



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.

**A CONFLICT OF ROLES OR
CONFLICT OF INTERESTS SHIFTS
THE PRIORITY AWAY FROM THE
INTERESTS OF THE CLIENT.**

**THE FAILURE TO SAFEGUARD
THE INTERESTS OF THE CLIENT
MAY RESULT IN A SITUATION
THAT IS DETRIMENTAL TO THE
EXISTING PROFESSIONAL
RELATIONSHIP.**

CONFLICT OF ROLES AND CONFLICT OF INTEREST (PART 2)

- ▶ Introduction
- ▶ Some Clarifications on Conflict of Interest
- ▶ Situational Scenarios
- ▶ Bibliography

INTRODUCTION

Part 1 of this ethics guideline dealing with conflict of roles and conflict of interest focused on the link between the two. By putting himself or herself in a conflict of roles with regard to the client, the psychologist contaminates the delivery of services to the client. He fails to fulfill his obligation to "set the interests of his client above his own interests and, where applicable, above those of his employer or colleagues," as required by section 30 of the Code of Ethics. In this sense, he puts himself in a conflict of interest.

In Part 2 of this discussion, we will provide some clarifications on this issue and present situational scenarios to help psychologists gain a better understanding of the problem. For this purpose, we will use certain cases submitted to the Office of the Syndic involving situations that psychologists are liable to encounter, which will help them identify the types of problems to be avoided.

CLARIFICATIONS

An important point to consider with regard to conflict of interest is the potential impact of the situation. Failing to safeguard the client's interest, when he has the right to expect to be treated according to his best interest, may result in harm being done to the existing relationship. If we consider some concrete examples of such situations, we see that the psychologist's behaviour fails to show the necessary independence or concern to preserve the relationship with the client. Such examples include providing individual therapy to two members of the same family or two persons in a close relationship; accepting gifts or services from the client without considering the impact of such acceptance on ongoing or recently completed therapy; or taking on a function which places the psychologist in a professional relationship with a client when a private therapeutic relationship also exists with this client.

It must be borne in mind that just a perception, or an "appearance," of conflict of interest can be detrimental, even if this perception is not based on fact. The client may fear that the psychologist will be influenced in the exercise of his professional duties and will take an unfavourable position towards him, whereas the psychologist's obligation is to put the client's interests above all else.

Concerns about apparent conflict of interest may arise in a number of situations, for example, when a psychologist obtains a mandate from a public or private organization which is in a conflict with a recipient and the psychologist is asked to evaluate the recipient's entitlement or continued access to a certain service or benefit, or when a psychologist wishes to evaluate a party in the context of an expert assessment of a family in conflict when he has an existing relationship with another party to the same dispute. In such situations, the psychologist must act to dispel any erroneous perception before beginning his mandate. The obligation to "establish and maintain a relationship of mutual trust with his client" (Code of Ethics, sec. 10) requires a proactive approach by the psychologist to obtain free and informed consent from the client. To avoid any conflicts, the psychologist is best advised to obtain this consent in writing if this would better allow the achievement of the desired goal.

ETHICAL REQUIREMENTS

In addition to obliging the psychologist to put the interests of his client first and foremost, as mentioned in the introduction to this article, the Code of Ethics (sec. 33) states the following about conflict of interest: "As soon as he finds he is or could be in a situation of conflict of interest, the psychologist shall define the nature and direction of his obligations and responsibilities, and inform his client." The reason for this requirement is to prevent the psychologist from placing himself in an awkward situation where he could lose some of his professional independence or autonomy, which must be preserved at all times. Sections 31 and 32, which deal with the same subject, that is, the independence and impartiality of the psychologist with regard to his client, specify the importance of "disregard[ing] any intervention on the part of a third party which could adversely affect the performance of his professional duties" and "avoid[ing] any situation that would create a conflict of interest."

These rules are grounded in the obligations of the mandatary towards the mandator (his client), as defined in section 2138 of the Civil Code: "A mandatary [...] shall act with prudence and diligence [...] He shall also act honestly and faithfully in the best interests of the mandator, and avoid placing himself in a position that puts his own interest in conflict with that of his mandator."

The Canadian Code of Ethics for Psychologists also specifies, with reference to the principle of integrity in relationships, that conflict of interest must be avoided. The American Psychological Association² takes the following position on this subject:

"Psychologists refrain from taking on a professional role when personal, scientific, professional, legal, financial, or other interests or relationships could reasonably be expected to (1) impair their objectivity, competence, or effectiveness in performing their functions as psychologists or (2) expose the person or organization with whom the professional relationship exists to harm or exploitation."

The Professions Tribunal³ has identified the scope of the problem of conflict of interest, whether real or apparent. It defines the criterion to be used in terms of the effects of the professional's action and the possibility that a client could suffer harm as a result.

"[Translation] With regard to conflict of interest, the question is not whether the professional will necessarily choose his personal interest, but rather, whether there is a reasonable possibility that a professional could choose his personal interest rather than that of the client." (p. 15). The Tribunal's position provides an interpretation of the professional's duties and obligations towards his client and suggests the criterion to be used by psychologists in deciding whether a situation could entail a conflict of interest: the psychologist should not place himself in a situation where his client could be adversely affected by potentially harmful conduct on the psychologist's part.

Conflict of interest may also be present when the psychologist fails to understand what is implied by a professional relationship with a client. This sometimes happens when a psychologist opines that he "feels capable of being objective," "wants above all to help,"—or is "acting with impartiality," or when an expert insists that he is "able to disregard his previous relationship," and "able to focus independently on the work to be done," in situations where the nature of the past relationship makes this impossible. This type of reasoning cannot shield the psychologist from conflict of interest, regardless of his belief to the contrary. By being in a conflict of interest situation, the psychologist fails to conduct himself, within the meaning of section 13 of the Code of Ethics, in a manner that is above reproach.

However, conflict of interest and conflict of roles situations can be detected and avoided. The situational scenarios presented below are intended to provide some useful indications in this regard.

SITUATIONAL SCENARIOS

A psychologist works in a public institution. She has provided psychotherapy to a client for several months. As this client is in a difficult financial situation, the psychologist offers to help him find a job by making calls to potential employers and accompanying him to a job interview.

She also informs the client that her sister is looking for a worker to do some outdoor repairs on her house. He appears to be qualified for this work, so she puts him in contact with her sister. Moreover, the psychologist needs some repairs done in the basement of her home, so she offers to hire and client and pay him for the work. To justify her behaviour, she says that she took these actions to improve the client's well-being, given his needs which were identified during her professional work.

THE ETHICAL FRAMEWORK CONCERNING CONFLICT OF INTEREST WAS ESTABLISHED TO PREVENT THE PSYCHOLOGIST FROM PUTTING HIMSELF IN AN AWKWARD SITUATION WHERE HE COULD LOSE HIS PROFESSIONAL INDEPENDENCE OR AUTONOMY AND THEREFORE BE UNABLE TO ACT AS REQUIRED BY A GIVEN SITUATION.

It may be that the psychologist is well-intentioned and is trying in good faith to help her client. However, she is breaching the Code of Ethics by putting herself in a conflict of roles and conflict of interest situation. To her role as psychotherapist, she has added the role of employment counsellor and even employer. Moreover, by finding a handyman for a family member and hiring the client herself to work on her house, she is filling certain needs which serve her personal interest. Apart from the fact of interfering in her client's affairs and possibly disclosing the name of a client, contrary to her obligations, she risks, through her action, adversely affecting the psychotherapeutic process, even if in the short term this brings the client certain advantages in the form of employment and earnings. Her original mandate to help the client through psychotherapy has been contaminated.

The psychologist can no longer act toward the client with independence and impartiality. It is the psychologist's responsibility to help the client by providing psychotherapy, so that he will develop sufficient initiative to undertake alone, or with the help of appropriate resource persons, a productive job search in companies or among individuals unrelated to the person from whom he receives psychotherapy.

A psychologist has accepted a mandate to supervise a fellow psychologist. During their meetings, his client, that is, the supervised psychologist, mentions certain problems he is experiencing with his teenage son. This situation is a major source of stress for him, even impeding his ability to listen to the clients he sees in interviews. As a relationship of trust has developed between him and his supervisor, who also provides psychological services to adolescents, the client asks the supervisor to meet with his son. Flattered by this recognition of his competence, the supervisor accepts the mandate. He tells himself that he will be able, simultaneously, to help the teenager, improve the father-son relationship, and solve the problem impeding the quality of his client's work.

By accepting the mandate to meet his client's son, the psychologist is putting himself in a conflict of interest and conflict of roles situation. In addition to assisting the father professionally, he is considering becoming the son's psychotherapist. The meeting with the teenager must be evaluated as a separate request. It cannot be associated with or derived from the previously existing relationship with the father. These are two separate clients. The psychologist's duty to serve the interest of his new client, the teenager, would be sorely tested by the parallel relationship with the father. The psychologist would be unable to avoid taking into account information received from the father. To act with integrity, he would have to reveal any previously obtained information. Moreover, his professional interest with regard to the father would have to be given priority at the same time as his professional interest with regard to the son. The initial work begun with the father has created a situation of incompatibility, which cannot be resolved. Situations of this type have been penalized a number of times by the Disciplinary Committee, which found them to be contrary to professional ethics.

In this case, the psychologist who receives this request from the person he is supervising has no choice but to give a referral for the son's therapy, or to refer the father and son together to a psychologist who can provide joint therapy.

A psychologist has recently started working at a CLSC, in a position previously held by another professional. He also has a private practice. A CHSLD employee with whom he occasionally works asks him to see her husband, who is depressed. The employee is aware of the psychologist's qualifications for this type of work and believes that her husband could benefit from appropriate services. The husband has previously been seen at the CLSC for this problem. To avoid wasting time by being put on a waiting list, her husband is willing to see the psychologist at his private clinic.

The psychologist's employment contract prohibits him from using other employees of the institution or the institution's client list as a source for his own clientele. The services provided by the CLSC appear to be able to meet the husband's needs, except for the time delay. As this is a client to whom the psychologist could have access through his employer, he should clarify the situation with the employer in order to decide how this case and others that could potentially arise should be handled. Speaking generally, there would appear to be a conflict of interest if the psychologist sees in his private practice clients who come to the institution that employs him.

In this case, it would also be inappropriate to undertake private therapy with the spouse of a colleague to whom the psychologist is related through his work. Therefore, the psychologist should refer this request to another psychologist.

A psychologist works in private practice. In addition to providing psychotherapy, he also co-ordinates an EAP (employee assistance program), which delivers services to various companies. He has been seeing a client for several weeks and discovers that she is the ex-wife of a human resources manager whom he has not met, but who works for a company to which he provides services. The couple has been separated for several

months. At the end of the therapy, he writes, at the client's request, a report on the intervention. Based on the client's comments, he states that the child custody conditions should remain unchanged, that is, the client should continue to have custody 85% of the time. He knows that the client's ex-husband behaves in ways described by the client as detrimental. He also knows, thanks to information obtained in his role as co-ordinator, that the ex-husband has been absent from work due to burnout.

The psychologist is at the point of convergence of several channels of communication. This situation enables him to make inferences, which clearly do not meet the requirements of an assessment done according to scientific principles. Moreover, he has placed himself in a conflict of roles by issuing an expert opinion after having acted as the client's psychotherapist. Further, he is in a conflict of interest, as he is using his role as co-ordinator, which gives him access to privileged information in relation to a mandate with the ex-husband's company, to take a position against an employee of this company to the benefit of his private client.

It is possible for the psychologist to see this client without breaching his obligations. However, he has to take care to keep completely separate information coming from different sources, that is, from the client on the one hand, and through his role as co-ordinator on the other.

In addition, his role as the client's therapist does not permit him to act as an expert.

A psychologist delivers training to groups. He develops friendly relations with several participants of the training and even has a brief intimate relationship with one of the participants. This participant is a music teacher and the psychologist enrolls his daughter in her music lessons. The intimate relationship ends. The child stops her music lessons. A few months later, the client wants to see the psychologist for individual psychotherapy.

By allowing himself to develop friendships with the participants, the psychologist has breached his obligations. Obviously, the same is true of his intimate relationship with a client, as this entailed "taking advantage of his professional relationship with a person to whom he is providing services [...] to have sexual relations with that person" (Professional Code, 59.1). There is also, in this case, a conflict of roles and conflict of interest. These offences are repeated when services are provided by the client to the psychologist's daughter. It goes without saying that the psychologist should not agree to provide any additional therapy to this client.

In this situation, the psychologist should have sought, from the start, to establish and maintain an appropriate framework for his intervention. He should seek appropriate help for himself if a counter-transference arises, and he should refer the client to a colleague.

REFERENCES

1. Canadian Psychological Association (2000). *Canadian Code of Ethics for Psychologists*. Principle III. Page consulted on April 1, 2005. <http://www.cpa.ca/cpasite/userfiles/Documents/Canadian%20Code%20of%20Ethics%20for%20Psycho.pdf>
2. American Psychological Association (2002). *Ethical Principles of Psychologists and Code of Conduct*. Page consulted on April 1, 2005. www.apa.org/ethics/code2002.html.
3. Professions Tribunal, no. 500-07-0001210966. June 19, 1998.

BIBLIOGRAPHY

Civil Code of Quebec, S.Q., 1991, c. 64.

Code of Ethics of Psychologists, R.S.Q., c. C-26, r. 148.1.

Ordre des psychologues du Québec. *Disciplinary Decision* no. 33-01-00258, December 7, 2001.

Ordre des psychologues du Québec. *Disciplinary Decision* no. 33-01-00262, April 18, 2002.

Ordre des psychologues du Québec. *Disciplinary Decision* no. 33-04-0307, February 14, 2005, decision on penalty under consideration.

Professional Code, R.S.Q., c. C-26, sec. 36.

The practice of a profession is defined by two co-existing realities: on 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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