



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.

# DISCIPLINARY DECISIONS FOR 2005-2006 AND THE NATURE OF CONCILIATION AGREEMENTS

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## JUDICIAL BODIES CONCERNED

The jurisprudence in disciplinary matters consists mainly of decisions rendered by the Disciplinary Committee. This committee consists of a member of the Quebec Bar, who is appointed by the Quebec government, and two psychologists chosen from the Order's roll of members, appointed by the Bureau of the Order. Each time a complaint is lodged, the Disciplinary Committee secretary establishes a committee, taking care to select, to the extent possible, members who have knowledge in the field in question.

This information is important, as it defines the scope of certain ethical rules applying to psychologists in different situations.

The decision of the Disciplinary Committee can be appealed by either party to the Professions Tribunal, which is made up of judges of the Court of Quebec.

## DECISIONS

For ease of understanding, we present the decisions by subject.

### PSYCHOTHERAPY

#### Sexual Misconduct

##### *No. 33-04-00306*

A psychologist was struck from the roll of members of the Order for a period of six months and obliged to pay a \$3,000 fine plus costs, including the costs of publication in a daily newspaper of the penalty imposed on him for having had sexual relations with a female client in his consulting room and in the client's residence. The complaint cited the events that occurred while the patient was in therapy with the psychologist in 1999. Half of the fine was paid to the client to reimburse the costs of the therapy she sought as a result of the psychologist's actions. The psychologist was also penalized for placing himself in a conflict of roles and conflict of interest situation and neglecting to refer his client to another professional, given his intimate relationship with her. In its judgment, the Disciplinary Committee emphasized the seriousness of this type of offence; this explained the harshness of the penalty, which was intended to serve as a deterrent rather than a punishment.

##### *No. 33-02-00277*

This complaint, which went back to 2002, was reviewed by the Professions Tribunal in 2004 at the request of the Office of the Syndic. Following the Tribunal's decision, the case was heard

again by a new Disciplinary Committee of the Order in 2005. The facts were as follows. In the hearings held in 2002, the Disciplinary Committee was asked to rule on a complaint of sexual misconduct made against a psychologist who had engaged in an intimate and sexual relationship with the mother of a minor child whom he was seeing in therapy. Despite his guilty plea to the two charges, the Committee failed, in its decision, to abide by the rule of procedural fairness and did not accept the recommendation for penalty. The Professions Tribunal was asked to make ruling and in 2004, reversed this decision. The new Committee found the psychologist guilty on both counts. The penalty imposed on the first count was a striking from the roll for two months plus a \$600 fine, and on the second count, a \$600 fine. The psychologist also had to pay the expenses, including the costs of publication of the penalty in the local newspaper.

*No. 33-05-00323*

A complaint giving rise to three charges was submitted to the Order's Disciplinary Committee on the grounds that the psychologist had neglected to show conduct above reproach by making gestures of a sexual nature towards two clients. The events occurred from 1980 to 1981 in the first case, and in 1984 in the second. The psychologist was also charged with putting himself in a conflict of roles and conflict of interest situation, having failed to make a referral to another professional considering the intimate relationship created. The psychologist pleaded guilty and the Disciplinary Committee imposed a striking from the roll for nine months, as well as payment of expenses, including the costs of publication of the notice of striking-off in a newspaper in the locality of the psychologist's professional domicile.

**Conflict of Roles and Conflict of Interest, Confidentiality and Adherence to Scientific Standards**

*No. 33-04-00307*

Between March 2002 and August 2003, a psychologist placed himself in a conflict of interest situation by receiving successively, for individual sessions, a husband, then his spouse accompanied by the son, then the couple, and finally, the entire family. There was clearly confusion among mandates and a breach of the psychologist's responsibility towards these clients in not informing them adequately about his role in the work he was doing with them. The psychologist admitted his guilt and was obliged to pay a \$1,000 fine plus costs. He was also reprimanded on the second charge of neglecting to show irreproachable behaviour towards his client by abruptly ending a telephone conversation with her.

*Nos. 33-03-00286 and 33-03-00290*

In these two disciplinary cases involving the same psychologist, several charges were brought against her for similar conduct during work done with different clients. The Disciplinary Committee found her guilty on four counts out of seven in the first case, and three counts in the second case. She was obliged to pay fines totalling \$5,400, as well 50% of the costs in the first case and all the costs in the second case. In its judgment, the Committee noted that "given the obvious absence of introspection and remorse by the defendant and the high risk of recidivism," it recommended that the Bureau of the Order impose a two-year supervision comprising at least 15 meetings a year with the supervisor, who would have to report to the Bureau every three months. In her work with several clients identified in these two cases, the psychologist placed herself in a conflict of roles and conflict of interest situation, breached her duty of confidentiality and failed to adhere to the scientific principles generally recognized in psychology, in particular, in her work related to post-traumatic stress syndrome. The psychologist made a request to the Professions Tribunal for "permission to file a motion for appeal outside the required time limit," but this request was denied.

*No. 33-06-00328*

The psychologist in this case faced three charges. The first involved a conflict of interest, as the psychologist had agreed to meet with the couple and with one of the spouses individually. The second charge concerned confidentiality, as the psychologist had neglected to obtain from the client free and informed consent regarding the information to be provided to his ex-spouse. According to the third charge, the psychologist had failed to discharge his professional obligations by agreeing to do work for which he was not sufficiently prepared and neglecting to refer his client to another professional, as required in this situation.

The psychologist pleaded guilty and had to pay a \$600 fine plus costs on the first count; on the second and third counts, his penalty was a reprimand. The Disciplinary Committee also recommended to the Bureau of the Order that the psychologist take and pass the "Ethics and Professionalism" course given by the Order of Psychologists.

*No. 33-05-00324*

A psychologist who performed a summary psychological assessment and follow-up of a minor child showed a lack of objectivity and caution in writing his report. Without having sufficient

scientific and professional information, he took a position on the custody arrangements although he had not met one of the child's parents. Admitting his guilt to the charge arising from the complaint, he was obliged to pay a \$1,000 fine, take the "Ethics and Professionalism" course given by the Order, and undergo supervision on transference and counter-transference in psychotherapy.

## **EXPERT ASSESSMENT**

### **Scientific Principles, Lack of Caution and Objectivity**

#### *No. 33-04-00304*

The psychologist was found guilty of neglecting to act with caution, objectivity and moderation during her work as an expert in a court case. By her conduct, she contravened sections 1, 11, 14 and 74 of the Code of Ethics of Psychologists. Further, she neglected to adhere to the scientific principles generally recognized in psychology when she failed to reassess one of the parents while performing an additional expert assessment. The Disciplinary Committee imposed a fine of \$1,000 for each of the two counts arising from this complaint.

#### *No. 33-05-00312*

The psychologist was found guilty of neglecting to show caution, objectivity and moderation when acting as an expert in a case concerning child custody arrangements. He also failed to comply with the scientific principles generally recognized in psychology by expressing opinions that were not based on sufficient professional and scientific information. The Disciplinary Committee found him guilty and imposed a \$600 fine plus payment of costs. In imposing its penalty, the Disciplinary Committee took account of the psychologist's undertaking to withdraw from performing psycholegal assessments.

#### *No. 33-03-00297*

As part of an expert assessment mandate, the psychologist produced an assessment report not conforming to the scientific principles generally recognized in psychology. She also neglected to act with caution, objectivity and moderation in failing to base herself on adequate clinical observations, as she had not assessed one of the spouses, about whom she made unqualified statements. Found guilty on both counts, she was obliged to pay a \$1,000 fine on each one, plus all costs except the expert's fees. In its judgment, the Disciplinary Committee noted that the defendant did not appear to understand the charges against her, which posed a concern in terms of protection of the public given the seriousness of the findings. The Committee recommended that the Bureau of the Order impose "a period of refresher training in psycholegal assessment, including supervision of at least 12 files, and restriction of her right to engage in these activities until that requirement is met."

## **MISCELLANEOUS**

### **Obstructing the Syndic's Work and Lack of Diligence**

#### *Nos. 33-04-00310 and 33-05-00320*

During the conduct of an investigation requested of the Office of the Syndic by a client, the psychologist systematically ignored, over a one-year period, the Syndic's requests to provide the client's record. Her conduct constituted obstruction of the Syndic's work and she was penalized by a striking from the roll for one month and payment of the incurred costs. Taking up a decision of the Professions Tribunal, the Disciplinary Committee noted, "This is a matter of pure and simple insubordination, which, if not put a stop to, may lead to the most serious breaches, thereby adversely affecting the public whom the professional orders have the duty to protect."

In the same case, in addition to obstructing the Syndic's work, the psychologist neglected her obligations of availability and diligence by failing to submit an assessment report on her client referred by the IVAC, a report needed by this agency to continue its follow-up of the client. The penalty imposed on the psychologist was a \$1,000 fine. There was also a recommendation to the Bureau of the Order that she be obliged to take the "Ethics and Professionalism" course given by the Order. The Committee noted an aggravating factor, as the psychologist did not express any regret or any intention to mend her ways, since she did not appear before the Committee.

#### *No. 33-04-00303*

In two investigation cases, the psychologist pleaded guilty to two charges. She had neglected to show availability and diligence by failing to produce her expert assessment report, in the first case, until almost one year after agreeing to do the work, and in the second, an IVAC assessment mandate, seven months later. Taking into account the mitigating factors that the psychologist did not have any disciplinary history and that she acknowledged the facts, the Disciplinary Committee imposed the minimum fine of \$600 on each count.

## Professional Fees

### No. 33-05-00316

A psychologist provided documents falsely certifying that professional services had been rendered in order to help his client obtain a refund of fees from an insurance company. The psychologist repeated this same offence with another client. The Disciplinary Committee stated in its decision that "the penalty must serve as a deterrent and reflect the seriousness of the defendant's actions." The Committee imposed a striking from the roll for two weeks on the two counts, plus a fine of \$600 per count. A third charge also led to a \$600 fine, as the psychologist had failed to provide his business address to the Order's Secretary-General despite receiving notices to this effect from the Syndic, who was the plaintiff. The psychologist also had to pay the costs.

### No. 33-04-00309

A complex situation was submitted to the Disciplinary Committee, from which five charges arose against a psychologist. She was struck from the roll for two weeks concurrently on the first four counts, and given a \$600 fine on the fifth count. The psychologist pleaded guilty to neglecting to provide her client, an agency for which she was a subcontractor, with all the explanations necessary to the understanding of her statement of fees. This related to services delivered to a client referred by this same agency. It was found that the services were not necessarily rendered exclusively by the psychologist, whereas the statements of fees gave the impression that all the professional services had been personally provided by her. The psychologist was using another person's services to teach relaxation techniques. Her bills did not specify which psychological services had been rendered by her, and which ones, by the other person. The Disciplinary Committee noted the psychologist's undertaking to clarify her mandates and her billing to her clients in writing, indicating, when necessary, the role or capacity in which another person may have been involved in the delivery of her professional services.

## CONCILIATIONS

Following is a brief summary of the conciliations achieved by the members of the Syndic's Office upon the conclusion of investigations, showing the nature of the offences and the measures agreed on in the different cases.

EXPERT ASSESSMENT (12 cases)	
<b>VIOLATIONS</b> <ul style="list-style-type: none"><li>▪ Report or testimony based on insufficient professional and scientific information</li><li>▪ Non-confirming expert assessment report</li><li>▪ Lack of diligence in production of the report</li><li>▪ Conflict of roles and conflict of interest</li><li>▪ Inappropriate behaviour by the psychologist</li><li>▪ Breach regarding consent</li></ul>	<b>AGREED-ON MEASURES</b> <ul style="list-style-type: none"><li>▪ Apology</li><li>▪ Amended report</li><li>▪ Supervision</li><li>▪ Repayment of a portion of the fees</li><li>▪ "Ethics and Professionalism" course</li><li>▪ Referral to professional inspection</li></ul>

PSYCHOTHERAPY (16) AND OTHER INTERVENTIONS (12 CASES)	
<ul style="list-style-type: none"><li>▪ Breach of confidentiality</li><li>▪ Conflict of roles and/or conflict of interest</li><li>▪ Breach regarding consent</li><li>▪ Attitude or behavioral problem</li><li>▪ Lack of diligence in providing a rapport</li><li>▪ Conflict concerning fees</li><li>▪ Incomplete or non-confirming report</li><li>▪ Inappropriate intervention/failure to adhere to scientific principles</li><li>▪ Failure to abide by the Regulation respecting the keeping of records and consulting-rooms by psychologists</li></ul>	<ul style="list-style-type: none"><li>▪ Apology</li><li>▪ Withdrawal of the psychologist from the case</li><li>▪ Repayment of a portion of the fees</li><li>▪ "Ethics and Professionalism" course</li><li>▪ Provision of an amended report</li><li>▪ Supervision</li><li>▪ Referral to professional inspection</li><li>▪ Undertaking by the psychologist to improve his/her practice or consulting room set-up</li><li>▪ Improvement of the form used to obtain consent</li><li>▪ Additional free mediation session between the psychologist and his/her clients</li></ul>

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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