



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.

**CONSIDERING THE
SIGNIFICANCE OF EMPLOYEE
ASSISTANCE PROGRAMS AS
SOURCES OF CLIENT REFERRALS
FOR PSYCHOLOGISTS, THE
ETHICAL IMPLICATIONS OF
THIS TYPE OF WORK NEED
TO BE DISCUSSED.**

WORKING IN THE FRAMEWORK OF EMPLOYEE ASSISTANCE PROGRAMS (PART 1)

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INTRODUCTION

The subject of this ethics guideline, and the next one, appearing in January 2006, concerns the psychologists, of whom there are many, who work in private practice in association with an employee assistance program (hereafter called EAP). This association may take different forms, but in all cases, the psychologist remains subject to certain ethical requirements, in particular, those concerning professional secrecy, consent, conflict of interest, keeping of and access to client records and compensation.

We will examine this issue from three perspectives, starting with the situation of psychologists who deliver services directly to employers, either through an organization created by themselves, or as managers of firms providing these types of services. Next, we will consider the situation of psychologists who work in private practice and deliver services to company employees in the role of subcontractors. This is usually done under an agreement, of which we will discuss the scope and implications. Third, we will look at psychologists who are employed by a company and are entrusted with providing assistance services directly to other employees of the same company.

We will begin this guideline by examining the requirements applying to psychologists who deal directly with companies for the purpose of delivering EAP services to their employees.

CLARIFICATION

Psychological services delivered by an organization

Organizations delivering assistance services increasingly deal with a variety of problems, both individually – psychological services, financial services, legal consultation – and for the company as a whole – providing other types of professional services, such as debriefing in the workplace and conflict management or prevention.

A psychologist's choice to deliver services to different companies for their employees implies the establishment of an organization capable of fulfilling this commitment. In most cases, the nature and modalities of the service provision are specified in writing, in the form of a contract, which has clauses defining the obligations of both parties: the psychologist through his or her organization and the company to which the services are delivered.

In return for the fact that services are provided to employees free of charge, as the costs are borne by the employer, employers are often anxious to include in the agreement certain measures of control. Although some accommodations can be made, the psychologist may not depart from the principles set out in the Code of Ethics of Psychologists. As is the case for psychologists who work for public organizations, for example, in the health or educational sector, the employer's policies have to be weighed against professional requirements. It is from this perspective that any accommodation must be made.

To illustrate the situation of psychologists who deliver psychological services to company employees, we will examine the following dimensions.

Professional secrecy

The psychologist may not agree to anything that would give the employer knowledge of the identity or problems of the employees who use the assistance program. This means that the employer must never be given information which would permit him to recognize the employee. It is up to the organization delivering the services to ensure that this obligation is met and is understood by the employer with whom the agreement is made.

However, the psychologist also has a responsibility to give the employer access to certain types of information. Among the variables an employer may want to verify are the number of employees who have used the service, the types of problems dealt with, the duration of treatment and the rationale for fees billed to the company.

In certain cases, because of the size of a company or workplace, an employee who makes use of the assistance service may be easily identifiable. This creates a problem and it is up to the organization delivering the services to define procedures ensuring professional secrecy. Some possible measures include identifying records in a non-nominative way and agreeing in advance on the type of information to be provided to the employer while still maintaining professional secrecy.

Consent

When an employee is informed about the assistance program put in place by the employer, he or she needs to clearly understand the scope of the available service.

A PSYCHOLOGIST WHO PROVIDES EAP SERVICES MUST ENSURE THAT THE AGREEMENT MADE WITH THE COMPANY RECEIVING THE SERVICES DOES NOT BREACH ANY ETHICAL REQUIREMENTS. ACCOMMODATIONS ARE, HOWEVER, POSSIBLE. IT IS ADVISABLE TO OBTAIN WRITTEN CONSENT FROM THE EMPLOYEES WHO USE THE SERVICE, IN ORDER TO DOCUMENT THEIR UNDERSTANDING OF THE CONSTRAINTS ON THE PSYCHOLOGIST'S WORK, AS WELL AS THEIR AGREEMENT TO ANY SUBSEQUENT TRANSFER OF INFORMATION.

THE NEED TO DEFINE APPROPRIATE PROCEDURES GUARANTEEING PROFESSIONAL SECRECY.

AN ORGANIZATION WHICH IS NOT HEADED BY A PSYCHOLOGIST AND WHICH ESTABLISHES AN EAP MUST ENSURE THAT, IF AN AGREEMENT EXISTS THAT IT WILL KEEP THE RECORDS OF THE PSYCHOLOGISTS WHO WORK AS ITS SUBCONTRACTORS, THE REQUIREMENTS OF THE REGULATION RESPECTING THE KEEPING OF RECORDS AND CONSULTING-ROOMS BY PSYCHOLOGISTS AND THE CODE OF ETHICS ARE FULLY MET. THE PSYCHOLOGISTS CONCERNED HAVE THE RESPONSIBILITY OF ENSURING THAT THIS IS THE CASE.

The Office of the Syndic believes that it is up to the organization delivering the services to inform the employee about the implications of seeing a psychologist in the framework of an EAP. In most cases, this involves pointing out certain elements of the agreement and obtaining the client's written consent to the services and their conditions.

We note that the Code of Ethics of Psychologists (sec. 16 and 17) does not specify an obligation to obtain written consent. What is required is to have the client's free and informed consent. However, in this situation, it is important that the client fully understand the limits imposed by the EAP on the type of service a psychologist can provide. Written consent certifies the client's understanding that the rules normally applying to psychologist-client relationships are different in the context of an EAP, where the services are paid for by the employer. The EAP is characterized by special conditions, such as a limit on the number of appointments an employee is entitled to have, the impossibility of continuing privately with the same psychologist once the maximum number of appointments has been reached, the psychologist's inability to act as a witness in a dispute between the employee and employer and the non-accessibility of the client's record at the consulted psychologist's premises. To obtain the recommended consent, the organization delivering the services should prepare an appropriate consent form, which reflects the conditions of the agreement signed with the employer.

Limiting the number of permitted appointments is not an ideal approach, as it may adversely affect the client. It is advisable to provide for a mechanism which would allow the psychologist, if necessary, to assess the pertinence of additional meetings. This may become essential in such situations as a major crisis arising during the therapeutic process, a danger of suicide or violence, or the need to maintain an employee at work or to help him return to work.

Conflict of roles and conflict of interest

A psychologist who delivers EAP services through an organization may also have skills in workplace conflict resolution. This could put him in a situation of conflict of roles or conflict of interest. The Disciplinary Committee of the Ordre des psychologues (2000) has dealt with a case of this nature; it found an ethical breach and imposed a penalty.

Measures should be taken to avoid all situations that could put the psychologist in a conflict of interest in the workplace. This may mean that the psychologist refrains from providing two types of services for the same company or delivering any service that could put him in contact with a client seen under the EAP.

Keeping of and access to the client's record

The Regulation respecting the keeping of records and consulting-rooms by psychologists requires that a record be kept for each client and that every service provided be documented (sec. 1 and 3).

Psychologists who work as subcontractors for an EAP and receive employees in their private office usually keep their records in their system, in accordance with the effective regulations. However, some organizations require that employee records be provided to them for processing. From the ethical standpoint, this is acceptable so long as the employee is informed of this fact and signs the appropriate consent form. It is important to ensure that, should a psychologist be investigated by the Office of the Sydic in a case of this type, he

would be able to demonstrate the client's consent with a form that certifies the client's agreement to the transfer of his record to the organization managing the EAP upon completion of the psychologist's services. Written authorization for a transfer of the client's record is required under section 46 of the Code of Ethics.

Compensation

The Code of Ethics prohibits claiming fees for professional services not rendered (sec. 58.6). An organization delivering EAP services may determine the fees it charges on the basis of the factors mentioned in section 51 of the Code: experience, time spent in providing the professional service, complexity and extent of the service, and performance of unusual services or of services requiring exceptional competence or dispatch. Section 51 gives psychologists a great deal of flexibility in applying these parameters.

Section 54 of the Code obliges the psychologist to "provide his client with an estimate of the possible cost of his professional services." This gives organizations delivering services a wide margin for manoeuvre when making their estimate, based on previous work done for other companies, of the expected cost to a company negotiating a first EAP agreement for its employees.

Section 35 of the Code specifies that the psychologist shall not accept, apart from the remuneration to which he is entitled, any benefit, rebate or commission for the practice of his profession. Although the Disciplinary Committee has never had to deal with this matter, the Office of the Syndic believes that agreeing to fixed-rate formulas for the treatment of clients, without knowing their individual problems and therapeutic needs, is risky and not in keeping with our profession's values or ethics.

When a psychologist is hired as a subcontractor by an organization, it is important for him to clarify the policy on missed appointments. This matter should be dealt with in the light of the position expressed on this subject by the Ordre des psychologues 1.

Lastly, in cases where employees using the employee assistance program are obliged to pay a part of the fees, it is not permitted to use billing methods which would benefit the employee or the third party payer in violation of the original agreement. The Code of Ethics deals with this issue in section 58.2.

The ethical dimensions surrounding services delivered directly by psychologists to employees using an assistance program will be dealt with in the next ethics guideline, which will also include situational scenarios.

Reference

1. See Bibliography: "Fees."

Bibliography

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

Ordre des psychologues du Québec. Disciplinary decision no. 33-99-00221, February 15, 2000.

Ordre des psychologues du Québec (2000). "Fees." Ethics Guidelines, Vol. 1, No. 4, *Psychologie Québec*, Vol. 17, No. 6, November 2000.

Regulation respecting the keeping of records and consulting-rooms by psychologists. C-26, r. 154.1.

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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