

## Navigating the Legal and Regulatory Shoals of Professional Practice

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It is a truism that professional practice is becoming increasingly regulated. The rapid evolution of legislative and judicial strictures on practice may sometimes lead us to despair about being able to keep up with these changes, let alone guide our practice intelligently around them. The College has published and regularly updates a resource document for psychologists and students that may help practitioners keep abreast of the changing legal and regulatory landscape of professional practice. *Legislation and jurisprudence naming psychologists or affecting psychologists in Alberta* is available for downloading on the College web page ([www.cap.ab.ca](http://www.cap.ab.ca)). Following are some suggestions about how to use this document in keeping your practice current in this fast-changing environment.

### Levels of Regulation

Psychologists are, of course, subject to the same laws as every other resident of Canada. Psychologists may not assault their clients, steal a colleague's vehicle, or cheat on their taxes, not sim-

ply because they are psychologists but because no resident of this country may do so. Most psychologists are aware of their obligations in this regard and satisfy them without difficulty, apart from the occasional parking or speeding ticket. Most of us do so without regularly reviewing the *Criminal Code*, *Statutes of Alberta*, or various decisions of Courts of Appeal or the Supreme Court of Canada.

At the next level are those federal and provincial laws that specifically bind professionals, or place obligations on professionals beyond those required of the average citizen. For example, most psychologists are aware of their obligations to act on credible information about suspected abuse or neglect under the *Child, Youth, and Family Enhancement Act* and the *Protection for Persons in Care Act*. These acts are unusual in that, rather than simply forbidding certain kinds of

actions, they impose positive duties to act in certain circumstances. Furthermore, although they bind all citizens, not simply professionals, these Acts place special obligations on us because of our readier access to information about possible instances of abuse or neglect.

Psychologists are also subject to a range of statutory obligations around protection and sharing of personal information provided to them in the context of professional relationships. Knowing what one's professional obligations are in this area is particularly challenging because, depending on the circumstances of their work, psychologists may be subject to one of four separate pieces of privacy legislation. For example, psychologists employed in a school system are typically under the authority of the *Freedom of Information and Protection of Privacy Act*, whereas psychologists providing services in publicly-funded (continued on page 6)

# Calendar of Meetings

Note: These dates are subject to change if there are scheduling conflicts. The most up-to-date calendar is available on the CAP website.

## Council Meetings

March 31, 2007  
 May 26, 2007  
 July 14, 2007  
 September 15, 2007  
 November 17, 2007

The most recently approved minutes can be found on the CAP website.

## Credentials Evaluation Sub-Committee Meetings

| <b>Meeting Date</b> | <b>Deadline for Application</b> |
|---------------------|---------------------------------|
| April 20, 2007      | April 5, 2007                   |
| June 1, 2007        | May 18, 2007                    |
| September 7, 2007   | August 24, 2007                 |
| November 2, 2007    | October 19, 2007                |
| December 7, 2007    | November 23, 2007               |

## Oral Examinations

| <b>Examination Week</b> | <b>Deadline for Application</b> |
|-------------------------|---------------------------------|
| April 23 – 27, 2007     | February 26, 2007               |
| June 25 – 29, 2007      | April 30, 2007                  |
| October 22 – 26, 2007   | August 27, 2007                 |
| February 2, 2007        | January 19, 2007                |
| April 20, 2007          | April 5, 2007                   |
| June 1, 2007            | May 18, 2007                    |
| September 7, 2007       | August 24, 2007                 |
| November 2, 2007        | October 19, 2007                |
| December 7, 2007        | November 23, 2007               |

## Registration Approvals Sub-Committee Meetings

| <b>Meeting Date</b> | <b>Deadline for Submission of Materials</b> |
|---------------------|---|
| April 2, 2007       | March 26, 2007                              |
| May 7, 2007         | April 30, 2007                              |
| June 20, 2007       | June 13, 2007                               |
| August 17, 2007     | August 10, 2007                             |
| September 24, 2007  | September 17, 2007                          |
| October 29, 2007    | October 22, 2007                            |
| November 23, 2007   | November 16, 2007                           |
| December 17, 2007   | December 10, 2007                           |

## Survey of Provisional Psychologists And Supervisors

The Registration Advisory Committee invites all provisional psychologists and supervisors to complete an online survey regarding your experience with supervision.

This survey is available on the CAP website at [www.cap.ab.ca](http://www.cap.ab.ca)

Your feedback is greatly valued.

# Practice Bulletin

## Court Directed Parenting Experts

Date of Issue: February 1, 2007

The Court of Queen's Bench amended Family Law Practice Note "7" (Practice Note "7"), effective July, 2006. Practice notes are directions of the Court, outside the Rules of Court to assist in the administration of justice and are inherent to the powers of the Court. They cannot supersede the Laws or Statutes, or the Rules of Court, but are complementary. This particular practice note is designed to assist the Court in dealing with a minority of separating and divorcing families who are engaged in conflict. Practice Note "7" may be used by the Court to appoint a "Parenting Expert" for the purpose of assisting, by providing interventions or assessments. A "Parenting Expert" is defined within the Practice Note as "a psychologist, social worker or other professional, or team of professionals, with sufficient training and experience to be accepted by the Court as expert in matters relating to parenting, contact, custody and access to children." A copy of the Practice Note "7" can be accessed at <http://www.albertacourts.ab.ca/qb/practicenotes/familylaw/note7.pdf>.

Section 4 of Practice Note "7" states that limitations imposed on Parenting Experts by the governing bodies were considered and, that the College of Alberta Psychologists and the Alberta College of Social Workers were consulted in its development. The College was represented in meetings with the Court of Queen's Bench as amendments were considered to the Practice Note. Further, the Practice Advisory Committee had the opportunity to review drafts of the proposed document and provided feedback as to issues that might pose as being problematic to psychologists in meeting their professional ethical obligations. These included the potential dual roles, confidentiality issues involving the release of records and information, imposed limitations on parties regarding the reporting of unprofessional conduct, the need to provide for the ability to use professional judgment in choosing psychological tests, and gaining informed consent from the parties. Some of the feedback was incorporated in the final document produced by the Court and, some was not. The College did not have the opportunity to review the final amended document as approved by the Family Law Committee.

It is important for psychologists to understand that this document has been developed by the Court to guide them in the administration of difficult family matters. The document has no regulatory weight in regards to psychologists who may be appointed under the Practice Note. For example, it provides no immunity for psychologists from being the subject of a complaint by a member of the public in the course of fulfilling an appointment under Practice Note "7". Some members may view section 18 of the Practice Note as suggesting such. The parties to the procedure, whether intervention or assessment, may be accountable to the Court, if this forms part of an Order. The College, however, under the Health Professions Act, is required to act on a written, signed complaint.

Notwithstanding the acceptance of an appointment under Practice Note "7", psychologists are reminded that they are not exempt from compliance with the Standard of Practice (2005), the Canadian Code of Ethics (2000) for Psychologists, and the CAP Child Custody Assessment Guidelines. Psychologists accepting an appointment under Practice Note "7" would be well advised to very carefully consider issues of gaining consent, reviewing the limits to confidentiality and release of information with the parties, and limitations to recommendations and conclusions based on the information that may be gathered in working with the referred families. As well, a psychologist should not accept an appointment which is beyond the experience and training of the psychologist. It is important to understand what is being requested at the outset and to determine whether services can be provided, while meeting all ethical and professional obligations of the profession. Psychologists are cautioned against using standard consent forms that refer to confidentiality and release of information as is typically understood in a psychologist-client relationship. A best practice consideration may be to develop, for each referral, a written agreement with the parties outlining such issues as the expectations (e.g. role, reason for referral, limits to what might be provided), limits to confidentiality, payment for services, how information will be obtained and released; and how lack of co-operation or disagreement will be dealt with. Minimally, these issues should be verbally reviewed with the parties and the discussion documented. Requesting agreement from the parties to refrain from complaining to the College would be unacceptable.

# Examination Results

## Examination for Professional Practice of Psychology

A total of 46 candidates wrote the EPPP examinations between October 1, 2006 and January 31, 2007.

Pass 32 (70%)  
Fail 14 (30%)

## Oral Examinations

A total of 65 candidates undertook the oral examination between October 1, 2006 and January 31, 2007.

Pass 63 (97%)  
Fail 2 (3%)

### 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.

# Register Updates

## NEW MEMBERS

Congratulations and welcome to the 44 new registered psychologists who have been added to the Register between **October 1, 2006 – January 31, 2007**.

Tamara Austin  
Dean Beattie  
Jennifer C. Beattie  
Paula Blashko  
Eloise (Ellie) Bondy  
Marie-Eve Briere  
Dayle Bruce  
Kevin Casey  
Ellen Chacon  
Jesse Chan  
Kelly Clarke  
Daniel Cross  
Teresa Davis  
Lisa Evans  
Danielle Gagnon  
Amber Gear  
Beth Hedva  
Janice Helle

Teresa Jones-Dukes  
Michael Joschko  
Shauna Karasick-Franks  
Mary Kelly  
Jessica Le  
Roger Marceau  
Thamarai Moorthy  
J. Joy Neff  
Mark Nicoll  
Maureen O'Connell  
Tricia Orzeck  
Tula Paul  
Sheree Rankin  
Rachel Rogers  
Vicki Schwean  
Salima Shariff  
Natashya Sherbot  
Amy Siegenthaler

Kelly Sinclair  
Penny Smallwood  
Emily Snihurowych  
Olga Sutherland  
Marcus Swift  
Stacey Tomanik  
Michelle Dawn Vandegriend  
Everett Vroon

### Reinstatement

Henry A. Hornstein

The College has learned, with regret, of the death of Mr. H. Ray Silver and sends sincere condolences to his family, friends and professional colleagues.

# News & Announcements

## Committee News

### Hearing Tribunal/Complaint Review Committee

Welcome to new members Erik Wikman and Brenton Crowhurst. Roger Gervais, Michael Enman, Irene Estay, and John Roshak were re-appointed to serve another term.

### Credentials Evaluation Sub-Committee

Welcome to new members Robert Hadden and Margaret Marean.

### Oral Examinations Committee

Welcome to new members C. Tami Yanish, Diane McGregor, Debra Krueger, Ted Rafuse, Margaret Marean, Murray Molohon. Ted Cadman, Gerald Cossitt, Marianne Miles, Lee Handy, Terry Pezzot-Pearce, Tanja Haley, and Tanya Beran were re-appointed to serve another term.

### Practice Advisory Committee

Paul Jerry was reappointed as Chair.

### Publications Committee

Jim Canniff and Harvey Brink were reappointed for another term.

### Registration Advisory Committee

Derek Truscott and Walter Goos were reappointed for another term.

### Registration Approvals Sub-Committee

Dr. Roy Frenzel was reappointed as Chair.



### Thanks!

Each of the volunteers named in this section is very much appreciated – in fact, the work of the College could not continue without their active participation.

## Opportunities to Get Involved!

The College of Alberta Psychologists relies on member volunteers to effectively fulfill its mandate as a regulatory body.

If you wish to be considered for service on a College committee, please complete and submit the Application for Committee Service, which is available on the CAP website under "Registrants." Completed applications can be directed to the Registrar at the College office. **All committee appointments will be** made by Council.

Members who volunteer for committee service are expected to participate in at least 50% of the meetings or panel sittings.

### Credentials Evaluation Committee

The Committee is currently seeking volunteers in Edmonton.

The Credentials Evaluation Committee reviews applications for the evaluation of academic credentials of psychologists and other categories of registrants. The Committee determines if the candidate's qualifications meet the standards established in legislation, regulation and bylaws, and documents its decision.



## Navigating the Legal and Regulatory Shoals of Professional Practice (cont'd from Page 1)

health care settings are subject to the provisions of the *Health Information Act*. Finally in this area, psychologists may be called upon to exercise professional responsibility as assessors or expert consultants under various statutes. For example, psychologists are named as one of the professionals who may inform decisions about persons under the *Personal Directives Act* and the *Dependent Adults Act* (both of which are currently undergoing review). Forensic psychologists may carry out particular professional activities under the provisions of the *Criminal Code* or the *Youth Criminal Justice Act*. There are specific requirements for action, reporting, and record-keeping within each of these Acts, of which psychologists must be aware.

### When the Court Speaks

Legal obligations evolve not only from provincial and federal legislation but from the decisions of various Courts that weigh the actions of professionals in particular circumstances. Critical clarifications of professional responsibilities in practice have emerged from the Supreme Court of Canada's decisions in *McInerney v. MacDonald* (Common Law right of access to personal information in the custody of a health professional) and *Smith v. Jones* (professional obligations around disclosing otherwise confidential information about possible risks to third parties). These decisions often reflect changes in community views toward particular professional obligations that may presage changes in legislation or ethical strictures in the profession.

### Tort Law, Administrative Law, Civil Litigation, and Complaints

Few areas of professional regulation evolve as rapidly as tort law and administrative law. These concern the circumstances under which psychologists may be sued for their professional conduct or may be complained about to their professional regulatory colleges. Fortunately, most psychologists will never need to know anything about the inner workings of these areas of regulation. However, decisions of civil and appellate courts arising from such actions will often have implications for future professional practice of which psychologists may need to be aware. Excellent texts (for example, Casey, 1999, Sniderman, Irvine, & Osborne, 2003) are available for quick consultation around particular points of interest in these areas. However, nothing replaces formal consultation with a lawyer skilled in litigation or administrative law at times when a psychologist finds him/herself involved in such circumstances.

### Using the Legislation and Jurisprudence Document

The document first presents provincial and federal laws of relevance to psychologists. Each table lists the name of the Act, its purpose, and then highlights key sections or features of importance to the practice of psychology. The document then references court decisions and the principal aspects of the decision that are relevant to practice. Finally, the document references the principal

guidelines and codes that bear on psychological practice in Alberta. It concludes with a glossary of legal terms.

The best way to use the *Legislation and Jurisprudence* document is to incorporate regular review of it into your practice.

- Provisional psychologists will find this document a useful study aid in preparing for the oral examination for registration.
- Psychologists should review this document as part of a regular (at least annually) self-evaluation of their professional practice.
- Coordinate your review of the *Legislation and Jurisprudence* document with a review of current ethical standards governing the practice of psychology and recent Guidelines and Practice Bulletins issued by the College.
- When your practice regularly touches on a sensitive area of legal regulation or jurisprudence, take the time to review the actual source documents referred to in the *Legislation and Jurisprudence* document.
- If you work in legally sensitive areas of specialty practice, for example with children, in civil or criminal forensic settings, or in such risky areas of psychological practice as custody and access assessment, you may wish to pay particular and more frequent attention to evolving legislation and court decisions in those practice areas. (cont'd on next page)

- In practice circumstances where a psychologist's legal and ethical obligations appear to conflict, Knapp et al (2007) provide a useful decision-making strategy to help resolve such dilemmas.

Although the College makes every effort to keep this document current and complete, legal, regulatory, and judicial initiatives affecting psychological practice sometimes emerge rapidly and may not always come to the College's attention in a timely way. As noted earlier, there is no substitute for competent legal advice when you face professional dilemmas that arise in a

particular legal or judicial context. The Law Society of Alberta provides a lawyer referral service that may help link you with a lawyer who practices in the area where you need assistance. You may access this service through the Law Society's webpage ([www.lawsocietyalberta.com](http://www.lawsocietyalberta.com)). The College also invites registrants to contact the CAP office with information about new legal, regulatory, or judicial issues that they have encountered that the larger psychological community may wish to know about.

## References

- College of Alberta Psychologists (2007). *Legislation and jurisprudence naming or affecting psychologists in Alberta*. Edmonton: Author.
- Casey, J. (1999). *The regulation of professions in Canada*. Toronto: Carswell.
- Knapp, S., Gottlieb, M., Berman, J., & Handelsman, M.M. (2007). When laws and ethics collide: What should psychologists do? *Professional Psychology: Research and Practice*, 38, 54-59.
- Sneiderman, B., Irvine, J.C., & Osborne, P.H. (2003). *Canadian medical law*. Scarborough: Thomson Carswell.

# Resources

## CAP Publications

Available on a cost-recovery basis from the College office as well as on our website:

- a) copies of CAP professional guidelines for psychologists (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 and Use of 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
  - Supervisors and Registered Provisional Psychologists
- b) Status of Regulatory Documents in the Regulation of the Psychology Profession in Alberta
- c) Receiving Services from a Registered 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)



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### Council 2006-07

|  |                                       |
|--|---------------------------------------|
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|  | Michael King                          |
|  | Donella Scott                         |

### Committee Chairs

|   |
|---|
| <b>Chair, Credentials Evaluation Sub-Committee</b><br>Walter Goos |
| <b>Chair, Registration Approvals Sub-Committee</b><br>Roy Frenzel |
| <b>Chair, Oral Examinations Committee</b><br>Lee Handy            |
| <b>Chair, Practice Advisory Committee</b><br>Paul Jerry           |
| <b>Chair, Registration Advisory Committee</b><br>Jean Pettifor    |

### 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.

**Jon Amundson**  
1614 – 8<sup>th</sup> Avenue NW  
Calgary, AB T2N 1C2  
Phone: (403) 289-2511

**Walter Goos**  
13 Allen Place  
Leduc, AB T9E 5J7  
Phone: (780) 986-7592

### College Staff

|   |
|---|
| <b>Registrar</b><br>Alexandra Kinkaide  |
| <b>Director, Professional Conduct &amp; Practice</b><br>Eileen Baril            |
| <b>Coordinator, Professional Conduct &amp; Practice</b><br>Nancy duManoir       |
| <b>Coordinator, Administration and Finance</b><br>Wendy El-Issa                 |
| <b>Receptionist/Office Assistant</b><br>Cheryl Ferguson                         |
| <b>Credentials Evaluation &amp; Examinations Coordinator</b><br>Shenade Johnson |
| <b>Executive Assistant</b><br>Gail Leicht                                       |
| <b>Registration Coordinator</b><br>Leanne Vanderhelm                            |

The *CAP Monitor* is a regular publication of the College of Alberta Psychologists. It is complete and accurate to the best of our knowledge at the time of printing. We apologize for any errors or omissions.