The BULLETIN

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

HEALTH PROFESSIONS LEGISLATION REVIEW

On December 14th, 1987, the Board of Examiners in Psychology received from the Health Professions Legislation Review a document setting out 12 activities which it proposed should be licensed and the statements for scope of practice for 21 disciplines. Only one of the acts proposed for licensure is of direct interest to Psychology, viz. diagnosis. The Review offers the following statement as the scope of practice for Psychology which excludes the act of diagnosis:

> The practice of psychology is the assessment of behaviour and mental processes, and the treatment of maladaptive or undesired behaviour, to maintain or enhance physical, intellectual, emotional, social and interpersonal functioning.

All twelve licensed activities are awarded medicine whose scope of practice is defined as:

> The practice of medicine is the diagnosis, assessment, treatment and prevention of any disease, injury, dysfunction or other physical or mental condition.

A letter from Alan M. Schwartz accompanying this document offered a justification for the licensure proposals. The most controversial item is that of the licensing of diagnosis and the restriction of this activity to medicine and dentistry. To quote from Mr. Schwartz's letter:

> The Review was convinced of the need to license diagnosis to limit the risk of harm inherent in a mis- or missed diagnosis. Under the Review's model, those without a licence to diagnose would be prohibited from providing or purporting to provide an individual with a conclusive statement about the aetiology of his or her condition, disease or pathology.
>
> What the Review does *NOT* intend to restrict through the licensure of "diagnosis" is the ability of others to assess their patients or clients, as they do now. We recognize that undertaking treatment of any sort in the absence of an assessment would be improper practice, and would fall below the standards of care of any profession.
>
> In recognition of this fact the proposed general scope of practice statements of many professions include the word "assessment". The Review believes that the proposed system will not in any way impede practitioners not licensed to diagnose from assessing their patients or clients to determine the applicability of a particular range of treatments and from undertaking a course of treatment in appropriate situations. As is the case today, if the treatment has no beneficial effect, or if the patient continues to deteriorate, further investigation is undertaken or, where appropriate, a referral to another profession is made.
>
> In our view, a diagnosis, as outlined above, is rarely necessary or, in fact, done. We believe, for example, that an assessment, rather than a diagnosis is precisely what a physician or dentist does in most instances.
>
> With the use of this language the Review intends to signal that there is a distinction between diagnosis and assessment. The key distinction is that a diagnosis is more absolute, in that a definitive conclusion about the health state of an individual is reached, based on an analysis of physiological causality.

Registrants will recall that the scope of practice statement proposed by the Board to the Review and reported in THE BULLETIN (Nov., 1986) included the term "diagnosis". In the light of Mr. Schwartz's characterization of diagnosis and his proposal that it be a licensed act not accorded psychology, the Board views the proposed definition and licensure of diagnosis as badly conceived and quite out of touch with the realities of contemporary psychological practice. The following submission has been sent to Mr. Schwartz and the Health Professions Legislation Review.

THE BOARD'S SUBMISSION

The Board wishes to take issue with the scope of practice definition offered for psychology in the document entitled "General Scope Statements Proposed by the Review" and we will submit a new statement which we believe to be consistent with the general position of the Review and with the realities of the current practice of psychology. Before doing this, however, it will be necessary to discuss the understanding of the licensed act of diagnosis as set out in Mr. Schwartz's letter of December 11th, 1987.

First of all, we wish to indicate our agreement with the position that decisions as to licensure should be based on potential harm and that concerns for quality of care seem better served by a protected title, by mechanisms within each governing body's jurisdiction, and by those mechanisms which maintain high standards of institutional practice. Secondly, we agree with the conceptualization of 'assessment' and its distinction from diagnosis. As Mr. Schwartz points out, most of the work of health professionals, including physicians and dentists, involves assessment rather than diagnosis. An assessment of the present state of a patient or client should provide the basis for selecting a particular treatment by the practitioner. Similarly, ongoing assessment of the patient or client in therapy should determine whether a treatment is to be continued, a new therapeutic modality adopted, or a referral to a more appropriate clinician considered. Our difficulties begin with the statements used to characterize 'diagnosis'. It is here that we both seek and offer clarification.

On page three of Mr. Schwartz's letter it is proposed that licensure of diagnosis would prohibit those without a licence from "providing or purporting to provide an individual with a conclusive statement about the aetiology of his or her condition, disease or pathology". First let us consider what is to be understood by "aetiology" and subsequently we will examine the "conclusive statement" component of the anticipated statement of prohibition.

Later wording on page three of Mr. Schwartz's letter amplifies the meaning attributed by the Review to both the terms "diagnosis" and "aetiology" wherein the former is viewed as representing "a definitive conclusion about the health state of the individual, based on an analysis of physiological causality". "Aetiology" is not a medical term frequently encountered today since it so strongly connotes an older medical philosophy which held that each disease had a single physical or physiological cause. This philosophy of medical research and practice served medicine well in the past, but has been superceded in most areas of practice by more sophisticated views of causality. Contemporary views hold that, for many disorders or conditions, differing configurations of causative factors account for the presence of the disorder in different individuals. Such views also extend the range of causative factors, to be considered in the diagnostic process, beyond the physical or physiological to include, or exclusively involve, psychological factors of an emotional, cognitive or behavioral nature. While this last point may be generally understood and accepted for a wide range of mental or behavioral disorders, it should be borne in mind that it also applies to many conditions commonly thought of as physical disorders such as anorexia nervosa, certain forms of childhood asthma, etc. The point to be made is that in the contemporary practice of psychology and some other disciplines, diagnosis is understood to be a technical description of the causal factors underlying a disorder, dysfunction or condition and is not confined to an analysis of physiological factors. ▶

101 DAVENPORT ROAD • TORONTO • ONTARIO M5R 1H5 TELEPHONE: (416) 961-8817

The discussion on page three of Mr. Schwartz's letter attributes to diagnosis the property of being a "definitive conclusion" about the health state of an individual. This terminology implies an authoritative character that the Review believes should be ascribed to a diagnosis not only by the patient, but also, presumably, by others who deal with the patient or client, and who are authorized by the patient to receive information such as a diagnosis. We would agree that it is this patient-sanctioned use of a diagnosis by third parties that distinguishes it from an assessment and that is the major source of potential harm which warrants licensing of diagnostic activities. However, by the definition of diagnosis that is employed by the Review and by the failure to award psychology the licensed act of diagnosis, the Review's proposal flies in the face of the realities of the contemporary practice of psychology. The following are a few of many possible examples wherein psychologists engage in a diagnostic process, as we believe this should be understood, and offer to patients or clients and those that they sanction as recipients, definitive conclusions about their health state which usually result in major decisions as to their management, disposition or treatment by others.

EXAMPLE 1: Children with a history of serious academic failure frequently are asked by parents or educational agencies to be seen by a psychologist so that definitive conclusions may be received which will influence the placement of the child, the type of remedial program offered, and yet other aspects of the management of the child at home and at school.

EXAMPLE 2: Infants showing serious developmental failures in socialization, language acquisition, motor skill acquisition, etc., are likely to be referred to a psychologist for testing of cognitive development, functional skills and neuropsychological integrity. From such evaluations definitive conclusions will be offered by the psychologist to parents, pediatricians, etc., that will influence decisions made regarding hospital placement, the use of a home stimulation program, etc.

EXAMPLE 3: Psychologists are frequently asked by clients, their lawyers, or their attending physician, to offer definitive conclusions as to the likelihood, extent and locus of brain damage following injury or physical illness. Such diagnostic judgments may influence the awards made to a client by a court and may influence the nature of treatment or management programs offered by surgeons, physicians or other health professionals.

EXAMPLE 4: Psychologists are frequently accepted as expert witnesses in a wide variety of court actions before the Supreme Court of Ontario, and as such invited to provide definitive statements regarding a patient's or client's depression or other emotional condition and its severity.

EXAMPLE 5: When divorcing parents are in dispute regarding the custody of children, psychologists may be asked by the parents or their lawyers, or be ordered by the court, to study all the significant participants and their interrelations so that they may offer parents and the court definitive conclusions as to what arrangements are likely to be in the best interest of the children. Such judgments may influence the court's disposition of custody and may well affect decisions regarding access and other matters that bear on the mental and physical health and development of the children.

EXAMPLE 6: Psychologists are often asked to address problems in staff organization, training and selection which sometimes bear on matters of health and safety. Certain jobs or positions may be associated with a high rate of physical injury, absenteeism, psychologial burn-out, or disabling levels of anxiety. Study of such situations may lead to definitive conclusions regarding the sort of individuals to be selected to avoid such personal hazards. In other instances the conclusions may require a change in the job definition or in the preparatory training for the job in question.

There are many such examples that can be drawn from the everyday work of psychologists, working within and outside the health care areas, that illustrate the reality that psychologists in their assessment and analyses do make definitive conclusions about disorders, conditions or other problems that are regarded by clients, lawyers, judges, physicians and other health care workers as authoritative. If one does not subscribe to a narrow and rather archaic view of diagnosis, but understands by this term an informed technical appreciation of the causal factors accounting for the presence of a disorder, problem or condition in a particular individual or situation, then we believe that one must conclude that psychologists do make diagnoses. If, on the other hand, it is insisted that the older narrow medical view of diagnosis is to prevail, then we submit that an act be recognized and licensed that does fit our conception of diagnosis. Let this newly recognized act be termed "psychological diagnosis"[1], but we strongly believe that it should be recognized as a licensed act, not necessarily restricted to psychologists, due to the potential for harm that exists in this activity. We believe this is a necessary component of new legislation if psychologists are to continue in their practices without experiencing new restraints or exclusions.

Over the last few years, the Board of Examiners in Psychology has been responsive to the various requests from the Health Professions Legislation Review for information, analysis and opinion. We believe that an objective appraisal of our submissions will judge them to show extraordinary concern for public interest, creativeness in content and exemplary consideration for related disciplines. We have accepted, at considerable cost, indeterminate delays in revisions of our legislation, and have shown patience in the slow and mystifying processes of the Review. The Review may therefore understand our dismay in receiving the proposals for Psychology's scope of practice which clearly, and arbitrarily, deny to our profession critically important functions that we now practise, but award these functions to disciplines whose preparation for such practice is questionable. Both in the interests of the public and our profession, we cannot accept the Review's proposals for Psychology.

In offering our new statement of scope of practice, we have assumed that the weight of opinion within the Review will be towards the retention of the older medical meaning of "diagnosis" and, accordingly, we have employed the expression "psychological diagnosis" to convey our conceptualization of the diagnostic processes in which psychologists engage. We would like to note that the training of psychiatrists overlaps that of psychologists with respect to psychodiagnostic procedures and that we would not question the award of this licensed act to psychiatrists. We would question the appropriateness of adding this act to the scope of practice of medicine. The Review defines the scope of practice for all other health professions, save medicine and nursing, in terms of their unique focus. The scope of practice of medicine, however, is framed in an all-encompassing generality which permits physicians to perform the functions of all other health professionals regardless of the lack of relationship that their training and experience might bear to the functions claimed. We must take issue with this general formula, we do not believe that the limited training and examination in psychiatry and psychology received by undergraduate medical students in Canadian universities represents adequate preparation for the assumption of the psychological diagnostic functions performed by psychologists or psychiatrists.

The following is the definition of the scope of practice for Psychology now proposed:

The practice of Psychology is the assessment, prevention, treatment and psychological diagnosis of behaviour and mental disorders, dysfunctions and conditions, and the enhancement and maintenance of physical, intellectual, emotional, social and interpersonal functioning.

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[1] "Psychological diagnosis" is used as the most generic term rather than "psychodiagnosis" or "behavioral analysis of problems" or other psychological terms which convey the same general meaning sought here, but also have specific connotations that will be minimized here.

In addition to the Board Members and staff, contributions to this submission have been made by Bruce Quarrington and Carson Bock.

INCORPORATION OF A PSYCHOLOGIST'S PRACTICE

DISCIPLINARY ACTION

On May 8, 1987 Dr. David Jackson and Dr. Marti Smye, having carried on business under a corporate name, were charged with professional misconduct under the Psychologists Registration Act. The particulars of the allegation were that they were guilty of professional misconduct in that they failed to maintain the standards of practice of the profession by incorporating their practice of psychology as Jackson Smye Inc. and by practising psychology as Jackson Smye Inc. in contravention of section 3(1) of the Business Corporations Act, 1982, S.O. 1982, C.4.

On September 10, 1987 an agreement was reached between Drs. Jackson and Smye and the Ontario Board of Examiners in Psychology. The Board agreed to withdraw the charges and Drs. Jackson and Smye agreed to take the following corrective steps:

(1) As the principals of Jackson Smye Inc., they will cause the name of that corporation to be changed to a name that does not include the names Jackson or Smye;
(2) From the date of the agreement they will not carry on the practice of psychology nor will they make any representation to the public as to their practice of psychology in conjunction with any corporation;
(3) They will change all invoices, letterhead, business cards or any other documents by which they represent themselves as psychologists to the public in which there is any reference to a corporation;
(4) They will provide verification of compliance with the agreement;
and
(5) The Board may publish an account of the agreement in its Bulletin.

BOARD GUIDELINES RESPECTING INCORPORATION

Although numerous articles have appeared in *The Bulletin* advising psychologists of the prohibition against incorporating their practices, the Board decided to develop a set of guidelines to further clarify the issues for psychologists. Consequently, at its meeting of November 18, 1987 the Board adopted the following guidelines:

1. No psychologist shall incorporate his or her practice of psychology.
2. No psychologist shall participate as an officer, director or shareholder of a corporation whose principal business is to practise psychology.
3. As of the date of publication, no psychologist shall participate as an employee of a corporation whose principal business is to practise psychology.
4. The principal business of a corporation is to practise psychology when the predominant part of its business is included within the definition of the scope of practice of psychology published from time to time by the Ontario Board of Examiners in Psychology.
5. Where a corporation offers the services of a psychologist as an adjunct to its business, that psychologist shall not allow his or her name to be used as part of the corporate name or business style of the corporation.

The Board decided that the definition of the scope of practice set out in its March 30, 1987 submission to the Health Professions Legislation Review will be used to satisfy the requirements of guideline number 4. This definition reads as follows:

> The practice of psychology is the assessment, diagnosis and treatment of behaviour and mental processes, research and other professional services usually performed by a psychologist in Ontario for the purpose of assessing and understanding behaviour and mental processes, ameliorating maladaptive or undesired behaviour, and maintaining or enhancing the physical, intellectual, emotional, social and interpersonal functioning of individuals, groups or organizations. ■

SELECTING A NAME FOR A PRIVATE PRACTICE

The issue of the use of a trade name for a psychologist's practice is relevant to the issue of incorporation. The Board therefore decided it would be useful to reprint the following article which originally appeared in the July 1980 issue of *The Bulletin*.

The Board of Examiners has been referred to a number of instances in which psychologists have selected special titles for their private practices, such as "Institute for . . .", Centre for . . .", ". . . Clinic", and so on; names which may suggest that the practice constitutes a large and mixed aggregate of recognized practitioners, or even some kind of institutional backing.

Appendix B, Section 2 of the Standards of Professional Conduct states that titles used by psychologists in announcing their practices must be in the name of the individual psychologist or in the name of a partnership where there are actual or active partners. The Board considers that names other than those of the practising psychologists are misleading and confusing to the public, and also tend to obscure the fact that it is an individual psychologist who is responsible for the conduct of the practice. ■

PSYCHOLOGICAL ASSESSMENTS FOR THE PURPOSE OF SELECTION OR PROMOTION

Psychologists are frequently engaged by large companies to assess applicants being considered for employment or promotion. One psychologist has asked the Board to prepare a statement about the right of the candidate, for employment or promotion, to see the report about him or her submitted by the psychologist to the employer.

It is important for psychologists to have a clear understanding of the nature of their professional obligation in situations of this sort. In the course of assisting in personnel selection psychologists may perceive the company to be the only client and assisting the company to be their only obligation.

Although professional standards do not always directly address the unique aspects of psychological services in the area of personnel selection, the *Standards of Professional Conduct* include within the definition of a client "those users who are direct recipients of psychological services", and identify "assessment of the functioning of individuals" as a "psychological service". Therefore, in conducting assessments of individuals for the purpose of assisting a company in hiring or promoting personnel, the psychologist must consider the job applicant, as well as the employer, to be a client to whom he or she has a set of obligations.

Among these is the obligation to obtain informed consent. Although the candidate's willingness to submit to an assessment may be a condition for being considered for employment or promotion, the candidate has a right to know what is involved and to give or withhold consent. Although they may disqualify themselves from the competition if they refuse consent, that is the candidates' prerogative and they must be permitted to exercise it.

The psychologist must also respect the candidate's right to review what is being said about him or her and to approve the release of any report. In preparing a report for an employer the psychologist is not communicating with another professional and therefore cannot argue that the report is too technical for the candidate to understand. It is not clear that there is any supportable argument for withholding this information from the candidate. ■

NEW PERMANENT REGISTRANTS

The following candidates for registration in Ontario were admitted to the Permanent Register at a meeting of the Board held on January 13, 1988.

Allan, Michael
Allison, Madhia
Atkinson, Leslie
Bergevin, Jean-Pierre
Brigham, Margaret
Burton, Sharon
Billingsley, Ralph
Cernovsky, Zdenek
Dukoff, Stephen
Dyer, Ann
Eamon, Karen
Fidler, Barbara
Freedman, Sidney
Gembora, Louisa
Graff, Rick
Gragg, Marcia
Gudas, Christine
Haber, Mary Beth
Halpern, Anita
Hanson, Karl
Ipp, Hazel
Johnston, Mary Ann
Kahill, Sophia
Khanna, Arunima
Khanna, Frances
Klempan, Rosalinde
Kolers, Nira
Lawson, Kerry
Leiken, Lewis
Lediett, Vernon
Lieberman, Irwin
Lynch, Patrick
Miller, John L
Owen, Frances
Persi, Joseph
Pohlman, Cheryl
Reesor, Ken
Roberts, Gloria
Roller, Diane
Ross, Linda
Ryan, David
Shainfarber, Molly
Siegel, Jonathan
Smith, Gerald
Smith, Wanda
Steiner, Leon
Stewart, Dorothy
Sy, Michael
Tener, Lorna
Tudiver, Judith
Younger, Alastair

NEW TEMPORARY REGISTRANTS SINCE OCTOBER, 1987

Barbara Armstrong
Deborah Baar
Alan Bardikoff
Peter Barrett
Susan Berry
Keith Brownlee
Susan Bryant
Stephen Butler
Edward Connors
W. Geoffrey Crealock
Ann Cummings
Yolande Cyr
Ramona Domander
Anthony Donohoe
Petra Duschner
Mark Ferland
Michelle Flax
Jospeh Garber
Robert Gates
Marsha Harling
Eugene Hewchuk
Anton Klarich
Peggy Kleinplatz
Beverly-Mae Knight
Ruth Kurtz
Ginette Lafleche
Debra Lean
Donald Maxwell
Brenda McLister
Janet Munson
Nitza Perlman
Bryan Phillips
Alexandra Quittner
Gorden Reid
Howard Schachter
Lawrence Spreng
Cheryl Thomas
Romeo Vitelli
William Winogron
Raymond Yokubynas

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

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Teresa Westergaard

ORAL EXAMINATIONS

The oral examinations were held in Toronto on January 11, 12, 13, 1988. Assisting the Board in conducting these examinations were the following psychologists:

J. CARSON BOCK, M.A., Psychologist, Private Practice;
ANN W. CROLL, PH.D., Psychologist, Ottawa Roman Catholic Separate School Board;
HENRY P. EDWARDS, PH.D., Dean, Faculty of Social Sciences, University of Ottawa;
DIANE FARR, PH.D., Psychologist, Provincial Correctional Centre Guelph;
ROBERT FLEWELLING, PH.D., Psychologist, Ottawa Board of Education;
J. MICHAEL LACROIX, PH.D., Associate Professor, York University; Psychological Consultant, Downsview Rehabilitation Centre; Private practice;
JOHN MCGRORY, PH.D., Chief, Department of Psychology, Windsor Western Hospital Centre;
MARTY JEAN MCKAY, PH.D., Independent practice, Psychologist;
BRUCE QUARRINGTON, PH.D., Professor, Department of Psychology and Consultant, Counselling and Development Centre, York University;
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ELIZABETH T. SOLOMON, PH.D., Psychologist, Department of Psychology, Kingston General Hospital; Assistant Professor, Department of Psychology, Queen's University;
CATHERINE J.S. YARROW, PH.D., Clinical Co-ordinator, Workers' Compensation Board, Psychological Services, Private Practice. ■

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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. ■