any sexual involvement with his or her psychologist; client consent and willingness to participate in a personal relationship does not relieve psychologists of their duties and responsibilities for ethical conduct in this area. Failure to exercise responsibility for maintaining professional boundaries and allowing a sexual relationship to develop is an abuse of the power and trust which are central and vital to the psychologist-client relationship.

The issue of whether sexual relationships with clients are acceptable after the professional relationship has ended is a difficult and controversial one. Some have argued that psychologists must never have a sexual relationship with a person who has ever been a client. This is in recognition of the fact that the influence the psychologist had while in the professional role never truly dissipates and so the power imbalance will always persist to some extent, leaving the (ex-)client susceptible to exploitation. Others have argued that this places an unreasonable limitation on our social lives, especially in rural settings, is disrespectful of the client's personal autonomy, and does not acknowledge the range of professional services psychologists provide and the corresponding degree of influence.

Professional standards strike a middle

## Professional Boundaries (Cont'd)

ground between these two views by requiring that psychologists refrain from sexual relationships with clients for at least two years after termination of professional services or for as long as the client is vulnerable to the psychologist's influence. This means that the onus is on psychologists to be sure that the professional contract was clearly terminated, the emotional component of the professional bond has dissipated (this applies particularly but not exclusively to psychotherapeutic services), and the psychologist's motives are not exploitative. Consultation with a trusted colleague is particularly indicated in such circumstances.

### Maintaining Boundaries

The best way to maintain the appropriate boundaries in a professional relationship is through maintaining personal psychological health, awareness of potential problems, and clear communication. A psychologist's power over a client should not be underestimated. The psychologist should also remain aware that the client may experience touch, personal references, and sexual matters very differently due to a variety of factors including gender, cultural or religious background, or personal trauma such as childhood sexual abuse. Risky situations should be avoided and the proper boundaries of any professional relationship should be communicated clearly and early in the professional relationship. Ignoring established conventions that help to maintain the necessary professional boundaries can lead to boundary violations.

If a psychologist is having a problem with how he or she is treating or feeling about a client or how a client is feeling about the psychologist, assistance should be sought as soon as possible. If the client has been sexualizing the relationship, this should be documented, as should actions taken

to address the situation. The psychologist is encouraged to talk to a trusted colleague or mentor, or seek professional help from a qualified practitioner in the psychological community or elsewhere.

When faced with a situation in which the expectations of your professional role may be in conflict with those of another role, consideration of the following questions may be helpful when deciding how best to proceed.

- Is this in my client's best interest?
- Whose needs are being served?
- Will this have an impact on the service I am delivering?
- How would the client's family or significant other view this?
- How would I feel telling a colleague about this?
- Am I treating this client differently than other clients (e.g., appointment length, time of appointments, extent of personal disclosures)?
- Does this client mean something "special" to me?
- Does this action benefit me rather than the client?
- Am I comfortable in documenting my decision/behaviour in the client file?

If the psychologist's answer to any of these questions suggests that proceeding with a second role relationship with his or her client would not be in the client's best interest, the psychologist would be wise to delay the decision and engage in a thorough ethical decision-making process.

*Derek Truscott is a member of the Chartering Committee of the College;.*

*Kenneth Crook is a Partner in the Vancouver law firm of Alexander, Holburn, Beaudin and Lang.*

### References

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## Examination Results

### ***EPPP Results***

A total of 76 candidates wrote the EPPP examinations between June 1, 2004 and November 30, 2004.

Pass 63 (83%) Fail 13 (17%)

### ***Oral Examinations***

A total of 63 candidates undertook the oral examination between June 1, 2004 and November 30, 2004.

Pass 57 (90%) Fail 6 (10%)

# News & Announcements

## Committee News

### **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 efforts are very much appreciated!

#### **Chartering Committee**

Thanks to Rowena Robinson, who is stepping down as a member after serving on the Committee since September 2002.

#### **Credentials Evaluation Committee**

Welcome Michelle Buckle, Naomi Sankar-Deleeuw, Vivian Steele and Michelle Tsutsumi, new members. Walter Goos, chair; Indira Gajraj and Kelly Schwartz, members were reappointed.

#### **Discipline Committee**

Welcome Patricia Schuster and Kelly Schwartz, new members. Roger Gervais, panel chair was reappointed.

#### **Oral Examinations Committee**

Welcome Naomi Sankar-Deleeuw, new member. Reappointments: Paul Gronnerud, panel chair; Patrick Baillie, Sharon Cairns, Thomas Dalby, Vic Grossi, Stewart Longman, Brenda Mann, Emily Wang, Erik Wikman and Daphne Wing, members.

Thanks to Debra Goethe, Candace Konnert and Sheila Mansell, who are stepping down as members. Thanks to Michael Handman, Don Massey and Valerie Massey, who have completed their terms.

#### **Publications Committee**

Welcome Horst Mueller, new member and to reappointments Harvey Brink and Jim Canniff,

Thanks to Eric Haffenden, who is stepping down as a member after serving on the Committee since December 2000.

#### **Registration Committee**

Lisa Clyburn and Nina Khehra, are welcomed as new members. Melody Hopchin, panel chair; James Bateman, Linda Rose, Greg Schoepp, Lorraine Stewart and Jill Turner, reappointed for a further term.

Thanks to Lori Harper, who is stepping down as a member after serving on the Committee since September 1999.

# News & Announcements

## CAP News

### Health Professions Act Update

During the fall of 2004, the Council approved regulations, bylaws and policies for the Health Professions Act (HPA). Government officials report that the Regulation will be ready to go forward to Cabinet "in the foreseeable future." CAP office staff are continuing to revise existing forms, information and documents in preparation for proclamation. Please check the website for news and updates.

### CAP Privacy Policy

The College of Alberta Psychologists is governed by provincial privacy legislation, the Personal Information Protection Act (PIPA) that came into force in Alberta on January 1, 2004. CAP is committed to following the guidelines set out in PIPA to ensure that personal information about members is protected.

A copy of the policy is included as an insert in this issue and is also available on the College website at [www.cap.ab.ca](http://www.cap.ab.ca), under "News."

### Member Feedback on Guideline Requested

Council has approved revisions to the guideline entitled "Control of Psychological Tests by Psychologists" (available on the College website, [www.cap.ab.ca](http://www.cap.ab.ca), or by calling the College office). The Council asks members to provide their comments and feedback on this important guideline to Kathy Semchuk, Practice Review Committee, [k.semchuk@cap.ab.ca](mailto:k.semchuk@cap.ab.ca), by **March 31, 2005**.

### Goods and Services Tax – Health Care Services

The federal Excise Tax Act was amended in May 1999 to expand the definition of "practitioner" in relation to various health care services. For further information on exempt services under this legislation, please refer to Schedule V, Part II Health Care Services of the Excise Tax Act via the Government of Canada website.

Excerpt from the Excise Tax Act:

#### EXEMPT SUPPLIES

#### PART II

#### HEALTH CARE SERVICES

"Practitioner," in respect of a supply of optometric, chiropractic, physiotherapy, chiropodic, podiatric, osteopathic, audiological, speech therapy, occupational therapy, psychological or dietetic services, means a person who:

- a) practises the profession of optometry, chiropractic, physiotherapy, chiropody, podiatry, osteopathy, audiology, speech therapy, occupational therapy, psychology or dietetics, as the case may be,
- b) where the person is required to be licensed or otherwise certified to practise the profession in the province in which the service is supplied, is so licensed or certified, and
- c) where the person is not required to be licensed or otherwise certified to practise the profession in that province, has the qualifications equivalent to those necessary to be so licensed or otherwise certified in another province.

### Mental Health and Addiction Issues Reports Released

On November 23, 2004 the Standing

Senate Committee on Social Affairs, Science and Technology released three reports that provide a comprehensive review of policies and programs relating to mental health, mental illness and addiction in Canada, as well as a comparison of the Canadian mental health system with the system in other countries.

The Committee has released a letter outlining the contents of these reports and an invitation to respond to a short questionnaire. The letter is available on the College website, under "News."

### Referring Patients to Psychiatrists

The following change affects all psychologists.

Effective October 1, 2004, psychologists who request the opinion of a consultant psychiatrist can refer patients to psychiatrists through a verbal or written communication (fax, e-mail, letter). The psychiatrist must then do a history, examination and review of diagnostic data, and provide the referring psychologist with a written opinion with recommendations for treatment.

This change is not intended to suggest that every psychologist should refer his or her patients to psychiatrists; however, when such a referral is necessary this change will allow psychiatrists to be paid for these referrals.

Note: Psychologists will not receive payment from Alberta Health and Wellness for referring their patients to psychiatrists.

When referring patients to psychiatrists, psychologists should provide their full name, discipline and license

# News & Announcements

## CAP News

number. The psychiatrists will submit this information with their claims to Alberta Health and Wellness so the referring psychologist can be registered and given a practitioner identifier (PRAC ID) number. Once registration is completed, Alberta Health and Wellness will notify psychologists in writing of their PRAC ID number, which they should then provide to the psychiatrist when referring future patients.

### Notice to Registered Psychological Assistants

Since the government of Alberta has decided that psychological assistants will no longer be regulated as health professionals under the new Health Professions Act (HPA), Dr. Sandra Collins, then President of the College of Alberta Psychologists, has written an open letter to all registered psychological assistants describing the effects of this change. A copy of the letter is available on the College website at [www.cap.ab.ca](http://www.cap.ab.ca), under "News."

*Note Psychological assistants can continue their registration with the College until the HPA is proclaimed. No annual fees will be assessed for those who choose to do so.*

### Volunteers Needed!

The Oral Examination committee is recruiting for new examiners. Members who volunteer for committee service are required to contribute to at least 50% of the meetings or panel sittings. The majority of our committee members do not receive an honorarium; however, members of the oral examination committee receive \$50 per exam.

Under the Psychology Professions Act, the Oral Examiner is responsible for:

- 1) Independently rating the candidate's performance using a standardized checklist.
- 2) Jointly rating the candidate's overall performance with other members of the Oral Examination panel utilizing a standardized checklist.
- 3) Ensuring the candidate demonstrates a minimum standard of competence for independent practice, and a minimum standard of knowledge and judgment in matters of jurisprudence and ethics.

*All committee appointments will be made by Council. Interested applicants should complete the "Application for Committee Service" and return it to the CAP office.*

### Payment of Annual Registration Fees: Rules and Procedures

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 will be charged a late fee and informed of de-listing on a certain date. College staff do not have the authority to make exceptions to this rule. Fee notices are mailed near the beginning of February. CAP is not responsible for ensuring the fee notices are actually delivered by Canada Post and received by the intended recipient.

If you have not received your fee notice by mid-March, please contact the College office.

### CAP Annual Meeting & Information Sessions

The College's annual meeting and information sessions will be held in September 2005. In the past this meeting has been held in the spring. This change is being made to ensure that all administrative and financial year-end information is available for members at the annual meeting. We look forward to seeing you in September.

# Calendar Calendar of Events

## Council Meetings

March 5, 2005  
May 28, 2005  
September 17, 2005  
October 29, 2005  
December 3, 2005  
January 21, 2006  
March 4, 2006  
May 27, 2006

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

## Annual Meeting and Information Session

September 17, 2005

## Credentials Evaluation Committee Meetings

### Meeting Date

February 25, 2005  
April 15, 2005  
May 27, 2005  
June 24, 2005  
September 16, 2005  
October 21, 2005  
December 2, 2005

### Deadline for Application

January 31, 2005  
March 21, 2005  
May 2, 2005  
May 30, 2005  
August 22, 2005  
September 26, 2005  
November 7, 2005

## Oral Examinations

### Date

March 7 - 11, 2005  
June 20 - 24, 2005  
October 3 - 7, 2005  
January 23 - 27, 2006

### Deadline for Application

January 24, 2005  
May 14, 2005  
August 15, 2005  
November 25, 2005

## Registration Committee Meetings

### Meeting Date

February 28, 2005  
April 29, 2005  
May 30, 2005  
June 29, 2005  
August 26, 2005  
September 26, 2005  
October 28, 2005  
November 21, 2005

### Deadline for Submissions

February 14, 2005  
April 15, 2005  
May 16, 2005  
June 15, 2005  
August 12, 2005  
September 12, 2005  
October 14, 2005  
November 7, 2005

## Information Sessions on Continuing Competence under the Health Professions Act

At five sessions held in Edmonton, Calgary, Red Deer, Lethbridge and Grande Prairie during the fall of 2004, members of the Practice Review Committee presented information about the continuing competence model under the Health Professions Act. All of these sessions were well attended and very positively received.

## Pay Your Fees Online!

You can now pay your membership fees online. For details visit the College website at [www.cap.ab.ca](http://www.cap.ab.ca).

## Meetings with Members

The Registrar and Complaints Director, who have been meeting with Alberta at their workplaces, recently traveled to Medicine Hat and Lethbridge. These meetings were extremely well attended, and a variety of topics were discussed.

Future meetings are planned for other parts of the province. If you would like the Registrar and Complaints Director to meet with you and your colleagues, please contact the College office.

# How To Get To Meet the Discipline Committee

by Michael King

(or “Tell It To the Judge”)

Tired of labouring over those esoteric articles on professional ethics and standards? Like the adrenaline rush that comes from running your practice on gut feeling? Ever wished you could get to know all those fine folks on the Discipline Committee or the kindly justices who preside over malpractice suits in Court of Queen’s Bench? If so, relax. With tongue firmly in cheek, I offer eight surefire ways to get to meet the Discipline Committee or to tell it to the judge:

1. Do everything. You’re good and you know it. People need your services, so don’t worry about training or supervision when you’re picking up a new skill or delivering a new service.
2. Brag about yourself and your abilities. Put down your colleagues and competitors at every opportunity. People like a feisty person who knows what he/she likes and dislikes.
3. Remember that being a genuine therapist means being ready and willing to help clients with everything: loans, household moves, tuition, parole hearings and dinner dates. Worrying about “dual relationships” is just a holdover from that old psychoanalytic crap that nobody really believes anymore.
4. Reading, especially about ethics and professional standards, is a waste of time. Did a t-test ever help anyone get out of an abusive relationship? Did you ever see anyone self-actualize after reading a Code of Ethics? Being a good psychologist is mainly about being a genuine person. Go with your instincts!
5. If you feel strongly about something, let your clients know about it. If Jungian therapy, feminist therapy, codependency or multiple personality disorder are your thing, keep at it with your clients until they see it too. Beat that resistance until it comes down.

Your clients will thank you later for it.

6. Remember that real professionals never show pain. It doesn’t matter if your whole family just died in a plane crash, if your spouse left for a kibbutz with your kids, dog, house and car, if you’ve found out that your entire RRSP is invested in Ecuadorian junk bonds, or if you’ve just learned you have two weeks to live and you’ve taken to having single malt scotch with your Wheaties in the morning. Keep on with your work. Your clients will admire you for it, even if you’re not making much sense any more.
7. Never, ever keep records. They get in the way of your therapeutic spontaneity. Anyway, it’s a better way to protect confidentiality if no one can remember what happened.
8. Remember, only weaklings return phone calls and only wimps apologize. If people, including clients, don’t like something you did, said or wrote, to hell with ‘em. Clients like to be treated roughly anyway. It assuages their primal guilt.

On the other hand, if you would just as soon not seize this opportunity, here are a few suggestions for avoiding such encounters.

1. Stick to what you have been trained to do. Seek additional training and experience before you branch out.
2. Be modest and prudent in your claims about yourself, your skills and your methods.
3. Familiarize yourself thoroughly with the *Psychology Profession Act*, Code of Conduct, Code of Ethics and professional guidelines for psychologists: their content, meaning and implications. Read and reflect on ethics and professional standards as part of your continuing professional development.
4. Periodically conduct an honest re-

view of your own practice to see how well you are meeting the standards expected of a professional psychologist. Have trusted, respected colleagues help you with this process.

5. Discuss complex practice issues and cases with respected professional colleagues.
6. Be honest in monitoring when personal issues and problems may be affecting your professional practice. Get away from your practice and get help when that happens.
7. Keep accurate and up-to-date records about all matters related to your practice and client contacts. Take the time to do this properly. You cannot afford not to.
8. Deal with client concerns promptly, civilly and directly.

Finally, what if the worst happens? You find yourself holding an official-looking letter from the Complaints Director that you’re sure is not a Christmas card. Or you find a casually dressed person in your waiting room holding a sheaf of official-looking papers and asking to see Dr. X. (“No, I don’t have an appointment, but it’ll just take a minute.”) Someone has made a complaint to the College of Alberta Psychologists about you or someone is launching a civil suit against you. What now?? Take a deep breath and...

1. Keep a cool head!
2. Resist the urge to call the client or patient to a) vent your problem or b) try to straighten things out. It’s too late for that.
3. Contact your insurance carrier and explain the situation. Follow their instructions explicitly. As you may have guessed, this is not a good time to discover that you do not have liability insurance or coverage for defending yourself in disciplinary proceed-

## “Tell It to the Judge” (cont’d)

ings.

4. If your insurance carrier advises you to, or if you wish to, contact a lawyer who is experienced in administrative law. Don’t be afraid to ask the lawyer about his or her experience with such matters, and don’t feel you have to accept the first one you interview.

5. Make sure your records are available to you and in good order. As you may have guessed, this is not a good time to discover that you do not have any records of your work with the client in question. You may feel a slight temptation to “fix them up a bit.” Don’t.

6. Seek help and support during this stressful time if you wish, but be prudent about what you say regarding the specifics of the matter. Conversations with your lawyer are privileged, but all other interactions are not. Other psychologists may be compellable witnesses in any disciplinary proceedings against you.

7. Cooperate with investigators assigned to look into complaints – civilly and to the best of your ability.

8. If the matter goes to a disciplinary hearing or a trial, prepare yourself for the formal, adversarial nature of the proceedings. This is not a group therapy session or a graduate seminar. Also, remember that the people on the other side of the table are not your friends.

*Michael King is a member of the CAP Council.*

## Update from the Privacy Officer by Eileen Baril

The world of privacy legislation as it affects psychologists continues to evolve. In the last issue of *The CAP Monitor*, Katrina Haymond of Field LLP described the legislation applicable to psychologists, but since then she has advised of some further changes. The federal government has now declared the Personal Information Protection Act (PIPA) to be substantially similar to the Personal Information Protection and Electronic Documents Act (PIPEDA). As a result, most organizations in Alberta will be covered by PIPA, the Health Information Act (the HIA) or the Freedom of Information and Protection of Privacy Act (FOIP) and will not be subject to PIPEDA. Specifically, they will be exempt from the application of PIPEDA in respect to the collection, use and disclosure of information. However, since PIPA does not apply to health information, the situation with respect to psychologists and other private sector health care providers is not straightforward.

Ms. Haymond has provided the following assessment of the impact of the Exemption Order on the profession of psychology in the province of Alberta:

- PIPA continues to apply to the College of Alberta Psychologists.
- At present, PIPA does not apply to any health information maintained by psychologists. However, when psychologists hire employees in their practice, this legislation does apply to all personal employee information that the psychologist maintains.
- PIPEDA only applies to information in a psychologist’s office if it is transferred beyond provincial borders.
- Personal health information collected by psychologists who are in private practice is not currently covered by any privacy legislation.
- Psychologists who are in public

practice are likely covered by FOIP or the HIA.

Apparently, the Alberta government is considering the expansion of the HIA to cover health information in the hands of private health care providers. If this happens, psychologists in private practice will be governed by the HIA. In the interim, we recommend that psychologists adhere to the ten key principles set out in PIPEDA, as these are “best practices” regarding information management.

The ten principles are:

1. **Accountability.** Appoint an individual to be responsible for compliance, protect all personal information, and develop and implement personal information policies and practices.
2. **Identify the purpose.** Identify the reasons for collecting personal information, both before collecting it and at the time of collection.
3. **Obtain consent.** Clearly explain to the individual why the information is being collected, and how personal data will be used and disclosed. Also obtain the individual’s consent before collecting the information and at the time of collection, as well as when a new use for the information is identified.
4. **Limit collection.** Do not collect personal information indiscriminately or deceive or mislead individuals about the reasons for collecting personal information.
5. **Limit use, disclosure and retention.** Use personal information only for the purpose(s) for which it was collected, retain it for only as long as necessary and reasonable, and develop guidelines for retaining and destroying personal information.
6. **Be accurate.** Minimize the possibility of using incorrect information when making a decision about the

## Privacy (cont'd)

individual or when disclosing information to third parties.

7. Use appropriate safeguards. Protect personal information against loss or theft; safeguard the information from unauthorized access, disclosure, copying, use or modification; and protect the personal information regardless of the format in which it is held.

8. Be open. Inform your clients and employees that you have policies and practices for managing personal information, and make these policies and practices understandable and easily available.

9. Give individuals access to their information, or provide reasons for not providing access. Correct or amend any personal information if its accuracy and completeness is challenged and found to be deficient, note any disagreement on the file and advise third parties where appropriate.

10. Provide recourse. Develop simple and accessible complaint procedures, and inform complainants of the avenues of recourse.

For a full description of how to fulfill your responsibilities in following each of the above principles as described in PIPEDA, refer to [www.privcom.gc.ca](http://www.privcom.gc.ca).

Further information will be provided in The CAP Monitor and on the College website as soon as the government resolves this gap and decides on the legislation that will apply to psychologists in private practice.

*Eileen Baril is the Complaints Director and Privacy Officer for the College of Alberta Psychologists.*

## CALL FOR NOMINATIONS

### 2005 COUNCIL OF THE COLLEGE OF ALBERTA PSYCHOLOGISTS

In accordance with the bylaws of the College of Alberta Psychologists, a call for nominations for the year 2005 Council is presented. All nominees must be Chartered Psychologists who are not under order of discipline and must be nominated by two Chartered Psychologists who are also not under order of discipline. Prior to accepting nominations, all nominees are encouraged to carefully read and give proper consideration to the description of "Standards and Accepted Practices for Council Members."

#### COUNCIL POSITIONS AVAILABLE THIS ELECTION ARE:

- 4 Council positions for members at large  
(2 for three-year terms of office; 2 for two-year terms of office)

#### HOW TO OBTAIN FORMS....

You can obtain the "Call for Nominations" form and the "Nominee Biographical Information" form by:

- calling the College office at 424-5070 (Edmonton) or 1-800-659-0857
- requesting the forms electronically by emailing [w.el-issa@cap.ab.ca](mailto:w.el-issa@cap.ab.ca) or
- visiting the CAP website at [www.cap.ab.ca](http://www.cap.ab.ca).

Nominees must return the completed "Call for Nominations" form, together with the "Nominee Biographical Information" form to:

The President, College of Alberta Psychologists, Suite 2100, Sunlife Place, 10123 – 99 Street, Edmonton, Alberta, T5J 3H1.

NOMINATIONS MUST BE RECEIVED  
AT THE COLLEGE OFFICE  
NO LATER THAN **4:00 P.M., FRIDAY, February 25, 2005**

# Practice Bulletin

## Protection and Disclosure of Psychological Test Data and Materials<sup>1</sup>: Ethical and Legal Obligations of Psychologists

*Psychologists often use published, standardized psychological tests in their work with clients.<sup>2</sup> These tests and the data they provide may furnish important information for the continuing service a client receives from a psychologist and other providers. For this reason, psychologists have a professional obligation to protect psychological tests from misuse and abuse.*

Clients have a right of access to personal information about themselves that is in the custody of service providers. Therefore, they have a right to know about the findings from psychological assessments in which they have participated, and how these findings may affect their care. A more problematic area, however, relates to the clients' rights of access to the contents of psychological tests themselves.

The Supreme Court of Canada's decision in *McInerney v. MacDonald* established the common law right of a client to have access to any information in a health care provider's file that the provider may have relied on in giving care. Since the Court's decision, most provinces and the federal government have enacted privacy legislation that gives statutory definition to what health information must be provided to clients or may/must be withheld. The applicable provincial laws in Alberta are the Freedom of Information and Protection of Privacy Act (FOIP), the Health Information Act (the HIA) and the Personal Information Protection Act (PIPA). The federal Personal Information Protection and Electronic Documents Act (PIPEDA) governs personal information, including health information,

collected, used or disclosed in the course of "commercial activities."

Publishers of various psychological tests have consequently become concerned about the implications that the routine disclosure of test content can have for the validity – and commercial usefulness – of their instruments. Both the Psychological Corporation and Multi-Health Systems have taken the position that the "confidential commercial exemption" of PIPEDA (and comparable legislation in the United States) applies to client requests for access to test materials. Multi-Health Systems and the Canadian Psychological Association have recently endorsed a formal policy of non-disclosure of test materials to clients based on the exemption of confidential commercial information offered by PIPEDA.

Psychologists practice in areas that may fall under the umbrella of different legislation, so it is important for every psychologist who uses test materials to understand his or her legal and contractual obligations regarding the use and disclosure of this information.

Psychologists in public sector practice  
Psychologists who derive payment from provincial government funding either as employees or as contractors (that is, those who work for or contract with municipalities, school boards, social services and health care facilities) are under the jurisdiction of either FOIP or the HIA.

1. Both FOIP and the HIA provide for a client to have access to personal information about them that is kept in a provider's files. This includes all notes, correspondence, records and test data. The acts specify certain exceptions to release, notably

where release of information would pose a risk of harm to the client or to a third party or where the release of information would involve disclosure of information about a third party without that individual's consent. However, full and prompt disclosure of the information is the basic rule. This disclosure extends to psychological test data concerning the client, that is, standardized scores from psychological tests the client has completed.

2. Consistent with the provisions of the Canadian Code of Ethics for Psychologists, psychologists should try to release test data in a form that the client or his or her agent can readily understand. This might include providing data in a narrative report or explaining the data at a meeting with the client or his or her agent. However, if the client consents to the release of test data and declines the offer of interpretation or explanation of those data, the psychologist who is the custodian of the data, or an affiliate, should provide that information as requested.

3. Psychological test materials (that is, records that contain test content) are exempt from release to clients or their agents under section 11 of the HIA and sections 16 and 26 of FOIP. Psychologists who are custodians of such records or who are affiliates of institutional custodians of such records should refuse to release copies of psychological test protocols, except to another psychologist, unless compelled to do so by law.

4. Psychologists in public sector institutional practice should work closely with the information and privacy officers in their organizations to ensure coherence of policy and

practice relating to these matters.

Psychologists in private sector practice  
Psychologists who work in the private sector are subject to the provisions of Alberta's Personal Information Protection Act (PIPA) and the federal Personal Information Protection and Electronic Documents Act (PIPEDA). There is still some ambiguity about which act applies to what kind of information. However, since PIPA currently does not apply to health information and PIPEDA does, most psychologists' records are probably subject to the provisions of PIPEDA. Since both acts have comparable provisions regarding the disclosure and withholding of information, this should not pose problems in practice.

1. Both PIPA and PIPEDA provide for a client to have access to personal information in a provider's file about them. This includes all notes, correspondence, records and test data. This right is not absolute. Exceptions are set out in section 9 of PIPEDA and section 24 of PIPA.

2. Consistent with the provisions of the Canadian Code of Ethics for Psychologists, psychologists should try to release test data in a form that the client or his or her agent can readily understand. This might include providing data in a narrative report or explaining the data at a meeting with the client or his or her agent. However, if the client consents to the release of test data and declines the offer of interpretation or explanation of those data, the psychologist who is the custodian of the data should provide that information as requested.

3. Psychological test protocols (that is, records that contain test content) are exempt from release to clients or their agents under the confidential commercial information exceptions (section 24 of the PIPA and section 9 of PIPEDA). Psychologists who are

custodians of such records should refuse to release copies of psychological test protocols, except to another psychologist, unless compelled to do so by law.

4. Psychologists should have formal policies on the collection, use and disclosure of personal information about persons with whom they work. They should conduct a privacy audit of their practices to ensure that their policies and procedures comply with the requirements of privacy legislation. They should also have an individual in the practice identified as a privacy officer who may address questions, concerns or complaints about privacy practices.

Psychologists who purchase psychological test materials from test publishers enter into a contractual arrangement with the publisher regarding the appropriate use of those materials. When a publisher establishes a policy of non-disclosure of psychological test materials as a condition of purchasing those materials, psychologists should be aware of and respect their contractual duties to the publisher unless compelled to do otherwise by law.

In responding to clients who seek access to psychological test protocols, psychologists should respect both the client and their obligations to maintain test security. Possible courses of action might include:

1. Explain that you have a contractual obligation not to provide the test protocols to the client or his or her agent (only to another psychologist).
2. Offer to review the test results with the client or his or her agent to provide further information and clarification.
3. Offer to provide test results in a summarized format that gives some meaning and context to the test data,

without providing copies of the test materials themselves.

If a client still insists on obtaining access to test protocols under any of the legislation cited above, the client is entitled to make a complaint to the applicable provincial or federal privacy commissioner, who has the authority to review a custodian's decision to deny access to information.

If a psychologist is served with a subpoena or court order requiring the production of the psychologist's file concerning a client, including test materials, the psychologist may contact the test publisher to notify them that the protocols are being sought for use in legal proceedings and, in consultation with the publisher, determine how to respond to the subpoena or order.

## References

- Canadian Code of Ethics for Psychologists. Third Edition (2001). Ottawa: Canadian Psychological Association.
- Freedom of Information and Protection of Privacy Act. Chapter F-25, RSA 2000.
- Health Information Act. Chapter H-5, RSA 2000.
- McInerney v. MacDonald. [1992] 2 S.C.R. 138.
- Personal Information Protection Act. Chapter P-6.5, RSA 2003.
- Personal Information Protection and Electronic Documents Act. 2000, C5.
- Privacy Policy (2004). Toronto: Multi-Health Systems.

<sup>1</sup>The term "client" includes "patient" as well.

<sup>2</sup>Test materials include "test items, response/answer sheets (which contain test items), test manuals, user guides, wall charts, scoring templates, scoring keys, scoring programs and other test protocols."

# Register Updates

## Updates to the Register

### New Members

Congratulations and welcome to the 58 new Chartered Psychologists and 3 new Psychological Assistants who have been added to the Register between June 1, 2004 and November 30, 2004.

### Chartered Psychologists (Practicing)

Ms. Kimberley Alexander  
Ms. Louise Anderson-Pawlina  
Ms. Colleen Bakker  
Dr. Kjerstin Baldwin  
Ms. Shelly Bernard  
Ms. Christine Bettsworth  
Ms. Michelle J. Buckle  
Ms. Mary Bulmer  
Ms. Kathryn Burwash  
Dr. Judith Carscadden  
Dr. Sital Cheema  
Mr. Nathan Cobb  
Mr. John Connelly  
Ms. Susan Connelly  
Ms. Karen Cook  
Ms. Jennifer Crawford  
Ms. Tammy da Silva  
Dr. Bruce Dick  
Ms. Lynne Donovan  
Ms. Andrea Dwyer  
Mr. Kevin Fisher  
Mr. Donald Funk  
Dr. Kim Galbraith  
Dr. Lorna Geer  
Ms. Judith Lynn Gill  
Mr. Douglas Gingell  
Ms. Tamara R. Gordon  
Dr. Kate Hamilton  
Dr. Kerri Hogg  
Ms. Emma Holm  
Dr. Jennifer Jette  
Ms. Michelle Kincade  
Dr. Louanne Lisk  
Ms. Heidi Marchand

Dr. Wanda Meaney  
Dr. Deborah E. Misfeldt Bell  
Mr. Murray Molohon  
Ms. Barbara Morris  
Ms. Joan Norris  
Ms. Brenda Parkinson  
Ms. Dorothy Peters  
Ms. Trina Roll  
Ms. Tanya Sangster  
Ms. Anu Sharma-Niwa  
Ms. Nicole Smith Bringsli  
Ms. Vivian Steele  
Mr. Derek Tarling  
Ms. Colette Thompson-Winter  
Mr. Norman Thoms  
Ms. L. Michelle Tsutsumi  
Ms. Barbara van Ingen  
Ms. Karen Weis Bridges  
Ms. Cheryl Westergard  
Mr. R. Leonard Wilhelm  
Mr. David Zacharko

### Chartered Psychologists (Non-Practicing)

Ms. Patricia Edelstein  
Ms. Kim Hummel  
Ms. Doris M. Mallett

### Psychological Assistants (Practicing)

Ms. Zainab Anas  
Ms. Tricia Crookes  
Ms. Diane Grainger

### Reinstatements

Ms. Lisa Bauche, Provisional Chartered Psychologist  
Dr. Joseph Couture, Chartered Psychologist

### College of Alberta Psychologists Council, 2004-05

#### President:

Horst Mueller

#### Past President

Sandra Collins

#### President-Elect

vacant

#### Public Members:

Barry Ashton

Wayne Wright

#### Treasurer

Bonnie Rude-Weisman

Dennis Brown

Eric Haffenden

Wendy Hawkins

Teresita Jose

Michael King

Terry Wilton

#### Ex Officio Members

Chair, Chartering Committee:

Jean Pettifor

Chair, Credentials Evaluation Committee

Walter Goos

Chair, Discipline Committee

Patrick Baillie

Chair, Oral Examinations Committee

Lee Handy

Chair, Practice Review Committee

Paul Jerry

Chair, Registration Committee

Roy Frenzel

Registrar

Alexandra Kinkaide

Complaints Director

Eileen Baril

#### Staff of the College of Alberta

##### Psychologists

#### Registrar

Alexandra Kinkaide

#### Complaints Director

Eileen Baril

#### Coordinator, Administration and Finance

Wendy El-Issa

#### Executive Assistant

Gail Leicht

#### Credentials Evaluation and Examinations

#### Coordinator

Shenade Johnson

#### Registration Coordinator

Leanne Vanderhelm

#### Assistant to the Complaints Director

Kathy Semchuk

#### Receptionist / Office Assistant

Cheryl Ferguson

# Resources

## CAP Publications

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

- a) Copies of CAP practice guidelines (individually or as a package)
  - Addressing Recovered Memories
  - Advertising and Other Public Communication
  - The Use of Aversive Techniques in Behaviour Management
  - Child Custody Assessment
  - 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
  - Dual Roles: Guidelines for Conducting Assessments and  
Providing Therapy with the Same Client
- b) “Status of Codes of Ethics, Codes of Conduct & Guidelines in the Regulation of the Psychology Profession in Alberta”
- c) “Receiving Services from a Chartered Psychologist...” (brochure)

## Websites

The College’s website at [www.cap.ab.ca](http://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, [www.gov.ab.ca/qp](http://www.gov.ab.ca/qp)
- Health Professions Act, [www.gov.ab.ca/qp](http://www.gov.ab.ca/qp)
- Psychologists’ Association of Alberta, [www.psychologistsassociation.ab.ca](http://www.psychologistsassociation.ab.ca)
- Canadian Psychological Association, [www.cpa.ca](http://www.cpa.ca)
- Association of State and Provincial Psychology Boards, [www.asppb.org](http://www.asppb.org)

## Supervision Consultants

Jon Amundson and Walter Goos, Supervision Consultants for the College, provide consultation to provisional psychologists and supervisors and assist in the resolution of conflicts between provisional psychologists and supervisors.

### Contact information:

Jon Amundson  
1614 – 8th Avenue NW  
Calgary, AB T2N 1C2  
Phone: (403) 289-2511  
E-mail: [amundsoj@shaw.ca](mailto:amundsoj@shaw.ca)

Walter Goos  
12 Allen Place  
Leduc, AB T9E 5J7  
Phone: (780) 986-7592  
E-mail: [waltergoos@shaw.ca](mailto:waltergoos@shaw.ca)

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

The CAP Monitor is complete and accurate to the best of our knowledge at the time of printing. We apologize for any errors or omissions.

Contact us at  
2100 Sun Life Place  
10123 – 99 Street  
Edmonton AB T5J 3H1  
Phone: (780) 424-5070  
1-800-659-0857 (in Alberta)  
Fax: (780) 420-1241  
E-mail: [psych@cap.ab.ca](mailto:psych@cap.ab.ca)  
Website: [www.cap.ab.ca](http://www.cap.ab.ca)

### Changing your address?

Please notify the College promptly in writing of changes in your address, phone/fax numbers or e-mail address. A change of address form is provided on the College website.

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