

# The e-Bulletin

THE COLLEGE OF PSYCHOLOGISTS OF ONTARIO  
L'ORDRE DES PSYCHOLOGUES DE L'ONTARIO  
Regulating Psychologists & Psychological Associates

Volume 5, Number 3

July 2014

## In This Issue

President's Message

Psychotherapy Act 2007

Council Highlights

Tricky Issues

ICRC Activities and Advisory Information

Discipline Decision

Oral Examinations

Contact Email Reminder

Changes to the Register

Upcoming Council Meeting Dates

## Contact Email Reminder

The College uses email as its main method of communication with members. Please ensure that your College contact email address is up to date and that mail is not being filtered to spam. If you need assistance please contact the College.

## Changes to the Register

Since April 2014, there have been many changes to the College Register as new

## [Index of Articles: June 2010 v.1 no.1 - July 2014 v.5 no. 3](#)

### President's Message

Greetings on behalf of the Council of the College of Psychologists of Ontario! There are some changes on Council this year. At the recent meeting of Council, I was acclaimed as President for a second year and Peter McKegney, public member, was acclaimed as Vice-President. New members of Council include Gilles Hébert who is replacing Lise Mercier in the Ottawa area, and Astra Josie Rose, a new public member. There have been a lot of changes to Council over the past two years. It is exciting to have new perspectives adding to the discussion but it is also challenging for the new members to come to know the corporate history of the Council and the substantive discussions that have been ongoing over recent years

### [More....](#)

### Psychotherapy Act, 2007 - Transitional Provisions in Force; Proclamation of Act Still Pending

The transitional provisions in the Psychotherapy Act, 2007 came into force in June 2007 and established the Transitional Council of the College of Psychotherapists and Registered Mental Health Therapists. The remaining sections of the Act will come into force when proclaimed by the Government.

### [Read More...](#)

### Council Highlights

Highlights from the Council meeting held on June 20, 2014 can be [found here](#).

### Tricky Issues

At the recent Barbara Wand Seminar in Professional Ethics, Standards and Conduct, there was a presentation on Tricky Issues prepared from questions frequently asked of the College's Practice Advice Service. Due to time constraints, three of the questions provided to participants were not reviewed. A discussion of one of these scenarios is presented in this issue of the e-Bulletin and the remaining ones will be published in the next issue.

Certificates of Registration were issued or members retired or resigned. As well, the College learned, with regret, of the deaths of a colleague.

[View Changes to the Register](#)

### Oral Examinations

The College would like to thank members of the College and Council who acted as Oral Examiners in June 2014.

[Oral Examiner List](#)

### Upcoming Council Meeting Dates

The following dates have been confirmed for the next Council Meetings:

September 19, 2014  
December 12, 2014  
March 20, 2015

Observers are welcome. Please advise the College of your wish to attend by calling 416-961-8817 or emailing [cpo@cpo.on.ca](mailto:cpo@cpo.on.ca)

[Read More...](#)

### Investigations, Reports and Complaints Committee Activities and Advisory Information

The ICRC reports the following statistical information for the past fiscal year (June 1, 2013- May 31, 2014)

Advisory Information: Duty to Report Child Abuse and Neglect

[Read more...](#)

### Discipline Proceeding

The Discipline Committee of the College holds hearings into allegations of professional misconduct and/or incompetence. A summary of disciplinary proceedings is provided for the information of the public, members of the College and other professionals. This information is on the Register of the College and available in the [Members Search](#) section of the College website or may be obtained by contacting The College of Psychologists of Ontario.

[Read more...](#)

#### Quick Links

[College of Psychologists Of Ontario](#)

416-961-8817  
800-489-8388  
[cpo@cpo.on.ca](mailto:cpo@cpo.on.ca)

## President's Message

Greetings on behalf of the Council of the College of Psychologists of Ontario! There are some changes on Council this year. At the recent meeting of Council, I was acclaimed as President for a second year and Peter McKegney, public member, was acclaimed as Vice-President. New members of Council include Gilles Hébert who is replacing Lise Mercier in the Ottawa area, and Astra Josie Rose, a new public member. There have been a lot of changes to Council over the past two years. It is exciting to have new perspectives adding to the discussion but it is also challenging for the new members to come to know the corporate history of the Council and the substantive discussions that have been ongoing over recent years.

There were several significant agenda items discussed at the Council meeting on June 20. The first was the ongoing discussion regarding a single title for all psychological practitioners in Ontario, and the cessation of masters level registration. Members of the College may recall that a decision to move forward with this was made in March 2013. Since that time, however, Council was focused upon completing the Registration Regulation and the Quality Assurance Regulation amendments. Both of these are now in the hands of government, so we have time to refocus our attentions to this item. Council gave direction to the Registrar to begin the process of developing a draft implementation plan which would include the single title, cessation of masters level registration and establishing a mechanism for the recognition of internationally trained applicants many of whom are trained at the masters level. This is not the end of the process. There will be much more consultation as an implantation plan is developed and as any associated regulation amendments are drafted.

A second issue that got a lot of attention at the Council meeting was the recent submissions from the Task Force on Custody and Child Access Assessments. The Task Force developed a document which offers information for those members who are interested in working in this field of practice. Council is discussing the best way to disseminate this important and valuable "best practices" information to the membership.

The College remains busy over the summer months. The Executive will meet in the middle of the summer and planning begins for the fall. It promises to be a very interesting, challenging, and rewarding year for members of the Council as we continue to regulate the profession of psychology in the province of Ontario.

Robert Gauthier M.Sc., M.Ed, C.Psych.Assoc.  
President

---

# Psychotherapy Act, 2007 – Transitional Provisions in Force; Proclamation of Act Still Pending

The transitional provisions in the Psychotherapy Act, 2007 came into force in June 2007 and established the Transitional Council of the College of Psychotherapists and Registered Mental Health Therapists. The remaining sections of the Act will come into force when proclaimed by the Government.

Since 2007, some issues have arisen which may be of interest to members of the College of Psychologists.

The Transitional Council of the new College has drafted a regulation setting out registration requirements. In considering the proposed registration regulation, the Ministry of Health and Long-Term Care directed that the Transitional Council should draft requirements only for the registration of psychotherapists. The Transitional Council was directed not to set out requirements for the registration of mental health therapists so that the Ministry could consider issues and options relating to that group of providers and access to services.

At present, it is anticipated that the Psychotherapy Act will be proclaimed in the fall of 2014. It is not clear however, whether the legislative provisions to establish the new proposed controlled act relating to psychotherapy will be proclaimed at that time. The relevant legislative provisions would include amendments to the Regulated Health Professions Act, 2001, s.27(2) to establish the new controlled act and related amendments to the Psychology Act and other profession-specific acts to permit members of specified Colleges to perform the new controlled act which would be defined as:

Treating, by means of psychotherapy technique, delivered through a therapeutic relationship, an individual's serious disorder of thought, cognition, mood, emotional regulation, perception or memory that may seriously impair the individual's judgement, insight, behaviour, communication or social functioning.

If proclamation of the new controlled act provisions in the RHPA and other Acts is deferred, the performance of psychotherapy as described would not be restricted and would remain in the public domain.

In addition, if proclamation of the controlled act of psychotherapy were deferred, there would be a related implication. While the use of the title "psychotherapist" would be protected upon proclamation of the Psychotherapy Act, its use would be restricted to members of the new College of Registered Psychotherapists. In the proclaimed legislation, the use of the title "psychotherapist" would be linked to the authority to perform the controlled act of psychotherapy (RHPA, s.33.1(1)). Members of other Colleges would have to be authorized to perform the controlled act in order to use the title. If the provisions that would establish the new controlled act were not proclaimed, the use of the title "psychotherapist" would be limited to members of the new College.

Regardless of whether or not these sections of the Psychotherapy Act are proclaimed, members of the College of Psychologists of Ontario must continue to use the regulated title on their certificate of registration, either "psychologist" or "psychological associate". If the RHPA amendments relating to the controlled act and the title "psychotherapist" were to be proclaimed, members of the College of Psychologists would be required to comply with section 33.1 of the RHPA which delineates the way in which the professional title must be used in conjunction with the title "psychotherapist". At that time, the College would provide further clarification to members on the requirements respecting use of the title "psychotherapist".

Members should note however, that regardless of whether or not the controlled act of psychotherapy is proclaimed, members of the College of Psychologists of Ontario, who are competent to provide psychotherapy, will be permitted to continue to do so. As always, members must ensure that they are competent to provide the services appropriate to the needs of their clients. When in doubt about one's competency to provide a needed service, a member should advise the client and make reasonable efforts to assist the client to find a health professional who is able to provide the needed service.

---

## Council Highlights – June 20, 2014

### Policy Issues

#### Registration and Quality Assurance Regulation Submission Update

The Quality Assurance and Registration Regulation amendments have been sealed and signed and are progressing through the next steps in the Government approval process.

#### Task Force on Shaping the Future of Psychology Regulation in Ontario

Council directed that an implementation plan be prepared for the following motion passed in March 2013:

That Council adopt Option 2:

Discontinue master's level registration, grandparent Psychological Associates as Psychologists and develop a mechanism for evaluating internationally trained applicants

- a. Cease to accept master's level applications as of a set date
- b. Register all Psychological Associates as Psychologists on a fixed date, or within a fixed time period.
- c. Develop a mechanism for evaluating internationally trained applicants' competencies for substantial similarity to a CPA accredited program and remediation as needed, regardless of whether they have obtained a master's degree or a doctoral degree.

as presented in the report from the Task Force on Shaping the Future of Psychology Regulation in Ontario.

The proposed implementation plan is to be provided to Council in September.

#### Standards of Professional Conduct: Proposed Review

A motion was passed to review the *Standards of Professional Conduct (last amended in 2009)* during the current fiscal year and to establish a system for ongoing reviews within 5 years after the last review was finalized and approved.

#### Jurisprudence and Ethics Examination Committee

Council approved a recommendation that a public member of Council be appointed to the Jurisprudence and Ethics Examination Committee as an observer for a one year term. The Executive Committee was directed to make the appointment.

Council accepted a recommendation from the Committee to endorse the *Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans (2010)* to replace the American Psychological Association's *Ethics in Research with Human Participants (2000)*. Council directed

that proposed language to amend By-Law 16: Code of Ethics and Practice for Members to effect this change be provided to the September 19, 2014 Council meeting.

### **Business Issues**

#### Final Report from the Task Force on Psychological Service Providers in the Context of Disputes Concerning Child Custody and Access or Child Protection

The Registrar was directed to bring advice to Council at the September meeting respecting how to best make the information available to members.

---

## Tricky Issues

At the recent Barbara Wand Seminar in Professional Ethics, Standards and Conduct, there was a presentation on Tricky Issues prepared from questions frequently asked of the College's Practice Advice Service. Due to time constraints, three of the questions provided to participants were not reviewed. A discussion of one of these scenarios is presented in this issue of the e-Bulletin and the remaining ones will be published in the next issue.

### Consent and Request for Personal Health Information

A former client, now 18 years of age, was seen for a psychological assessment when he was 8. He has now requested that a copy of his clinical file be sent to his current therapist. A review of the assessment report finds that while it describes some deficits, it also notes many areas of strength. The client's mother has called to express her concerns about releasing the information. She noted that since the assessment was completed on the basis of her consent, it was her understanding that her consent would now be necessary for the release any of the information pertaining to it. What would be the member's best course of action in this situation?

1. Respect the mother's wishes and rights and not release the information without her consent.
2. Release the information as the client is now capable with respect to decisions regarding his personal health information.
3. To be safe, require the client to have his lawyer get a court order compelling the release so there is no issue regarding the mother's objection.
4. Agree to release the notes but insist this can only be done following an appointment during which the file will be reviewed with him to ensure that his consent is informed.
5. The question of who can consent is a non-issue as the file can't be released to the current therapist as she is not a regulated provider.

### Discussion

Answer 1 is not an appropriate course of action. At the time of the assessment, the client was incapable of providing informed consent to treatment and therefore the assessment was conducted based on the consent of his mother. Now, 10 years later, the client is viewed as a capable young adult and therefore the mother's authority to consent on his behalf is no longer valid. The mother no longer has the right to control the release of the client's information.

Answer 2 is the appropriate course of action. At 18 years of age, the client is now viewed to be capable with respect to making decisions regarding his personal health information. The Personal Health Information Protection Act (PHIPA) permits capable individuals to access their own personal health information or to request that it be disclosed or released to another party.

Answer 3 is not an appropriate course of action. It would be unnecessary and needlessly burdensome to require the client to obtain a court order when he has the right, under PHIPA, to request his personal health information be released to his current therapist.

Answer 4 is not an appropriate course of action. While it is important that one be satisfied that the client has provided knowledgeable consent, it would be incorrect to assume this can only be obtained through a review of the file undertaken with him personally. Should the client not wish to participate in such a review, it would be inappropriate to insist that the release of the clinical file is dependent upon his attending such an appointment. One certainly can discuss the value of such a meeting and encourage the client to participate, but it would be inappropriate to view the client's refusal to accept this offer as reasonable grounds to refuse his request.



Answer 5 is not an appropriate course of action. A client's right to request that his personal health information being disclosed to another service provider is not contingent upon whether the provider is a member of a regulated health profession. Rather, one has an obligation to ensure one has obtained the client's knowledgeable consent which includes his appreciation regarding to whom the information is being released.

R. Morris, Ph.D, C.Psych.  
Deputy Registrar/Director, Professional Affairs

---

The ICRC reports the following statistical information for the past fiscal year (June 1, 2013- May 31, 2014)

Complaints Received, by Nature of Service:

|   | <u>2013-<br/>2014</u> | <u>2012-<br/>2013</u> |
|---|-----------------------|-----------------------|
| Administration                              | -                     | 1                     |
| Capacity Assessment                         | 4                     | 2                     |
| Consultation                                | 1                     | 1                     |
| Corrections Assessment                      | 1                     | 2                     |
| Custody & Access / Child Welfare Assessment | 5                     | 7                     |
| Educational Assessment                      | 10                    | 8                     |
| Industrial / Occupational Assessment        | 4                     | 2                     |
| Neuropsychological Assessment               | 1                     | 2                     |
| Not Related to Psychological Services       | 2                     | 9                     |
| Other Psychological Assessment              | 4                     | 7                     |
| Psychotherapy / Counseling                  | 18                    | 20                    |
| Rehabilitation / Insurance Assessment       | 11                    | 20                    |
| Supervision                                 | 42                    | 4                     |
| Teaching / Training                         | -                     | 1                     |
| Unknown                                     | 3                     | -                     |
| Total:                                      | 106                   | 86                    |

Dispositions by Case:

|   | <u>2013-<br/>2014</u> | <u>2012-<br/>2013</u> |
|---|-----------------------|-----------------------|
| Administrative Withdrawal   | 2                     | 8                     |
| Other – Advice  | 14                    | 16                    |
| Other - Take no Further Action  | 31                    | 21                    |
| Other - Take no Further Action and Undertakings   | 1                     | -                     |
| Other - Oral Caution  | 4                     | 2                     |
| Other - Oral Caution and Undertakings   | 1                     | 1                     |
| Other - Written Caution   | 10                    | 11                    |
| Other - Written Caution and Undertaking   | 1                     | 3                     |
| Other - Written Caution and SCERP*  | 1                     | -                     |
| Referral to the Discipline Committee  | 2                     | 4                     |
| Take No Action, if Complaint Frivolous, Vexatious, Made in Bad Faith, Moot or otherwise an Abuse of Process | 8                     | 5                     |
| Total:  | 75                    | 71                    |

\* Specified Continuing Education or Remedial Program

Most complaints and reports considered by the Inquiries, Complaints and Reports Committee address more than one allegation. The allegations considered by the Committee, as well as the frequency of each disposition of these allegations, are listed below:

|   | Withdrawal | Take no Further Action F&V | Take no Further Action | Advice | Caution | Caution & Under Taking | Oral Caution | Oral Caution & Under Taking | Written Caution & SCERP * | Refer to Discipline |
|---|------------|----------------------------|------------------------|--------|---------|------------------------|--------------|-----------------------------|---------------------------|---------------------|
| Bias  | 1          | 1                          | 9                      | -      | -       | -                      | 1            | -                           | 1                         | -                   |
| Breach of Confidentiality                           | -          | -                          | 6                      | 1      | 1       | -                      | -            | -                           | -                         | 1                   |
| Conduct Unbecoming a Member of the CPO              | -          | 3                          | 12                     | 4      | -       | -                      | 1            | 1                           | -                         | 1                   |
| Conflict of Interest                                | -          | -                          | 5                      | -      | -       | -                      | -            | -                           | -                         | -                   |
| Failure to Render Services Appropriate User's Needs | -          | -                          | 7                      | 1      | 1       | -                      | -            | -                           | 1                         | -                   |
| Failure to Fulfill Terms of Agreement with User     | -          | -                          | 1                      | -      | -       | -                      | -            | -                           | -                         | -                   |
| Failure to Obtain Informed Consent                  | -          | -                          | 3                      | 2      | 2       | -                      | 1            | -                           | -                         | -                   |
| Failure to Practise within Boundaries of Competence | -          | -                          | 3                      | -      | -       | -                      | -            | -                           | -                         | -                   |
| Failure to Provide Appropriate Explanation          | -          | -                          | 1                      | -      | -       | -                      | 1            | -                           | -                         | -                   |
| Failure to Provide Services Sought                  | -          | -                          | -                      | -      | -       | -                      | -            | 1                           | -                         | -                   |
| Failure To Report Child Abuse Or Neglect            | -          | -                          | 1                      | -      | -       | -                      | -            | -                           | -                         | -                   |
| Failure to Respond a Request in a Timely Manner     | -          | 1                          | 6                      | 2      | 1       | -                      | -            | -                           | -                         | -                   |
| False or Misleading Statements                      | 1          | 1                          | 6                      | -      | 1       | -                      | -            | 1                           | -                         | 1                   |
| Fees and Billing Problems                           | -          | -                          | 12                     | 4      | 1       | -                      | -            | 1                           | -                         | -                   |
| Improper Supervision                                | -          | 1                          | 12                     | 5      | 1       | -                      | -            | -                           | -                         | -                   |
| Inaccurate Information                              | -          | -                          | -                      | -      | -       | -                      | 1            | -                           | -                         | 1                   |
| Inadequate Data to Support Conclusions              | -          | -                          | 7                      | 1      | 3       | 1                      | 1            | -                           | -                         | 1                   |
| Inadequate Handling of Termination                  | -          | -                          | 3                      | -      | -       | -                      | -            | -                           | -                         | -                   |
| Inappropriate Advertising and Announcements         | -          | -                          | -                      | -      | 1       | -                      | -            | -                           | -                         | -                   |
| Inappropriate Conduct Toward a Colleague            | -          | -                          | 2                      | -      | -       | -                      | -            | -                           | -                         | -                   |
| Inappropriate Conduct Toward an Employee            | -          | -                          | 1                      | -      | -       | -                      | -            | -                           | -                         | -                   |
| Incompetence  | -          | -                          | 2                      | -      | -       | -                      | -            | -                           | -                         | -                   |
| Insensitive Treatment of Clients                    | -          | 2                          | 2                      | -      | -       | -                      | -            | -                           | 1                         | -                   |
| Misrepresentation of Non-Member                     | -          | -                          | -                      | -      | -       | -                      | -            | -                           | -                         | -                   |

|                                   | Withdrawal | Take no Further Action F&V | Take no Further Action | Advice | Caution | Caution & Under Taking | Oral Caution | Oral Caution & Under Taking | Written Caution & SCERP * | Refer to Discipline |
|-----------------------------------|------------|----------------------------|------------------------|--------|---------|------------------------|--------------|-----------------------------|---------------------------|---------------------|
| Non-Sexual Abuse                  | -          | 1                          | 2                      | -      | -       | -                      | -            | -                           | -                         | -                   |
| Providing Services while Impaired | -          | 1                          | -                      | -      | -       | -                      | -            | -                           | -                         | -                   |
| Quality of Services               | -          | -                          | 3                      | -      | -       | -                      | 1            | -                           | -                         | -                   |
| Record Keeping Problems           | -          | -                          | -                      | -      | -       | -                      | 1            | -                           | -                         | 1                   |
| Sexual Abuse                      | -          | -                          | -                      | -      | -       | -                      | -            | -                           | -                         | -                   |
| Sexual Harassment                 | -          | -                          | 1                      | -      | -       | -                      | -            | -                           | -                         | -                   |

\* Specified Continuing Education or Remedial Program

Health Professions Appeal and Review Board. The Health Professions Appeal and Review Board reviews the Decisions of Ontario's Health Regulatory Colleges at the request of either a College member or complainant.

|                   | <u>2013-2014</u> | <u>2012-2013</u> |
|-------------------|------------------|------------------|
| Reviews Requested | 11               | 12               |

|                       | <u>Total</u>   |                 |
|-----------------------|----------------|-----------------|
| HPARB Decisions:      | <u>Current</u> | <u>Previous</u> |
| Decision Confirmed    | 7              | 11              |
| Notice to not Proceed | -              | 1               |
| Withdrawn             | 2              | 1               |

**Advisory Information from the Investigations,  
Reports and Complaints Committee for  
Members**

**Duty to Report Child Abuse and  
Neglect**

From time to time a panel of the Investigations, Complaints and Reports Committee (ICRC) considers a complaint file in which there is information to suggest that there may be a child in need of protection and no indication that the member has reported this to a children's aid society. Although the apparent failure to report is not usually an allegation made within the complaint, it does cause concern to the panel considering the complaint. The ICRC has referred concerns of this nature to the Registrar for consideration as to whether they should be investigated independent of the complaint.

Section 72.(1) of the [Child and Family Services Act \(1990\)](#) requires a person, including a person who performs professional or official duties with respect to children, who has reasonable grounds to suspect a child is in need of protection, to report the suspicion and the information on which it is based to a child welfare agency. The term "child in need of protection" is defined in the Act which sets out, in detail, what must be reported. While most members are aware of their duty to report, some appear not to appreciate that there need not be proof of abuse to trigger the obligation but rather only reasonable grounds to suspect. As well, it is important to remember that members have a duty to report even if there is apparently reliable information to suggest a report has already been made [section 72.(2) and 72.(3)]. As part of the College's Quality Assurance *Self-Assessment Guide and Professional Development Plan*, members are prompted to review their mandatory reporting obligations at least every two years.

Members struggle with whether or not they have sufficient grounds to warrant disclosure of otherwise private and confidential information. Some members also mistakenly believe that a report by a psychologist or psychological associate is redundant when there is reliable information indicating that a report has already been made to a children's aid society. In reviewing some complaints where this has arisen, the ICRC has reminded members that their role is not to investigate or validate allegations of abuse and even when they have reason to believe the suspicion of abuse has already been reported, the law requires that they also make a report. It is the role of the children's aid society to determine if a report requires further investigation. Members are reminded that the information provided regarding their duty to report can only be given in general terms and suggests members seek their own legal advice should they have questions regarding their obligations under the law.

---

## COLLEGE OF PSYCHOLOGISTS OF ONTARIO

**IN THE MATTER OF the *Regulated Health Professions Act, 1991, S.O. 1991, Chapter 18, and the *Psychology Act, 1991, S.O. 1991, Chapter 38;****

**AND IN THE MATTER OF a hearing before a panel of the Discipline Committee of the College of Psychologists of Ontario concerning allegations of professional misconduct against Marie Charlotte Elisabeth Joly, a Registered Psychologist as set out in the Notice of Hearing dated the 17<sup>th</sup> day of December, 2002;**

### DECISION AND REASONS FOR DECISION

A hearing of a Panel of the Discipline Committee of the College of Psychologists of Ontario (hereinafter referred to as "Panel") took place in Toronto on the 6<sup>th</sup> day of May, 2014. The Panel was composed of Mr. Vincent Lacroix, Public Representative, Ms. Kristin Bisbee, Public Representative, Ms. Mary Bradley, Member of the College, Dr. Patricia Minnes, Member of College Council and Dr. Clarissa Bush (Chair), Member of the College. The College was represented by Jennifer A. McKendry assisted by Mr. Barry Gang of the College of Psychologists of Ontario. Dr. Joly attended the hearing and was represented by Ms. Lisa Hamilton. Mr. Ian Roland was present as counsel for the Panel.

#### The Allegations of Misconduct

It is alleged that Dr. Joly is guilty of professional misconduct under the *Psychology Act, S.O. 1991, c. 38* and Regulations thereto, as amended. The particulars of the allegations set out in the Notice of Hearing are as follows:

### NOTICE OF HEARING

IT IS ALLEGED that you are guilty of professional misconduct under the *RHPA* and under the *Psychology Act, 1991, S.O. 1991, c. 38* (the "Act") and the Regulations thereto, all as amended.

THE PARTICULARS OF THE ALLEGATIONS are as follows:

1. You committed an act of professional misconduct contrary to section 1, paragraph 2 of Ontario Regulation 801/93 ("*Ont. Reg. 801/93*"), made under the

*Act*, in that you failed to maintain the standards of the profession. In particular, without consent and without being permitted or required by law, you collected and/or used personal information and/or personal health information contrary to Standard 8.1 of the Standards of Professional Conduct (Effective September 1, 2005, Revised March 27, 2009) and contrary to sections 29, 31 and 72 of the *Personal Health Information Protection Act, 2004*.

2. You committed an act of professional misconduct contrary to section 1, paragraph 34 of *Ont. Reg. 801/93*, in that you engaged in conduct or performed an act, in the course of practicing the profession, that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

**FURTHER PARTICULARS OF THE ALLEGATIONS** are as follows:

1. Between 2008 and September 24, 2012, you were employed as a psychologist by the Plantagenet Family Health Team ("PFHT") in Plantagenet, Ontario.

2. On May 10, 2010, the PFHT began using an electronic medical records ("EMR") system

3. In 2012, an audit of the EMR system showed that you had improperly and without authorization accessed the personal health records of individuals who were not your clients or within your circle of care.

4. Further investigation by PFHT revealed the following:

a. Your first unauthorized access to information in the EMR system took place on May 11, 2010.

b. You improperly and without authorization accessed 212 patient/client charts stored in the EMR system.

c. In at least three cases, you edited the EMR notes of another PFHT psychologist.

d. In one case, you improperly and without authorization accessed the EMR chart of your client's spouse, purportedly to obtain information that might assist you in your treatment of your client.

## THE PLEA

Dr. Joly admitted the allegations set out in the Notice of Hearing.

## AGREED STATEMENT OF FACTS

The College and Dr. Joly entered into evidence a document setting out an agreed statement of facts which stated as follows:

The member, Dr. Marie Charlotte Elisabeth Joly, hereby formally admits the following facts:

1. The defendant, Dr. Joly, is a psychologist and has been a member of the College of Psychologists of Ontario since 1994. She has no prior Discipline history.
2. Between March 2008 and September 24, 2012, Dr. Joly was employed as a psychologist in a multidisciplinary clinic in a small town in eastern Ontario. In late 2009, the clinic was designated a Family Health Team (FHT) and as a part of this process, it converted to an electronic medical record (EMR) system which provides electronic access by all clinicians to the record of each patient registered with the FHT.
3. Between approximately May 2010 and September 2012, Dr. Joly without consent and without being required or permitted by law accessed the electronic medical records of over 200 patients/clients who were not her clients nor were they within her circle of care, without their consent or authorization. In at least one case, she edited the EMR notes of another FHT psychologist (correcting spelling errors) without authorization or consent of the other psychologist or the patient/client.
4. The FHT conducted an audit of the electronic medical records in September 2012 and confronted Dr. Joly with their findings regarding her unauthorized access to the records. As a result, Dr. Joly acknowledged the unauthorized access and resigned from the FHT.

*Re: Paragraph 1 of the Notice of Hearing*

5. With respect to the allegations contained in Paragraph 1 of the Notice of Hearing, it is acknowledged and agreed that Dr. Joly failed to maintain the standards of the profession in that she collected and/or used personal information and/or personal health information without consent and without being permitted or required to do so by law.

*Re: Paragraph 2 of the Notice of Hearing*

6. With respect to the allegations contained in Paragraph 2 of the Notice of Hearing, it is acknowledged and agreed that Dr. Joly engaged in conduct or performed an act, in the course of practicing the profession that, having



regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable, or unprofessional.

(*Standards of Professional Conduct, Principle 8.1, and sections 29, 31, and 72 of the Personal Health Information Protection Act, 2004*).

## **DECISION**

Based upon the agreed facts and the admission of the allegations by Dr. Joly, the Panel found the member guilty of professional misconduct as alleged.

## **PENALTY**

Counsel for the College and Dr. Joly filed a Joint Submission on Penalty with the Panel. Both counsel made submissions concerning the jointly proposed penalty and urged the Panel to accept their joint proposal. Independent legal counsel advised the Panel on the law concerning joint proposals in respect of penalty.

The Panel accepted the Joint Submission on Penalty and ordered, in accordance with the joint proposal, as follows:

### **IT IS ORDERED THAT:**

1. Immediately following the Discipline hearing, having waived the right to appeal, Dr. Marie Charlotte Elisabeth Joly (“Dr. Joly”) shall appear before the Discipline Committee to be reprimanded, and both the fact of the finding of misconduct and the fact of reprimand shall be published on the College’s Register and in the Bulletin.
2. The Registrar shall suspend Dr. Joly’s Certificate of Registration for a period of three months, with two months of the suspension to be remitted on condition that Dr. Joly successfully completes the following remedial training within 12 months of the date this Order:
  - (a) A College-approved, personalized educational intervention in ethics for health care professionals program, such as ProBE; and

- (b) A Course of study with significant content in the area of privacy legislation.
  - (i) In particular, Dr. Joly shall carefully review the publication “*Circle of Care: Sharing Personal Health Information for Health-Care Purposes*” (published by the Ontario Information and Privacy Commissioner and compose a comprehensive written report, approximately 5 pages in length, with respect to the key components of the ‘circle of care’, express and implied consent and the circumstances in which these issues may arise with respect to the collection, use or disclosure of personal health information in circumstances defined in *PHIPA*.
  - (ii) Dr. Joly shall provide this report to a CPO-approved peer mentor within three months of this Order. This will allow the mentor to review the report before meeting with Dr. Joly to discuss its contents. Such meeting (minimum 1 hour) will take place within six months of this Order, after which date the mentor shall provide confirmation to the Registrar of Dr. Joly’s successful completion of this component of the penalty.
- 3. Dr. Joly’s suspension shall commence at midnight on June 2, 2014 and run to midnight on July 1, 2014, inclusive. If the remitted portion of the suspension is required to be served by Dr. Joly because she fails to complete the remedial training to the satisfaction of the Registrar (specifics of which are set out in sub-paragraphs 2 (i) and (ii) above), it shall commence at midnight on June 1, 2015 and continue until midnight on July 31, 2015, inclusive.

4. During the period of this Order, the Registrar shall impose terms, conditions, or limitations upon Dr. Joly's Certificate of Registration requiring that she attend at and successfully complete, within 12 months of this Order and at her own expense, the above-noted course programs. These terms, conditions and limitations shall be removed either upon the earlier of Dr. Joly's successful completion of the above-noted programs, or once the three month suspension has been completed.
5. All costs associated with the completion of the above-noted penalty elements shall be paid by Dr. Joly.

### **REASONS FOR THE PENALTY DECISION**

The Panel was mindful of the fact that it should adopt joint proposals on penalty from the parties unless the proposal is contrary to the public interest or would bring the administration of the discipline process of the College into disrepute. The Panel is satisfied that the jointly proposed penalty was appropriate in all the circumstances.

An appropriate penalty should be designed to achieve a number of purposes, most particularly to serve and uphold the public interest, through:

1. protection of the public by ensuring the highest possible standard of care;
2. denunciation to ensure that this type of misconduct does not recur;
3. specific deterrence of the misconduct by the member in future; and
4. general deterrence to ensure that other members of the profession do not engage in similar misconduct.

The Panel found Dr. Joly's misconduct to be very serious in nature. It compromised the privacy of a large number of people, reduced their trust in the integrity of healthcare professionals and brought the profession of psychology into disrepute.

Notwithstanding the seriousness of Dr. Joly's conduct, there were mitigating factors. She admitted the allegations and accepted a penalty. She has practiced in Ontario for about 20 years without any prior findings of misconduct.

The Panel found that the penalty was an appropriate one in light of all the circumstances. The loss of Dr. Joly's licence to practice for a period of one month is a significant penalty, although perhaps not so serious as the publication of her misconduct which will remain on the College's register as long as she remains licensed in Ontario, easily accessible to colleagues and the public.

The fact that Dr. Joly is able to reduce the penalty by two thirds through participating in education regarding privacy and the relevant legislative and ethical requirements serves the function of remediation. This will allow Dr. Joly to resume her practice and provide service to her clients with greater knowledge and insight into privacy rights and her professional obligation to uphold them.

Publication of her misconduct and the penalty in the College Bulletin will serve an important role to educate other members of the profession as we move into the new environment of electronic health records.

It is the opinion of the Panel that the penalty will serve to protect and reassure the public regarding the seriousness with which the College and its members take their clients' privacy.

Dated this \_\_\_ day of May, 2014.

"Clarissa Bush"  
(Chair) Dr. Clarissa Bush

"Vincent Lacroix"  
Mr. Vincent Lacroix

"Kristin Bisbee"  
Ms. Kristin Bisbee

"Patricia Minnes"  
Dr. Patricia Minnes

"Mary Bradley"  
Ms. Mary Bradley

Doc 1138657 v1

# Changes to the Register

## Certificates of Registration

The College would like to congratulate the *Psychologist* and *Psychological Associate* members who received Certificates of Registration since April, 2014

### Psychologists - Certificate Authorizing Autonomous Practice

Kristen Elizabeth Adams  
Jaime Michelle Arseneault  
Lina Suryadipura Budianto  
Rebecca Anne Cherner  
Mark Andrew Coates  
Todd Richard Cunningham  
Dana David  
Laila Din Osmun  
David Duong  
Roy Arthur Conrad Ferguson  
Oliver Horst Foese  
Pamela Fern Foreht  
Jeff Mason Frazer  
Laura Louise Gates  
David Adam Grant  
Oksana Gravets  
Michelle Marie Green  
Rachel Jennifer Gropper  
Kimberly Betty Hollefriend  
Mariève Luce Hurtubise  
Carolyn Annie James  
Gwen Jenkins  
Patricia Louise Jordan  
Salaha Khan  
Gregory Mark Knoll  
Constantina Lafoyiannis  
Ioana Lazarovici  
Lindsey Leenaars  
Michel Lefebvre

Jacques Roch Legault  
Simone Lara Levey  
Mehdi Lotfalizadeh  
Gillian Irene Macdonald  
Molly Anne Malone  
Krystle Karine Martin  
Dana Lorraine Millstein  
Giuseppe Mirabella  
Harinder Kaur Mrahar  
Kelly Jennifer Nash  
Aziz Ahmad Nashef  
Kate Pan  
Karrela Ruean Paris  
Janet Marie Quintal  
Susana Irene Ratowiecki  
Julie Leslie Roberts  
Gillian Rowe  
Darren Norbert Schmidt  
Elizabeth Jane Shoiry  
Jill Shuster  
Nevena Simic  
John Allan Smitton  
Marilena Solomon  
Alena Janet Strauss  
Katherine Stella Sutton  
Patricia Ann Title  
Anne Stephanie Tompkins  
Kathryn Sarah Walker  
Adrienne Denise Witol

### **Psychological Associates - Certificate Authorizing Autonomous Practice**

Lindsay Joan Bunn  
Siren Busch  
Claire Louise Dulmage  
Corrine Louvaine Easy  
Tiina Sirpa Johanna Heimonen  
Chiang-Le Heng  
Marguerite Roxanne Lengyell

Joy Elizabeth MacDonald  
Anna Prudovski  
Simon Peter Kline Smith  
Helen Lilith Taylor-Allan  
Nancy Margaret Thacker  
Vesna Vucicevic

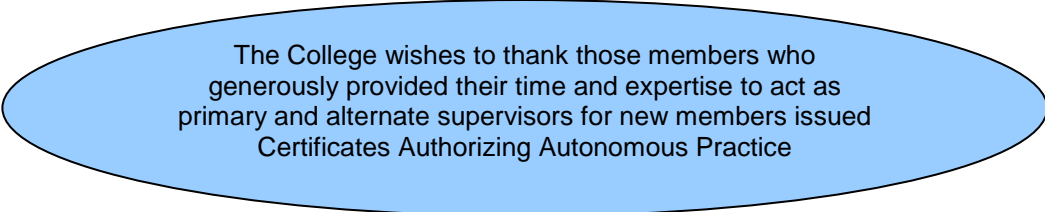
### **Psychologists - Certificate Authorizing Interim Autonomous Practice**

Carlin Michelle Jones Miller

### **Psychologists - Certificate Authorizing Supervised Practice**

Sandra Frances Belfry  
Mervin Alex Blair  
Cristovao Bartolo Carreira  
Amber Cohen  
Kulpreet Dhillon  
Charlotte Lynn Hasson  
Jillian Ann Haydicky  
Jamal Lake

Blanka Miletic  
Sandy Moniz  
Carolina Pansera  
Erin Elizabeth Ross  
Kimberly Saliba  
George William Stones



The College wishes to thank those members who generously provided their time and expertise to act as primary and alternate supervisors for new members issued Certificates Authorizing Autonomous Practice

### **Psychological Associates - Certificate Authorizing Supervised Practice**

Deanne Marie Edwards  
Michelle Anne Petherick  
Jillian Elaina Popovic

Erin Kathleen Trudel-Best  
Christine Mary Vestervelt

### **Deceased Members**

The College learn with regret of the death of the following members. The College extends condolences to the family, friends and professional colleagues of:

Caroline Ho  
Robert Rea  
Judith Wilkinson

**Resigned**

Andrew Barlow  
Anne-Marie Baronet  
David J. Baxter  
Joanne Belair  
Elaine Cohen  
Holly Cormier  
Joan Daly-Bertoia  
Mary Dart  
Stephen Dukoff

Jo-Anne Gardner  
Marie Kuriychuk  
Colleen Mac Dougall  
Stephen Menich  
Joan Rinas  
Kausar Suhail  
John A Wainwright  
Christopher Webster

## Oral Examiners June 2014

The College would like to thank the following who acted as oral examiners in June 2014

Cheryl Alyman, Ph.D.  
Ian D.R. Brown, Ph.D.  
Clarissa Bush, Ph.D.  
Angela Carter, Ph.D.  
Jim Cheston, Ph.D.  
Judy Cohen  
Audrey Cooley, M.A.  
Dorothy Cotton, Ph.D.  
Mary Susan Crawford, Ph.D.  
Janine Cutler, Ph.D.  
Lynette Eulette, Ph.D.  
Diane Farr, Ph.D.  
Peter Farvolden, Ph.D.  
Donna Ferguson, Psy.D.  
Jennifer Gaddes, M.A.  
Robert Gauthier, M.Sc., M.Ed.  
Gilles Hebert, Ph.D.  
Timothy Hill, M.A.

Jennifer Karp, Ph.D.  
Debra Lean, Ph.D.  
Bruno Losier, Ph.D.  
Maggie Mamen, Ph.D.  
Marnee Maroes, Ph.D.  
Donald Martin, M.Ps.  
W. Peter McKegney  
Lise Mercier, Ph.D.  
Walter Mittelstaedt, Ph.D.  
Mary Ann Mountain, Ph.D.  
Carolee Orme, Ph.D.  
Erin Picard, Ph.D.  
Monique Pressé, M.A.  
Janet Quintal, M.A.  
Francine Roussy Layton, Ph.D.  
Wanda Towers, Ph.D.  
Barbara Vale, M.A.  
Peter Voros, Ed.D.