

## HEALTH PROFESSIONS LEGISLATION REVIEW Concluding the Consultative Phase

The Health Professions Legislation Review, introduced by Health Minister Larry Grossman in the summer of 1983, is now nearing completion of its work. In the past five years, the Board has from time to time published in these pages an account of its participation in the Review. The Board believes it is essential that psychologists be fully informed about the process of the Review and about the issues under discussion that are of particular concern to them in their practices. A summary of the most recent events follows.

During the summer of 1988, the Board prepared and delivered its tenth and eleventh submissions to the Review. We understand the Review team will shortly make its recommendations to the Minister of Health, the Honorable Elinor Caplan. Although we have been informed of the nature of some of the Review team's recommendations, we are uncertain about others.

The February, 1987 issue of *The Bulletin* contained a description of the Board's concern that, at that time, the Review team did not appear to agree that strong provisions for the protection of title were required in new legislation for psychologists.

In January, 1988 the Board made two submissions to the Review. The first was prepared in response to a request from the Review team in December, 1987 that the Board indicate, in order of priority, "those issues within the Review's mandate which [the Board believes] require statutory authority or that [the Review] ought to consider resolving in the context of the [psychology] statute". In response, the Board referred the Review team to the legislative proposal made to the Minister of Health, Mr. Dennis Timbrell, in 1982 and, in addition, made a particular point of emphasizing the need for strong title protection provisions in a new psychology Act. The submission also dealt with questions of the desirable size and structure of a new governing body, the election of members of this body, exemptions and other "housekeeping" matters.

The second submission was made in January and published in February, 1988 in *The Bulletin*. It examined the Review team's proposed scope of practice statements and licensed acts for each profession, as well as the team's conception of the terms "diagnosis"

and "assessment". The main thrust of this submission was contained in the Board's argument that, within the context of the Review's definitions, psychologists presently provide diagnoses. It was the Board's view that new legislation must not preclude their continuing to do so. The Board saw this licensed act to be necessary for psychology insofar as it was to be proposed as a licensed act, exclusively and without qualification, for medicine. If diagnosis were to be licensed to medicine, but not to psychology, then psychologists would as a result be prohibited from providing any diagnoses within their scope of practice.

Both issues, protection of title and diagnosis as a licensed act for psychologists, aroused concern within the profession and were the subject of symposia presented at the annual meetings of the Ontario Psychological Association in 1987 and 1988, respectively.

The Board requested, and early in February 1988 received, an opinion from its legal counsel regarding the feasibility of a constitutional challenge to any restriction placed, as a result of the Review, on the scope of practice of psychology, specifically with reference to the possibility that diagnosis would not be included as a licensed act, and would therefore not be included in the scope of practice definition.

On March 3, 1988 the Board met with members of the Review team, Mr. Alan Schwartz and Mr. Matt Holland, to discuss scope of practice and diagnosis. As a result of the meeting the Board agreed to attempt to further define the concept of "psychological diagnosis" for the team. The following statements were drafted and offered to the Review on March 4:

Psychological diagnosis is the theoretically guided analysis of psychological assessment data to yield a concise technical description of the causes, nature or manifestations of behavioral and mental disorders, dysfunctions and conditions. If clarification of the term, psychological assessment is required, we offer the following:

Psychological assessments involve the acquisition of information regarding the status and functioning of individuals or groups by means of psychological testing,

regulated observation and interviews.

The review team responded with a revised proposal in a meeting held with representatives of the Board on April 20. It read:

### General Statement

The practice of psychology is the diagnosis, assessment, prevention and treatment of behavioral and mental disorders and conditions, and the maintenance and advancement of physical, intellectual, emotional, social and interpersonal functioning.

### Licensed Acts

Diagnosis of behaviour and mental disorders, dysfunctions and conditions as contained in DSM III-R.

The Board suggested that the licensed act be reworded to read:

Diagnosis of behaviour and mental disorders, dysfunctions and conditions as contained in the Regulations.

This appeared to be acceptable to both groups. However, on May 18, the Board received a telephone call from the Review Team indicating that diagnosis as a licensed act for psychology continued to be seen by the Review as a problem. However, it was not until June 24 that the Review team proposed alternative wording:

Diagnosis of non-organic mental disorders.

The concern of the Review team at this point seemed to be the restriction that the wording proposed on April 20 would impose on other groups, such as speech pathology.

During late June and early July, discussions among representatives of the Board, OPA, and the Review team continued. As the Board and OPA were in complete agreement on the issue of diagnosis, the Board deferred to the OPA committee which continued discussions with the Review. The Board wishes to compliment the Association for its satisfactory conclusion of these discussions. By the middle of July, the Review team had agreed that the following definition of scope of practice and licensed act for psychology would be included among its recommendations:

The practice of psychology is the diagnosis of neuropsychological disorders and dysfunctions and of psychologically based psychotic, neurotic and personality disorders and dysfunctions and the assessment, prevention and treatment of

behavioral and mental disorders, dysfunctions and conditions, and the maintenance and enhancement of physical, intellectual, emotional, social and interpersonal functioning.

Licensed Act: The diagnosis of neuropsychological disorders and dysfunctions and of psychologically based psychotic, neurotic and personality disorders and dysfunctions.

Concurrently with these discussions concerning diagnosis as a licensed act, discussions of the draft psychology Act were also being held in April and May. On April 25 a meeting was held with Ms. Daphne Wagner of the Review team to discuss details of the proposed draft Act, in particular those sections that would set out the name of the governing body, the size and composition of its Council and statutory committees, regulation-making powers and arrangements for voting. In its response on May 31, the Board stated its belief that, to assist the public, all the governing bodies for the health professions should bear similar names and that, if some were to be identified as "Colleges", all should be. The original suggestion of "Governing Body for Psychology" as a name, the Board found ungainly. The Board also expressed its concern that the wording of the sections setting out the regulation-making powers, which referred repeatedly to "patients", would possibly not extend to those psychologists whose clients were not patients or even, in some cases, persons.

#### Concluding the Consultative Phase

On June 15 the Board received a volume of materials containing the Review's draft of its Legal and Procedural Proposals and a draft of an Act for each of the health professions. The Board responded to these draft proposals with its tenth submission on July 18. On July 27 the Board received a second, and last, volume containing the Review's proposals for protected titles, scope of practice definitions, and licensed acts for each of the professions included in the Review. The second volume was the subject of the Board's eleventh and presumably its last submission on August 22.

In a letter dated June 15, Mr. Alan Schwartz, coordinator of the Review, had requested that the participants, in this "final consultative phase" of the review, limit their comments to new issues. Although the Review had by then been ongoing for nearly five years, the Board found several important issues that had not previously been discussed and which required comment.

Legal and Procedural Proposals. The

Board was favorably impressed by the extent to which the Review team had adapted its proposals to reflect the many thoughtful comments provided by the various participating groups. The Board found it necessary, however, to reiterate its contention that the use of the term, patient, in the procedural statute would limit its applicability to the regulation of psychologists whose clients frequently are not patients. The Board indicated that, to protect the public, the governing body would require the power to make interim orders as "we are a profession where that need is as great as in any profession". This provision appeared to have been provided only for selected other professions. The Board also indicated the need to include in the procedural Act reference to diagnosis of disorders within the scope of practice of psychology as a licensed act for psychologists.

The Psychology Act. In commenting on this draft the Board was limited by the omission of the scope of practice definition and the protected titles. However, the Board indicated that all psychologist members of the Council should be elected. In the Board's view it would not be appropriate to have the academic members appointed, as they are in the case of Medicine, by the training institutions. The Board set out a lengthy explication of its view, based largely on the fact that, for the most part, psychologists are not educated in professional schools. The Board also requested additions to the regulation-making powers under the Act with respect to defining specialties, designating life members, and prescribing qualifications and other requirements for interns. The need for the governing body to have the power to make interim orders was reiterated.

Protection of the title, psychologist. Although the Board was pleased to note that the Review intended to recommend some continuation of the protection of the title, psychologist, it was surprised by the omission of a penalty clause defining "holding out". For the professions of medicine, dentistry and optometry, but not for psychology, the relevant subsection stated that "no person except a member" shall:

take or use any name, title, or description implying or calculated to lead people to infer that he or she is qualified or recognized by law or otherwise as a [member of the profession in question] or any other designated specialties in the practice of [the profession in question].

Although the Board had from the begin-

ning of the Review emphasized the importance of a strong enforcement clause, no previous discussion of this provision had been held with us, nor was any reason given for its omission from the proposed psychology Act. The Review's proposal would reduce the degree of protection presently afforded the title, psychologist under Section 11 of the Psychologists Registration Act, R.S.O. 1980, c. 404. The proposal would, as well, reduce the public's ability to distinguish between a psychologist and other practitioners providing similar services.

Protection of the title, doctor. The Board was also surprised to note that the June 15 package contained a proposal that, if implemented, would legally restrict the use of the title, doctor, to persons registered as chiropodists, podiatrists, dentists, physicians or psychologists. In addition, psychologists, chiropodists and podiatrists would be restricted from using the title, except in "oral communication" or when the title was "clearly qualified to refer to", in our case, psychology.

The Board took strong exception to these proposals. In the first place, the Board stated that "we would be pleased to see nurses and social workers, for example, use the title doctor, as well as astronomers, geologists, physicists and others when they have earned this advanced degree from a recognized institution". The Board not only recommended the removal of this prohibition against the use of the title, doctor, arguing that it was inappropriate and not needed, but also pointed out that any restriction on the use of the title, doctor, by psychologists should be left to the governing body. It was also the opinion of the Board's legal counsel that the proposed section offends the Canadian Charter of Rights and Freedoms as it concerns the rights of psychologists to use their earned degree, and that there is no justification in law for the proposed section. The Board also recommended that, in providing services, practitioners in all health disciplines should be required to identify their professional affiliation, as psychologists are presently required to do by Regulation under the Psychologists Registration Act, whether they use the title doctor, or not.

#### Conclusion

Having completed the "final steps in the consultative process" during July and August, the Board was left with the disquieting thought that several of the important points in the Review remained unresolved. If our arguments are not

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# THE ONTARIO BOARD OF EXAMINERS IN PSYCHOLOGY

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## **QUESTIONNAIRE ON LEGISLATION TO REGISTER PERSONS HOLDING A MASTER'S DEGREE IN PSYCHOLOGY**

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Registrants are asked to complete the accompanying brief questionnaire in order to assist the Board in possible discussions with the Ministry of Health stemming from the Health Professions Legislation Review. The questions to be answered are preceded by a brief account of the Board's views and actions over the last nine years which provides a context for the present questions.

In 1979 permanent registrants were sent a questionnaire dealing with the professional recognition of individuals holding a Master's degree in psychology. The results from 612 respondents indicated a clear insistence that registration as a psychologist should require a doctoral degree (86.3%). The concept of an alternate or apprenticeship route to registration as a psychologist was rejected (64.2%). Considerable support was expressed for the introduction of a second category of registration bearing a title other than 'psychologist' (63.2%), but the weight of opinion was that such registration be limited to work carried out under the supervision of psychologists (72.9%). Opinion as to how this second category of registration should be designated and whether it should be organized under a new Psychology Act or some other Act was quite divided although the most frequently endorsed response (39.4%) indicated a preference for inclusion under a new Psychology Act with some title which reflected a psychological affiliation.

In its third submission to HPLR (Bulletin, vol. 11, #2 November, 1985) the Board justified its position of maintaining a doctoral degree as an entry requirement to full registration as a psychologist. Its interest in fostering greater flexibility in graduate education and increased financial support that would assist those at the Master's level in attaining a doctoral degree was expressed. The Board opposed legislation that would sanction the use of designations employing the prefix 'psycho' as in 'psychometrist', etc., which when used in independent practice was believed to confuse the public. (HPLR has made it clear that it does not intend to recommend this protection in a new Psychology Act.) The Board argued that training at the Master's level in psychology should not permit independent practice and questioned the need for legislative regulation of individuals at the Master's or lower levels of training in psychology on several grounds. Finally, it was conceded that if regulation of these individuals was deemed necessary, that those with a Master's degree in psychology might be registered at a second level within a new Psychology Act and carry the designation 'psychological assistant' or 'psychological associate' when employed and supervised within organized psychological services.

Since the submission in 1985 questions regarding the legislative regulation of Master's level personnel have been the subject of considerable discussion within the Board and have also been reviewed in joint discussions with OPA. As a result, the Board is more favourably disposed towards the concept of a second level of registration within a new Psychology Act and is considering the extent and degree to which individuals at this second level might be offered autonomous activity. In this connection, earlier this year, the Board circulated a questionnaire to several hundred individuals qualified at the Master's level. The results from 212 respondents revealed a strong preference for a second level of registration within a new Psychology Act (90.1%). There was also considerable support for the concept of qualification for registration which required some period of supervision followed by a qualifying written and oral examination (82.0%). Strong support (92.1%) was shown for the proposition that registration at this level should permit autonomy in prescribed areas of responsibility in organized settings such as hospitals, social agencies and school systems. Finally, there was majority support (66.7%) for the position that registration should permit use of the title 'psychological assistant' or 'psychological associate' in independent practice.

The present questionnaire is submitted to you to assist the Board in establishing a position on these matters which is in accord with the views of its registrants. Your completion and return of this questionnaire, printed on the reverse side of this page, is important.



Would you support the registration of individuals holding a master's degree in psychology in an Act of the Legislature under any of the following sets of conditions? For each combination of conditions indicate your response by circling Y for Yes, N for No, or ? for No Opinion.

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1. In an Act, separate from a Psychology Act, which would permit this group self-regulation, use of titles such as 'psychoeducational consultant' or 'psychometrist', and
- |  |   |   |   |
|--|---|---|---|
| a) require supervision by a psychologist in an organized setting             | Y | N | ? |
| b) permit autonomy in stated areas of responsibility in an organized setting | Y | N | ? |
| c) permit independent practice.  | Y | N | ? |
2. Within a new Psychology Act and carrying designations such as 'Psychoeducational consultant' or 'psychometrist', and
- |  |   |   |   |
|--|---|---|---|
| a) require supervision by a psychologist in an organized setting             | Y | N | ? |
| b) permit autonomy in stated areas of responsibility in an organized setting | Y | N | ? |
| c) permit independent practice.  | Y | N | ? |
- 2A. For those conditions of question 2 that you have answered Yes, should registration require written and oral examinations following a period of supervision?
- |                         |   |   |   |
|-------------------------|---|---|---|
| i) condition a) above   | Y | N | ? |
| ii) condition b) above  | Y | N | ? |
| iii) condition c) above | Y | N | ? |
3. Within a new Psychology Act and carrying designations such as 'psychological assistant' or 'psychological associate', and
- |  |   |   |   |
|--|---|---|---|
| a) require supervision by a psychologist in an organized setting             | Y | N | ? |
| b) permit autonomy in stated areas of responsibility in an organized setting | Y | N | ? |
| c) permit independent practice.  | Y | N | ? |
- 3A. For those conditions of question 3 that you have answered Yes, should registration require written and oral examinations following a period of supervision?
- |                         |   |   |   |
|-------------------------|---|---|---|
| i) condition a) above   | Y | N | ? |
| ii) condition b) above  | Y | N | ? |
| iii) condition c) above | Y | N | ? |
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Please return to:  
The Ontario Board of Examiners in Psychology  
101 Davenport Road  
Toronto, Ontario M5R 1H5

THE ONTARIO BOARD OF EXAMINERS IN PSYCHOLOGY

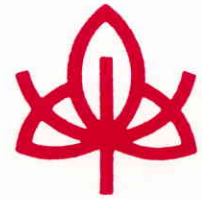
*in association with*

THE ONTARIO PSYCHOLOGICAL ASSOCIATION

*will present*



**SEXUAL INVOLVEMENT WITH CLIENTS  
A PRE-CONVENTION WORKSHOP**



Wednesday, February 15, 1989  
9:00 a.m. to 4:30 p.m.  
HILTON INTERNATIONAL TORONTO

The Ontario Psychological Association joins the Ontario Board of Examiners in Psychology in offering a workshop to address a number of questions that, until recently, have received little formal attention and, as a result, have left therapists ill-prepared to deal with issues that arise in their practices. Questions to be addressed will include:

- Why having sex with clients ruins therapists and damages their clients
- How to deal with fantasies about, and attraction to, clients
- Boundary issues and why they are important to mental health professionals
- The role of touch in psychotherapy
- When ethical issues become legal issues: Does this interfere with the therapeutic process?
- Working with clients who have been abused by therapists
- Working with therapists who have been abused by clients
- Safeguards for therapists, clients and the mental health system
- Unresolved issues in the area of therapist-patient sex involvement:
  - Mandatory reporting
  - Criminalization
  - When does therapy end
  - When does transference start
- Should therapists be advocates for their clients?
- Should therapists report their colleagues to a regulatory body?
- Therapist-client sex syndrome: How do you recognize it and what can you do to assist those who suffer from it?
- Distressed therapists: Can we help them before the damage is done?
- Responsibilities of employers of therapists: Can they be held accountable?

These and other questions will be discussed. Videotapes of public hearings and prime-time television programs will be shown raising questions about the image of psychotherapy and the public's view of the professions' ability to police themselves.

**Invited Speakers**

- Jacqueline C. Bouhoutsos, Ph.D., Psychologist and Licensed Clinical Social Worker  
Clinical Professor, University of California, Los Angeles  
Co-Founder, Director, Post Therapy Support Project, University of California, Los Angeles
- Gary Schoener, Licensed Psychologist  
Executive Director, Walk-in Counseling Center, Inc., Minneapolis, Minnesota
- Other Invited Speakers: To Be Announced

To register, please complete the form below, detach and return it along with a cheque or money order made payable to: OBEP/OPA WORKSHOP 89. To register more than one person, please duplicate the form. If you have any questions specifically regarding registration, please call (416) 961-8817. Enrollment is limited. Early registration is recommended.

**OBEP/OPA WORKSHOP 89: SEXUAL INVOLVEMENT WITH CLIENTS  
9:00 A.M. to 4:30 P.M., FEBRUARY 15, 1989, HILTON INTERNATIONAL TORONTO**

Registration Form (Please print)

NAME:

AGENCY/INSTITUTION:

WORK ADDRESS:

CITY:

( )

PHONE:

PROFESSION:

Mail to: Connie Learn

- I enclose \$50. (cheque or money order in Canadian funds made payable to:  
OBEP/OPA WORKSHOP '89 and postmarked before December 15, 1988)
- I enclose \$65. (postmarked after December 15, 1988)

Ontario Board of Examiners in Psychology  
101 Davenport Road  
Toronto, Ontario M5R 1H5

**CANCELLATIONS:** An administration fee of \$10 will be retained. The balance will be returned for cancellations received on or before January 15, 1989.

... continued from page 2

accepted by the Review team, or by the Minister, we would find that the protection of the title, psychologist, will be weakened, and that anyone, regardless of their qualifications and without any regulation of their practices, would be in a position to announce to the public that they "practise psychology" or provide "psychological services".

The Board has held from the beginning that, in regulating the professions, the strongest factor in the protection of the public is "truth in packaging", fostered through a clear and forceful protection of title set out in legislation. Such provisions enable the public to make an intelligent choice in selecting services. These provisions also reduce the need to proliferate the legislation of licensed acts.

The Board has concluded its efforts in this phase of the Review. It now remains for the Review team to brief the Minister on their recommendations and for the Minister to announce her intentions for the implementation of some or all of the recommendations. We await with interest the Minister's announcement for, until then, the outcome is uncertain.

An account of the progress of the Review in the last four months of 1988 will be provided in the next issue of The Bulletin. ■

B.W.

## STAFF ASSISTANCE TO THE BOARD

The Board and the Registrar are pleased to announce that Dr. Bruce Quarrington, a member of the Board from 1971 to 1976 and a former Chair, will consult to the Board and staff on special projects and policy issues.

Dr. Quarrington's assistance will ease the pressure of the increasing demands on the Board for briefs, policy statements and analyses of professional issues in their relation to standards of conduct. ■

### The BULLETIN

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

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