

The BULLETIN

THE • ONTARIO • BOARD • OF • EXAMINERS • IN • PSYCHOLOGY

• APPOINTMENTS TO THE BOARD •

The Board is pleased to announce the appointment by the Lieutenant-Governor in Council of Dr. Elspeth Baugh of Kingston and Dr. June Rogers of Ottawa to five-year terms on the Board. They replace Dr. Ruth Bray and Dr. Henry Edwards whose appointments expired on May 31, 1986.

Dr. Baugh, presently Dean of Women at Queen's University, holds degrees from Queen's, the University of Michigan, and York University. Her past experience includes work at the Child and Family Development Clinic of the Huronia Regional Centre in Orillia and in the Mental Health Clinic of the Brockville Psychiatric Hospital. In addition to personal and academic counselling of, and advocacy for, women students, Dr. Baugh's current responsibilities include consulting in the student counselling service at Queen's and part-time teaching in the Department of Psychology.

Dr. Rogers, with degrees from the University of Toronto, George Washington and Carleton Universities, is presently Staff Counsellor with the Ottawa Board of Education with responsibilities for a department of three counsellors providing direct mental health services and workshops for employees and their families. Previously she has been a psychologist with the Carleton Board of Education and Pimm Consultants, Ottawa, and has served as President of the Ottawa Academy of Psychology.

COMPUTERIZED TESTING AND ASSESSMENT

The last few years have seen a marked increase in the use of computerized testing and assessment procedures. A committee of the Board has prepared the following statement as guidance for Ontario psychologists who may use computerized techniques in their practices.

All standards of practice that apply to administering, scoring, interpreting, and reporting results based on tests administered in the conventional manner also apply to computer-administered tests. Just as psychologists would carefully review a test manual and supportive research to make a judgment about the quality and applicability of a traditional test or assessment technique, so they should apply the same critical review procedures when deciding whether or not to use a computerized version of a test.

However, some extra precautions are needed when a computer-administered test or assessment technique is used.

Computer and software manufacturers usually limit their liability for the quality of performance of their software by noting that the user assumes the entire risk as to the quality, performance, or fitness of their software for any particular purpose. Psychologists, on the other hand, cannot limit their responsibility to their clients for the manner in which they use and apply assessment techniques. The Board wishes to stress that the psychologist is en-

tirely responsible for the manner in which computer-administered assessment techniques are used.

ADMINISTRATION: Just as a psychologist would have to justify that standard testing conditions have been followed when administering other tests, so the psychologist must ensure that the same standardized procedures are followed when administering a computer version of a test or assessment procedure. Any significant differences between your computer set-up and the one the test manual describes should be justified; the psychologist must be satisfied that the set-up is not so deviant as to affect the scores.

SCORING: Before using a computer version of a test, the psychologist should demonstrate that the computer report generates the same raw scores as the non-computer version of the test. If the printout does not provide raw scores, the psychologist should not use the computer test.

NORMS: Research has demonstrated that shifts in the normative sample for computer-administered tests may occur. Psychologists should make sure that they do not use the same norms for a computer-administered test as for a non-computer version of the test unless comparability is illustrated in the manual, in published research or in their own research. The manual should provide an appropriate norms sample for the computer version, along with

reliability and appropriate validity data.

INTERPRETATIONS: One of the perceived advantages of computer-administered tests is that an interpretive report is also generated. These reports are usually well written and seem credible. Psychologists should not use or accept the computer interpretations unless the manual explains the interpretation algorithm (weights, cut-off scores and so on) on which the interpretative report is based. Another question psychologists need to answer is on whose "expert" opinion are the computer interpretations based.

In its discussion of the use or misuse of the interpretative reports the Board approved the following standard for addition to the *Standards of Professional Conduct* (last revised in February, 1985):

Addition to Principle 2:

2.9 Under no circumstances should computer-generated assessment reports or statements be substituted for a psychologist's professional opinion, assessment or report. Psychologists who use computer-generated interpretive statements in preparing psychological evaluations will acknowledge the sources of such statements in a written citation that is formally included in the client report. Material taken verbatim from such computer-generated interpretations will be formally quoted using an appropriate format.

In choosing to use computer-generated statements to supplement psychological reports or assessments, psychologists are responsible for their accuracy, suitability, conclusions, and predictions. They must be satisfied that the "expert" opinions generated by the computer programmer are ones that they are prepared to substantiate as true reflections of their own opinions and are applicable to the client who has undergone the assessment. Clients have a right to expect the psychologist's own professional opinion. If a psychologist chooses to use the opinions of "experts" cited in computer-generated assessments psychologists are the ones who will be held responsible for them.

The Board welcomes suggestions or comments about this new and growing area of computer assessment procedures.

PSYCHOLOGICAL ASSESSMENT OF EMPLOYEES

Of late, members of the Board have received inquiries from a number of psychologists concerning requests from large companies for "as-

sessments" of one or more of the company's employees. When the employee arrives, more than one psychologist has discovered that the

employee has no idea of the reason for the referral, what is being done or what information is to be conveyed to his employer. In some

cases, the employees have decided not to be assessed and have withdrawn.

The Board has therefore sought legal advice as to what power or authority an employer has to require an employee to submit to a psychological assessment and, further, the nature of the report to which the employer is entitled after the assessment. This latter question raises the issue of a psychologist's obligation to disclose the basis for his or her findings as opposed to his or her professional conclusions only.

The following information may be of assistance to psychologists confronted with this type of problem. However, in any situation where there is doubt, a psychologist would be well advised to seek further assistance from the Board as to his or her obligations or to seek legal advice which can take into account the particular fact situation.

The suggestions and comments outlined below are for the most part based upon the law with respect to an employer's right to require a medical examination of its employees, which in all probability, would also apply to psychological assessments.

In brief, an employer does not enjoy any inherent right to require an employee to submit to a medical examination. Where such a right exists, it arises either out of a contractual obligation or statutory authority. Additionally, the exercise of such a right by the employer, where it does exist, must be based upon reasonable and probable grounds. For example, the employer must suspect either that the employee is a source of danger to himself, to other employees or to Company property or, alternatively, that the employee is unfit to perform his or her duties.

Absent consent, a requirement that an employee subject himself to a physical examination without his consent generally constitutes a "trespass" or assault upon the person. However, an employer may have an express or implied contractual right to require the employee to submit to an examination.

In most cases, when an employee objects to the psychological assessment he will simply refuse to submit to it. Generally, the psychologist cannot determine whether or not the employer has the right to require the employee to submit and should leave this matter to be resolved between the employer and the employee. Therefore, in most cases, a psychologist will rely on the employee's consent to the assessment and will not need to satisfy himself as to the reasonable and probable grounds for the examination or the contractual basis for it.

After the assessment of an employee is complete, a psychologist is next confronted with the question of how much information the employer may obtain concerning the assessment. Obviously, a psychologist has a professional relationship with the patient he has examined

but, in addition in some cases, the psychologist may also be an "employee" of the employer. The potential for conflict between patient confidentiality and the employer's alleged right to demand information from the psychologist as an employee is obvious.

As many psychologists are aware, the 1980 report of Mr. Justice Krever entitled *Report of Commission of Inquiry into the Confidentiality of Health Information in Ontario* addressed this issue. Mr. Justice Krever observed that if an employee (such as a psychologist) has obtained information in the course of carrying out a task assigned to him or her by the employer, the employer has a right to the information obtained. Mr. Justice Krever noted that there is no clear exception to this general statement that puts professional people such as psychologists in any different category when they are employed by a non-professional employer.

The problem for psychologists in determining the extent of their obligation to disclose information arises out of the fact that psychologists are not governed by the provisions of the *Health Disciplines Act, 1974*. Rather, the legislation governing psychologists is the *Psychologists Registration Act, R.S.O. 1980, c. 404*. This Act and the Regulations passed pursuant thereto refer to professional conduct but do not address a psychologist's obligations concerning patient confidentiality.

To address this type of problem, the Board has adopted the *Ethical Standards of Psychologists (1977)* prepared by the American Psychological Association. Principle 6 of these Ethical Standards provides that safeguarding information about an individual that has been obtained by the psychologist in the course of his teaching, practise or investigation is a primary obligation of the psychologist. Principle 6 goes on to state that such information is not communicated to others unless certain important conditions are met.

The Board's *Standards of Professional Conduct*, revised in February, 1985, contain guidelines with respect to the maintenance and protection of psychological records. In these Standards, the following provisions concerning confidentiality are set out:

"7.2 A psychologist is responsible for informing clients early in their relationship of the limits of confidentiality of the information they and those they supervise maintain.

7.3 A psychologist and those they supervise shall make available client information or records, as defined in Appendix C, only to those professionals who have a need to know in order to serve the client. Information will be released only with the permission of the client, to be used only in the interest of the client, and presented in a form which, in the judgment of the psychologist is clear and not likely to be

misunderstood by the recipient.

7.4 Subject to interpretation 7.3 above, a psychologist shall not release the name of a client or information regarding a client, or records as defined in Appendix C except with the informed written consent of the client or legal representative or guardian of the client except as directed by law."

All psychologists should familiarize themselves with the full text of the *Standards of Professional Conduct*, copies of which are available from the Board.

Following its inquiry, the Krever Commission recommended legislative intervention to address the special relationship between a professional person and his or her employer. In the absence of legislation to date, it would appear that a number of the key recommendations contained in the Krever Commission are being followed by persons in the professional community. While directed to medical examinations, these recommendations are equally attractive when used as guidelines concerning psychological evaluations.

"120. That the only information which can be given to a prospective employer after a pre-employment medical examination be whether the applicant is fit for the employment.

121. That if an applicant is fit with certain limitations, these limitations must be stated without disclosing the reasons for the limitations, for example, 'unable to lift heavy loads or loads above X pounds' or 'limited bending'.

122. That where a medical department staffed by health personnel is maintained by the employer, the results of the examination be kept in the medical department but not be available to the employer except as recommended in the two preceding recommendations.

123. That where the pre-employment examination is done by a physician not employed by the employer, the employer provide that physician with a job description so that he or she may be aware of the fitness requirements of the position and that a copy of the recommendation be given to the applicant.

124. That the applicant be entitled to a copy of the examining physician's record of examination if he or she so requests.

125. That where the recommendation is that an applicant is not fit for the position an explanation for the recommendation, indicating the reasons, be given to the applicant by the physician making the examination, if so requested.

126. That whenever an employee is required to undergo a periodic medical examination or a medical examination because of

a suspected health problem, and as a result an opinion is given that the employee's job should be changed, recommendations 120 to 125 apply."

As a practical matter, a psychologist would be well advised to provide a retaining employer with a copy of the foregoing recommendations and the standards outlined above prior to entering into an employment relationship. By clarifying the extent to which the psychologist is prepared to make disclosure, disputes at a later date might thereby be avoided.

In all the circumstances, the preferable approach is that the employer should receive only the information and material Krever recommends, although it must be recognized that there is some uncertainty as to the legal support for this.

If for some reason this recommendation cannot be followed, as a minimum, the person being assessed should be informed of the nature of the disclosure being made and given the opportunity to object to this disclosure.

The Human Rights Code, 1981

It is important to note that the Krever Commission recommendations are consistent with the provisions of the Ontario *Human Rights Code, 1981*, S.O. 1981, c. 53, as amended (the "Code"). In most cases, psychologists employed in Ontario would be working for an employer governed by provincial legislation. For those psychologists working for a federally regulated employer, the provisions of federal human rights legislation may apply.

Under the Code, every person has the right to equal treatment with respect to employment

without discrimination because of, *inter alia*, "handicap". The term "because of handicap" is broadly defined to include discrimination because the person has, had or is believed to have or have had a condition of mental retardation or impairment, a learning disability, a dysfunction in understanding or using symbols or spoken language or a mental disorder.

Obviously, it is not open to an employer to use a psychological assessment in order to obtain information upon which it will discriminate in a prohibited manner on the basis of, for example, "handicap". Therefore, a pre-employment or employment psychological assessment must be limited to an applicant's or employee's "ability" to "perform the essential duties or requirements" of the position to fall within the section 16(1)(b) exception of the Code.

As an employer's right to conduct a psychological assessment is limited in the foregoing manner, by extension, there is a good argument to be made that the only information available to the employer should be the information necessary to determine if the person is capable of performing the essential duties or requirements of the position.

This of course raises the question of whether an employer is entitled only to a psychologist's conclusions or also to the basis for his conclusions. We are advised that the preferable approach is that outlined in the Krever Commission Report, which is that the employer should provide a job description to the psychologist in order that he or she may reach his or her conclusion concerning an employee's fitness, and thereafter the employer is entitled only to the psychologist's conclusions.

SUMMARY

In each case, a psychologist must consider the individual facts to determine whether or not the employee or employer can require an employee to submit to a psychological assessment. In most cases, if the employee objects, any dispute will be resolved by the employer and employee, not the psychologist, as the employee generally will refuse to submit to the examination. However, psychologists should nonetheless satisfy themselves that the employee understands and consents to the nature of the examination.

Finally, the psychologist as a matter of his or her own professional standards and under the Code should disclose only the information necessary to permit the employer to decide if the employee is able to perform the essential duties and responsibilities assigned to him or her. In most cases, this conclusion can be provided by the psychologist if he or she requests a detailed summary of the duties and responsibilities of the position for which the employee is being assessed prior to conducting the assessment.

Needless to say, disputes may be avoided by the psychologist outlining to the retaining employer prior to accepting the retainer the terms and conditions upon which he or she is prepared to conduct the assessment.

Jane A. Ford

EDITOR'S NOTE: This has been condensed from an opinion by Jane Ford, a lawyer with the firm of McCarthy and McCarthy, who specializes in labour and employment law.

THIRD-PARTY REIMBURSEMENT FOR PSYCHOLOGICAL SERVICES

Recently an insurance company announced that it would provide reimbursement only for services provided by a registered psychologist, and not for work done by a non-registered psychological assistant. The Board was asked by a psychologist for its views on the insurance company's interpretation of its policy.

The Board recognizes that psychologists from time to time employ paraprofessionals to assist them in their work and that psychologists will bill their clients for the work carried out by a paraprofessional as well as for that provided by the psychologist. The Board also

recognizes that groups of employees enter into agreements with employers for third-party reimbursement of various extended health care services.

Included in the benefits covered by some insurers are selected services of registered psychologists and, in some policy arrangements, certain services of paraprofessionals supervised by psychologists. Clients may expect reimbursement for those services covered by the insurance, but not for others.

Having said this, however, the operative principle that psychologists should be careful to

follow is found in principle 6.3 of the *Standards of Professional Conduct* which states:

A psychologist must not knowingly submit a false or misleading account for services.

It follows that psychologists should outline to their clients those services which are likely to be covered by their insurance and those which are not. It also follows that psychologists should correctly identify in their statements the provider of a given service when this information will affect the client's ability to obtain reimbursement.

AMENDMENT TO THE STANDARDS OF PROFESSIONAL CONDUCT

The Board wishes to announce an amendment of Principle 6.5 to reflect that the user of a psychologist's services must be advised of the portion of the psychologist's fee that would be charged if an appointment was missed. As the

result of a Board decision Principle 6.5 now reads:

Users must be advised if a fee is to be charged and how much will be charged for a missed appointment which has not been cancelled within an agreed upon time. ■

OPA POLICY ON ADVERTISING

The Board's standards in respect to advertising

by psychologists are set out in its *Standards of Professional Conduct*, Principle 4. The Board wishes to draw psychologists attention to the statement of policy on advertising published in the *OPA Update* (Volume 8, Number 4, August 1984, page 7), a policy which is clear, consistent with the Board's standards, and potentially a useful guide for psychologists to follow in making announcements or otherwise advertising their services. ■

PERSONS WHOSE REGISTRATION HAS LAPSED DUE TO RETIREMENT OR UNPAID FEES AND ARE WITHDRAWN FROM THE REGISTER

Marilyn E. Ain	Michael S. Kotkin	Bernard B. Schiff
David Gordon Benner	Rosalind M. MacKenzie	Eduard Simson-Kallas
John E. Callagan	Robin Douglas Montgomery	Harry H. Soper
Vladimir B. Cervin	Kerry James Mothersill	Alan M. Spires
Tasso Christie	John Henry Mowery	Peter G. Stenn
Teresa R. Coward	Paul D. Nesbitt	Siang-Yang Tan
Kalman G. Csapo	Sidney L. North	Mark J. Thomas
Lela Garyfalow	Elsie Palter	Robert L. Van Mastrigt
Frederic R. Horsley	Marguerite Pilon	Harold B. Vinnes
Frederick A. Horton	Robert R. Ross	Patrick G. Wesley
Bo Kyung Kim	John C. Sawatsky	Sharon M. Williams
Valerie J. Knox	R. Lorcan Scanlon	

NEW TEMPORARY REGISTRANTS SINCE APRIL, 1986

Michael Allan	Anita Halpern	Catherine Pink
Lynne Angus	Knolly Hill	Michele Pisa
Leslie Atkinson	Robin Holloway	Dmytro Rewilak
Sandra Baxter	Rodney John	Gloria Roberts
Heinz Biedermann	Mary Anne Johnston	Diane Roller
Ralph Billingsley	Paul Kelly	Linda Ross
Robert Bosso	Frances Khanna	Eric Rothmar
Leslie Bryant	Herbert Koplowitz	David Ryan
Philippe Cappeliez	Ester Krimer	Paul Saskin
Tom Davidson	Vernon Lediett	Reuben Schnayer
Karen Eamon	James Leonidas	Jonathan Siegel
David Faux	Rikardur Lindal	Suzanne Simpson
Barbara Fidler	Patrick Lynch	Mary Louise Smith
Frank Forde	Pamela McRoberts	Ann Marie Sprague
Carol Franklyn-Phills	Giuliana Malvestuto-Filice	Dorothy Stewart
Cheryl Gibson	Ken Marek	J. Braxton Suffield
Rhonda Gilby	Samuel Minsky	Tom Tavares
Erica Gold	Marilyn Morinis	Alastair Younger
Michelle Goodman	Kathy Nathan	

SUPERVISION OF CANDIDATES FOR REGISTRATION

The Board wishes to thank psychologists who have generously provided their time to supervise and monitor the performance of candidates admitted to the permanent register in May, 1986. The Board takes pleasure in listing their names below:

Jack Albin	Joan McAndrew
Harvey Anchel	William McClelland
Charles Banner	Jeanette McGlone
Howard Barbaree	Patrick McGrath
Olga Barilko	John McLachlan
Rosemary Barnes	Alvin Mahrer
William Barry	Harvey Mandel
Carl Bartashunas	Nathan Mandelzys
Eugene Beaumaster	Robert Mann
Brian Bigelow	Alan Marcus
Dan Bilsker	Solveiga Miezzitis
Arthur Blouin	Anthony Miller
Donald Boulet	Rickey Miller
William Brady	Beth Mitchell
Carol Bullard-Bates	John Munn
Stephen Buttrum	Warren Nielsen
Ester Cole	Rymantus Petrauskas
Arthur Cott	Robert Pilon
Charles Cunningham	Jeffrey Price
Arthur Dalton	Raymond Proulx
Patricia DeFeudis	Manfred Pruesse
Neville Doxey	Colin Pryor
Jean Dumas	Sandra Pyke
David Evans	Zofia Radziuk
Bruce Ferguson	John Renner
Alan Finlayson	Reginald Reynolds
Phil Firestone	Carl Rubino
Robert Gluekauf	Salek Sandberg
Gail Golden	Jack Santa-Barbara
Leonard Goldsmith	James Schmidt
Michael Goodstadt	Melvyn Segal
Graham Haley	Masud Siddiqui
Edward Helmes	Ronald Skippon
Anne-Marie Jones	William Snow
Ronald Kaplan	Joan Stewart
Pearl Karal	Richard Thysell
Shahe Kazarian	Lee Trentadue
Martha Keller	Herman vander Spuy
Doreen Kimura	Douglas Wardell
Judi Kobrick	John Weiser
Igor Kusyszyn	Elizabeth Werth
James Lawson	Patrick Wesley
Leo Lazar	Harley Wideman

WORKSHOP FOR PSYCHOLOGISTS

Issues in Organizations
 Wednesday, February 18, 1987
 1:30 – 5:00 p.m.
 Room: Toronto II
 Westin Hotel, Toronto

The Board will offer a workshop on the afternoon before the OPA convention to provide assistance to psychologists working within a variety of settings – medical and educational settings, as well as government and industry. We expect to have short presentations by psychologists working in these settings and a lawyer knowledgeable

in labour law. The workshop should provide an opportunity for psychologists to discuss professional issues arising in these settings, to analyse issues and to develop strategies for conflict resolution.

Fee: \$25.00. Psychologists may register for the workshop by forwarding a cheque to the Board office made out to OBEP.

Convention rates are available for rooms on February 17 for persons attending the convention. ■

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The Bulletin is a publication of the Ontario Board of Examiners in Psychology.

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ADDRESS CHANGE

Address changes must be received in the Board office by December 15, 1986 in order to appear in the 1987 Directory.

THE BULLETIN

The Bulletin is published quarterly. Subscriptions for Ontario psychologists are included in their registration fee. Others may subscribe at \$10.00 per year, or \$2.50 per single issue. We will also attempt to satisfy requests for back issues of *The Bulletin* at the same price.