

The CAP Monitor

To serve the interests of the public and guide the profession of psychology.

Issue 33

Spring 2009

Ethical Issues in Practice Transitions

By Richard J. Spelliscy

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Practice transitions such as leaving, closing, or changing the nature of one's practice either temporarily, or permanently, abruptly, or planned potentially have significant implications for clients, psychologists, and the profession alike (Koucher, 2005). This issue is of increasing importance as the largest proportion of psychologists in the United States, British Columbia, and Alberta are in the 55-59 years age bracket (see Table A). Fully 37% of Alberta regulated psychologist are 55 years of age or older. Psychologists have both ethical and professional obligations to ensure practice transitions are anticipated and that adequate plans are in place to safeguard client interests.

The Canadian Code of Ethics for Psychologists (2000) similarly states that psychologists must:

Minimize Harm

II.31 Give reasonable assistance to secure needed psychological services or activities, if personally unable to meet requests for needed psychological services or activities.

II.33 Maintain appropriate contact, support, and responsibility for caring until a colleague or other professional begins service, if referring a client to a colleague or other professional.

II.34 Give reasonable notice and be reasonably assured that discontinuation will cause no harm to the client, before discontinuing services.

Parallel ethical standards exist in the American Psychological Association's Ethical Principles

of Psychology and Code of Conduct (2002). The College of Alberta Psychologists' Standards of Practice (2005) also speak to this issue:

Continuity of Care

12 Psychologists shall ensure that one or more other appropriate professionals deal with the emergency needs of their clients, as required, during their absences from professional practice.

Termination of Services

13 A psychologist shall continue to provide the opportunity for a client to receive professional services until (e) the client has had a reasonable opportunity to arrange for professional services of another psychologist or suitable professional.

McGee (2003) reports that "for psychologists, as for some other professionals, there is no absolutely right way to retire; nor is there necessarily an appropriate age or stage of life for retirement. When psychologists decide to retire, it is imperative that this decision be planned and implemented according to pertinent ethical standards and legal regulations and to be based on sound professional and clinical judgment." (p. 388). This is because professional liability and ethical issues may surpass one's formal retirement date.

Recordkeeping is one critical issue that may extend well past the psychologist's formal retirement date. Section 11(2) of the College of Alberta Psychologists' Standards of Practice (2005) requires

psychologists to "ensure that all data entries in their professional records are maintained for a period of not less than 10 years after the last date on which a professional service was rendered." Other legislation such as the Health Information Act may have additional retention requirements for publicly collected (e.g., hospital) information that may exceed these requirements.

The issue of secure confidential files is also raised in the Bill 46, the Health Professions Amendment Act (2008). This Bill, passed in 2008 is now awaiting to be finalized, and will provide responsibility and authority to regulatory colleges to ensure that members have arrangements in place to meet these standards after they cease practicing. Bill 46 will also allow the courts the ability to seize files that are abandoned and impose financial penalties on the regulated members or their estates for costs incurred by the regulatory college. Regulations are currently being developed by the government that will clarify these processes and the obligations of both colleges and their members.

Many fraternal and professional organizations are assisting their members in preparing for practice transitions. The San Diego Psychological Association has formed a dedicated committee to address issues related to psychologist retirement, incapacitation or death (PRID). The mission of the PRID committee is to assist

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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
 - The Control and Use of Tests by Psychologists
 - Non-Discriminatory Practice
 - Release of Confidential Information: Special Issues in Client and Third Party Requests
 - 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
 - Informed Consent: Ethical Guidelines, Principles and Standards
- b) "Status of Regulatory Documents in the Regulation of the Psychology Profession in Alberta"
- c) "Receiving Services from a Registered Psychologist..." (brochure)

On-Line Resources

The College'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:

- *Health Professions Act*, www.gov.ab.ca/qp
- Psychologists' Association of Alberta, www.psychologistsassociation.ab.ca
- Canadian Psychological Association, www.cpa.ca
- Association of State and Provincial Psychology Boards, www.asppb.org
- Office of the Information and Privacy Commissioner. www.oipc.ab.ca

CAP Communications Survey

A survey about the College's communication strategy is still available on-line. If you have not completed the survey, please feel free to do so.

We would love to hear from you about how we do in terms of keeping members in the loop of the happenings at the College

Please respond by August 15, 2009.

Just click "Members Only" at the top of the homepage (www.cap.ab.ca), log in, and look for "CAP Questionnaire" on the left panel. It will only take a few minutes to complete.

If you prefer a paper format of the survey, please contact the College by phone at (780) 424-5070 / 1-800-659-0857 or e-mail at psych@cap.ab.ca.

THANK YOU VERY MUCH FOR YOUR PARTICIPATION!

Ethical Issues in Practice Transitions continued

by Richard J. Spelliscy

psychologists in meeting ethical, legal and clinical obligations during such transitions. Additionally, the committee has been providing information for psychologists regarding the preparation of professional wills and executor guidelines. Since 1999, the primary goal of the committee has been to provide members information on how to resolve professional practice issues that arise after services have been terminated. The committee also acts as an educational resource for psychological associations across the U.S. and Canada. Similarly, the College of Psychologists of British Columbia has developed both guidelines on professional wills as well as a private practice checklist for retirement, relocation, or extended absence from practice and planning for unexpected incapacitation or death. This checklist is displayed in Table B. (also see American Psychological Association's "Checklist for Closing Your Practice," 2005). The College of Psychologists of British Columbia has also moved one step further and will require members by the year 2010 to have a professional executor in place to address practice transition issues. This will be a mandatory condition of receiving an annual practice permit.

A number of websites are also available to assist members in their preparation for practice closures. These are outlined in Table C.

In summary, registered psychologists are well advised to consider practice transition issues well in advance of unforeseen emergencies or planned retirement. This is to ensure that all ethical, professional, legal and practical issues are adequately addressed. The latter includes ensuring that one's malpractice policy continues to cover acts of commission or omission that occurred while practicing. A solid plan may minimize any adverse effects for the client, the psychologist and the family members of both parties.

Age	Number	Percentage (%)
< 30	108	4.5
30 – 34	227	9.5
35 – 39	315	13.1
40 – 44	245	10.2
45 – 49	282	11.8
50 – 54	338	14.1
55 – 59	391	16.3
60 – 64	292	12.2
65 – 69	146	6.1
70 – 75	30	1.3
75 >	23	1.0
Total	2397	100%

Table B Retirement Planning - Are You Ready for Retirement?

Practice Checklist for Retirement, Relocation, or Extended Absence from Practice, and Planning for Unexpected Incapacitation or Death.

Retirement, relocation, and extended absences all involve closing or suspending a practice and therefore, all involve termination and/or transition for clients. In addition to such planned transitions, registrants are also required to plan for their unanticipated incapacitation or death. In all of these circumstances, registrants have an ethical obligation to plan ahead in order to ensure continuity of care, anticipate record-keeping issues, and provide as smooth a transition as possible for those affected. The following checklist (on page 4) is intended to assist registrants in considering how best to prepare for termination of, or extended absence from, practice.

References

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- San Diego Psychological Association. (www.sdpsych.org).

Ethical Issues in Practice Transitions **concluded**

by Richard Spelliscy

Table B

Practice Checklist for Retirement, Relocation, or Extended Absence from Practice, and Planning for Unexpected Incapacitation or Death.

- NOTIFY** clients of the expected date of your retirement, relocation, or extended absence well in advance.
- SET** a specific date for termination, and be consistent in your discussion with clients.
- PLAN** a clinically appropriate termination or referral plan for each current client.
- OFFER** clients who are to be transferred several referrals, and obtain a release to forward a copy of the record (you retain the original) or a summary of the record to the new clinician.
- PREPARE** a letter to clients and selected former clients about your plans.
- PROVIDE** written information to current and selected former clients regarding how to access their records, and specify that records will be destroyed once the required record-keeping interval has elapsed.
- APPOINT** a professional executor and ensure all arrangements are clear and in writing.
- MAKE** a list of all passwords and voicemail access codes and make these available to your executor.
- CONSULT** with respected colleagues as appropriate during the transition period, regarding client welfare, transition process issues, or other matters.
- INFORM** relevant referral sources about your plans and provide alternate referral information as appropriate.
- ENSURE** secure storage of your practice records, appointment books, financial records, and any test materials, including computerized testing materials, you plan to retain. Registrants working in institutions where records are kept and managed by a central records office may need to ensure that client test protocols and test materials are clearly marked for review only by a qualified professional.
- MAKE**, retain, and regularly update a list of records that have been stored, and the date on which these should be destroyed.
- DESTROY** outdated files, or have them destroyed by a confidential shredding company. Review computer-based records, and destroy outdated files, and outdated files on computers which will be out of your dominion and control.
- PREPARE** or update a professional will that designates a professional executor in the event of your death or incapacity. File copies as determined in the will, and ensure your executor has a copy of the will and any updates you make to it.
- ENSURE** adequate professional insurance to cover time you are not practising, including 'tail' insurance to cover liability after retirement. This coverage is important, as lawsuits or ethics complaints may be filed after you stop practising, regarding services you provided while in active practice.
- NOTIFY** the College of Alberta Psychologists in writing if you wish to request a change in your registration status to Off Register. Be sure to consult current policies regarding any status changes, as your ability return to the Full Register of the College in the future, should your circumstances change, may be impacted by your decision.

*Original checklist from Chronicle, Volume 10, Number 1, March 2009.
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Table C Internet Resources on Retirement for Psychologists

Several internet resources on retirement for Psychologists can be found in the following table.

Table C

Internet Resources on Retirement for Psychologists

Psychologists in Independent Practice - a division of the American Psychological Association

- <http://www.division42.org/MembersArea/PracticePerfect/ProfessionalWill.htm>

Monitor on Psychology - "Shutting down a practice: Psychologists face legal, ethical and emotional issues when they close their practice doors"

- <http://www.apa.org/monitor/Feb03/howtoclose.html>

Monitor on Psychology - "Professional will: A responsible thing to do"

- <http://www.apapractice.org/apo/insider/practice/pracmanage/legal/will2.html#>

Articles, Research, & Resources in Psychology - "Therapist's guide for preparing a professional will"

- <http://www.kspope.com/therapistas/will.php>

Office of the Professions - Psychology - "When practice ceases - Temporarily or permanently"

- <http://www.op.nysed.gov/psychcease.htm>

Clinical Lawyer - "Professional wills"

- <http://clinicallawyer.com/?p=37#more-37>

Nova Scotia Board of Examiners

- <http://www.nsbep.org/index.html>

Insuring a Successful Retirement by Rodney Hancock, B.A., M.A., Ph.D., CCIB

Retirement or ceasing to practice means planning ahead and there are a few important issues that should be considered and addressed. One issue is professional liability, and a second related issue is file retention.

Professional liability insurance coverage varies according to the provider and the policy involved. Many regulated members are insured through McFarlan Rowlands which is endorsed by the Canadian and Albertan Psychological Associations. These policies include coverage for malpractice insurance, disciplinary hearing expenses, and general liability insurance. Other reputable providers are available and all psychologists should ensure that they have adequate coverage.

A malpractice policy covers you for your work as a psychologist. The disciplinary hearing coverage policy provides insurance for the legal expenses associated with matters related to your regulatory body (i.e., the College of Alberta Psychologists). The general liability policy includes coverage for bodily injury, property damage, libel, slander, and discrimination.

The malpractice and disciplinary hearing coverages are written on a claims-made basis. This means that these coverages must be in force at the time the claim is reported for the policy to respond. The general liability coverage is written on an occurrence basis and this policy responds to claims that occur during the policy period.

This difference between claims-made and occurrence-based coverages is very important at retirement. When you cease practicing, there is nothing that needs to be done to protect you against future general liability claims as long as you have maintained this coverage throughout the time you practiced. The policy will respond to general liability claims made after you are retired provided that coverage was in force at the time the claim occurred.

However, the situation is much different for malpractice and disciplinary claims made after you have ceased practicing. These policies must be in force at the time the claims are reported, and it is for this reason that McFarlan Rowlands offers an extended coverage endorsement. This endorsement must be purchased when you cease practicing as it provides coverage for future malpractice and disciplinary claims. The policy is offered at a one-time cost of 125% of the annual policy premium at the time of retirement and is effective until your estate is settled after your death. Should your insurer be someone other than McFarlan Rowlands, it would be important to ensure a similar provision is available.

Second, it is important that you make arrangements to appropriately store your files so that they are available in the event of a claim. There are many opinions about how long you should keep files. There are also a number of pieces of legislation governing record keeping including the Standards of Practice of the College (2005). It is probably wise to never destroy any files related to custody and access work, or to sexual abuse. That said, you should look to your regulator and/or legal advisor for clear direction on file storage.

Finally, when retiring, you should make sure your life insurance policies and financial planning are in place to ensure a smooth transition. Seeking the advice of a financial planner is well worth the time spent to make sure everything is in order. This is just one more way to ensure that your retirement is a positive experience.

Should you have any questions or wish to discuss these matters in more detail, please do not hesitate to contact either Leisha Ruddy (lruddy@mcfarlanrowlands.com) or Colleen McGill (cemcgill@mcfarlanrowlands.com) at McFarlan Rowlands, or your insurance provider.

McFarlan Rowlands Insurance has been providing home, auto, and business insurance to consumers since 1895. For the past 35 years, McFarlan Rowlands

has developed professional insurance programs (including malpractice, disciplinary hearing expense, general liability, and commercial insurance) that serve the needs of regulated healthcare providers.

Rodney Hancock is a trained psychologist and spent his early working life as a professor of psychology at the University of Western Ontario. He joined McFarlan Rowlands, a London-based brokerage firm, in 1979, and is currently a senior partner, President and Chief Executive Officer of the company.

Rodney is also the Chairman of the Board of the Insurance Brokers Association of Ontario, a Director of the Insurance Brokers Association of Canada (IBAC), and Co-Chair of the IBAC Professional Development Committee.

Examination Results

Examination for Professional Practice of Psychology

A total of 58 candidates wrote the EPPP examination between January 1, 2009 and April 30, 2009. Results were as follows:

Pass: 64%
Fail: 36%

Oral Examinations

A total of 27 candidates undertook the oral examination between April 27, 2009 and May 1, 2009. Results were as follows:

Pass: 96%
Fail: 3%

Register Updates

New Members

Congratulations and welcome to the 34 new registered psychologists who were added to the Register between January 1, 2009 and April 30, 2009.

Priya Bains
Conrad Boehme
Dallis Briggs
Joanne Burns
Kiersten Cote
Veronica Dixon
Barbara Dobson
Benjamin Ellingson
Cindy Gaffney
Gregory Godard
Teresa Griep
Courtney Hegan
Leah Hepner
Gary Hotson
James Jackson
Mike Jean-Baptiste
Kathy Johnson
Sara Jungen
Mirjam Knapik
Joanne Koopmans
Susanne Martin
Christa Morhart
Karl Mueller
Tamara Pettigrew
Laura Quilliams-Hauk

Kenneth Reap
Deanne Robbins
Anne Shillington
Mark Snyder
Adriana Sorbo
Suzanne Stevens
Shannon Stewart
Lisa Tews
Caroline Walters

Reinstatements

Registered Psychologists
Wayne C. Abraham
Brigitte A. Breault
David Lagace
Julia Morrison
Sandra Strate
Deborah Walchuk
Debra Wolinsky

Cancelled Registration for Failure to Renew Practice Permit

Registered Psychologists

Catherine Joy Archibald
Tania Corbett
Helen Louise Daymond
Nina Engelhardt
Darren George
Paul Hommersen
Peter Kells
Paul D. King
Lucien P. Larre
John D. Loewen
Angela MacPhee
Barbara Marquardt

Provisional Psychologists

Victoria Collin
Erin Johnston
Robert Roughley

Death Announcement

The College has learned, with regrets, of the passing of the following members:

- Christine S. Fewster of Calgary, and
- Jim Evans of Edmonton.

The College wishes to extend condolences to their families, friends, and professional colleagues.

News & Announcements

Committee News

Hearing Tribunal/Complaint Review Committee

Lorraine Breault and Patricia Schuster were re-appointed as members.

Practice Advisory Committee

Wade Randall was appointed as a new member.

Registration Advisory Committee

Walter Goos and Derek Truscott were re-appointed as members.

Registrations Advisory Sub-Committee

Aaron Block was re-appointed as a member.

Credentials Evaluation Sub-Committee

Ali Al-Asadi and Lee Handy were re-appointed as panel chair and member.

Oral Examinations Committee

Judy Chew, Victor Grossi, Brenda Mann, and Andre Masson were re-appointed as panel chairs for one year. Maria Hüttenrauch was appointed as a new member.

Many Thanks!

We appreciate each and every one of our volunteers; the work of the College could not thrive without their continued support and contribution.

Opportunities to Get Involved—Volunteers Needed!

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” form which is available on the CAP Web site under “Members Only.” Completed applications can be directed to the Registrar at the College office. All committee appointments will be made by Council.

The Credentials Evaluation Sub-Committee (CESC) and the Oral Examinations Committee are currently recruiting new members.

- The Credentials Evaluation Sub-Committee (CESC) comprises 18 members and is responsible for reviewing applications for evaluation of the academic credentials of candidates for registration as registered psychologists as well as applications for evaluation of the doctoral and Ph.D. credentials of registered members; authority for this second task has been delegated to the Registrar. CESC meetings are held five times a year.
- The Oral Examination is a face-to-face examination conducted in an interview setting and is designed to assess whether candidates demonstrate a minimum standard of competence for independent practice, and a minimum standard of knowledge and judgment in matters of jurisprudence and ethics. Oral examinations are held quarterly (or four times a year in the months of January, April, June, and October for a full week).

If you are interested in volunteering for either of these Committees, please take into consideration that there is an attendance requirement of a minimum of 50% of the meetings per year.

CALL FOR NOMINATIONS

2009–2010 Council of the College of Alberta Psychologists

Upcoming Vacancies on Council - Two Member-at-Large positions

In accordance with the bylaws of the College of Alberta Psychologists, a call for nominations for Council for the year 2009-2010 is presented. All nominees must be Registered Psychologists who are not presently under order of discipline and must be nominated by two Registered Psychologists who are also not presently under order of discipline.

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

1. Calling the College office at 780-424-5070 (Edmonton) or 1-800-659-0857 (Toll-free in Alberta);
2. Requesting the forms electronically by emailing w.el-issa@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
2100 Sun Life Place
10123 - 99 Street
Edmonton, AB
T5J 3H1

**NOMINATIONS MUST BE RECEIVED BY THE COLLEGE OFFICE
NO LATER THAN
4:00 P.M., FRIDAY, JULY 31, 2009.**

Planning for Summer – Don't Forget Your Sunscreen . . . *And an Updated Will*

by Helen Ward, B.A., LL.B

Before you pack your suitcase or organize your camping gear, I suggest you take some time to consider if your will is up-to-date. Many clients update their wills before going away on vacation, as scheduling a trip is often a helpful prompt to update documents that one may have been intending to put in order for months.

While a will is the first document that comes to mind, I suggest that you also make, or update, an enduring power of attorney and a personal directive so as to plan for the possibility of mental incapacity at the same time. It is helpful to review all of these estate planning documents together, to ensure that the various appointments in these documents coordinate nicely, and are all up-to-date.

Your will, enduring power of attorney and personal directive can all be updated at any time. Typically, one makes more than one will during one's lifetime. Here are a few planning tips to consider, which may have a bearing on your will review. These points are part of a general guide which our firm's wills and estates department has developed for our clients, and, as always, if you have any questions, you should consult your lawyer.

Executors

Have your executors moved out of Alberta? If so, they may have to post a bond in order to probate your will. You can save your estate that cost by appointing at least one Alberta executor. Are any of your children now over the age of 18 years and, if so, are any of them mature or experienced enough to act as your executor should both you and your spouse die?

Your executor stands in your shoes and deals with any and all matters concerning your estate at your death, which could include winding up a business or practice. Remember that an executor is able to hire an agent to assist them, so if they require specialized knowledge to be able to deal with certain matters, they can hire someone to assist them with legwork, or provide advice, such as how to deal with a professional practice and wind it up.

It is also possible to appoint one executor for your general estate, and then a separate executor who would be in charge of certain specified matters, such as dealing with any and all matters associated with a practice. You might wish to name a family member as your general executor and then name a specific psychologist to assist with respect to your practice and winding it up, or alternatively, your executor could hire, as agent, a psychologist to assist them. These are all matters to discuss with your lawyer.

Guardians

Natural parents are automatically the guardians of their children. You should appoint a guardian in your will to care for your children in the event both natural parents die before all of the children reach the age of 18 years. Do your guardians have sufficient space in their home and sufficient resources to care for your children? Are those named guardians still appropriate considering their age and where they live?

Marriage/Divorce

If you marry after you sign your will, your will is revoked unless it specifically states that it is made in contemplation of marriage to that spouse. Your estate would then be divided in accordance with the Intestate Succession Act of Alberta. On the other hand, divorce does not revoke a will. If you divorce after you sign your will and your will leaves property to your former spouse, that spouse will inherit in accordance with that will, unless you change it.

Adult Interdependent Partners (Common-Law Relationships)

The law is evolving in this area. The Adult Interdependent Relationships Act in Alberta ensures that adult couples, whether opposite sex or same sex, who live together in a relationship of interdependence for 3 years or have a child of the relationship, will have many of the same legal rights as legally married spouses. If you have not adequately provided for your partner in your will, he or she can apply to the court under the Dependents Relief Act for a greater share of your estate and the court has the power to change your will.

Second Marriage

If you have children under the age of 18 years from a prior marriage and if you leave all of your estate to your current spouse, your minor children, through the Public Trustee, have the right to make an application to the court for a share of your estate. Proper planning today can save your spouse and your children the cost and emotional upheaval of such a dispute.

Handicapped Beneficiaries

If any of your children are physically or mentally disabled and are therefore unable to earn a livelihood, they have a right to make an application to the court for a greater share of your estate. You should ensure that you have made adequate provision for the maintenance

of those dependents so as to avoid any disputes and the expense of such a claim. If your beneficiaries are receiving government assistance (for example, A.I.S.H. income), consider a discretionary trust to keep such assistance in place.

Insurance/Pensions

You can designate a beneficiary of life insurance in your will. It is often advisable to include a separate life insurance trust to hold insurance proceeds for children under the age of 18 years. Similar designations and trusts can also be established for pensions. Remember, however, that if you acquire a new insurance policy or pension plan after the date of your will, the designation in the will does not cover that new policy.

Registered Retirement Savings Plans

You can designate a beneficiary of your Registered Retirement Savings Plans and Registered Retirement Income Funds with the financial institution or in your will. The funds can be rolled over on a tax deferred basis to your spouse's or adult interdependent partner's (common-law partner's) RRSP or RRRIF but the funds may be fully taxed if designated to another person. Seek advice if you intend to designate anyone else as a beneficiary.

Property Outside Alberta

The law of wills is governed by provincial legislation. If you own real estate outside Alberta, the law of that jurisdiction will apply. You should ensure that your Alberta will is sufficient to deal with your foreign property. Consider having a lawyer in that other jurisdiction review your will or make a will for that property alone.

Income Tax

The federal government is constantly making changes to the Income Tax Act. Your estate plan could be adversely affected by new tax legislation. A change in the tax laws could also bring new tax planning opportunities. This is one major reason to have your will reviewed regularly.

Corporations

Your will is not your only estate planning tool, and you should continually review your corporate documentation including unanimous shareholders agreements and buy-sell agreements.

continued on page 10

Planning for Summer . . . concluded

by Helen Ward, B.A., LL.B

Small Business

Your will should be reviewed in conjunction with your corporate documentation to ensure that your entire estate is properly tax planned and that your business partners have resources to buy out your estate, if that is required. Would you want your spouse to be in partnership with your business partner? Turning that question around, would you want to be in partnership with your business partner's spouse?

Charitable Gifts

Changes in tax laws and in the charitable sector require that bequests and other gifts be carefully planned to achieve both philanthropic and estate planning goals. If you plan to give or bequeath a gift to charity you should review your will to ensure that you maximize the tax benefits to your estate and your beneficiaries.

If you make a charitable bequest in your will, or if you designate insurance proceeds or an RRSP to a registered charity, your estate will receive a tax receipt for the full amount received by the charity. This may be credited against up to 100% of your net income on your final tax return thereby reducing the tax payable by your estate. Any excess which cannot be used on the final tax return may be carried back one year and also credited against 100% of net income.

While the wording of your will may suit your situation today, a change in your family or assets could cause your will to be interpreted differently from what you originally contemplated. Remember that you can always change your will and it should be regularly updated to suit your changing circumstances and to accord with changes in the law.

If you are concerned about the cost of a will, consider that a properly drafted will is one of the least expensive forms of insurance you can buy today. It is one of the best investments you can make for your family's security, but it will only add to the cost of the administration of your estate if it is outdated.

Helen Ward is a partner at the law firm of Duncan & Craig LLP and practices in areas including wills and estates and mental incapacity in adults.

Top 10 reasons volunteering is good for your mental health

- 1 **YOU CAN MAKE A DIFFERENCE.**
Every person counts!
- 2 **SET A GOOD EXAMPLE.**
Volunteering is a selfless act that shows everyone in your family the value of giving back to the community, and helps foster the assets that go toward achieving lifelong success.
- 3 **GAIN PROFESSIONAL EXPERIENCE.**
Volunteering provides an opportunity to test out a new career. Plus, it looks great on a résumé and can sometimes lead to a job in a new field.
- 4 **MEET NEW FRIENDS.**
Volunteering unites people from diverse backgrounds to work towards a common goal, building camaraderie through teamwork. This is a great way to meet new friends who share the same interests as you have.
- 5 **PROMOTE PERSONAL GROWTH AND SELF-ESTEEM.**
Helping others and learning new things helps build self-esteem and allows you to feel good about yourself. If you're going through a difficult time yourself, volunteering can help you to put things into perspective, plus keep you busy and connected to others.
- 6 **DISCOVER HIDDEN TALENTS.**
Volunteers often have the opportunity to try new things and develop new skills. Through this process you may discover some hidden talents you never knew you had.
- 7 **BUILD A STRONGER COMMUNITY.**
By supporting community organizations you will be making your neighbourhood a better place to live, not only for those around you but for yourself as well.
- 8 **JOIN OTHERS IN GIVING BACK.**
Volunteering allows you to give back to the services that those you care about might need. Local programs can only meet the needs of those in the community with the help of people like you.
- 9 **BOOST PRIDE IN YOUR COMMUNITY.**
When you volunteer and help out those in need, you take a vested interest in what goes on around you. This helps you feel better connected to your city and your community.
- 10 **REDUCE STRESS.**
Experts report that when you focus on someone other than yourself, it interrupts usual tension-producing patterns and reduces stress-related hormones.

For more information on volunteering with CMHA, visit www.cmha.calgary.ab.ca or call 403-297-1700.

Original article in Balance magazine, Winter 2007 issue. Used with permission from the Canadian Mental Health Association – Calgary Region.

Capacity Assessment: Considerations and Reflections

by Arlin Pachet, PhD., R. Psych.

Capacity is a complex socio-legal construct frequently used to describe decisions about a client's medical, social, and financial decision-making abilities (Weisstub, 1990). Issues related to capacity assessment and decisional capacity in general are challenging due to the multiple legal, social, ethical, and medical factors involved. Although definitions of capacity vary by provincial jurisdiction, it is commonly conceptualized as the ability to use cognitive processes to understand and identify options, to appreciate the consequences of different options, and to follow through – or direct a surrogate to follow through – with chosen options (Pachet, Newberry, & Erskine, 2007). This article will explore the complexities inherent in the notion of capacity, provide a brief overview of legislation that governs the process, and discuss some of the nuances and special considerations from an ethical perspective that need to be considered for those involved in this type of clinical work.

First and foremost, psychologists need to be aware of the fine distinction between common terminology used in this area of practice. The term “capacity” is used in relation to the clinical assessment and determination of a client's decision-making abilities by healthcare professionals. In contrast, the term “competency” refers to court decisions and rulings regarding the clinical determination of capacity (Brody, 2005; Checkland & Silberfeld, 1995; Lapid et al., 2003; Sturman, 2005; Sullivan, 2004; Wyszynski & Garfein, 2005).

From a clinical perspective, there are several key tenets that should form the ethical and theoretical underpinning for psychologists who complete capacity assessments. Firstly, a capacity assessment should only be performed as a last resort and only after a thorough pre-screening process has been completed. Secondly, a capacity assessment is domain-specific (e.g., choice of accommodation) and sometimes even decision-specific (e.g., deciding if to have the flu shot). Thirdly, a capacity assessment is multi-factorial and includes careful consideration of the

client's psycho-social status, cognitive skills, and functional abilities. Fourthly, a capacity assessment should take into account the client's culture, beliefs, values, and preferences. Fifthly and finally, the assessor needs to be aware of his/her own potential biases and values that may potentially impede objectivity. Eccentricity and poor choices are not sufficient grounds for declaring someone incapable.

If you are a psychologist practicing within the clinical realm of capacity, it is extremely important to have a strong knowledge base of the provincial legislation you are working within and how it relates to the capacity of your client. For example, do you have a strong understanding of what a personal directive is? Can you distinguish the differences between an enduring power of attorney versus a power of attorney? What are the two types of enduring power of attorney? Are you familiar with the recent changes to the Personal Directives Act of Alberta and the implications it may have on your practice? Are you familiar with the domains of capacity under the Personal Directives Act and the Dependent Adults Act of Alberta? If you are not able to answer questions such as these, you are encouraged to review the literature and/or consult with a colleague more familiar with the legislation. Professionals may also consider contacting the Office of the Public Guardian to provide you with more information about these various areas. Staff from this Office are generally receptive to case discussions and potential legislative implications as they may relate to a particular clinical scenario. It is also important to be aware that the Dependent Adults Act is in the process of revision and will likely be proclaimed as the Adult Guardianship and Trusteeship Act in the fall of 2009. The changes within this Act will have significant implications for psychologists practicing in the area of capacity assessment. Staying abreast of the tentative proclamation date as well as when future training workshops will be offered is important for professionals to remain up to date.

A capacity assessment is an intrusive undertaking which requires a significant investment of time and energy for both the professional and the patient. A finding of incapacity can ostensibly have serious legal ramifications for the patient and “remains one of the most significant mechanisms in our society for the removal of a person's fundamental rights and freedoms” (Pepper-Smith & Nelson, 1996, p. 3). For these reasons, it is especially important to pre-screen referrals (i.e., assessment of reversible medical conditions) and to identify if there are less intrusive approaches that can be used to solve the presenting concern(s). Additionally, some adults with diminished capacity may be able to utilize their support networks in a way that protects or preserves their autonomy (Newberry & Pachet, 2008). Lastly, it is important to be aware of the ethical considerations and professional practice involved in this work. When reviewing the Canadian Code of Ethics for Psychologists (Canadian Psychological Association, 2000) and the College of Alberta Psychologists' Standards of Practice (2005), several key tenets emerge, including: informed consent and freedom of consent; protection for vulnerable persons; competence and self-knowledge; risk/benefit analysis; and objectivity or lack of bias.

In Canada, every adult has the right to accept or refuse medical treatment and medical or social services, and to live their life as they please, so long as they are not intruding upon the rights of others and they are capable to do so. Therefore, initiating a capacity assessment by engaging in a discussion regarding informed consent is essential. Ethical Standard I.16 of the Canadian Code of Ethics for Psychologists (Canadian Psychological Association, 2000) requires psychologists to “seek as full and active participation as possible.” However, this requirement is predicated on the assumption that disclosure of appropriate information occurs with a person who is capable of making a voluntary choice based on an identifiable reasoning process (Jeste et

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Update on the Continuing Competence Program (CCP)

The Health Professions Act (HPA) requirement for the College of Alberta Psychologists (CAP) to have a mandatory Continuing Competence Program (CCP) will take effect in 2011. The CCP to be implemented by CAP is a mechanism designed for psychologists to self-assess, maintain, and develop the knowledge and skills required to maintain ongoing competence and ethical practice.

A requirement of the 2010–2011 practice permit renewal application is that each regulated member will make a statutory declaration that they have completed program components of self-assessment guide and development plan. An additional program component is that each regulated member will seek out another member to review their self-assessment guide and development plan. Failure to meet the Continuing Competence Program requirements may result in the withholding or suspension of the member's practice permit.

Each year, the College will randomly select a predetermined sample of registrants to review their program participation. The College is currently finalizing draft guidelines for evaluating development plans. All regulated members will have the opportunity to review, trial, and provide feedback on the CCP Self-assessment Guide and Professional Development Plan.

Members will be receiving relevant program information in the upcoming months. Interim questions can be directed to Dr. Richard Spelliscy, the Deputy Registrar and Director, Professional Affairs (e-mail: r.spelliscy@cap.ab.ca or 780-424-5070).

Mental Health Services in Alberta Where We Are and Where We Need to Be

The Alberta Doctors' Digest (January/February 2009 issue) provided a feature article on the increasing demand for mental health services provided by physicians.* Of the 3,000 surveys distributed, 462 physicians responded. Highlights of the findings include:

- 77% believed that individuals with mental health issues did not receive adequate financial support.
- 73% believed that access to mental health services were not timely.
- 61.9% of emergency room physicians felt they were doing work that would be best handled by mental health professionals.
- 62.3% of physicians were not satisfied with the local support mental health services received in their health regions.
- Only 14% of physicians believed there were appropriate community treatment resources available.
- Almost every respondent perceived an increase in the demand for mental health services.

In 2006–7, the approximate wait-time for children's mental health services in Alberta was 11 weeks.

By 2011, Alberta Health and Wellness hopes to establish a new set of standards for access to children's mental health services:

- 24 hours in crisis situations.
- Within two weeks when children show serious symptoms that are not imminently life-threatening.
- Within 30 days for scheduled visits that are not urgent.

On August 30, 2008, the Alberta government invested \$50 million and a three-year action plan to increase access to children's mental health services and the mental health needs of children or youth at risk.

* For the full article "Physicians witness serious gaps in mental health care," visit www.albertadoctors.org.

Capacity Assessment: Considerations... continued

by Arlin Pachet, PhD., R. Psych.

al., 2007). Therefore, the undertaking of a capacity evaluation often involves the assessment of a vulnerable individual or an individual of diminished capacity, which makes the informed consent particularly challenging and frequently not attainable. Proceeding with the assent of the client is the next logical step. The Standards of Practice (2005) has extensive documentation regarding informed consent. However, the issue of assent requires further clarification.

Consent should also be distinguished from assent, in which a patient who lacks capacity to consent to the assessment nonetheless co-operates with the assessor and displays a willingness to answer questions about his/her situation (Kothari & Kirschner, 2003). Ethical Standard I.19 alludes to the term of assent, but does so only within the context of urgent needs and urgent circumstances. Ethical Standard I.35 intimates that if a psychological is assessing a client of diminished capacity, he/she is still required to seek the client's "informed participation... to give informed consent" and to proceed without this consent only if the assessment is considered to be of direct benefit to that person. This implies that the psychological would be proceeding with the client's assent. Thoroughly documenting the process you use to obtain informed consent, or why you proceeded with assent is necessary. It is frequently assumed that participating in a capacity assessment will be traumatic and devastating to the adult. While this may be the experience for some, the research available does not support the assumption of inevitable psychological damage from undergoing a capacity assessment (Carlin, Silberfeld, Deber, & Lowy, 1996).

The area of capacity assessment is wrought with legalese and can potentially become contentious, especially considering that frequent key referral questions revolve around financial matters and testamentary capacity. Knowing one's own level of competence within this area of clinical practice is vital and is reflected clearly in Ethical Standard II.6 under "Competence and Self-Knowledge." Staying abreast of legislative changes, as indicated above,

as well as willingness to engage in further supervision, consultation, and training if and when necessary is vital. The proper application of knowledge and skill in capacity assessment is crucial for the health and welfare of vulnerable adults. Especially when considering what is at stake; a person assessed as having capacity retains the right to non-interference in independent decision-making, while a person assessed as lacking capacity loses his/her decisional autonomy such as determining where he/she lives, whom he/she lives with, whether he/she can continue to practice his/her chosen vocation, etc.

Knowing one's own values and beliefs, as well as gathering information about the client's values and beliefs are essential components of a capacity evaluation. For example, what is your own risk tolerance level? Do you value more of a libertarian (freedom at all costs) or protectionist stance (protection at all costs)? Be aware of the "shoulds" that you commonly use (e.g., people should die at home in their sleep rather than from falling or neglecting to take medications). Ethical Standard II.10 speaks to this area. Furthermore, Ethical Standards II.13, II.14, and II.17 speak to the ongoing risk/benefit analysis that ensues during a capacity evaluation. Questions often arise, such as: What risks is the client taking? Will the appointment of a substitute decision-maker be of substantial benefit to the client (e.g., protection from the risk-taking behaviour the client may have)? Are you dealing with a long-standing behaviour of risk-taking?

As the proportion of seniors increases in the coming years, there will be a significant increase in the number of referrals for capacity evaluations. Psychologists are well poised to be leaders within this growing clinical field. While this area of practice can be very clinically rewarding, this area is not without its draw-backs and clinical challenges. Moreover, research in the quickly developing area of capacity assessment remains in its infancy, yet will be one of the most crucial areas of clinical evaluation in the coming years.

Dr. Arlin Pachet is a board-certified clinical neuropsychologist. He currently maintains a private practice in Calgary,

and is also the team leader for the Regional Capacity Assessment Team.

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by Arlin Pachet, PhD., R. Psych.

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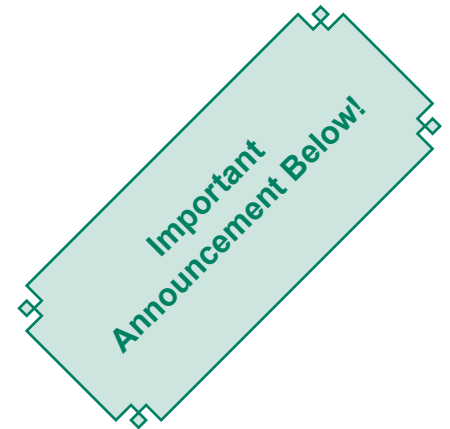
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CAP Annual Meeting - MARK YOUR CALENDAR

The College holds an Annual Meeting in the fall at the end of September. This year it will take place on **Saturday, September 26** at the Shaw Conference Centre in Edmonton.

The theme is "Today's Psychologists: Facing Complex Times; Finding Creative Opportunities." Further detail is available on the College's Web site (www.cap.ab.ca).

We are happy to have Billy Strean, PhD. of the University of Alberta to be the Keynote Speaker. He will address the importance of Self-Care and Humour.

In addition, we would like to draw your special attention to the morning session on Continuing Competence by Ms. Jana Davies, R.Psych. and Mr. Paul Jerry, R.Psych. The session will provide comprehensive information on how this new requirement of the Health Professions Act will impact members and what they will need to do to fulfill evaluation criteria. It is highly informative and recommended if you wish to learning everything about the Continuing Competence Program.

Other sessions of the Annual Meeting include:

Panel Discussion on Diversity

Participants: Kevin Alderson, PhD., R.Psych. Sandra Collins, PhD., R.Psych. Sophie Yohani, PhD., R.Psych. and Brenda Reynolds, BSW, RSW, MACP

Supervision: CPA Ethical Guidelines for Supervision in Psychology 2009

Speakers: Jean Pettifor, PhD., R.Psych. and Greg Schoepp, PhD., R.Psych.

Update on the Alberta Personal Directives Act & Adult Guardianship and Trustee Act

Speaker: Arlin Pachet, PhD., R.Psych.

Avoiding Professional Boundary Violations: The Importance of Personal Integrity for Maintaining Integrity in Relationships

Speaker: Derek Truscott, PhD., R.Psych.

CONSENT FOR MINOR CLIENTS

The Impact of the Family Law Act

The Family Law Act became law in Alberta on October 1, 2005. In part, it replaced the Domestic Relations Act. The Family Law Act put the father on the same legal footing as the mother in regards to guardianship. However, determining whether the mother or father is a guardian under the Family Law Act can be a complicated process.

The Family Law Act contains far more detailed provisions regarding guardianship than were ever contained in the Domestic Relations Act. The Family Law Act distinguishes between the responsibilities of a guardian and the powers of a guardian. In other words, what a guardian must do, as compared to what a guardian is empowered to do. Overriding these two functions is that any decision of a guardian must be in the best interests of a child. Section 18 of the Family Law Act outlines the factors that are to be considered when determining what is in the best interests of the child.

A common situation is a child whose parents are separated or are divorced. Unfortunately, the stress of the family breakdown can negatively affect the child and this can lead to a psychologist being faced with a parent asking the psychologist to assess, interview or counsel the child. Any psychologist dealing with minor clients should immediately address the issue of whether the parent has the legal authority to provide consent for the assessment, interview or counseling of the child. The psychologist should inquire as to whether there is a Court order which addresses rights of guardianship over the child and whether such order puts any limits on the guardianship rights of the parent who is presenting the child to the psychologist. Unless the child is in need of immediate attention, a psychologist should obtain a copy of the Court order before providing any professional services to the child.

Section 21 of the Family Law Act sets out the powers, responsibilities and entitlements of guardianship. Section 21(1) states that a guardian shall exercise the powers, responsibilities and entitlements of guardianship in

the best interests of the child. Section 21(2) states that where a child has more than one guardian, each guardian has the right to exercise the powers, responsibilities and entitlements of guardianship, unless the Court otherwise orders. This emphasizes the importance of the psychologist clarifying whether there is a Court order, and how it may affect the guardianship of the child before proceeding with any professional services.

Section 21(6) of the Family Law Act states that each guardian has the right to consent to medical or other health related treatment for the child.

Section 21(4) states that unless otherwise limited by a Court order, each guardian is entitled to be informed and consulted about the significant decisions affecting the child. There is an obligation on the one guardian to keep the other guardian informed of any consent given for professional services provided to the child. It is recommended that a psychologist advise the parent accompanying the child that the other parent should be promptly informed of any professional services provided by the psychologist to the child. The obligation is not on the psychologist to advise the parent. If the presenting parent refuses to advise the other parent, then the psychologist should seriously question whether the accompanying parent is acting in the best interests of the child. The Courts in Alberta have noted that guardianship is a responsibility and that the rights and obligations associated with it exist for the benefit of the child, not the parent.

Court orders often use the language of "custody", "joint custody" and "primary custody". Although the concept of guardianship and custody are not identical, most people assume that custody and guardianship are the same. Accordingly, a parent who has primary custody may assume that the other parent has no right to give consent for their child. Unless a Court order expressly states that the other parent has no right of custody or guardianship over the child, or such rights are limited, then both parents

have all of the powers, responsibilities and entitlements of guardianship listed in Section 21 of the Family Law Act.

Accordingly, any psychologist dealing with a minor client should proceed cautiously when determining who is able to provide consent on behalf of a minor client. Unless there is an emergency need for professional services to be provided to a minor client, a psychologist should first obtain a copy of any Court order in force dealing with the custody and / or guardianship of the minor before providing professional services. This is to ensure that any services provided are not at risk for professional conduct processes.

Changing Your Address?

Please notify the College promptly, in writing, of any changes to your address, phone and fax numbers, or e-mail address. A change of address form is available on the College Web site.

Please note that information of business address, phone number, fax number, and e-mail address collected from members is available to the public. If you are providing a residential address to the College, clearly indicate so on the "Change of Address Form," so that this information will be kept confidential.

In addition, if members have an e-mail address, they are encouraged to provide it to the College to facilitate more efficient communication.



Contact us :

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
Website: www.cap.ab.ca

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

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

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