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CONSULTING ROOMS IN PRIVATE PRACTICE AND IN PUBLIC INSTITUTIONS (PART 1)

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INTRODUCTION

All psychologists, and particularly those who are beginning their professional life, must give thought to the physical and material aspects of the premises in which they practice their profession. For those working in private practice, the "consulting room" must satisfy certain professional and administrative requirements set out in the *Regulation respecting the keeping of records and consulting-rooms by psychologists* (hereafter called the "Regulation"). Psychologists employed by a public institution, for example, in the social services or health sector or in schools, also have an obligation to ensure compliance with the rules set out in the Regulation, despite the constraints inherent in these environments in terms of physical and material resources.

In this article, we will examine the characteristics of the consulting room and the legal position of the psychologist working in private practice. In a second article, to be published in May 2004, we will focus on matters relating to professional activities and office management.

REGULATORY ASPECTS

Location of the Consulting Room

Section 14 of the Regulation stipulates that the psychologist's consulting room must be designed to protect the identity of the persons in it and the conversations taking place there, in keeping with

the obligation of professional secrecy imposed by the Code of Ethics. In addition, the psychologist must have a waiting room for his clients (sec. 15). However, even total compliance with the Regulation cannot prevent the possibility of people meeting by chance in the waiting room and realizing that they are both receiving services from the same psychologist. The psychologist should take measures to minimize the risk of such a meeting, especially if he or she is practicing in a small environment. For example, the appointments could be scheduled in such a way that clients being seen in the framework of an EAP would not run into each other.

The Regulation does not prohibit the psychologist from setting up a consulting room in the basement or a separate part of his or her residence. However, the psychologist must ensure that the premises include a waiting room and that the consulting room has a professional appearance. From the client's point of view, there must be a clear distinction between the professional premises he visits and the psychologist's private quarters. For example, the client should not be obliged to walk through the psychologist's residence, have contact with his family members or visit premises used for purposes other than the provision of psychological services. Incidentally, the Disciplinary Committee of the Ordre des psychologues (2002) penalized a psychologist who had failed to set up a waiting room close to the consulting room in his residence. A psychologist who chooses to work out of his residence must take care not to put the client in the situation of intruding into his private life and must ensure that this choice does not interfere with the treatment being provided.

In addition to complying with the obligations expressly set out by the Regulation, the psychologist must remain constantly alert to the ethical requirements applying to him. Thus, he must strive to establish and maintain a relationship of mutual trust with his clients (sec. 10, Code of Ethics). Furthermore, his conduct with his clients must be above reproach on the physical, mental and affective levels (sec. 13, Code of Ethics).

Keeping this in mind, the psychologist should, when choosing decorations and furniture for his consulting room, avoid items that could be perceived as flashy or shocking, in order to avoid disturbing his clients.

Information Accessible to the Client

For a psychologist who works in private practice and always uses the same consulting room, it is easy to organize the premises so as to post his permit in the client's view (sec. 17 of the Regulation) and post in the waiting room a copy of the *Code of Ethics of Psychologists*, this Regulation and the *Regulation respecting the procedure for conciliation and arbitration of accounts of psychologists* (sec. 18), as required. The psychologist may also post his diplomas, but only those related to the practice of his profession (sec. 19).

THE PSYCHOLOGIST'S CONSULTING ROOM MUST BE DESIGNED IN SUCH A WAY AS TO ENSURE PROTECTION OF THE CLIENT'S RIGHT TO PROFESSIONAL SECRECY. THE PSYCHOLOGIST MUST ALSO CONSIDER THE NATURE OF THE WORK HE PERFORMS AND ENSURE THAT THE OFFICE ARRANGEMENT LEAVES NO DOUBT IN THE CLIENT'S MIND ABOUT THE PROFESSIONAL CHARACTER OF THE ACTIVITIES CONDUCTED THERE.

WITHOUT WEAKENING THE PRESCRIPTIVE CHARACTER OF THE REGULATION RESPECTING THE KEEPING OF RECORDS AND CONSULTING-ROOMS BY PSYCHOLOGISTS, SOME ALLOWANCES CAN BE MADE FOR LIMITED RESOURCES IN THE PSYCHOLOGIST'S WORKPLACE. HOWEVER, THE METHODS USED BY THE PSYCHOLOGIST MUST COMPLY WITH THE SPIRIT OF THE REGULATION.

For psychologists who rent premises in a clinic or work in a health and social services institution or a school, it can be difficult to satisfy the posting requirements. For example, having a waiting room that is shared with other professionals or located in a corridor may impede posting the diploma and giving clients access to the required documentation. To get around this problem, the psychologist may want to tell his clients that the documents are available on the Order's website or, if applicable, at the documentation centre of the institution in which the psychologist works.

In some situations, the psychologist can speak to the person from whom he rents his office and inform him or her about the regulatory requirements. The Regulation stipulates that when a psychologist's work environment hinders compliance with a provision of the Regulation, the psychologist must inform his employer of this fact (sec. 21) and agree on a solution which, while taking account of the organization's constraints, ensures that the client receives the information to which he is entitled. In such a situation, the psychologist must notify the Order (sec. 21). In the notice, he should specify the efforts he has made to render his work environment compliant with the Regulation's provisions; it is his responsibility to take the necessary measures to satisfy his obligations.

Reporting a Breach by the Employer

The Order does not have the authority to compel action by an employer who is not himself a member of the Order. However, a psychologist who experiences difficulty reconciling his obligations with the constraints and requirements of his workplace can remind his employer that according to the jurisprudence, "An employer cannot require that a professional behave in a manner contrary to that prescribed by his Code of Ethics and the regulations governing his profession [*translation*]."¹

Information about a breach of the Regulation sent to the attention of the Order's Secretary-General is used to document the professional practice file. It is used by the Bureau of the Order for determining possible action to be taken at different levels.

Notice of Absence

The Regulation also stipulates that a psychologist who will be absent from his office for more than five consecutive working days must take the necessary measures to inform clients about the length of his absence and the procedure to be followed in the event of an emergency (sec. 20 of the Regulation).

Legal Implications for Psychologists in Private Practice

The present regulatory framework does not permit a psychologist to add to a contract for professional services any clause excluding his liability (sec. 29 of the Code of Ethics). This section of the Code specifies that the "psychologist shall accept personal civil liability."

The legal form under which most psychologists operate is that of an individual providing professional services, whether or not they are formally registered with the Inspector General of Financial Institutions. In some cases, for administrative or tax purposes, a psychologist chooses to incorporate and act as administrator of the company. However, even if the client's invoice is prepared on the letterhead of the corporate entity, for example, ABC Clinic or XYZ Clinical Psychology Centre, the invoice must describe the nature of the professional services rendered by the psychologist himself. Similarly, every report must be personally signed by the psychologist. Thus, the psychologist himself must assume full responsibility for the professional acts performed. It should be noted that incorporation involves significant costs and requires the production of an annual report, which is usually subject to an outside audit.

In 2001, changes were made to the Professional Code to permit the members of an order to carry on their professional activities within a limited liability partnership or a joint-stock company constituted for that purpose, subject to certain conditions (sec. 187.11 ff.). A proposal on this subject is being prepared by the Order for possible adoption by the Bureau of a regulation authorizing and overseeing practice in such a situation.

REFERENCE

1. Opinion expressed by Me Marie-France Biche in her paper "Le défi du droit nouveau pour les professionnels." *Les journées Maximilien Caron*. Thémis, 1994, p. 66; cited by the Professions Tribunal in Decision no. 500-07-000167-977, rendered on February 5, 1999.

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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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