



The Ethics Guidelines are produced by the Office of the Syndic in collaboration with the Professional Inspection Committee. These guidelines do not constitute legal opinions; each case is particular and must be analyzed in the light of the circumstances peculiar to it.

# CONSULTING ROOMS IN PRIVATE PRACTICE AND IN PUBLIC INSTITUTIONS (PART 2)

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## INTRODUCTION

The Ethics Guidelines published in January informed on several matters that the psychologist must attend to in connection with his or her consulting room. In this second part of the article, we will complete our discussion of this subject by clarifying a few additional rules.

## REGULATORY ASPECTS

### THE RECORD

#### Ownership and right of examination

Psychologists who work in private practice, and institutions in which psychological services are provided, are holders of the records related to their clients. As will be recalled, the record is an official register containing information about the client. The information that must be entered in the record is stipulated in section 3 of the Regulation respecting the keeping of records and consulting-rooms by psychologists (hereafter called the "Regulation"). The client has the right to examine his or her record<sup>1</sup> unless doing so is liable to cause him harm.<sup>2</sup>

#### Provision of a copy of the record or a report or examination of the record by the client

The first thing to determine is for whom the record is intended.

*The psychologist must be attentive to his obligation to keep and update his clients' records. Clients should be guaranteed access, within a maximum period of 30 days, to a complete and accurate record on the services provided.*

If the client asks to read his record in the psychologist's office, or to obtain a copy for himself, there is no minimum delay for compliance. It is easy to respond rapidly to such a request if the record consists of progress notes, which is the approach recommended by the Office of the Syndic and the Professional Inspection Committee. This content consists of interpreted data, which cannot be subject to misinterpretation. However, in these cases, there may be clinical considerations which the psychologist has to take into account to avoid causing harm to the client or adversely affecting the therapeutic relationship. In such a situation, it will be necessary to discuss the matter with the client.

If a request is made for transmission to a third party, a minimum delay of 15 days following the date of the authorization signed by the client to this effect is required, except when the psychologist practices in an institution within the meaning of the Act respecting health services and social services (Regulation, sec. 12), in order to allow the client to revoke his authorization if he chooses. In an emergency, the client can renounce this minimum delay (Regulation, sec. 10). A note to this effect must be written on the authorization.

In the two situations above, a maximum delay of 30 days appears to satisfy the ethical requirement for "diligence," while also complying with the legislative requirements<sup>3</sup> in this area.

*There is generally no minimum time period for providing the record to the client if the record consists of progress notes.*

### **Record retention, updating and storage**

The client's record can be kept manually or in a computer file (Regulation, sec. 2). If the record is computerized, it is important to ensure that the information is updated and saved, including a back-up copy, and to follow the appropriate procedures guaranteeing the maintenance of professional secrecy, as specified for physical records (Regulation, sec. 6, 7).

Although there are no specific standards in this regard, the psychologist should avoid undue delay in updating the record. We note that section 24 of the Code of Ethics obliges the psychologist to show diligence. Ideally, the record should be updated as soon as possible after the end of the session. A delay that results in the production of imprecise or incomplete progress notes could harm the client by affecting by quality of the information in his record.

The record must be preserved by the psychologist for a period of five years from the date of the last professional services provided. Obviously, it can be kept longer, either by the psychologist's choice or to comply with the requirements of certain public institutions with regard to their files. But keeping the record longer has some implications. For example, a psychologist in private practice may not refuse access to the record by invoking the fact that the five-year mandatory retention period has ended.

*The mandatory retention period for records is five years.*

### **Naming a transferee**

The standards on this matter are set out in the Regulation respecting the records of a psychologist who ceases to practise. A recent article by the Syndic discussed this subject in detail.<sup>4</sup> As part of a preventive approach, it is advisable to make an agreement designating a colleague as transferee.

This way, there will be, as required by the Regulation, a contact person to deal with the Order's Secretary-General in the event of the psychologist's incapacity.

*The preventive designation of a transferee will help ensure the quality of service to the client in the event of the psychologist's incapacity.*

## **SHARING OF PREMISES AND SECRETARIAL STAFF AND PAYMENT OF THE RELATED EXPENSES**

When psychologists group together, they may need to establish a secretarial office and hire a person to fill this function. If the team becomes sufficiently large, a centralized filing system for all the psychologists may appear practical. This is acceptable as long as access to the place where the files are stored is restricted. An analogy can be made with psychology services found in public institutions, where this type of organizational method is used. However, attention must be paid to the qualifications of the person hired as secretary to ensure that this person can adequately translate in the role the ethical obligations of the psychologists, in particular as concerning confidentiality (sec. 42 of the Code of Ethics).

When a psychologist chooses to rent an office for his work, there will obviously be expenses to pay. These expenses must be proportional to the division of professional services and responsibilities; the psychologist may not share his fees with another person for any other reason (Code of Ethics, sec. 34). Furthermore, the payment of rebates or commissions for referral of clients is prohibited by ethics (sec. 35).

## **ADVERTISING**

The communication of information on the services provided by a psychologist is governed by sections 66 to 69 of the Code of Ethics. In addition, the very brief Regulation respecting advertising by psychologists permits the use of the Order's logo along with an inscription, to the right of the logo, stating "Member of the OPQ." In a disciplinary decision<sup>5</sup> that discusses the characteristics of an advertising folder, such terms as "nuance" and "showing care" are used. In this case, involving a complaint which the Disciplinary Committee dismissed, the Committee concluded that an "[ethical] breach cannot arise from a statement that complies with an authorized practice and is supported by the respondent's professional community [translation]." (p. 218). Therefore, the psychologist who takes care to present in a factual manner the nature of the services he provides, the clientele he serves and his professional qualifications clearly acts in a way that is fully compliant with the rules.

## **FEES MANAGEMENT**

### **Source of the fees**

It should be noted that the fees a psychologist receives must derive from only one source [client or third party payer] for a given service, unless a written agreement between the parties specifies otherwise. However, a psychologist can agree to provide psychotherapy to a client referred by a third party payer and ask for fees in addition to those paid by the agency (Code of Ethics, art. 36).

In this situation, the Office of the Syndic recommends a procedure which involves first obtaining the client's written consent to the payment of

reasonable additional fees in order to have the services of a particular psychologist, then sending the agreement by registered mail to the third party payer. It must be specified to this payer that the agreement with the client will be in effect for the duration of the third party payer's involvement. This approach, which is in keeping with the ethical guidelines aimed at preventing possible conflict of interest by the psychologist over fees, ensures that the psychologist's interest is not set above that of his client, as required by section 30 of the Code of Ethics. It takes into account the economic reality of psychologists, particularly in large urban centres, and facilitates access for certain clients to services from professionals chosen by them, which otherwise would not be possible.

## Receipts

Psychologists have the obligation to be exact when preparing receipts for their clients. The information appearing on the receipt must reflect the amounts actually paid by the client (Code of Ethics, sec. 58.7).

## Goods and Services Tax (GST) and Quebec Sales Tax (QST)

Psychologists who deliver health services in private practice and who derive income from these services are exempt from the GST and QST. However, those whose annual income equals or exceeds \$30,000 a year will be obliged, in the case of a tax audit, to prove that they provide services to individuals. For this purpose, some psychologists choose to enrol in the Canadian Register of Health Service Providers in Psychology; however, there is no obligation to do so.

The practice of a profession is defined by two co-existing realities: one the one hand, a recognition of the professional's right to decide on the most appropriate course of action, with every decision having an underlying ethical dimension, and on the other, the existence of a regulatory mechanism aimed at ensuring the protection of the public. The ethics guidelines are intended to inform psychologists about the existing regulatory framework to help them in the process of making informed decisions.

## REFERENCES

1. Code of Ethics of Psychologists, R.S.Q., c. C-26, r. 148.1, sec. 50; Act respecting the protection of personal information in the private sector, R.S.Q., c. P-39.1, sec. 27; Act respecting access to documents held by public bodies and the protection of personal information, R.S.Q., c. A-2.1, sec. 83, and Act respecting health services and social services, R.S.Q., c. C-26, sec. 17.
2. Code of Ethics, sec. 50.3 and Professional Code, sec. 60.5.
3. Act respecting the protection of personal information in the private sector, R.S.Q., c. P-39.1, sec. 32.
4. Dupuis, D. (2003). "La cession temporaire ou permanente de l'exercice." *Psychologie Québec*, Vol. 20, No. 6, p. 11.
5. [1999] D.D.O.P. 208 to 219.

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**SELF-EVALUATION OF THE PSYCHOLOGIST'S CONDUCT CAN HELP IDENTIFY DIFFICULTIES IN THE RELATIONSHIP WITH A CLIENT. IT IS HELPFUL TO DISCUSS THE PROBLEM WITH OTHER MEMBERS OF THE PROFESSION OR THE SYNDIC'S OFFICE TO ENSURE THE ONGOING QUALITY OF ONE'S INTERVENTION.**

The practice of a profession is defined by two co-existing realities: one the one hand, a recognition of the professional's right to decide on the most appropriate course of action, with every decision having an underlying ethical dimension, and on the other, the existence of a regulatory mechanism aimed at ensuring the protection of the public. The ethics guidelines are intended to inform psychologists about the existing regulatory framework to help them in the process of making informed decisions.



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