Court File No. COA-22-CV-0206

COURT OF APPEAL FOR ONTARIO

B E T W E E N:

MARGARITA CASTILLO

Applicant

and

XELA ENTERPRISES LTD., TROPIC INTERNATIONAL LIMITED, FRESH QUEST INC., 696096 ALBERTA LTD., JUAN GUILLERMO GUTIERREZ and CARMEN S. GUTIERREZ, Executor of the Estate of Juan Arturo Gutierrez

Respondents

AND IN THE MATTER OF THE RECEIVERSHIP OF XELA ENTERPRISES LTD.

RESPONDING MOTION RECORD

(Appellant's Further Evidence Motion)

September 7, 2023

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Lawyers for the Responding Party, the Receiver

TO: **THE SERVICE LIST**

Court File No. COA-22-CV-0206

COURT OF APPEAL FOR ONTARIO

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INDEX

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AND IN THE MATTER OF THE RECEIVERSHIP OF XELA ENTERPRISES LTD.

AFFIDAVIT OF GRACE TSAKAS
(sworn September 6, 2023)

I, Grace Tsakas, of the City of Richmond Hill, in the Regional Municipality of York, MAKE OATH AND SAY:

1. I am a law clerk with the law firm of Lenczner Slaght LLP, lawyers for KSV Restructuring Inc. ("KSV"), the Court-appointed receiver and manager (in such capacity, the "Receiver"), without security, of all the property, assets, and undertakings of Xela Enterprises Ltd. ("Xela"), and, as such, have knowledge of the matters contained in this Affidavit. In preparing this affidavit I have obtained information from the official website of the College of Registered Psychotherapists of Ontario ("CRPO") (crpo.ca) and the website for the Ontario Society of Registered Psychotherapists ("OSRP") (osrp.ca).

2. Attached hereto and marked as **Exhibit "A"** is an excerpt from the Examination-in-Chief of Juan Guillermo Gutierrez held on May 31, 2022, at QQ. 9-15, which is in the Appellant's Amended Exhibit Book at Tab 28.

3. Attached hereto and marked as **Exhibit "B"** is a copy of the registration information and status for John Went from the CRPO website. Under the heading, "Registration History", it notes that he was suspended effective January 17, 2023, and reinstated effective March 17, 2023.

4. Attached hereto and marked as **Exhibit "C"** is copy of *The History of Ontario Society of Registered Psychotherapists* from the OSRP website. It notes that the OSRP started in March 1991 with seven original members. Mr. Went is not listed as one of the seven original members.

5. Attached hereto and marked as **Exhibit "D"** is a copy of *Practice Matters* from the CRPO website. Under the question, "Can I write a letter for my client", part of the answer is as follows:

> **Scope of practice**
>
> Registered Psychotherapists (RPs) are permitted to assess cognitive, emotional, and behavioural disturbances in the course of their work. **However, it is not within an RP's scope of practice to provide a diagnosis.** (See Standard 1.4: Controlled Acts.) [Emphasis added.]
>
> In situations where a client is requesting documentation that falls outside an RP's scope of practice, consider explaining your role and limitations to the client and referring them to their family physician or other qualified health professional for assistance. For example, some disability insurance claims may require a report by a diagnosing professional. In some cases, an RP may be able to collaborate with a diagnosing professional in producing the report, or an RP may be able to provide factual information about the client's condition and treatment, without formulating a diagnosis.

6. Attached hereto and marked as **Exhibit "E"** is a copy of *Standard 1.4 Controlled Acts* from the CRPO website. It states that CRPO registrants are authorized to perform the controlled act of psychotherapy.

7. Attached hereto and marked as **Exhibit "F"** is an excerpt of *Professional Practice and Jurisprudence for Registered Psychotherapists* from the CRPO website. In explaining Standard 1.4, "Assessment vs. Diagnosis" states:

> CRPO registrants are not authorized to communicate a diagnosis to clients; however, they are permitted to assess clients. It is important to keep the distinction in mind. A diagnosis is a conclusive statement that identifies a disease or disorder as the cause of a client's symptoms. An assessment describes those symptoms and is aimed toward treatment planning.
>
> As an example, the following statement made by an RP to a client would be an inappropriate communication of a diagnosis: "It appears you are experiencing mild or moderate depression." Depression is a mental health diagnosis, and the way the statement is phrased could lead a client to rely on it.
>
> In contrast, the following statement by an RP to a client would be appropriate as a form of assessment, planning, and referral: "You have reported sadness and low energy. I am proposing we engage in CBT, and I suggest you follow up with your family physician to consider depression or other issues." This statement does not apply a diagnostic label but summarizes what the client reported and makes a recommendation about treatment. It also suggests contacting a regulated health professional who is authorized to communicate a diagnosis. In situations that could confuse a client as to whether they are being diagnosed, registrants should make clear they are not authorized to communicate a diagnosis.
>
> Confusion can arise when an RP works with another professional authorized to communicate a diagnosis. Registrants are permitted to refer to and treat a previously diagnosed condition but may not take on the role of the diagnosing professional.

SWORN by Grace Tsakas of the City of Richmond Hill, in the Regional Municipality of York, before me on September 6, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

Commissioner for Taking Affidavits
(or as may be)

GRACE TSAKAS

Shane Ramnanan
Licensed Paralegal
P07510

This is Exhibit "A" to the Affidavit of Grace Tsakas sworn by Grace Tsakas at the City of Richmond Hill, in the Province of Ontario, before me on September 6, 2023, in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

A Commissioner for taking Affidavits (or as may be)

Shane Ramnanan
Licensed Paralegal
P07510

Court File No: CV-11-9062-00CL

SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

B E T W E E N:

MARGARITA CASTILLO

Applicant

- and -

XELA ENTERPRISES LTD., TROPIC INTERNATIONAL LIMITED, FRESH QUEST INC., 696096 ALBERTA LTD., JUAN GUILLERMO GUTIERREZ and CARMEN S. GUTIERREZ, Executor of the Estate of Juan Arturo Gutierrez

Respondents

AND IN THE MATTER OF THE RECEIVERSHIP OF XELA ENTERPRISES LTD.

E X C E R P T F R O M M O T I O N P R O C E E D I N G S
(Evidence of Juan Guillermo Gutierrez)

BEFORE THE HONOURABLE, MADAM JUSTICE B.A. CONWAY
on May 31, 2022, at TORONTO, Ontario

APPEARANCES:

M. Jilesen	Counsel for the Applicant
D. Knoke	Counsel for the Applicant
B. Greenspan	Counsel for Respondent, Juan Gutierrez
M. Biddulph	Counsel for Respondent, Juan Gutierrez

A. That's correct.

Q. And what was it that interrupted your University studies at that time?

A. In the middle of the semester, in the - sorry, the *[indiscernible]* of 1976, I was kidnapped by the *[indiscernible]*.

Q. And how long were you held as a kidnap, or how long did the kidnapping take until you were finally released?

A. It took 39 days.

Q. And was a ransom paid for your release?

A. It was.

Q. And that was paid by your father?

A. Correct.

Q. Your father was Arturo Gutierrez, is that correct?

A. Yes, Juan Arturo Gutierrez.

Q. And after the kidnapping and the release, what did you then do?

A. Sorry, I can't hear you?

Q. What did you then do in terms of either schooling or employment?

A. Oh, I'm sorry, yeah. I finished *[indiscernible]* University even though I did not graduate because I missed one course, and then I immediately started working.

Q. And who did you work for?

A. My first employment I went in was the company called *[indiscernible]*. It was a company that was incorporated by my grandfather. It was *[indiscernible]* to learn how to do business.

Q. And what sort of company was that, sir?

This is Exhibit "B" to the Affidavit of Grace Tsakas sworn by Grace Tsakas at the City of Richmond Hill, in the Province of Ontario, before me on September 6, 2023, in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

A Commissioner for taking Affidavits (or as may be)

Shane Ramnanan
Licensed Paralegal
P07510

John Henry Went

Registration Number	002153
Category (https://www.crpo.ca/find-a-registered-psychotherapist/#category)	Registered Psychotherapist
Status (https://www.crpo.ca/find-a-registered-psychotherapist/#status)	Authorized for independent practice
Date of Initial Registration	April 21, 2015
Commonly Used First Name	John
Commonly Used Last Name	Went
E-mail Address	johnhwent@gmail.com

Business Address (https://www.crpo.ca/find-a-registered-psychotherapist/#business)

Name of Employer	Address	City	Province / Territory / State	Postal Code	Country	Phone
John H. Went	1352 Bathurst Street, Suite 102, 125 Imperial Cres., Bradford, On.,L3Z2N3	Toronto	Ontario	M5R3H7	Canada	(416) 5300673

Practice Sites (https://www.crpo.ca/find-a-registered-psychotherapist/#practice)

Name of Employer	Address	City	Province / Territory / State	Postal Code	Country	Phone
John H. Went	1352 Bathurst Street, Suite 102, 125 Imperial Cres., Bradford, On.,L3Z2N3	Toronto	Ontario	M5R3H7	Canada	(416) 5300673
John H. Went	15170 Keele Street	King City	Ontario	L7B1A3	Canada	(416) 5300673

Languages of Care (https://www.crpo.ca/find-a-registered-psychotherapist/#language)

Language
English

Registration History (https://www.crpo.ca/find-a-registered-psychotherapist/#reghistory)

Registration Category	Effective Date
Registered Psychotherapist	March 17, 2023
Suspended	January 17, 2023
Registered Psychotherapist	April 21, 2015

Notices **(https://www.crpo.ca/find-a-registered-psychotherapist/#notices)**

Type	Summary	Effective Date	Attachments
Disciplinary Action	**Committee:** Discipline **Discipline Decision and Reasons (https://www.crpo.ca/wp-content/uploads/2023/03/ONCRPO-v.-WENT_Decision-and-Reasons_17JAN2023__Redacted.pdf)** **Hearing Date(s)**: January 17, 2023 via videoconference **Summary:** ON READING the Notices of Hearing in C2021-17 and C2021-20, the Agreed Statement of Facts and Admission of Professional Misconduct and the Joint Submission on Penalty and Costs, and on hearing the submissions of counsel for the College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario (the “College”) and the submissions of counsel for John Went (the “Registrant”): A. THE DISCIPLINE COMMITTEE ORDERS that the Notices of Hearing in C2021-17 and C2021-20 be combined pursuant to section 9.1(1)(a) of the *Statutory Powers Procedure Act*. B. THE DISCIPLINE COMMITTEE WITHDRAWS the allegations that the Registrant engaged in misconduct pursuant to paragraph 53 (engaging in conduct that would reasonably be regarded by members as conduct unbecoming a member of the profession) of section 1 of Ontario Regulation 317/12 made under the *Psychotherapy Act, 2007* as set out in each of the Notices of Hearing in C2021-17 and C2021-20. C. THE DISCIPLINE COMMITTEE FINDS THAT THE REGISTRANT COMMITTED ACTS OF PROFESSIONAL MISCONDUCT pursuant to section 51(1)(c) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991* as set out in the following paragraphs of section 1 of Ontario Regulation 317/12 made under the *Psychotherapy Act, 2007*: 1. Paragraph 1. Contravening, by act or omission, a standard of practice of the profession or failing to maintain the standard of practice of the profession including but not limited to the following: a. 1.6 – Conflict of Interest; b. 1.7 – Dual or Multiple Relationships; and c. 1.8 – Undue Influence or Abuse; 2. Paragraph 16. Acting in a professional capacity while in a conflict of interest or being in a conflict of	January 17, 2023	N/A

Type	Summary	Effective Date	Attachments
	interest when acting in a professional capacity; 3. Paragraph 26. Signing or issuing, in his or her professional capacity, a document that the member knows or ought to know contains a false or misleading statement; and 4. Paragraph 52. Engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded by members as unprofessional. D. THE DISCIPLINE COMMITTEE MAKES THE FOLLOWING ORDER ON PENALTY AND COSTS: 1. Requiring the Registrant to appear before the Panel to be reprimanded immediately following the hearing. 2. Directing the Registrar to suspend the Registrant's certificate of registration for a period of five months, to commence on the date of this order, with the ability to remit three months in the event that the Registrant successfully completes the terms, conditions and limitations (“TCLs”) as set out in subparagraphs 3(a) and 3(b) within the timeframes indicated therein: a. The Registrant shall serve the first two months of the suspension consecutively; and b. If the remitted portion of the suspension is required to be served by the Registrant because he fails to complete the remedial requirement specified in subparagraphs 3(a) and 3(b), that portion of the suspension shall be served consecutively and shall commence on the day immediately after the timeframes for completing the requirements in subparagraphs 3(a) and 3(b) have expired, whichever is later. 3. Directing the Registrar to impose the following TCLs on the Registrant’s certificate of registration, all of which shall be fulfilled at the expense of the Registrant and to the satisfaction of the Registrar: a. Successful completion of the College’s Jurisprudence e-Learning Module, within six months of the date of this order; b. Successful completion of a course with a professional ethics consultant chosen by the Registrar regarding the issues raised by the facts and findings of professional misconduct in this case, within 12 months of the date of this order; and		

Type	Summary	Effective Date	Attachments
	c. Requirement for the Registrant to undergo clinical supervision, by a supervisor, pre-approved by the Registrar, to address dual relationships, conflict of interest, and undue influence and abuse for 12 months immediately following the Registrant's return to practice after the completion of the suspension described in paragraph 2. i. Before the supervision commences, the Registrant shall provide the supervisor a copy of the Agreed Statement of Facts, the Joint Submissions on Penalty and Costs, and the reasons of the Panel; and ii. The Registrant shall co-operate with the supervisor and abide by all the terms of the clinical supervision agreement put into place by the supervisor and the College; and iii. Within 30 days of the completion of the supervision, the Registrant shall ensure that the supervisor submits a written report to the Registrar which confirms that the Registrant co-operated and complied with the supervision, incorporated advice from the supervisor, and which sets out the position of the supervisor as to the Registrant's skills for addressing dual relationships, conflict of interest, and undue influence and abuse. iv. If the remitted portion of the suspension is required as described above, clinical supervision shall resume immediately after the Registrant has served the remitted portion. 4. Requiring the Registrant to pay costs fixed in the amount of $6,055.00 payable within 30 days of the date of this order. **Current status:** Not yet completed.		
N/A	Suspension by order of the Discipline Committee: Start date: January 17, 2023 End date: March 17, 2023	January 17, 2023	N/A

This is Exhibit "C" to the Affidavit of Grace Tsakas sworn by Grace Tsakas at the City of Richmond Hill, in the Province of Ontario, before me on September 6, 2023, in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

A Commissioner for taking Affidavits (or as may be)

Shane Ramnanan
Licensed Paralegal
P07510

ONTARIO SOCIETY OF REGISTERED PSYCHOTHERAPISTS

THE HISTORY OF ONTARIO SOCIETY OF REGISTERED PSYCHOTHERAPISTS (OSRP)

Acknowledgements

This history was compiled through archive material including minutes from the original steering committee, Board and committee meetings, AGM Reports and newsletters. Thanks to Evonne Brant at the OSRP office for providing this material to the writer. Also, many thanks to Mary Greey and Carl Moore for time spent generously sharing stories of the "early days" when OSRP was a twinkle in the founding members' eyes.

It was March 1991. A group of psychotherapists, diverse in theoretical orientation, came together to share a common perspective and a strong sense of purpose.

They had a vision about the development of the theory and practice of psychotherapy in Ontario. A vision that would position unregulated psychotherapists in a sound place. A place that would provide a coherent, professional voice to related professions, to the general public and to the government . . . a place where liability insurance was an affordable possibility . . . where psychotherapists could experience a sense of fellowship with peers . . . where professional development and new learning was valued and promoted.

They had a vision that held strong confidence in group process and what it could accomplish.

The seven original members were:

- Geraldine Fogarty (who became the first president),
- Rita Fridella (who became the second president),
- Mary Helen Garvin (who did most of the work on the constitution),
- Helen Morley and Carl Moore (who outlined the first Code of Ethics),
- Alisa Hornung and Mary Greey (who set up the original membership qualifications)

They evolved into a Steering Committee. Each member chose a special area of interest and began an arduous two-year task of planting the seeds of their vision into the fertile soil of their collective commitment:

- a code of ethics
- a constitution and By-laws.
- high standards for membership, including criteria that would set its members apart from other such organizations (a requirement of individual psychotherapy to demonstrate a serious commitment to personal growth).

A seedling tree with a substantial root system.

The small group was positioned to grow into an organization it dreamed would influence the course of psychotherapy in Ontario. The organization was named The Ontario Society of Psychotherapists (OSRP).

OSRP would be run by volunteers with a mission to represent the interests of psychotherapists and advance the standards of practice in order to promote effective and efficient service to all people.

This would be accomplished by:

- encouraging, initiating and promoting activities appropriate to strengthening and unifying the psychotherapy profession;
- assisting and promoting the development of high professional standards within its membership;
- promoting psychotherapy research and its dissemination;
- promoting and encouraging educational standards within the profession;
- promoting responsible personal practice in the psychotherapy profession;
- promoting and encouraging psychotherapy concepts and principles among the public.

In November of 1993, OSRP held its first Annual General Meeting. President Geraldine Fogarty speaks: “Our vision requires the fundamental realization of, and respect for, our divergent nature and the willingness to struggle with the difficulties which inherently arise from these divergencies.”

1994 – The tree grows! OSRP membership has blossomed by more than eighty per cent since October 1993.

A Delegate Council is established to keep OSRP's geographically broad organization functioning effectively. This means decisions affecting the whole society will be made by the delegates in the council.

Members are encouraged to become familiar with the by-laws that outline how individual member voices can be heard and to form a region to ensure their voice is represented on the Delegate Council.

The OSRP quarterly newsletter *Connection* is launched — a forum for ideas, articles, opinions, support for ethical dilemmas and a means for members to keep updated on OSRP business.

The Public Relations Committee creates a membership directory and requests ideas from members to heighten public awareness and enhance the reputation of therapy and therapists in our community.

A province-wide registry is in place. Outreach to regions of Ontario continues by the Organization Development Committee and a package is developed to guide and encourage members to formally set up their own regional groups.

The Delegate Council votes in favour of the proposed Code of Ethics and the Complaints and Disciplinary Policies and Procedures brought forward at the AGM.

The afternoon forum at the AGM is entitled "Psychotherapists and the Law."

President Rita Fridella encourages the membership to "... acknowledge the dream and the design put into place in the first years of OSRP's life ... make the commitment to take the difficult steps to follow through on the ideas and dreams . . . find the determination to continue to move forward when the initial dream starts to fade and the design proves faulty in ways."

1995 – the tree broadens its base with a 70% increase in membership.

A Task Force on Professional Regulations is formed to ensure OSRP an informed perspective on regulation and an active hand in shaping the course of OSRP's professional future.

A resolution is passed. "All members of OSRP who are practising or who have practised psychotherapy shall show proof of professional liability insurance."

The Membership Forum — Issues of Race and Culture in Psychotherapy — led to significant and heated discussion, which continued onto the pages of the newsletter.

1996

Of 218 current members, one in four is actively involved on the Board, in a committee, or with a region.

An emphasis on developing active local regions throughout Ontario continues in order that a professional community can be found closer to home.

The Board decides the annual OSRP fee will include provincial and regional membership for all members.

OSRP dreams of creating a journal to promote research and education on psychotherapy theory and practice. The first journal, titled "The Illusion and Necessity of Diagnosis," is published in the spring edition of *Connection*.

Ethical Dilemma . . . a new feature debuts in the same newsletter. Dilemmas meant to provoke thought and be used as a source of information and education are examined in relationship to the OSRP Code of Ethics.

The Complaints and Discipline committees work together with the Ethics Committee and some lay people to establish a protocol that meets the criteria of "natural justice."

President Valerie Gibson writes in *Connection*: ". . . some of the policies that were tried in earlier stages of our development don't quite fit our needs as we grow — our volunteer resources don't always keep pace with what we would like to achieve — it's time to take stock, appreciate our accomplishments, appraise our resources and realistically review our vision of how OSRP will grow."

A serious look at the complaints and discipline procedures begins — which principles work? Which need to be reviewed?

The Board reconsiders how to expand throughout the province and to develop user-friendly ways for members to develop and maintain local branches in OSRP Regions.

The Task Force for Professional Regulations recommends establishing an official Standards of Practice document.

The Professional Development Committee offers an array of learning — spirituality in psychotherapy/creativity in psychotherapy and the complexity of counter transference.

1997 – The tree's roots remain strong but the branches are bowing.

OSRP is a volunteer-run organization — current volunteers recognize the need to simplify goals and conserve resources yet still remain committed to a vision of growth and development. This means keen attention paid to priorities.

The plan for regional development is redesigned, to run at a pace that accurately reflects human resources and available energy.

A media kit and contact list is created by the Public Relations Committee.

The Complaints and Discipline committees continue to work with the Ethics Committee — redefining, clarifying and acknowledging the limitations of support that can be offered.

Professional development includes marketing psychotherapy, insight therapy and challenging members to look at alternative ways to think about and provide supervision.

1998

The Public Relations Committee focuses its outreach initiative in an effort to inform physicians, dentists, registered massage therapists and other professionals how OSRP could help them provide high quality assistance to their clientele.

The OSRP website is launched, enhancing the visibility of the organization.

The Nomination Committee distributes member profile surveys to support its plan to broaden OSRP's volunteer support base.

The Standards of Practice Committee studies provincial legislations for possible inclusion and seeks legal advice on the implications of the issue.

OSRP members vote to eliminate the Delegate Council and move to a one-member, one vote process for decision making.

1999

President Steve Schklar addresses the membership: “Events of this year have required us to reflect deeply, to stay the course and to consider a process of change where change is called for. The work of OSRP is an ongoing challenge as we continue to find ways and means to serve both the public and psychotherapists in Ontario.”

The Board requests a task force to review the constitution and by-laws regarding the complaints and discipline processes and protocol.

The Task force for the Standards of Practice Committee completes a two-year endeavour and passes its final report to the Ethics Committee for review.

Financial matters cause temporary strain on OSRP, including legal fees and increased use of Collins Communications & Management Ltd. services are addressed.

The Ethics Committee facilitates a workshop for Board members on the ethical issues inherent in being a member of OSRP’s Board of Directors.

The tree stretches its limbs . . .

The Professional Development day is led by OSRP members, with presentations and demonstrations of several modalities including Body Work, Relational, Jungian, Cognitive, Expressive Arts and Psychodrama.

President Mary Greey acknowledges this coming of age: “This PD Day proves we don’t have to import an outside expert to have a rich day of learning. This important step supports and challenges its members to become the best professionals we can be.”

2000

The Task Force on Complaints and Discipline recommends that OSRP abolish the present process. After serious consideration and discussion, the membership agrees.

The core of the tree expands as the organization valiantly begins to breaks new ground . . .

A task force is formed to investigate OPTIONS for handling complaints and discipline procedures. This begins an attentive exploration of alternative dispute resolution, of values in justice and ethics, of the culture of therapists, and a painstaking look at the dimensions of shame, confidentiality and the human need to defend in an adversarial process.

And . . .

The Task Force on Body-Centred Therapy meets to grapple with ethical issues that have been historically difficult for the psychotherapy community to openly talk about.

OSRP begins an active exploration of how the association might work in conjunction with other professional associations to gain important information and insights on issues related to professional regulation.

2001 – the roots deepen, the tree truck thickens and the branches reach outward to embrace the ongoing vision of OSRP.

Proposed Code of Ethics and Standard of Practice documents are presented at the AGM, where attending members actively participate in a working session to devise several amendments to the proposed Standards of Practice document. The members' voices are directly reflected within two appendices to the *Constitution and By-laws*. The Membership Committee requests clarity and guidance in processing applications from a broad range of practitioners. A task force is struck to revisit membership requirements, with a focus on the standards of psychotherapy training, regardless of differences in theory base and pedagogical approach.

2002

The Health Professions Review Advisory Committee (HPRAC) recommends to the Ontario Minister of Health that psychotherapy become a controlled act.

The ground around the tree shakes, but the tree finds courage in its roots and pride in its ongoing pursuit of high standards and commitment to ethical practice.

OSRP joins with other professional associations to lobby the government and develop more inclusive options. The Task Force on Legislative Issues is formed in March 2002 and President Rae Johnson provides leadership guided by the wishes and best interests of the society. A membership levy is introduced to help finance these efforts.

The Task Force on OSRP Options Regarding the Handling of Complaints presents a position paper to the Board and develops an information package on alternate routes for resolving conflicts and complaints. Mediation is seen as a viable alternative as it offers possibilities of resolution and reconciliation as well as the potential for healing without shame and fear.

The Task Force on Ethical Considerations in Somatic Psychotherapy presents its draft report to the Board in March, a document that provides helpful guidelines to those who include the bodily dimension in their psychotherapy work.

The Ethics Committee continues its work to refine the new Standards of Practice document adopted at last year's AGM. The Committee reaches out through focus groups, internet discussion and e-mail, urging members for input.

The Public Relations Committee initiates an extensive telephone outreach program.

The Nomination Committee implements a New Member Orientation to help recently joined members connect with others and learn how they can fully participate in OSRP.

The Professional Development Committee organizes Celebrating Ourselves, a program befitting the 10th Anniversary of the organization.

2003

OSRP volunteers are fatigued.

Due to the ongoing stress and constraint of volunteer time and energy, a resolution is passed to shorten the terms of office for Vice-President, President and Past President to one year.

However, OSRP continues to break new ground . . .

The Membership Committee implements innovative task force recommendations with revisions to the application form to include benchmarks for psychotherapy training. OSRP is one of few professional psychotherapy associations to have developed these kinds of benchmarks, which will make the work of processing membership applications easier and more consistent.

And . . .

Members unanimously approve the resolutions of the Task Force on Ethical Considerations in Somatic Psychotherapy. This document enhances OSRP's Standards of Practice by including a set of guidelines for body-centred psychotherapy in OSRP's bylaws.

Members vote in favour of two new membership categories — one for retired members and another for members wishing to take a temporary leave of absence from active practice.

The Executive Committee does outreach to members requesting indication of interest for health benefits plan (minimum numbers for a group rate are required).

The Nomination Committee continues its outreach work via the Member Volunteer Profiles and the New Member Orientation.

The Professional Development Committee undergoes a major shift in focus and surveys members to develop a more expansive and responsive professional development program.

The Task Force on Legislative Issues recommends a council to act as an umbrella group to provide psychotherapist in Ontario with an organization that offers accountability in standards and registration similar to a college but without provincial regulation. This would give OSRP a strong position should the government decide to regulate the profession.

The Public Relations Committee continues an extensive telephone outreach program on OSRP's referral system and sets up a mechanism to evaluate how the referral process is working. Work continues to upgrade OSRP's website, and a brochure to promote members' private practices and present OSRP to the community is distributed to each OSRP member.

The Task Force on OSRP Options Regarding the Handling of Complaints hosts a meeting for members to discuss issues and learn about the model the Committee favours — a process of mediation that has been adopted by the United Nations and the government of Canada that promotes reconciliation and resolution. Members request an interactive demonstration of the mediation process.

Members experience community and connection at the newly formatted AGM day — discussions revolve around relevant issues including public relations and clinical issues, legislative issues (HPRAC) and options to complaints.

Members attending the AGM have many ideas for the PR Committee, regarding how to increase the visibility and functions of the website, how to present OSRP at health fairs, doctors' offices and Employee Assistant

Programs. A plea is made by the PR Committee for volunteers to make these ideas a reality.

2004

This marks the first year in which a President serves the shortened, one-year term. A challenging year, made more so by the early departure of the Past President and the resignation of the Executive Vice President, both due to opportunities in their professional lives that make continuing with OSRP responsibilities impossible. The Board considers the benefits of enlisting an Executive Director to ease the strain on OSRP volunteers, provide consistency and support a visioning momentum. A Task Force on the Executive Directorship is set up to establish a job description, pay schedule and a hiring procedure.

President Pat Archer: "The challenge of 2004 has been to accept the reality of our limitations and to do so with creativity rather than in defeat. The year presented us with many questions about how to proceed and, perhaps, how to chart a new course for the future of OSRP — and certainly how to engage the membership at large in such a vision."

The Nomination Committee phones every OSRP member to raise awareness of the need for volunteers to keep the OSRP Board and committees functioning effectively. The reality — the position of Chair of the Ethics Committee was empty for much of the year.

The Professional Development Committee offers two evenings of facilitated discussion groups pertaining to articles from the Stone Center about relational practice.

The PD Committee publishes the results of its comprehensive survey regarding members' interests and opinions about professional development. Seventy–two per cent of surveyed members feel that PD should be a requirement for maintaining membership. Eighty two per cent describe one-day workshops as the preference. The Committee announces that plans are in the works for day-long PD in 2005.

The Public Relations Committee launches the OSRP website bulletin board — user friendly for the public and potential new members, and a new way for current members to communicate with each other. Volunteers man a booth at the Mental Health Information Fair. The Task Force on Legislative Issues reports that it anticipates a positive relationship with the new government. The coalition's plan to create a COUNCIL to ensure accountability and high standards of practice is well received by the ministry. The government offers to have the coalition meet with the assistant deputy Minister in the near future.

Participants report a deeply human and powerful learning experience through their participation in the experiential workshop on the mediation model offered by the Task Force on OSRP Options Regarding the Handling of Complaints. Several more workshops are planned, with an eye toward proposing the model at the AGM in 2005.

OSRP responds to government legislation and makes required changes and recommendations to its members to comply with the Privacy Act.

A new editor with many fresh ideas is recruited for *Connections*. She puts out a wish list for contributions from the OSRP membership to the newsletter.

The Membership Committee experiences increased clarity while processing applications due to the inclusion of questions relating to the Benchmarks for Psychotherapy Training. Discussion continues regarding response to members who are experiencing difficulties paying OSRP fees due to illness or other circumstances.

You couldn't call the tree old yet, but its sapling days are over.

Exposure to multifarious weather shows in the tree trunk, thickened with experience, in the branches extended outward, bravely, but not without fear, and in the roots, which remain faithful to the original seeds of hope and vision. With support, and acknowledgment that the process of growth is rarely easy, the tree can continue to mature and flourish.

Pat Archer provides the following: “OSRP the organization is the collective energy of its members.”

2018

Because psychotherapists in Ontario must now be registered with the College of Registered Psychotherapists of Ontario (CRPO) in order to practise, at our Annual General Meeting in November 2018 the membership voted to change the name of the society to the Ontario Society of Registered Psychotherapists (OSRP).

This is Exhibit "D" to the Affidavit of Grace Tsakas sworn by Grace Tsakas at the City of Richmond Hill, in the Province of Ontario, before me on September 6, 2023, in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

A Commissioner for taking Affidavits (or as may be)

Shane Ramnanan
Licensed Paralegal
P07510

Practice Matters is an occasional posting about timely, clinical topics of interest to psychotherapy service. Topics are generated by the Practice Advisory service, provides information for registrants on various topics that emerge as key trends. Got a question or an idea for us to cover? Email qa@crpo.ca with your thoughts.

VERSION FRANÇAISE

Jump to a question:

Use of terms, titles, and designations

This article was updated for the February 2023 Communiqué

Can I display my PhD or other credentials on my business card and website?

It's important that registrants not mislead the public about their psychotherapy credentials, which is why the practice standard about use of titles exists. This standard indicates that "*the credential to be displayed must be one that is related to the practice of the profession.*" This means that, if your degree or credential is not directly related to the practice of the psychotherapy, it should not appear alongside your other credentials or appear prominently on your website.

If you are not sure if your credential is related to the practice of the profession, ask yourself whether the program's curriculum or your research addressed established psychotherapeutic theories and/or theories of human development, and whether it was concerned with the development of the skills that are necessary to engage a client in a safe, effective therapeutic process. If the answer to both questions is yes, then the credential is likely to be one that is related to the practice of the profession. If the answer to both is no, then it's very possible the credential would not be considered related to the practice of the profession, in which case, you would be running afoul of CRPO standards.

Use of the "Doctor" or "Dr." title

From the standard on use of titles:

Use of the title "Doctor" or "Dr." is protected in the RHPA. Members of this College are not permitted to use this title in a clinical setting. If a person is not from one of the health professions entitled to use the doctor title (chiropractic, optometry, medicine, psychology, dentistry) or a social worker with an earned doctorate degree in social work, s/he cannot use the title "Doctor" or "Dr." in a clinical setting. This is the case even if the person has an earned doctoral degree (e.g. the person holds a Ph.D). Under this provision, the title "Doctor" can be used in other settings, socially or in a purely academic setting, where no clients are present.

Note: The above does not prevent a member from displaying a Ph.D or other doctoral degree in his/her promotional material, if the degree is their highest credential earned and ***is related to the practice of the profession****.*

Use of terms "psychology" and "psychological"

The terms "psychology" along with "psychological" and "psychologist," including any translations, abbreviations, and variations, are restricted under section 8 of the *Psychology Act, 1991*. Individuals who are not members of the College of Psychologists of Ontario must not use the term "psychology" or any of its abbreviations, when describing their services, or in any title. This means RPs must not claim to offer "psychology" or "psychological" services or use the term or an abbreviation of the term in their professional

services, or in any title. This means RPs must not claim to offer "psychology" or "psychological services" or use the term or an abbreviation of the term in their professional designation. The only exception provided for in the *Act* is for work "in the course of . . . employment by a university", i.e., psychology professors.

Conversely, only CRPO registrants are permitted to use the title "Registered Psychotherapist", while the title "psychotherapist" is shared among members of six regulated professions in Ontario. While there is some overlap in the work RPs and other professionals such as psychologists do (e.g., they may provide psychotherapy), these rules aim to distinguish between members of different professions.

Use of other professional titles

If a registrant has more than one registration with a regulatory body (e.g., RP and another health profession, social work, or other regulatory body such as teachers), it would be important to only use restricted titles in accordance with the law (e.g., only use titles you are legally entitled to use). (See dual registration for more information.)

Can I display the "Doctor of Medicine" or "MD" credential?

An RP would need to consider to what extent this credential is relevant to their practice of psychotherapy, and to consider the perspective of clients and members of the public who will see the credentials. The MD credential is highly recognized by the public as one that applies to physicians. If there is a chance that the credential will cause confusion to clients or members of the public, leading them to believe that the registrant is a doctor or qualified to practice medicine in Ontario, the registrant would need to consider how they would address this.

My employment role does not involve the provision of psychotherapy. Am I required to use the RP title?

Registrants often ask whether they are required to use the title in all employment settings. For example, some roles do not involve the provision of psychotherapy.

Standard 1.2 Use of Terms, Titles and Designations, notes that registrants are required to use the title conferred by the College when acting in a professional capacity. This helps members of the public identify a practitioner's registration status and make informed choices about their health care. Protected titles indicate a regulated health professional has completed appropriate education and training and is accountable to a regulatory body for the quality of care they provide.

Depending on the situation, it might be acceptable not to display or use a regulated title. For example, the title would not be required in a job that only includes activities outside the scope of practice of psychotherapy, such as a teacher. In roles where there might be some overlap with psychotherapy, registrants are advised to use their judgement and think carefully about the implications of not using the title. Some considerations include, but are not limited to, the following:

- Does the role primarily or exclusively include activities outside of the controlled act of psychotherapy?
- Do members of the public and clients clearly understand the role and what services are being provided?
- If a member of the public were to file a complaint, how would you demonstrate that the role and services provided did not involve psychotherapy?
- Do any discrepancies between workplace policies and the Professional Practice Standards (e.g., informed consent practices, confidentiality requirements, record-keeping and use of personal health information, etc.) present a risk to the public?

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Q: What happens to my clients and clinical records if I'm suddenly no longer able to practise?

Planning for the unexpected will help you and your clients should you ever find yourself in a position where you are unable to practise. Indeed, *Professional Practice Standard 6.4: Closing, Selling, or Relocating a Practice* requires that CRPO registrants have a contingency plan in place that will:

- ensure the standards of the profession are met, even if you are not providing the services yourself;
- link your clients with other qualified professionals who can address their needs; and
- assure that your clients and/or their new providers have timely access to relevant information about the client's care.

While the particular details of a contingency plan will depend on your practice, it is likely to include:

- the **contact information** for one or more individuals (designates) who have agreed to carry out **specific tasks on your behalf** in the event you are suddenly unable to practise;
- a **list of contacts**, including clients and colleagues and others with whom you have significant professional relationships;
- **directions for the designate(s)**, including those that relate to contacting clients or their substitute decision-makers to inform them of the situation, provide referral information, and discuss maintenance or transfer of clinical records.

Below are some considerations that will help as you shape your contingency plan. Your own research and discussion with colleagues will also be helpful in your planning process.

Identifying an appropriate designate

In the event you were unexpectedly unable to practise, how would your clients learn that you are no longer available to provide services?

- If you are self-employed in a private practice, you will need to identify an appropriate designate who can carry out specific aspects of your contingency plan.
- If you work in an agency or hospital setting, it's possible that a contingency plan already exists to address such a situation – you might find it helpful to speak with your manager for more information.
- If you provide services under contract to a third party, it will be helpful to carefully consider any existing contracts, policies set by the third party, and your overall role in order to understand what responsibilities would fall to a designate.

When selecting a designate, ensure they have the competence necessary to fulfill the duties set out in the contingency plan. Standard 6.4 does not indicate that a designate must be a fellow RP; however, it would be helpful for the designate to at least be a member of a regulated health profession in Ontario, as these individuals are likely to be familiar with the framework of health care law and regulation.

Understanding the needs of the clients you serve is also important, as this is likely to influence your selection of the designate who will carry out specific duties described in the plan, in addition to your plans for referral of clients to other suitably qualified professionals.

Referral to Alternate Service Providers

Professional Practice Standard 1.9: Referral identifies that registrants must refer their clients to other qualified, competent professionals when they are not available to provide services. In light of this, your contingency plan must take into account referral to other professionals where applicable, as would be the case if you had active clinical files. The reasons for the referral must be explained to the client, and, if the referral process requires disclosure of the client's personal health information, the client's consent must be obtained before their information is disclosed.

See Standard 1.9 for more information.

Clinical Records

According to the *Personal Health Information Protection Act*, individuals who have received health care services in Ontario have a right to access to the personal health information that is contained in clinical records. Health information custodians are responsible for ensuring that clients have access their personal health information in a timely manner.

Health information custodians are individuals or organizations who have custody or control over a client's personal health information. For example, an RP in private practice is responsible for storing and maintaining client clinical records, and would likely be considered the health information custodian; an RP who is an employee at a hospital or agency, on the other hand, is likely to be considered an agent working on behalf of a health information custodian, i.e. the hospital or agency.

Professional Practice Standard 5.1: Clinical Records identifies that CRPO registrants must maintain clinical records "for at least 10 years from the date of the last interaction with the client, or for 10 years from the client's 18th birthday, whichever is later."

If you are the health information custodian, your contingency plan must:

- account for the maintenance of clinical records in a manner that accords with relevant laws and the *Professional Practice Standards*; and
- include measures that will facilitate client access to their personal health information, or transfer of the client's personal health information to another health provider, for the period defined in the *Professional Practice Standards*.

See Standards 5.1 and 5.6 on record-keeping for more information.

Instruction to Designate to Notify CRPO

As you prepare your contingency plan, consider adding an instruction for your designate to contact CRPO in the event of your death or incapacity to provide the following information:

- relevant information about the circumstances; and
- the name and contact information of the health information custodian designated in the contingency plan.

This information would be retained in CRPO's records and used only to facilitate a client's access to their clinical records. Only the name and contact information of the designated health information custodian would be shared.

By including this instruction in your contingency plan, you would be increasing the likelihood that a client would be able to access their clinical records in the event you are not available to provide access yourself.

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Q: I'm working with a young child whose parents are going through a divorce. What do I need to know about consent in this situation?

According to Professional Practice Standards Section 3: Client-Therapist Relationship, registrants have a duty to place the well-being of the client at the forefront of the therapeutic relationship. With this in mind, consider the following:

The client's ability to provide consent

In Ontario, there is no "age of consent" with respect to personal health care decisions. In general, clients of any age are considered capable of refusing or providing consent to their own treatment as long as they possess the maturity to reasonably understand the information provided and can appreciate the consequences of their decisions. Where a client is a minor (e.g. under the age of 16 for health care decisions, or under the age of 18 for decisions involving contracts), their capacity to provide consent must be determined on a case-by-case basis.

Every health practitioner who proposes a treatment to a client may perform this type of capacity assessment. Registrants are advised to use their professional judgement and to exercise appropriate care in determining whether a child is capable of consenting to treatment. Where a registrant determines that a child is incapable, treatment may not be carried out unless consent has been obtained from an appropriate substitute decision maker (SDM). Review Standard 3.2: Consent, to see the hierarchy of SDMs.

Keep in mind that a client may be capable of giving consent for some aspects of care, but not others. It is registrants' responsibility to identify the points where consent is possible and to engage the client in an appropriate informed consent process.

Custody orders and parental agreements

Where a client is not capable of providing consent, it is important to know information about the custody arrangements and whether a custody order or parental agreement exists, as these will inform who may make health care decisions on behalf of the child. For example, even when parents have joint custody, there may only be one parent who, under the custody order, may make decisions relating to the health care of the child.

This document provides information about the differences in custodial arrangements and the implications for health care decisions. See the section entitled "Types of parenting arrangements" where these concepts are explained:

Sharing personal health information

In situations where the client is a minor who is capable of providing consent, be advised that you will require the client's informed consent in order to share their personal health information with parent(s) or guardian(s). Sensitivity to the issues that can arise in cases of separation and divorce, along with an awareness of the client's particular concerns, will help you provide the information the client needs to make informed decisions about the sharing of their personal health information.

For more information, see our Informed Consent Workbook.

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Q: I'm registered with CRPO and another college. As a dually-registered practitioner, what do I need to know?

Practice Standards
As a starting point, dually-registered professionals are encouraged to review the standards and policies of the colleges with which they are registered. Many colleges have specific standards that apply to dually-registered professionals, though CRPO does not have such resources at this time. Until a standard or guideline on this subject exists, CRPO registrants are encouraged to carefully review CRPO's Professional Practice Standards in light of their dual practice, in particular Standards 1.2: Use of Terms, Titles and Designations, 1.6: Conflict-of-Interest, 1.7: Dual or Multiple Relationships, 3.1: Confidentiality, 3.2: Consent, 5.3: Issuing Accurate Documents and 6.2: Advertising and Representing Yourself and Your Services.

Administrative Matters
There are a number of administrative matters that a dually registered professional should be aware of. An obvious example is the annual registration process – the dually-registered practitioner is required to complete the annual registration requirements, including any forms and payment of fees, of each college they are registered with. In addition, the dually-registered practitioner is required to engage in the quality assurance programs of any colleges they are registered with; this includes meeting the QA requirements and deadlines of each college.

Complaints
Dually registered professionals should be aware of the possibility that a concern or complaint against them can be received by one or both colleges. While each college independently investigates complaints filed against its registrants, it is possible that in some cases a complaint filed against a registrant with one college could prompt an investigation by the other college, even if the complaint was not originally filed with that college.

Considerations
Being dually registered also has implications for clinical practice – a few examples will be covered off here. For more information, registrants are encouraged to connect with CRPO's Practice Advisory Service.

The nature of your dual-practice – Depending on the nature of your dual practice, there may be some overlap in the work you do as an RP and the work you do in your other professional capacity. Dually-registered professionals are encouraged to think carefully about where any overlap may or may not occur in their practice. If your other profession does not overlap with psychotherapy, consider whether it is appropriate to refer or treat the same client in the other role.

Providing information for informed consent – Clients are entitled to provide informed consent prior to any treatment. In order for a client's consent to be considered informed, they must be provided with all the information that one would need in order to make such a decision. Because of potential confusion, it is important that dually-registered practitioners describe their practice and services as accurately as possible, taking care to clarify to the client when the dually-registered practitioner is working in their capacity as a psychotherapist, or when they are working in their other professional capacity.

Maintaining clinical records – The dually-registered practitioner should be mindful that they will be expected to maintain clinical records in a manner that meets the standards of each college with which they are registered.

Billing – CRPO registrants are required to issue clear, accurate documents to third-parties. This means that receipts and invoices should include an accurate description of the services provided to the client, and it should be clear in all financial records in which professional capacity the rgistrant was working in when those services were provided to the client.

This FAQ does not address registrants who practise in unregulated fields in addition to the regulated profession of psychotherapy. For guidance, please see the article Dual practice: Can I incorporate non-psychotherapeutic activities in my practice?

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Dual practice: Can I incorporate non-psychotherapeutic activities in my practice?

This article was first published in August 2023

Many registrants have education, training, and experience in non-regulated professions in addition to their psychotherapy training. Sometimes these unregulated activities complement psychotherapy treatment; in other cases, the situation is less clear. In all instances, registrants are encouraged to consider their role(s) carefully.

Scope of practice

RPs are permitted to assess and treat cognitive, emotional, and behavioural disturbances in the course of their work (please see Scope of Practice). CRPO recognizes that RPs practise a diversity of modalities and interventions. Registrants are expected to have experience and knowledge in the modalities they use, and to seek out training, supervision, or consultation as required. (See Standard 2.1: Consultation, Clinical Supervision and Referral.)

RPs can provide care outside the scope of psychotherapy, if they have the knowledge, skill, and judgement (i.e., competence) to do so, and if they manage the activity responsibly. When working outside the scope of psychotherapy, registrants need to be vigilant to avoid treating or advising clients in ways that pose a risk of harm. At all times, registrants are required to adhere to CRPO Professional Practice Standards.

Informed consent

Any intervention provided must be considered with the client's well-being and best interest in mind. In addition, informed consent is required for anything done for a therapeutic or other health-related purpose.

Registrants may incorporate some non-psychotherapy activities as an adjunct to their main psychotherapy practice. For example, an appropriately trained RP might guide clients in yoga poses or breathing exercises to promote grounding and relaxation, before engaging in psychotherapy.

When incorporating other healing practices in psychotherapy sessions, registrants must provide the client with "sufficient information to understand the nature of the therapy and potential risks and benefits, as well as information about other available therapeutic options and the implications of not proceeding with therapy. Information provided to clients must not misrepresent potential benefits or raise unrealistic expectations. If therapy is expected to probe troubling experiences or to cause emotional distress, this should be explained to the client and noted in the client record." (See Standard 3.2 Consent.)

In other situations, to avoid confusion, a registrant may need to explain that they are not providing psychotherapy in a particular session or with a particular client. This may be the case if the registrant is also a career counsellor, academic counsellor, case manager, or family mediator.

Informed consent can be accomplished by having a clear dialogue with the client about their expectations of the relationship and for the RP to articulate clearly, what services they are providing to the client in each context. This helps ensure that the client fully understands the nature of the relationship and avoids any confusion.

Billing practices

When an RP works in two or more separate and distinct practices, it is important to ensure all billing for psychotherapy services remains aligned with Practice Standards. For example, it would not be appropriate to describe a yoga or reiki session as "psychotherapy" on receipts. (See Standard 5.3: Issuing Accurate Documents – https://www.crpo.ca/standard-5-3-issuing-accurate-documents/ and Standard 5.5: Record-keeping – Financial Records – https://www.crpo.ca/standard-5-5/.)

Advertising

In general, psychotherapists must ensure that any information, advice, or comments they offer to clients or others can be supported as reasonable professional opinion and are consistent with professional standards and ethics. (See CRPO Professional Practice Standard 6.2: Advertising and Representing Yourself and Your Services.)

Interventions that involve touching a client

Registrants must be very cautious when implementing interventions that involve touching a psychotherapy client. Please take note that a wide range of actions constitute sexual abuse under the Regulated Health Professions Act, and refer to the following sections of the Professional Practice & Jurisprudence for Registered Psychotherapists Manual for further explanation of expectations:

- Under Standard 1.8, see "Sexual Abuse" and "Examples of Sexual Abuse" https://www.crpo.ca/professional-practice-and-jurisprudence-for-registered-psychotherapists/#standard18
- Under Standard 1.7, see "Touching" https://www.crpo.ca/professional-practice-and-jurisprudence-for-registered-psychotherapists/#standard17

Considerations and reflection questions for dual practice

The following reflection questions summarize the information presented above:

- Is the client clear on what kind of treatment they are receiving?
- Does the client understand the treatment that is being offered and potential risks and benefits?
- Does the RP have the competence to offer the services?
- Does the combination of psychotherapy and non-psychotherapy treatment create a dual relationship or cross professional boundaries?
- Is the billing record accurate if it claims to relate to psychotherapy services?
- Does any advertising cause confusion or conflate two distinct practices? Would other RPs support any claims made about the services or products being offered as reasonable?
- Are there any legal or professional obligations that apply, not only for the psychotherapy practice but also for the other service?
- Do any conflicts of interest exist? Are safeguards in place to ensure any recommendations are in the client's interest only? Do any revenue-sharing agreements align with CRPO Practice Standards?

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Question: Are CRPO registrants required to charge HST?

Whether or not a registrant is required to charge HST is largely determined by the Excise Tax Act, which is federal law. It includes a list of exemptions that exempt services that are provided by specific professionals. RPs do not appear on the list of professionals whose services are exempt from HST. There may be some situations in which an RPs services can be exempt from HST; however, your accountant or a Canada Revenue Agency representative would be in the best position to provide guidance that is specific to your situation. See Schedule V, Part 11 of the Excise Tax Act.

Are the services provided by a CRPO registrant eligible for a tax credit?

A Government of Canada website identifies that Registered Psychotherapists appear on the list of "Authorized medical practitioners for the purposes of the medical expense tax credit." We also understand that "therapy plan" and "therapy" appear on the "List of common medical expenses" that are eligible for a tax credit. These services are only eligible for the tax credit when specific conditions are met – please visit the Government of Canada's website or contact your tax advisor or accountant to explore how this information could impact your practice.

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Question: I am an RP and I am opening a private practice. I'm confused about fees and billing. How much should I be charging my clients? What should my receipts look like? What needs to be included? What are CRPO's guidelines? I want to make sure I am doing this correctly for CRPO and also for my clients.

Setting Fees

According to Professional Practice & Jurisprudence for Registered Psychotherapists, "Establishing professional fees charged by members is not within the mandate of the College, and the College does not set the fees for members' services. In fact, the college does not regulate the amount a member may charge a client, unless the fee is excessive. A fee is considered excessive if it takes advantage of a vulnerable client or is so high that the profession would conclude that the RP is exploiting a client." For additional information regarding fees, consult the *Professional Practice Standards*, Standard 6.1: Fees.

Billing and Receipts

Many registrants, especially those in private practice, collect payment after each psychotherapy session and issue a receipt to the client. The College has information on financial record-keeping, including billing and receipts, in the *Professional Practice Standards*, Standard 5.3: Issuing Accurate Documents and Standard 5.5: Record-keeping – Financial Records. Members must provide clients with accurate records and other documents, including invoices, bills and receipts.

In short, receipts should include:

- the registrant's legal name (and any alternate name used in practice);
- title conferred by the College and registration number;
- amount paid;
- date the service was provided;
- type of services provided; and
- full name of the client.

Members are expected to be accurate, transparent and reasonable in their fee and billing practices. For example, if a member works with associates, it should be clear which psychotherapist saw the client.

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Question: I practise in Ontario but have a client outside of Ontario who wants to work with me.

Whether a client resides in Ontario or in another jurisdiction, registrants may provide services using communications technologies as long as:

- they are able to do so competently and in a manner that abides by the Professional Practice Standards;
- there is no law, regulation or standard in the other jurisdiction that would restrict or prohibit the registrant from providing services to a client located in that jurisdiction; and
- they have appropriate liability insurance coverage considering the particular technologies used to provide services, the risks these technologies may present, and the possibility that the registrant's practice will cross into other jurisdictions.

Registrants who provide psychotherapy using communications technologies (e.g. phone, video conference, etc.) have an electronic practice. Professional Practice Standard 3.4: Electronic Practice and the accompanying Guideline set out expectations for registrants who engage in electronic practice, some of which are highlighted below.

Registrants who wish to work with a client located in another jurisdiction must determine whether any law or regulation in that jurisdiction that would prevent them from providing therapy to the client. This might require, for example, that registrants investigate whether the practice of psychotherapy or counselling is regulated in the client's jurisdiction and if so, that the registrant makes inquiries with the regulatory body there.

To an extent, a communications platform is its own therapeutic milieu that influences the therapeutic relationship and the therapy itself. Being able to leverage this therapeutic milieu safely and to the benefit of clients is an important skill. Familiarity and comfort with the technologies that are used in electronic practice can help registrants meet their obligations with respect to confidentiality and enable them to resolve technical issues that might arise during a session.

Before any therapy is provided, registrants must first evaluate the appropriateness of therapy, given the nature of the client's concerns, their ability to access technologies safely and privately, and their overall comfort and capability with communications technologies. Therapists must also consider whether providing therapy in this manner would present a risk of harm to a client in light of the client's symptoms and individual risk factors, for example safety in the home or possibility of adverse reaction during therapy.

There are added considerations for the informed consent process. For example, registrants are expected to enter into a contract with clients before providing services. In addition, therapists must inform clients of the technologies that will be used and discuss the risks to confidentiality that these technologies may present.

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Question: I am not in Ontario but I have a client in Ontario who wants to work with me.

CRPO does not require practitioners who reside in another jurisdiction to become registered in order to work with a client in Ontario providing:

- the therapist does not intend to advertise or otherwise promote their services in Ontario; and
- Ontario-based clients do not form a substantial proportion of the therapist's workload

If any of these factors were to change, CRPO would revisit the facts and consider whether the therapist should apply for registration, even on a temporary basis.

In Ontario, non-registrants cannot use the title "psychotherapist" or hold themselves out as a psychotherapist. If you use the title or hold yourself out as a psychotherapist in your home jurisdiction, and your connection to Ontario is insignificant, CRPO will not take the position that you are using the title or holding out *in Ontario*. However, if your connection to Ontario is substantial (e.g. your advertising focuses on Ontario, a significant number of your clients are in Ontario, or you are regularly physically present in Ontario), you would not be able to use the title psychotherapist or hold yourself out as a psychotherapist unless you become regulated in Ontario.

In addition, non-registrants cannot perform the controlled act of psychotherapy in Ontario, 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.

Non-registrants cannot perform this act on clients in Ontario, except in cases of emergency or where another exception applies (e.g. indigenous or spiritual healing). If a practitioner is a regulated counsellor or psychotherapist in another province/state, CRPO will consider this as a mitigating factor. Because the practitioner is already accountable to another regulator, CRPO will generally not take action against that individual for providing infrequent e-therapy to a client who is located in Ontario. Click here for information about the controlled act.

For more information about registration please contact the Registration Department.

If you have other practice-related questions please contact practice@crpo.ca.

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Question: Is it preferable to keep paper or electronic files?

Registrants (or the organization they work for) are free to choose whichever record-keeping system is best suited to their needs and access to technology. The same principles apply to both paper and electronic record-keeping. For example, modifications to any record need to be tracked. In other words, the originals must not be overridden or erased.

Security of paper records would include locking and storage, while for electronic records it would include encryption, virus prevention, backups, and physically restricting access to

the computer and display. When using electronic record-keeping systems, an alternative means for record-keeping must be ready in case the electronic system is down or unavailable. Check out CRPO's Professional Practice Standard 5.6: Recordkeeping – Storage, Security and Retrieval as well as the CRPO Professional Practice and Jurisprudence Manual for more detail.

Question:

I have been using paper in the past and want to switch to electronic record-keeping. Can I scan and destroy the paper copies?

Answer:

There are options when it comes to transitioning from paper to electronic record-keeping. You may either convert all existing paper records into electronic form, or retain paper records and begin entering information into an electronic format on a subsequent basis. In either case, client care and appropriate record-keeping practices must continue without interruption.

When scanning paper records, registrants are responsible for ensuring their integrity upon conversion into electronic format. This includes verifying that documents have been properly scanned and that the entire record is intact, including any attached documents and notes. You should establish specific procedures for converting files and document these procedures in writing. It may be helpful to enlist a reputable commercial organization to assist in this process[1].

The Information and Privacy Commissioner of Ontario states that old paper records should not be destroyed unless the required retention period has expired or the entire paper-based record has been duplicated in electronic format[2].

Question:

How do I determine who is the "health information custodian"?

Answer:

CRPO often receives questions about who is responsible for health information recorded by a registrant. The answer to this question depends on identifying the "health information custodian." The term "health information custodian" is defined in the Personal Health Information Protection Act, 2004 (PHIPA) [3,4]. In short, a custodian is an individual or organization that has has custody or control of personal health information.

If practising alone, a registrant is the health information custodian of their clients' information. If employed by another health information custodian such as a hospital, the employer is the health information custodian and the registrant is expected to follow the record management practices of their employer.

Where a registrant is employed by a non-health organization such a school, university, college or municipality, the registrant is considered to be the custodian. In these situations, the registrant cannot disclose personal health information to his or her employer without the client's consent or another legal exception.

In other situations, the answer may not be clear, and registrants will need to speak with their employer. The Information and Privacy Commissioner of Ontario also has resources on this topic [5,6].

Question:

How do I properly destroy my client files?

Answer:

Records need to be kept for 10 years from the last interaction with the client or from the client's 18th birthday, whichever is later. Financial records, appointment and attendance records need only be kept for five years [7].

When the time period for keeping the record has expired, the records should be destroyed. If the therapist destroys any records, they should record the names of the destroyed files and the date they were destroyed." For paper records, destruction means cross-cut shredding, not simply continuous (single strip) shredding, which can be reconstructed. You should consider pulverization or incineration of records that are highly sensitive. You might also hire a licensed service provider to destroy your files. In doing so, look for a provider accredited by an industrial trade association, such as the National Association for Information Destruction (NAID) [8].

For questions about confidentiality and health records, contact the Information and Privacy Commissioner of Ontario.
https://www.ipc.on.ca
Toronto Area: 416-326-3333
Toll Free: 1-800-387-0073
info@ipc.on.ca

[1] From "Ontario Policy Statement # 33-38, Electronic Records", 2000, *College of Physicians and Surgeons*, p. 5.
[2]From "Personal Health Information: A Practical Tool for Physicians Transitioning from Paper-Based Records to Electronic Health Records", 2009, *Information and Privacy Commissioner of Ontario*, p. 20.
[3]From "Frequently Asked Questions Personal Health Information Protection Act", 2015, *Information and Privacy Commissioner of Ontario*, p.7-9.
[4]From "Personal Health Information Protection Act", 2004, Information and *Privacy Commissioner of Ontario*, Section 3(1).
[5] From "A Guide to the Personal Health Information Protection Act", 2004, *Information and Privacy Commissioner of Ontario.*
[6]From " Frequently Asked Questions Personal Health Information Protection Act", *Information and Privacy Commissioner of Ontario*, 2015.
[7]From " The CRPO Professional Practice Standards for Registered Psychotherapists".
[8]From "Personal Health Information: A Practical Tool for Physicians Transitioning from Paper-Based Records to Electronic Health Records", 2009, *Information and Privacy Commissioner of Ontario*, p. 22.

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Question: I am an RP. I work for an agency and also have a private practice. What are CRPO's guidelines for referring a client of the agency to my private practice?

CRPO's Professional Practice Standard 1.9: Referral, states that a member may "self-refer" a client from one practice to another, in certain circumstances. The key is allowing the client to make an informed choice and not taking advantage of an existing professional relationship in order to secure more business. This Standard also provides a description of what a self-referral is, when a self-referral may be made, safeguards to avoid a conflict of interest as well as exceptions.

Some employers may not allow registrants to self-refer clients to their private practice. In this case, registrants should act in accordance with their employer's policies; the College generally does not get involved in employer-employee issues.

Please consult Standard 1:9: Referral, for additional detail.

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Question: My employer's policies clash with CRPO's practice standards. Which one should I follow?

CRPO registrant (*not her real name*) called our practice advisory service because she was feeling concerned that the policies at her place of employment clashed with CRPO's professional practice standards. She explained that she provides psychotherapy to people using their employee assistance plans. The problem is that her employer does not want Jane to disclose to clients that they are only entitled to have four to five appointments with her. Jane was aware that this limitation may not support the well-being of her clients, which is at the heart of standards of practice. She felt worried that her employer's policy was impeding her ability to meet CRPO's standards.

Our practice advisor asked Jane if she had spoken with her employer about how this policy would be applied in situations where longer-term therapy would benefit the client. She replied that, yes, she had raised concerns about the potential for a negative impact this would have on clients, but the employer had not been moved to change the policy.

She noted that she was considering raising the matter as an informed consent issue. Jane had used the CRPO Informed Consent Workbook, and was aware that laws, such as the

She noted that she was considering raising the matter as an informed consent issue. Jane used the CRPO Informed Consent Workbook and was aware that laws, such as the Health Care Consent Act (HCCA) and the Personal Health Information Protection Act (PHIPA), set the basic requirements of the informed consent process. Jane knew she was responsible for ensuring that her clients had given informed consent before any assessments or treatments are provided, and before collecting, using and disclosing the client's personal health information. While her place of employment had an informed consent policy and process in place, it had a gap when it came to information about restrictions on the number of appointments.

The limitations to the services that Jane is able to provide to a client should be disclosed as part of informed consent. Transparency about limitations to services may help the client and their therapeutic process, particularly when establishing therapeutic goals and treatment plans that are realistic and when considering the client's longer-term needs for self-management and/or further services.

Our practice advisors suggested that Jane had a couple of options: one was to approach the employer again and advocate on behalf of her clients' well-being, as well as her own interests as a regulated health professional who is required to meet certain standards.

Her other option was to seriously consider whether she wanted to continue in an employment relationship that was impeding her ability to support safe practice and client well-being.

The practice advisory reminded Jane that if she needed to discontinue services in order to comply with an employer's policy, she must do so in accordance with the Professional Practice Standards 6.3: Discontinuing Services.

Jane decided that the informed consent angle was how she would approach the matter. She decided to approach her employer and make the case that providing additional information to clients was important, as was to checking in with clients to see whether that additional information impacted their decision to proceed with (or refuse) treatment. This felt like the safest and most ethical approach, in light of the circumstances. Jane realized that she would not be able to compel her employer to allow more therapy sessions, but she felt that the changes to support appropriate informed consent would be a reasonable compromise, that only needed a minor policy change within the organization. Jane contacted us again recently to let us know she is actively working with her employer to implement this new policy.

Understandably, these potential conflicts can be frustrating, even distressing, for a practitioner who recognizes when they have an obligation to meet standards of practice even when doing may result in friction with their employer. While CRPO regulates individuals, not employers, we encourage employers to establish policies that align with standards of practice that are relevant to the professions that work within the organization.

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Professionalism in business relationships.

When an RP enters into a private practice business arrangement with another person, it is essential that they address key details of their business relationship at the outset in order to prevent the possibility of confusion and disruption in client care. Along with the commercial aspects of business (remuneration, marketing, etc.), these details should include the informed consent process, information and documentation practices, and what will happen when the business relationship ends.

Registrants considering entering into a business arrangement need to take into consideration the requirements and standards of practice that apply to CRPO registrants and any other regulated health professionals who may be involved. Below is guidance for CRPO registrants to assist them in this regard.

Principle-based decision-making

CRPO registrants can look to the Professional Practice Standards for useful guiding principles that can help assess if the particulars of a business arrangement are ethical and/or aligned with the standards. We've put together a case study, which appears at the end of this article, to illustrate how the standards can be used.

Identifying the health information custodian

Identifying how the role of the "health information custodian" (HIC) will be addressed within the practice is essential. Under the Personal Health Information Protection Act, 2004 (PHIPA) HICs have specific obligations with respect to security of and access to client personal health information. A first step here is to understand the array of possibilities with respect to who or which entities can occupy the role of HIC. PHIPA lists the individuals and entities that are eligible to act as a HIC.

There are a number of possible arrangements with respect to the role of HIC in a private practice setting. Examples include:

- A private practice where all regulated health professionals providing care in the setting are HICs. In this case, each individual would be independently responsible for carrying out the obligations of the HIC, which includes assuring that information practices align with requirements and standards of practice, like secure storage of records and client access to their own records.
- A private practice with a single owner/operator who designates the practice itself is the HIC. In this case, the practice owner/operator would be responsible for naming a contact person who is responsible for carrying out the obligations of the HIC and ensuring that any individuals operating within the setting are abiding by requirements and standardslike maintaining the clinical records after therapy ends and reporting breaches of confidentiality if they happen within the setting.

Designating how the practice will address the role of the HIC at the outset of the business arrangement serves a number of purposes, some of which are listed below. There is no benefit to avoiding this task, as the obligations of the HIC will apply even when one is not explicitly identified and even when one fails to recognize when they are considered a HIC. Designating a HIC:

- Enables a more thorough informed consent process with respect to collection, use and disclosure of client personal health information.
- Clarifies who is responsible for specific information practices within the setting, and to what extent.
- Determines appropriate courses of action when there are questions or issues that arise with respect to management of the records or handling of a client's personal health information.

Informed consent to treatment

A client should be made aware of the nature of their relationship with the practice and with their therapist before any assessment or treatment is provided, as this information may be material to a client's decision to agree to treatment. For example, if the business arrangements within the private practice mean that the client is considered the client of the practice, as opposed to the client of any particular therapist, then the client should be informed of this. They should be made aware of any limitations this may present in, for instance, their ability to transfer between providers within that practice or to continue care with a therapist who leaves that practice. Learn more by reviewing Standard 3.2: Consent.

Consent to collection, use and disclosure of PHI and management of clinical records

Registrants need to obtain informed consent from clients with respect to the collection, use and disclosure of their personal health information. Explaining who has access to the record and for what purposes helps the client understand how their information is ordinarily collected, used or disclosed in the setting. The client should also know who to contact for information about- or access to their clinical records. For example, if an RP in a group private practice is responsible for maintaining their own clinical records, the therapist would likely explain to their client that the therapist themselves is the contact person. In a scenario where the practice itself has taken on the role of the HIC, then the therapist might provide the contact information of a person designated by the practice owner/operator.

Ending business arrangements

Planning for the end of the business arrangement can help to avoid confusion and conflict, it can also promote effective management of care for the departing therapist's clients.

Standards 6.3: Discontinuing Services and 6.4: Closing, Selling or Relocating a Practice provide fairly specific guidance here. For example, unless there is an appropriate reason to do otherwise, registrants must:

- Make reasonable efforts to provide advanced notice to clients
- Provide a reason for discontinuing services
- Discuss alternate arrangements for services in light of the range of options available, which are likely to include: whether it will be possible to continue with the current therapist in another location, whether the client wishes to continue with a different therapist or alternate service in the current setting or somewhere else
- Refer the client appropriately

The Standard on discontinuing services indicates that a relationship between a client and their therapist should be able to continue as long as the client is benefitting from the therapy and wishes to continue receiving services. It also provides a number of legitimate reasons for discontinuing services. With this in mind, a registrant should not agree to business arrangements that place unreasonable restrictions on a client's ability to receive services from their preferred provider, nor should they actively solicit clients who chose to receive services from another provider.

When a business relationship ends, arrangements may need to be made for the clinical records, keeping in mind who has been identified as the HIC and ensure the arrangements abide by record-keeping obligations. For example, if each party in the practice is operating independently as a HIC, then the registrant remains responsible for assuring the ongoing management of the clinical records accords with the Professional Practice Standards. If another person is the HIC, then the records would remain with that person. See Standard 5.1: Clinical Records and 5.6: Storage, Security and Retrieval for general information about record-keeping practices. It should be clear to clients where their records will be maintained and who to contact in order to request access.

Case Study

Teri, RP, has a growing private practice. She wants to bring on Mika, RP (Qualifying), who would provide services for some new clients. Teri provides a contract to Mika and asks her to sign it. While reviewing it, Mika noticed a clause that suggested that Mika would not be able to solicit clients of the practice, even after her business relationship with the practice ends. Another clause suggested that if/when Mika's business arrangement with the practice ended, she would not be able to provide services to clients that she saw in the practice for a period of two years.

Mika called Teri to talk about what would happen with clients if their business arrangement ever ended. Mika explained that when she ended her last internship, there were clients who still needed treatment and who really wanted to continue working with her. Mika was able to work out an arrangement with the internship supervisor so that she could continue working with those few clients for a few more sessions until treatment was concluded.

Teri explained that clients who contact the practice to receive services are considered the clients of the practice, and so if Mika planned to move on from the practice, Mika would need to explain to any clients who wanted to continue receiving treatment that they would be referred to another RP in the practice.

Mika wasn't comfortable with this arrangement. She turned to the Professional Practice Standards and saw that when it comes to discontinuing services, an RP has to work in a client's best interests at all times. Also, the relationship should continue as long as the client is benefitting from the therapy and wishes to continue. Mika asked herself if she would be meeting the standard of practice if she agreed to the terms of the contract as they were currently set out. Mika reasoned that, in a private practice, a client's options to receive services from their preferred provider should only be limited if there is a good enough reason for doing so. She contacted Teri to discuss the matter again. She resolved that if Teri wasn't able to offer more flexibility on this matter, she wouldn't feel comfortable entering into a business arrangement at this time.

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I just learned that the police can ask to access my records if they believe it will help in a missing persons case. What should I know about this?

Ordinarily, an RP is required to maintain confidentiality and refrain form sharing their clients' personal health information. But there are circumstances where an RP is required to share information, or may share information at their discretion. The laws and requirements that govern confidentiality of client health information are mainly set out in the Personal Health Information Protection Act and the Professional Practice Standards, in particular 3.1: Confidentiality.

The Missing Persons Act took effect in 2019, and sets out the processes for sharing client personal health information with police in a missing persons investigation. Health care providers always had the discretion to share information with police if they had reasonable grounds to believe that the sharing would reduce or eliminate a serious risk of bodily harm. In addition, health care providers have always been required to comply with summons, orders or search warrants relating to their records.

What the Missing Persons Act introduces are new pathways. Of greatest relevance: police may request information contained in personal health records under what is referred to as an Urgent Demand, and must use the appropriate form to do so. All or part of the record may be requested, or an oral description of its contents if the police officer consents to it.

While the law allows the clinical record to be provided to police, some have expressed concern about turning over a client's complete file. If you ever receive an Urgent Demand, we encourage you to review the form carefully. If there is a compelling reason not to share parts of the record that have been requested (e.g. that you are aware the person does not wish to be located), communicate these concerns with the police or contact your legal counsel promptly.

Questions about your practice? Send them to practice@crpo.ca.

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I'm waiting for my application to be approved by CRPO – What can I call myself?

Only CRPO registrants may use the terms "psychotherapist,"[1] "Registered Psychotherapist", a variation, abbreviation or equivalent in another language.[2] The title Registered Psychotherapist (Qualifying) is also restricted and can only be used by those who have been issued a certificate of registration through the regular application route. Students, individuals fulfilling the requirements to apply to CRPO and people awaiting approval of their submitted application, are not yet CRPO registrants. They may use the titles "student therapist" or "therapist in training."

While CRPO does not have direct jurisdiction to govern the practices of students and those awaiting approval of their application, CRPO can challenge an application for registration in situations where the applicant has used a restricted title or inappropriately represented themselves or their qualifications.

Prospective registrants should also be aware of their obligations with respect to informed consent. It will be important for prospective registrants to take care in how they communicate their qualifications to prospective clients, representing their qualifications and services transparently and accurately in interactions with clients by, for example:

- Identifying that they intend to become registered with CRPO but are not yet registered. Where an application has been submitted to CRPO by a prospective registrant, clients may find it helpful to know this.
- Identifying that they are required to practise while under clinical supervision and providing the name of their clinical supervisor.
- If they are a student, communicating their affiliation with the institution and/or program that is delivering their education and training.

Learn more about how prospective registrants will be expected to represent themselves and their services upon registration by reviewing Professional Practice Standard 6.2: Advertising and Representing Yourself and Your Services. Learn more about consent by reviewing the Informed Consent Workbook.

[1] Registrants of six other colleges may use the title "psychotherapist," in accordance with the requirements and standards established by their respective colleges and providing they use their regulated title, including the College of Psychologists of Ontario, Ontario College of Social Workers and Social Service Workers, College of Nurses of Ontario, College of Occupational Therapists of Ontario, and College of Physicians and Surgeons of Ontario.

[2] These are restricted titles under section 8(1) the *Psychotherapy Act,* 2007.

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How often should a registrant receive clinical supervision?

The following Practice Matters article first appeared in the April 2021 Communiqué:

CRPO has recently received queries about how often registrants should receive clinical supervision. Clinical supervision is an important part of professional development and safeguarding clients. All RP(Qualifying) registrants are required to practise with clinical supervision. They can transfer to the full RP category after passing the registration exam and completing 450 direct client contact (DCC) hours and 100 clinical supervision hours. Once in the RP category, registrants are required to continue practising with clinical supervision until they have completed 1000 DCC hours and 150 clinical supervision hours. Registrants are encouraged to continue receiving clinical supervision or consultation as needed, even after they are authorized to practise independently.

Dividing the above numbers provides a rough guide to frequency of clinical supervision. However, we continue to receive questions from stakeholders, as well as feedback that it may not be reasonable in some situations to expect registrants to receive a high frequency of clinical supervision, for example one clinical supervision hour for every 4.5 DCC hours.

CRPO is currently planning a comprehensive review of clinical supervision. We will soon be launching a survey seeking feedback on supervision-related topics, including frequency of clinical supervision. Until then, please refer to Practice Standard 4.2 Practising with Clinical Supervision, Practice Standard 2.1 Consultation, Clinical Supervision and Referral, and the Clinical Experience for Registration Policy. Note the wording that the suggested ratios are "approximate". Supervisors and supervisees have a shared responsibility of applying professional judgment based on the circumstances to determine the appropriate frequency of clinical supervision. Factors may include:

- The level of experience and competency areas of the supervisee
- The nature of the therapy (modality, clientele, presenting issues)
- Other supports available (peer group, consultation, managerial oversight)

The key idea is to do what is reasonable in the circumstances to ensure clients receive safe and effective care keeping in mind that the clinical supervision and DCC requirements have been set to safeguard the public.

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Does CRPO approve clinical supervisors or supervision training?

The following Practice Matters article first appeared in the July 2021 Communiqué:

No, CRPO does not currently approve clinical supervisors or grant the designation of "supervisor" or "clinical supervisor". RPs should not use titles such as "CRPO-approved supervisor", "CRPO clinical supervisor", or "RP-S".

If you want to become a supervisor, you can begin providing clinical supervision once you meet the requirements. You do not need to contact CRPO for approval to provide clinical supervision.

CRPO does not currently approve or accredit supervision training. Supervision training programs should not say they are CRPO-approved. If you are selecting training in providing supervision, please see the guidance here and here.

CRPO is currently reviewing supervision-related policies and will update registrants in the coming months.

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Promotions, package deals, and discounts

The following Practice Matters article first appeared in the November 2021 Communiqué:

We receive many questions asking if promotional rates and discounts are allowed to encourage access to therapy, especially during the pandemic.

RPs are expected to be transparent and reasonable in their billing practices and avoid conflicts of interest. This includes ensuring that clients understand what is included in the fees they are paying, documenting any discussions about fees, and indicating the reasons why a fee may have been reduced or waived. (See Standard 6.1 Fees and Standard 5.5 Record-keeping – Financial Records.)

Promotional rates

RPs are permitted to offer a promotional rate to clients; however, it is important to avoid potential risks. These risks may include an offer that promotes unnecessary treatment, unduly influences a client's decision to receive treatment, or acts as a barrier once the promotional rate ends. It is not permitted to offer a discount for prompt payment, e.g., an 'early bird' rate. Offering gifts (other than of nominal value) or partnered promotions to begin therapy could create the perception of a conflict of interest, and should be avoided.

While different from promotional rates, it is worth noting that registrants may accept payment on a sliding scale, i.e., a variable fee depending on ability to pay. Such an arrangement must be considered on a case-by-case basis and documented in the record.

Block fees and package deals

Offering a set number of sessions for an agreed upon fee is a block fee arrangement. Standard 6.1 allows block fees for psychotherapy services as long as the following aspects of the agreement are established in writing beforehand:

• services covered by the fee;

• amount of the fee;

• arrangements for paying the fee; and

• the rights and obligations of the registrant and the client if the relationship between them is terminated before all the services are provided.

The last point is a safeguard that protects clients from attending unnecessary treatment because they have already paid or paying for services when they are no longer attending treatment. To accomplish this, the agreement may hold that a portion of the block fee is refunded to the client if the relationship ends before all the services are provided. Clear policies on these matters will help avoid complaints.

Resources for more information:

Practice Standard 6.1, Fees: https://www.crpo.ca/standard-6-1-fees/;

Standard 1.6, Conflict of Interest: https://www.crpo.ca/standard-1-6/; and

Section F, Billing of the Professional Practice & Jurisprudence For Registered Psychotherapists

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Grey areas around testimonials

The following Practice Matters article first appeared in the December 2021 Communiqué:

One topic CRPO's Practice Advisory Service receives questions about is testimonials. A testimonial is a statement from another person about the quality of a registrant's services. The statement could be in words or simply an online 'star' rating. It is professional misconduct to use a testimonial by a client, former client or other person in the advertising of the member or his or her practice. CRPO's Standard on advertising explains that testimonials are unreliable and "may also lead to concerns that clients have been pressured into providing them".

The Standard goes on to clarify that the rules do not prevent clients or others from writing reviews about registrants (e.g., on third party Internet sites for rating professionals), provided the registrant does not request them to do so, and provided the registrant does not influence which reviews are published. Note that if a registrant linked their advertising directly to a third-party rating or review site, this could be considered inappropriately using a testimonial.

People have asked about several grey areas. For example, what about a program funding application that asks clients to share their experiences? As this is not advertising, it would not be covered by the prohibition on testimonials. However, program evaluation would need to be done in a voluntary and objective way, so clients are not pressured to comment.

Another question we received was about a quotation promoting a registrant's book. While in the broadest sense this could be considered a testimonial, there are factors that could mitigate concern. These include if the review focused on the content of the book rather than the registrant's psychotherapy practice. Also, there would be less concern if a colleague wrote the review versus someone in a power imbalance like a client or former client.

Finally, can a registrant use testimonials for their non-psychotherapy practice, for example as a parenting coordinator? Caution would be advised if the field is related to psychotherapy and potential psychotherapy clients might rely on the testimonials

psychotherapy and potential psychotherapy clients might rely on the testimonials.

The following are questions to help consider whether a statement is a problematic testimonial:

- Is the registrant using the statement in advertising?
- Does the registrant have a power imbalance with the person making the statement?
- Does the statement make claims about the registrant's practice?

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Can an RP provide individual therapy to members of a client's family?

The following Practice Matters article first appeared in the January 2022 Communiqué:

This note considers how CRPO standards apply to providing individual therapy to family members or other close contacts of an existing individual client. This situation is distinct from couple and family therapy, where the collective client includes more than one person, and where there are parameters around seeing individuals one-to-one as a component of therapy, as well as for transitioning between individual, couple, and family therapy.

Navigating this issue requires consideration of conflicts of interest and confidentiality. CRPO Professional Practice Standard 1.6, Conflict of Interest notes, "a conflict-of-interest exists when a member is in any arrangement or relationship where a reasonable person could conclude that the exercise of the member's professional expertise or judgment may be compromised by, or be influenced inappropriately by, the arrangement or relationship. A conflict-of-interest may be actual, potential or perceived."

Treating individuals who are closely related could lead to a situation where the registrant cannot promote the interest of one client without adversely affecting the interest of the other client. This is a conflict of interest. Another aspect of a conflict of interest is the perception that a registrant is taking advantage of inappropriate client referrals.

Another risk with treating someone close to a client is that the therapist might inadvertently disclose confidential information about one client to the other. (See Standard 3.1, Confidentiality.) Confidentiality prevents the registrant from discussing details about the conflict of interest with either client. For example, the registrant cannot identify one client to the other or specify how their treatment may be affected by the conflict.

It is generally best to avoid this situation, though in some circumstances doing so may be difficult. Examples include if the connection between clients is discovered after therapy has begun, or if it would be difficult for the potential client find treatment elsewhere. In these circumstances, significant ethical consideration and clinical judgment are required. Seek clinical supervision and consider whether treating or referring one or both clients is appropriate.

The following questions can help an RP reflect on this issue further:

- Can you as the therapist maintain objectivity when working with this client given your history working with a family member or close relation (e.g., friend who referred)?
- Can you ensure the client will not talk about the other person during session and is it fair to the client to restrict the topics discussed during therapy?
- What will you do if the other person enters the conversation?
- What if the other person who you have previously treated learns you are treating their close contact?

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Online referral services

The following Practice Matters article first appeared in the January 2022 Communiqué:

CRPO is aware of various websites that offer to connect clients and therapists, either as a directory, subscription, or matching service.

One issue with these services is they might match a client in Ontario with a therapist who is not registered in Ontario. CRPO's role in this situation is limited. We can only consider taking action if there is evidence that an unregulated provider is advertising the title "psychotherapist" specifically in Ontario, or that they are doing the controlled act of psychotherapy with clients who are in Ontario. Refer to our FAQ and Cross-border Therapy Tool for more information.

Some websites post information about RPs without their permission. While business contact information is public, registrants should be cautious with websites that claim to refer pre-matched clients. Registrants need to carry out their usual intake to screen potential clients. Registrants are not permitted to pay a referral fee for clients and can only share revenue with other businesses in specific circumstances (see CRPO's standard on conflict of interest).

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What do I need to consider when hiring administrative staff/technical support providers who might have access to client information?

The following Practice Matters article first appeared in the February 2022 Communiqué:

When preparing and maintaining records, Registered Psychotherapists are subject to the Personal Health Information Protection Act, 2004. PHIPA governs therapists' use of personal health information, including its collection, use, disclosure and access.

PHIPA allows health information custodians to engage the services of agents. For example, administrative staff or technical support providers could be considered an agent of the health information custodian. When working with an agent, there should be a confidentiality agreement in place. The custodian is still responsible for the records, even if they have an agent. The custodian must take reasonable steps (such as training, oversight and having policies in place) to ensure the agent maintains privacy of the information to which they have access.

The following definitions are found in the Information and Privacy Commissioner of Ontario's Frequently Asked Questions: Personal Health Information Protection Act:

WHAT IS A CUSTODIAN?

A custodian is a person or organization listed in PHIPA that, as a result of [their] power or duties or work set out in PHIPA, has custody or control of personal health information.

WHAT IS AN AGENT?

PHIPA defines an agent to include any person who is authorized by a custodian to perform services or activities in respect of personal health information on the custodian's behalf and for the purposes of that custodian.

An agent may include a person or company that contracts with, is employed by or volunteers for a custodian and, as a result, may have access to personal health information. PHIPA permits custodians to provide personal health information to their agents only if the custodian is permitted to collect, use, disclose, retain or dispose of the information.

For more information, please see the following resources:

- Standard 3.1 Confidentiality
- Standard 5.1 Record-keeping Clinical Records
- Information and Privacy Commissioner of Ontario

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Advertising competencies and services

The following Practice Matters article first appeared in the March 2022 Communiqué:

Advertising can be an effective tool to inform prospective clients about a registrant's training, services, and areas of competence. Advertising allows clients to make an informed

decision about who may be best suited to provide their treatment. Registrants must ensure that any advertising platform does not prohibit them from abiding by CRPO's Professional Practice Standards. Here are some suggestions to promote truthful, transparent, and accurate advertising:

1. Some online directories require therapists to use dropdown menus or pre-filled selection options to display psychotherapeutic techniques, issues treated, and client populations served. RPs should take special care to review each individual selection. **Registrants who advertise competency to treat a specific issue (e.g., addiction, eating disorders, etc.) must be able to demonstrate through verifiable information that they have completed relevant training to treat that particular issue.** Registrants who do not have verifiable training in a particular area of practice should not advertise or provide that service. Some specialized issues (e.g., addiction, eating disorders, etc.) may require advanced training beyond entry to practice requirements.
2. At this time, the College has not established a program to formally recognize and confer specialty designations. **A designation should only be used if it has been earned from a recognized credentialing body and meets established standards.**
3. In situations where registrants are receiving assistance to develop advertising content from a third party (e.g., employer, website developer, social media manager, etc.), it is important to apprise them of ethical standards in advertising. It is the registrant's responsibility to ensure third parties advertise appropriately on their behalf regarding professional credentials and areas of competence. **Where advertising content is being developed by a third party, it is advisable for registrants to review draft content prior to posting.**

Ultimately, registrants are responsible for ensuring factual and clear advertising to avoid misleading clients. For more information, review CRPO's Advertising Checklist and Professional Practice Standards (Standard 1.2.: Use of Terms, Titles and Designations; Standards 6.2. Advertising and Representing Yourself and Your Services) for more information).

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Can I use the CRPO logo in my advertising?

The following Practice Matters article first appeared in the April 2022 Communiqué:

When a registrant properly uses their protected title, they are indicating their registration with CRPO. This communicates that they have met and continue to meet requirements to practise as a Registered Psychotherapist. In contrast, registrants are not permitted to use CRPO's logo on their website or other advertising materials, such as brochures and business cards, or on social media pages. Using CRPO's logo could improperly suggest an endorsement by or affiliation with CRPO beyond being a registrant.

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Obtaining consent to release information

Registrants sometimes receive third-party requests for client information, for example from a client's spouse or parent, third-party payors, insurance companies, Employee Assistance Programs, and lawyers.

When a registrant receives a request to release information to any third party, they must obtain the client's informed consent to do so, unless a legal exception applies. When compelled to disclose client information for a legal proceeding, registrants should exercise prudence and are advised to consult their legal advisor to determine the best way to respond.

Below are some general principles to keep in mind when making decisions about releasing personal health information.

1. **Client requests to share records with a third party**

Clients have a right to access their own health records, unless an exception applies.

When a client or their representative requests a report or letter, registrants must provide one relating to the therapy provided, unless there is a valid reason not to. For example, if the information in question is subject to a legal privilege that restricts disclosure of the record or the information to the individual; access could reasonably be expected to result in a risk of serious harm to the treatment or recovery of the individual or serious bodily harm to the individual or another person; the information was collected in the course of an inspection, investigation or similar procedure and the resulting proceedings, appeals or processes have not yet been concluded; or another law prohibits the disclosure of that information. (See the Information and Privacy Commissioner of Ontario resource page Access and correction.)

What goes into the report is a separate question requiring professional judgment (see Item 4 below).

(See Standard 5.1 Record-keeping Clinical Records and Standard 5.2 Failing to Provide Reports.)

2. **Informed consent**

As outlined in CRPO Professional Practice Standard 3.1, Confidentiality, in obtaining informed consent from a client to disclose their information to any third party, the registrant must explain

- what information will be disclosed;
- to whom;
- the reasons for the disclosure; and
- the time-frame within which disclosure is to be made.

As well, the registrant should report back to the client following the disclosure and carefully document the process.

When sharing information directly with a third party, registrants must make reasonable efforts to ensure that the privacy of the client record is protected during any authorized transmission or disclosure of information. (See Standard 5.6 Record-keeping – Storage, Security and Retrieval.)

3. **Informed consent when working with minors**

In Ontario, there is no "age of consent" with respect to personal health care decisions. In general, clients of any age are considered capable of refusing or providing consent to their own treatment as long as they possess the maturity to reasonably understand the information provided and can appreciate the consequences of their decisions. (See the Informed Consent Workbook for information.) Therefore, if a minor client is capable of providing their own consent, they are able to do so without a parent. This means the therapist is not permitted to share the information with a third party, including parents, without consent or where a legal exception applies.

4. **Deciding what information to share**

In all cases, after receiving the client's informed consent, registrants are expected to employ professional discretion, and to disclose only relevant and necessary personal health information.

Consider the following:

- Are there any risks to sharing complete files (e.g., confidential information gets into wrong hands; some of the information is irrelevant)?
- Is it possible to share only relevant and necessary information instead of the entire file? For example, would preparing the required information in a format such as a summary letter be acceptable? Note: If this a summary letter or report is not agreeable, the client has a right to their entire file.
- Is there a benefit to reviewing the file with the client to allow for the client's full understanding of the contents?

In some cases, a client might request to disclose only certain information to the third party; however, doing so might not be in the client's best interest. For example, for some benefit claims, an insurance/benefit provider might consider a partial record "incomplete information." In this case, providing incomplete information could have serious consequences for a client, e.g., the claim might get delayed in processing or even refused. In such cases, it would be beneficial to encourage the client to consult with the third-party payor to understand the policies that apply to such claims, the process and expectations when making such claims, and who to talk to if there are questions about what information should be shared.

Clients who do not wish to disclose a complete clinical record may need to advocate with the third party.

5. **Shared records**

When a file is shared and includes the personal health information of another individual who also participated in therapy (e.g., couple or family therapy), an individual only has a right of access to the portion of personal health information about the individual in the record that can reasonably be severed from the record for the purpose of providing access. (See the Information and Privacy Commissioner of Ontario resource page Access and correction.)

The other party may choose to provide consent as well for the full file to be disclosed.

6. **Concerns about risk to clients**

In situations where a registrant is concerned about how a client will perceive information in the clinical record, they are encouraged to provide support to the client in a manner appropriate to the situation. It would also be prudent to consult with trusted supervisors, legal counsel, and the Information and Privacy Commissioner to determine a safe, appropriate course of action for providing a client or their representative access to their personal health information.

7. **Consent to release information forms**

In some situations, a third party will provide a client with a form indicating their consent to release information. Such forms are intended to facilitate the exchange of client health information for the purpose of providing treatment, determining eligibility for benefits, or for legal proceedings.

If an RP is unsure of the implications of asking their client to sign such a form, they can speak with the relevant party issuing the form. As well, registrants should consider obtaining their own legal advice, so they understand how to navigate their confidentiality obligations within the specific situation.

Registrants can also direct clients to contact the third party with any questions about the form or how their information will be exchanged with healthcare providers or others.

Registrants should not treat such forms as a one-time consent process. Consent is an ongoing process and registrants should revisit the topic of information sharing with the client as needed.

CRPO resources

- Standard 3.2 Consent
- Standard 5.3 Issuing Accurate Documents
- Disclosing Information to Prevent Harm Professional Practice Guideline
- Guide to PHIPA and Overview: What you need to know

Information and Privacy Commissioner of Ontario resources

- Frequently Asked Questions Personal Health Information Protection Act
- A Guide to the Personal Health Information Protection Act

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Can a student work in an employment or private practice setting, if they are a CRPO registrant (i.e., in the Registered Psychotherapist (Qualifying) registration category)?

This article was first published in the October 2022 Communiqué

Many RP (Qualifying) registrants are still students (i.e., they are completing their education program). In fact, CRPO encourages applicants to submit their application for registration once they have substantially completed their education and training in psychotherapy.

Substantial completion means that they

- are in their final semester prior to graduation;
- have completed 90% of their program; or
- have completed their program with the exception of a thesis.

If a student does not register with CRPO once they are eligible, they would not be able to perform the controlled act of psychotherapy after they graduate, and client care could be disrupted.

As with all registrants, individuals in the Qualifying category of registration must abide by the Professional Practice Standards for Registered Psychotherapists and Code of Ethics. RP (Qualifying) registrants could work in an employment position or a private practice setting, as long as they have the competence to do so safely and effectively (see CRPO Professional Practice Standards Section 2: Competence).

In the case of students, if they have achieved RP (Qualifying) status they could technically provide services in a private practice or employment setting. While this is not recommended before or during a practicum for anyone without prior experience, the College does have safeguards in place.

For example, RPs in the Qualifying category must practise with ongoing clinical supervision and each of their practice sites must be supervised. As well, RP (Qualifying) registrants must be actively pursuing the completion of any of the requirements to achieve full status as a Registered Psychotherapist. This means successfully completing their education program; successfully completing the Registration Examination; and gaining the required clinical experience of at least 450 hours of direct client contact and at least 100 hours of clinical supervision where that clinical supervision relates to those hours of direct client contact.

An important aspect of the CRPO Code of Ethics and Professional Practice Standards is that RPs know and work within their own abilities and levels of competency. We encourage RP (Qualifying) registrants who are still completing their psychotherapy education program to carefully consider whether they have the skills and abilities that will allow for safe treatment of a client in an employment or private practice setting.

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College communications

CRPO communicates through email to update you on your regulatory requirements. It is your responsibility to open and read these updates.

For some of these communications, the College uses an email service called Constant Contact. If you have not been receiving Communiqué articles, important notices, or other College communications, please check your junk mail and/or you may need to resubscribe by following this link. The College is unable to control how emails get filtered after they are sent; therefore, it is your responsibility to ensure that emails from the College are being received. CRPO may collect information about whether a recipient has read a message. CRPO may use this information for communication planning and record-keeping.

Tips and recommendations

1. Remember to update the "Personal information" page of your CRPO account when there are changes to your email address.
2. Use an email account that is checked frequently; not overly cluttered; and has security settings that you can control. Certain hospitals or organizations have firewalls in place that might block emails that have many recipients or are sent by an email service. This could result in missed emails from the College, and you might miss important information.
3. Make a habit of checking "spam" and "junk" folders to ensure important communications from the College do not get filtered there. To prevent this from happening, we recommend that you mark any email from the College as a "safe sender" and/or add the following email addresses to your contacts in your email account:

- info@crpo.ca
- QA@crpo.ca

- QAassessments@crpo.ca
- registration@crpo.ca

This will allow your email service to recognize that a message is a safe email and will likely prevent emails from being filtered to your junk folder. Constant Contact has an article with instructions on how to add an address to your contacts or safe senders list for all email systems. We recommend you consult this article and follow the instructions for the email system you are using.

4. Do not click "Unsubscribe" at the end of College emails.

***Note about Gmail**: Certain email systems such as Gmail have a feature that can automatically sort your inbox into "Primary," "Promotions," and "Social" folders. Emails from an email service or with multiple recipients might get sorted into the "Promotions" folder of your Gmail account. Please ensure that you are checking all folders in your inbox. You can prevent emails from being automatically sorted into your "Promotions" folder by adding the email address to your contacts or by clicking and dragging a College email from the "Promotions" or "Social" folder to the "Primary" folder. This will help redirect and sort College emails to your "Primary" folder in the future.

If you have any questions regarding updating your email address with the College, please contact info@crpo.ca.

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Can I write a letter for my client?

This article first appeared in the December 2022 Communiqué

Clients request letters and other kinds of documentation from RPs for a variety of reasons, for example, to confirm they require a support animal, regarding return to work, or as part of disability claims. Whether or not a CRPO registrant can provide such documentation requires careful consideration and professional judgement. The Professional Practice Standards can provide guidance.

Scope of practice

Registered Psychotherapists (RPs) are permitted to assess cognitive, emotional, and behavioural disturbances in the course of their work. However, it is not within an RP's scope of practice to provide a diagnosis. (See Standard 1.4: Controlled Acts.)

In situations where a client is requesting documentation that falls outside an RP's scope of practice, consider explaining your role and limitations to the client and referring them to their family physician or other qualified health professional for assistance. For example, some disability insurance claims may require a report by a diagnosing professional. In some cases, an RP may be able to collaborate with a diagnosing professional in producing the report, or an RP may be able to provide factual information about the client's condition and treatment, without formulating a diagnosis.

Competence

Registrants are expected to continually assess their knowledge, skill, and judgment, i.e., their competence, to determine whether they are equipped to work with particular clients. When asked to write a letter for a client, it is necessary for an RP to consider whether they have the knowledge, skill, and judgment necessary to provide such documentation. (See Section 2: Competence.)

Informed consent and confidentiality

A conversation with the client about the intended use of the documentation would be helpful, as this might impact the format or the information that will be included. For example, employers may request that a specific form be completed, or that a letter include certain information. Where the client will rely on the documentation for general purposes, take care not to disclose more information than is necessary.

This conversation is also an opportunity to engage the client in an informed consent process, to ensure that the client consents to the disclosure of any personal health information that will be included in the documentation.

See Standards 3.1 Confidentiality and 3.2: Consent for more information.

Record-keeping considerations

Consider how you will document your assessment, opinion, and any other relevant information in the clinical record. Copies of letters provided to clients must be retained in accordance with Standard 5.1: Record-keeping – Clinical Records.

Registrants are expected to issue timely reports when requested to do so by a client or a client's authorized representative. Registrants must write a letter confirming treatment unless there are reasonable grounds not to do so. (See Standard 5.2 Failing to Provide Reports.) For example, one reasonable ground would be if the requested information is outside the registrant's scope or competence (see above).

In addition, registrants must ensure that documents they sign or transmit in a professional capacity contain accurate and complete information. (See Standard 5.3: Issuing Accurate Documents.)

Service animals

According to the Integrated Accessibility Standards, which fall under the *Accessibility for Ontarians with Disabilities Act, 2005* (AODA), registrants of CRPO, along with a number of other regulated health professionals, may provide documentation that confirms that a person requires a service animal for reasons relating to disability. See section 80.45(4)(b). An RP considering writing such a letter needs to have knowledge of the nature of the client's disability, and how it connects with the need for the support animal.

Other resources

- Standard 1.9: Referral
- CRPO Practice Matters article on Obtaining consent to release information
- CRPO Practice Matters article on custody matters*

** Responding to requests for letters relating to divorce and custody matters requires detailed consideration. Registrants who want guidance in this area are encouraged to consider seeking legal advice; obtaining clinical supervision; documenting all actions and considerations taken; and consulting with CRPO's Practice Advisory Service at practice@crpo.ca.*

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Health information custodian and custodian successor

This article first appeared in the January 2023 Communiqué

Registrants who are health information custodians are advised to designate a successor in writing (with the successor's consent). A "successor" is someone who agrees to become the custodian of your records in the event of your inability to fulfill this role.

At registration renewal, registrants are asked to review their health information custodian (HIC) successor page to ensure the information is up to date. Registrants can also update their health information custodian successor information at any time in their CRPO account.

What is a health information custodian (HIC)?

A health information custodian is the person or organization responsible for maintaining health records.

If practising alone, the registrant is the health information custodian of their clients' records.

If an RP is working in an employment situation, they are expected to follow the record management practices of their employer. This assumes that the employer's record management practices comply with the *Personal Health Information Protection Act, 2004* (PHIPA). If this is not the case, the registrant must ensure that their clinical records comply with PHIPA and CRPO Professional Practice Standards. The organization may have an information or privacy officer to monitor compliance with PHIPA.

See the list of resources at the bottom of this article for a summary of these obligations.

What is a health information custodian (HIC) *successor*?

Registrants who are health information custodians are advised to designate a successor in writing (with the successor's consent). A "successor" is someone who agrees to become the custodian of your records in the event of your inability to fulfill this role.

The successor's name can be provided on the annual renewal form and is retained in CRPO's records and used only to facilitate a client's access to their clinical records.

Can I have more than one HIC successor?

Yes. You can name two or more HIC successors. To do this, please provide the additional HIC information in an email to Info@crpo.ca.

Does my successor need to be registered/located in Ontario?

The successor does not need to be registered or reside in Ontario, but you might wish to consider the role of the successor and their proximity to your clients. For example, if you have a paper-based record-keeping system, would it be possible for a client to easily access their records from someone located outside Ontario?

Does my successor need to be a Registered Psychotherapist? / Can a family member be a health information custodian (HIC)?

When considering who might be an appropriate successor, it would be important to ensure they have the competence necessary to fulfill the role of a health information custodian. Standard 6.4, Closing, Selling or Relocating a Practice, does not indicate that a successor must be a fellow RP; however, it would be helpful for the successor to at least be a member of a regulated health profession in Ontario, a registrant of the Ontario College of Social Workers and Social Service Workers, or a healthcare institution, as these individuals and organizations are likely to be familiar with the framework of health care law and regulation.

Registrants are advised to make appropriate arrangements in advance for the transfer of records to a successor. If a specific HIC successor is not named, PHIPA, section 3(12) indicates an estate trustee or administrator would become responsible for a deceased registrant's records, until custody of the records passes to another legally authorized person. This might place someone who is unfamiliar with PHIPA requirements and the importance of maintaining client confidentiality in the role of a health information custodian.

Can I provide my HIC successor with access to my records? Does my HIC successor need to sign a confidentiality agreement?

"PHIPA provides for the disclosure of personal health information without consent, including disclosure in the following circumstances:... to potential and actual successors of the custodian (although potential successors must provide a written confidentiality assurance and affected individuals must be notified of any actual transfer of records to a successor);" (See page 9 in the Guide to PHIPA 2020.)

I am an independent contractor within a private practice, and I use the clinic owner's software to maintain my records. Am I the health information custodian (HIC)?

CRPO is unable to determine who is the health information custodian. When working with others, it is important to establish who is the health information custodian at the outset of the relationship. You can read more about this in our Practice Matters article on Professionalism in business relationships. How a client's personal health information (PHI) will be handled, and who may access it, is something that needs planning.

I work in private practice, but I do not know anyone who is willing to be my successor. What should I do?

RPs in solo private practice are strongly encouraged to have contact with other RPs, for example a supervisor, mentor, colleague, consultant, peer group, etc. Over time the RP could explore whether any of these colleagues would serve as a successor custodian.

If it is not immediately possible to identify a successor, you may enter the name of the person who would become your estate trustee in the event of your death. Please seek legal advice if you are unsure who this would be. If you are still unable to name a successor custodian, enter "N/A" or other similar entries in the annual renewal form. You can update this information if it changes at any time in your CRPO account.

Do I need to include the name of my health information custodian successor in my will?

It is not a CRPO requirement to include the name of your HIC successor in your will. In any case, it would be prudent for you to ensure that you have a contingency plan in place. If no one specifically is named, PHIPA, section 3(12) indicates an estate trustee or administrator would become responsible for the deceased registrant's records, until custody of the records passes to another legally authorized person.

Resource list

CRPO

- Standard Section 5: Record-Keeping and Documentation
- Standard 6.4, Closing, Selling or Relocating a Practice
- Practice Matters article on contingency planning
- CRPO webpage relating to PHIPA, including Guide to PHIPA 2020 and Overview: What You Need to Know
- Professional Practice & Jurisprudence for Registered Psychotherapists, Section 3, C III, on record-keeping

Information and Privacy Commissioner of Ontario

- Avoiding Abandoned Health Records
- Succession Planning to Help Prevent Abandoned Records
- Frequently Asked Questions Personal Health Information Protection Act

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Q: Can I integrate artificial intelligence (AI) chatbot technology into my practice?

A: Technology has the potential to transform the delivery of therapy (consider as an example the expansion of video-conference therapy during the pandemic). Artificial intelligence chatbots can generate detailed, coherent responses tailored to specific queries drawing on vast amounts of source data. They could, for example, be asked to write treatment plans or session notes based on brief prompts.

While chatbots offer some opportunity for efficiency, there are also several risks to their use. These include the potential for incorrect information to be outputted and lack of clinical or ethical judgment in generating results.

Registrants should exercise caution when integrating new technologies into their practice, as responsibility ultimately remains with an RP for meeting standards of practice. Specific areas of concern relating to AI chatbots are as follows.

Confidentiality and consent: Registrants are responsible for ensuring that their use of any platforms for storing or processing client information is compliant with relevant privacy legislation (Standard 3.1 – Confidentiality). Registrants should familiarize themselves with the terms of use of any information service. In the absence of a secure, confidential platform, registrants must refrain from inputting any information that could identify a client without their informed consent (Standard 3.2 – Consent, Standard 3.4 – Electronic Practice)

Competence, accuracy, and bias: Registrants must not take for granted that information produced by a chatbot is factually accurate or clinically appropriate. Rather, registrants must validate the information using their own knowledge, skill, and judgment, seeking self-study, consultation, or supervision as appropriate (Standard 2.1 – Consultation, Clinical Supervision, and Referral).

As RPs will be held accountable for treatment decisions regardless of the use of technology, it is important they hold the necessary competencies to appropriately review an AI-generated output and not use the technology as a foundation for expanding practice areas without appropriate education or supervision (Standard 2.1 – Consultation, Clinical Supervision, and Referral).

Similarly, AI-generated responses can be biased, as they are dependent on the data and algorithms that developers used to produce them. Again, registrants must critically review any information before relying on it.

Registrants can address some of these risks by considering AI chatbots as a general tool for gathering and synthesizing non-identifying information rather than depending on the service in specific client cases.

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Q: Can I sell third-party content, or other products, on my website?

This article was first published in May 2023

Many registrants ask whether they can include products or content created by a third party to sell on their website. Some examples include meditation apps, personal care products intended to promote mental health, or educational courses focused on mental health.

The primary risk with recommending and selling products to clients for a profit is that it can create a conflict of interest if the registrant will benefit financially or otherwise. Registrants must not exploit the therapeutic relationship to their own benefit.

Registrants are expected to be aware of, and avoid, situations that might place them in a conflict of interest. When including products or third-party content for sale on a website, consider how members of the public will perceive the advertisement. Would they perceive that the therapist is using their position to endorse a product? Is any information, advice or comment related to the product accurate and supportable, based on reasonable professional opinion, and consistent with professional standards and ethics?

One way to manage this type of conflict-of-interest is to advise the client that they may purchase the product elsewhere and that doing so will not affect the client-therapist relationship. This also assures clients and members of the public that any sale or recommendation is in their interest only.

There are several areas where a registrant would want to make sure they are practising in line with CRPO standards. For example:

- Standard 3.2, Informed consent – is the client clear on what kind of treatment they are receiving? Does the client understand the nature of the product offered and potential risks and benefits?
- Standard 1.7, Dual relationships – does the combination of psychotherapy and non-psychotherapy treatment create a dual relationship or cross professional boundaries?
- Standard 1.6, Conflict of interest – is the RP in a conflict, for example by offering to sell remedies or other products? Are safeguards in place to ensure the recommendation is in the client's interest only?
- Standard 1.8, Undue influence – could the client feel pressured into buying a product from the RP?
- Standard 5.3, Accurate billing – is the billing accurate if it claims to relate to psychotherapy services?
- Standard 6.2, Claims about therapy – would other RPs support any claims made about the products as reasonable?
- Standard 2.1, Competence – does the RP have the competence to offer the services?

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Will Insurance Cover This?

Registrants and insurance companies sometimes ask CRPO if a certain activity is part of the practice of psychotherapy. They ask this to determine whether the activity is covered by insurance — either the registrant's professional liability insurance or a client's extended health insurance. CRPO does not provide case-by-case answers. Rather, we point individuals to existing written guidance.

The scope of practice of psychotherapy is defined by section 3 of the *Psychotherapy Act, 2007* as "the assessment and treatment of cognitive, emotional or behavioural disturbances by psychotherapeutic means, delivered through a therapeutic relationship based primarily on verbal or non-verbal communication."

CRPO has published a non-exhaustive list of psychotherapy modalities. If a registrant assesses and treats disturbances through a therapeutic relationship using one or more of these, or other, psychotherapy modalities, then they are practising psychotherapy.

In addition to working directly with clients, these other activities also constitute the practice of psychotherapy:

- record-keeping and preparation in relation to direct client work;
- professional development in psychotherapy;
- engaging in clinical supervision as a supervisee;
- conducting research or writing in the field of psychotherapy;
- supervising psychotherapy;
- teaching psychotherapy;
- managing the practice of psychotherapy;
- consulting regarding the practice of psychotherapy; and
- other professional activities that impact the practice of psychotherapy.

See CRPO's definition of Currency Hours.

CRPO has also developed a list of Activities Outside the Controlled Act of psychotherapy. *A registrant may do some of these, and other, non-psychotherapy activities, as part of their psychotherapy practice, and still be practising psychotherapy.* However, if a registrant *only* provides these or other non-psychotherapy services in a particular setting or with a particular client, they are likely not practising psychotherapy in that capacity.

Whether a registrant's employment, self-employment, volunteer, or other professional activities are covered by insurance is best answered by the insurance provider; how they define their coverage is their prerogative, and out of CRPO's jurisdiction. For information about CRPO requirements, please see this page on our website: https://www.crpo.ca/professional-liability-insurance/.

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Cross-border therapy

Guidance for cross-border therapy is available in the following resources:

- CRPO's cross-border therapy tool helps providers find information that best describes their practice situation: https://www.crpo.ca/cross-border-therapy-tool/
- I practise in Ontario but have a client outside of Ontario who wants to work with me: https://www.crpo.ca/practice-matters/#practising
- I am not in Ontario but I have a client in Ontario who wants to work with me: https://www.crpo.ca/practice-matters/#province
- Out of province registrants: https://www.crpo.ca/out-of-province-members/

Considerations for cross-border therapy

Below are some key considerations regarding practice with clients who live in or are visiting a jurisdiction outside of Ontario.

Use of Technology

Use of Technology

Registrants who provide services to clients in another jurisdiction typically do so using some form of communications technology, and therefore engaging in electronic practice.

Please review the following resources on electronic practice:

- Implementing Electronic Practice https://www.crpo.ca/implementing-electronic-practice/
- Standard 3.4 Electronic Practice https://www.crpo.ca/standard-3-4-electronic-practice/
- Electronic Practice Guideline: https://www.crpo.ca/wp-content/uploads/2019/03/FINAL-Electronic-Practice-Guideline-approved-01MAR2019.pdf
- Security Practices Checklist: https://www.crpo.ca/wp-content/uploads/2019/03/FINAL-Security-Practices-Checklist-for-Electronic-Practice-Guideline-approved-01MAR2019.pdf
- How to Select a Communications Platform for Electronic Practice: https://www.crpo.ca/wp-content/uploads/2020/04/Guidance-Selecting-a-Communications-Platform-1.0.pdf
- Webinar How to Expect the Unexpected in Online Practice – YouTube

Confidentiality

When using communications technology in practice, assuring the privacy and confidentiality of the client becomes a main concern. Registrants have a duty to take measures to safeguard the client's personal health information from theft, loss and unauthorized use and disclosure, in accordance with the Personal Health Information Protection Act. This duty is more straightforward to manage in face-to-face interactions and becomes complex when interacting with clients using communications technology, where technology comes with different features and security settings. Whatever method you choose to use in your practice must be sufficiently equipped to prevent theft, loss and unauthorized use and disclosure of the client's health information.

See the Security Practices Checklist linked above for a list of security considerations.

Consent & Client Factors

Standard 3.4, Electronic Practice, requires the client's express consent before you can use the communications technology with the client. The client needs to understand the risks and benefits of using a particular platform. It would be essential to also consider client factors before using electronic communication technology for your practice, for example:

- Is the client capable of understanding the risks associated with using electronic communication technology?
- Will the client have enough privacy in their location to engage meaningfully in therapy?
- Is the client in a safe location?
- Is the client familiar enough with technology to take measures to protect their own privacy online?

Jurisdiction

Jurisdictions may have different standards and/or laws to regulate the practice of psychotherapy (some may have none at all). Registrants are urged to contact the regulator in the jurisdiction in which the client resides, if one exists, to develop an understanding of any requirements that may apply. If no regulator exists, you would need to confirm that there are no other restrictions or considerations in providing inter-provincial services. You may wish to consult your lawyer, accountant, and/or professional associations in those unregulated provinces.

Insurance Coverage

In accordance with Standard 3.4, Electronic Practice, RPs are required to assure that their practice is covered by their insurance policy. This includes ensuring an RP's practice is covered for any therapy they provide via electronic communication technology in their own and in other jurisdictions.

Other Considerations

In the event you offer electronic practice, be mindful that you may be expected to assist with technical issues that arise before, during or after a session.

We encourage registrants to review the information in the CRPO Professional Practice Standards, and in particular, the following:

- Standard 3.4 Electronic Practice https://www.crpo.ca/standard-3-4-electronic-practice/
- Standard 3.1 Confidentiality https://www.crpo.ca/standard-3-1-confidentiality/
- Standard 3.2 Consent https://www.crpo.ca/3-2-consent/

The Information and Privacy Commissioner's website also has helpful information on safeguarding privacy in settings where technologies are used. See their resources for health organizations: https://www.ipc.on.ca/

If you have any outstanding questions, please email them to practice@crpo.ca.

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Insurance Billing

When preparing invoices and receipts for insurance billing purposes, what name(s) should be included?

As most registrants are aware, coverage of psychotherapy services varies by provider and individual plans. CRPO does not set or enforce requirements for insurance companies and cannot speak to their billing requirements or their remuneration of services. Members of the public and clients need to consult with their benefits provider before beginning services to confirm the details of their coverage. This includes things such as what services are covered by the plan; whether their plan covers services provided by CRPO registrants; and whether the plan extends to their family members and/or significant others.

When clients request receipts for insurance billing purposes, registrants must ensure they are meeting CRPO Professional Practice Standards.

College requirements for financial records are provided in Professional Practice Standards 5.5, Record-keeping – Financial Records, and 5.3, Issuing Accurate Documents. As well, CRPO has developed a Financial Records Checklist to help registrants conduct a self-review of their financial record-keeping practices and there is a Practice Matters article that discusses fees and billing.

As indicated in Standard 5.5, financial records must include a client's full name. This becomes a grey area when the client includes more than one person or when parents attend services to support a child client. Because the Standards do not specifically indicate how to identify the client in such cases, registrants must use their professional judgement to determine what is reasonable.

For example, Standard 5.3 requires registrants to provide clients with accurate records and other documents and ensure they do not sign or send documents containing misleading or false information. Therefore, it would be inappropriate to issue a receipt indicating services were provided to someone who was not present during the session. However, it is possible to clearly describe the services provided on an invoice or receipt, e.g., "couple therapy", "family therapy", "session with parents regarding their child's psychotherapy".

An RP can use discretion to determine who is identified as **the** client for a particular session for billing purposes. For transparency and to avoid billing issues, the College recommends that registrants determine any requirements an insurance company might have with respect to billing.

Here are some specific examples:

Can I issue a receipt in Client A's name if I see Client B for individual therapy as a component of Client A and B's couple therapy?

While receipts must describe the services provided and identify the client to whom service was provided (e.g., "Individual session with Client B regarding their couple therapy with Client A"), it might be possible to issue a receipt in one person's name, for example, if the person receiving the receipt is the person who paid for the services or if it is acceptable to the insurance company. As noted above, it is best to let clients confirm the details of their benefit plan and whether the plan extends to their family members and/or significant others.

In this situation, it would be inappropriate to issue a receipt implying Client A was at the session.

I am meeting with parents to discuss their child's progress in therapy. Can I issue a receipt in the child client's name, even though they were not in the session?

As noted above, receipts must accurately describe the services provided and identify the client to whom service was provided. In cases where a session is provided in relation to another client's overall treatment, it is important to clearly describe the services on the receipt.

For example, "Family session with parents regarding Child A's psychotherapy".

Relevant resource:

- College of Psychologists of Ontario FAQ on fees and billing

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My client asked if I could provide an insurance receipt so they could access the funds ahead of time to pay for services. Is that permitted?

Invoices and receipts must be transparent and accurate. Standard 5.5 indicates a receipt must identify the date and method of payment received. Therefore, it would be misleading to issue a receipt indicating funds had been received if in fact they had not been received.

Similarly, it would be inappropriate to include the wrong date for the service on a receipt; for example, putting in a date when the client had insurance coverage, when the service actually occurred on a date when the client did not have insurance coverage.

Some insurance sectors, such as auto insurance, have detailed processes for direct billing so the client does not pay first.

Note: *Motor vehicle accident reimbursement policies are set by the Financial Services Commission of Ontario (FSCO). For information, please see Health Claims for Auto Insurance (HCAI), which is a resource that was developed in consultation with the FSCO, health care provider associations, and other stakeholders in the auto insurance system.*

Other relevant resources:

- Financial Services Commission of Ontario
- Financial Services Regulatory Authority of Ontario (FSRA)
- Health Claims for Auto Insurance

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Do I need to / Can I include my supervisor's name on receipts?

It is not a CRPO requirement to include the name of a clinical supervisor on receipts. A registrant may choose to do so; however, the billing process must clearly identify who provided the service, i.e., it should not falsely imply that the supervisor was in the client session.

Qualifying registrants must practise with clinical supervision and actively pursue meeting the Registered Psychotherapist requirements within specified timelines. We have heard that some insurers require proof of supervision and will accept a supervisor's name on receipts for this purpose. It would be important to clarify any such requirements with the insurance company.

If an invoice includes a supervisor's information, the expectation is that the supervisee and their supervisor would have ensured the document is accurate and complete. This means that the supervisor must verify the services provided. A supervisor's registration information should not be included on any documentation without explicit agreement and sign-off on the specific sessions that are being billed.

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Can an RP enter a supervisory relationship so clients can claim insurance benefits and therefore access services?

All CRPO registrants must assure that any supervisory relationship they engage in abides by the Professional Practice Standards that apply to RPs.

Specifically, clinical supervision must meet the purposes set out in the Standards on Clinical Supervision as listed below:

- to promote the professional growth of the supervisee;
- to enhance the supervisee's safe and effective use of self in the therapeutic relationship;
- to discuss the direction of therapy; and
- to safeguard the well-being of the client.

If an RP enters a supervisory relationship with another regulated health professional who can practise psychotherapy (e.g., a social worker, psychologist, occupational therapist, nurse, or physician), It is important to understand that they would be operating within the regulatory frameworks of two distinct professions, and each participant has a duty to maintain the standards of their own profession.

Both supervisees and supervisors are expected to participate meaningfully in the supervision, meeting the purposes listed above. If supervision does not actually take place, and the arrangement is merely a guise to access third party billing, a registrant may be subject to investigation or discipline by CRPO.

The following practice standards should be considered:

- Standard 1.6: Conflict-of-Interest (ensuring the interests of clients are placed ahead of business interests)
- Standard 2.1: Consultation, Clinical Supervision and Referral (ensuring the provider and supervisor are both competent and practice within their scope)
- Standard Section 4 Clinical Supervision (ensuring there is adequate oversight of the work)
- Standard Sections 1, 4.2, and 5.1 Record-keeping Clinical Records (maintaining adequate client records and supervision records)
- Standard 5.3, Issuing Accurate Documents (ensuring the financial record clearly states who provided the service under whose supervision)
- Standard 5.5 Record-keeping – Financial Records (ensuring the financial record identifies fees charged for services provided by supervised personnel)

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Can I offer a client a sliding scale even if the services are covered under the client's health benefit plan? Can I offer a client a sliding scale rate after their insurance benefits end, to help them access therapy?

As stated in Standard 6.1: Fees: https://www.crpo.ca/standard-6-1-fees/, registrants "may not ... charge more than the member's usual fee for a service where a third party is paying for the service." In other words, it would be unacceptable for a registrant to bill for services at more than their usual rate because the service is being paid for by an insurance company.

However, the standard also states it is acceptable to charge a lower sliding scale fee depending on ability to pay. There is a difference between charging someone a higher fee because they have insurance, and charging a lower fee based on ability to pay.

CRPO registrants may lower their actual fees in individual cases of financial hardship. This must be done on a case-by-case basis, and not through a general policy intended to hide a registrant's true fee.

As well, Standard 5.5: Record-keeping – Financial Records and the Financial Records Checklist both note that the financial record must indicate the reason or reasons why a fee

may have been reduced or waived.

Please see: Professional Practice & Jurisprudence for Registered Psychotherapists, Section 2 F on billing for further discussion on this topic and examples.

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Administrative staff and billing

The following Practice Matters article first appeared in the November 2020 Communiqué:

Do you practise in a setting where an administrative staff-person bills clients or insurance providers for you? If your answer is yes, this information is for you. This situation often occurs for registrants who bill through the Health Claims for Auto Insurance (HCAI) system.

Registrants are required to issue accurate documentation at all times. Honest representation is expected when communicating with clients and third-party payors, even if the registrant is not the person who issued the invoice. This includes information about the date and cost of services provided, client name, type of service provided, registration category and any other information used in the billing process. **Billing errors or inaccuracies made by staff are the responsibility of the registrant who provided the psychotherapy services.**

There are serious consequences for issuing false or inaccurate documentation which could include a College investigation and possible discipline hearing. Registrants may be delisted from insurance providers thereby limiting clients' access to services. Finally, your actions may diminish the public's trust in the profession of psychotherapy.

Here are some recommendations to maintain clear, accurate and honest billing practices:

- Be very cautious about working for an employer who is not transparent about how your services are being billed.
- Provide extensive and ongoing training to staff about billing requirements. Training might include information from CRPO's Professional Practice Standards or CRPO's Financial Records Checklist.
- Review documentation before applying your signature. Registrants should never allow a staff person to apply their signature to a document the registrant has never seen.
- Check in often. Schedule time on a regular basis to review forms and invoices being issued.
- If you discover someone engaging in inaccurate, improper or unauthorized billing on your behalf, immediately take steps to correct errors, provide instruction and prevent the situation from recurring.

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This is Exhibit "E" to the Affidavit of Grace Tsakas sworn by Grace Tsakas at the City of Richmond Hill, in the Province of Ontario, before me on September 6, 2023, in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

A Commissioner for taking Affidavits (or as may be)

Shane Ramnanan
Licensed Paralegal
P07510

Standard 1.4 Controlled Acts

Background

The *Regulated Health Professions Act, 1991* (RHPA) restricts certain activities, called controlled acts, due to the risk they carry if performed by an unqualified person. For example, performing a procedure on tissue below the dermis is an activity that can mainly be performed by regulated professionals who are authorized to do so, such as nurses or doctors.[1] These authorizations are set out in the legislation that governs each profession.

CRPO registrants are authorized to perform the controlled act of psychotherapy, which is defined as follows:

To treat, 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 judgment, insight, behavior, communication, or social functioning.[2]

Five other professions are authorized to perform the controlled act of psychotherapy, including: nurses, occupational therapists, physicians, psychologists and/or psychological associates, and social workers and/or social service workers. These professionals perform the controlled act of psychotherapy in accordance with the regulations, requirements and/or standards established by their respective regulatory bodies.

The controlled act of psychotherapy, which is comprised of five elements, is only a component of the broader scopes of practice that respectively apply to CRPO registrants and the other regulated professions listed above. Each of the five elements must be present for a particular activity to be considered the controlled act of psychotherapy. You can read more about the five elements of the controlled act of psychotherapy in in the Controlled Act Task Group documents available on the College website.

only do so if additional study, training, consultation or clinical supervision would allow them to gain the appropriate level of competence.

Exceptions

While the RHPA restricts controlled acts mainly to regulated health professionals, it enables others to perform them when specific circumstances apply. For example, anyone can perform any controlled act providing they are[3]:

- helping someone in an emergency;
- helping someone with activities of daily living;
- treating by prayer or spiritual means according to the tenets of one's religion; and
- when administering a substance or communicating a diagnosis to a member of one's household (e.g. telling your child that she has a cold).

Exceptions for Students

Students who intend to register with CRPO may perform the controlled act of psychotherapy as long as they[4]:

1. are in the process of fulfilling the requirements to become registered with CRPO; and
2. are receiving clinical supervision from a qualified RP for the aspects of their practice that involve the controlled act.

Exemption for Addictions Treatment

Ordinarily, CRPO registrants are restricted from performing any procedure below the dermis. However, an exemption applies for those who provide acupuncture as part of an addiction treatment program within a "health facility".[5] Health facility is defined by legislation, and includes, for example, facilities that are governed or funded by the[6]:

- *Public Hospitals Act*

Delegation

Delegation is a mechanism that enables a regulated health professional to grant another person the authority to carry out a professional activity that the person would otherwise be restricted from doing.

Making a Delegation

CRPO registrants are restricted from delegating the controlled act of psychotherapy, except in the following circumstances[7]:

1. with prior approval of Council
2. in an emergency, providing Council is informed after the fact

Receiving a Delegation

Registrants may only accept and carry out a delegation if:

1. the regulated health professional who made the delegation is working within their scope of practice, following the requirements and standards established by their regulatory college, and will take responsibility for the actions of the registrant receiving the delegation;
2. the act being delegated to the registrant falls within the scope of practice of the psychotherapy profession; and
3. the registrant has the competence necessary to carry out the delegation in a manner that is safe and effective. Refer to the Professional Practice Standards, Section 2: Competence.

STANDARD: Controlled Acts

Providing they have the competence to do so in a manner that is safe and effective, registrants are authorized to perform the controlled act of psychotherapy. Registrants refrain from delegating the controlled act of psychotherapy, unless an exception applies.

Demonstrating the Standard

See also:

- Standards, Section 4: Clinical Supervision
- Standard, Section 2: Competence
- Understanding When Psychotherapy is a Controlled Act
- Controlled Act Task Group Consultation Documents
- Psychotherapy Act
- Professional Misconduct Regulation, provisions 10, 12

Note: College publications containing practice standards, guidelines or directives should be considered by all members in the care of their clients and in the practice of the profession. College publications are developed in consultation with the profession and describe current professional expectations. It is important to note that these College publications may be used by the College or other bodies in determining whether appropriate standards of practice and professional responsibilities have been maintained.

Footnotes:

[1] Nursing Act, 1991, s. 4.1; Medicine Act, 1991, s. 4.2

[2] Psychotherapy Act, 2007, s. 4

[3] Regulated Health Professions Act, 1991 (RHPA), s. 29(1)(a, c-e)

[4] RHPA, s. 29(1)(b)

[5] Controlled Acts Regulation under the RHPA, s. 8.(5)

[6] Controlled Acts Regulation under the RHPA, s. 8.(6)

Further Reading

- Self-Assessment for Unregulated Providers
- Practice Matters: I'm registered with CRPO and another college. What do I need to know?
- Controlled Act Task Group Consultation Documents

This is Exhibit "F" to the Affidavit of Grace Tsakas sworn by Grace Tsakas at the City of Richmond Hill, in the Province of Ontario, before me on September 6, 2023, in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

A Commissioner for taking Affidavits (or as may be)

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Professional Practice and Jurisprudence for Registered Psychotherapists

Professional Practice and Jurisprudence for Registered Psychotherapists
October 2022

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Standard 1.4 Controlled Acts

Standard 1.4 deals with controlled acts. Controlled acts are potentially dangerous healthcare procedures that may only be performed by a properly qualified professional. In Ontario, a person may only perform a controlled act as permitted by law. Fourteen controlled acts are listed in the RHPA. RPs are authorized to perform one controlled act — the controlled act of psychotherapy.

Registrants should be aware of the complete list of controlled acts so they are able to recognize when they might inadvertently engage in a controlled act.

The Controlled Acts
The controlled acts listed in the RHPA are as follows:

1. Communicating a diagnosis to the individual or a personal representative identifying a disease or disorder as the cause of symptoms of the individual in circumstances in which it is reasonably foreseeable that the individual or their personal representative will rely on the diagnosis.
2. Performing a procedure on tissue below the dermis, below the surface of a mucous membrane, in or below the surface of the cornea, or in or below the surfaces of the teeth, including the scaling of teeth.
3. Setting or casting a fracture of a bone or a dislocation of a joint.
4. Moving the joints of the spine beyond the individual's usual physiological range of motion using a fast, low amplitude thrust.
5. Administering a substance by injection or inhalation.
6. Putting an instrument, hand or finger, beyond the external ear canal, beyond the point in the nasal passages where they normally narrow, beyond the larynx, beyond the opening of the urethra, beyond the labia majora, beyond the anal verge, or into an artificial opening into the body.
7. Applying or ordering the application of a form of energy prescribed by the regulations under this Act.[3]
8. Prescribing, dispensing, selling or compounding a drug as defined in the *Drug and Pharmacies Regulation Act,* or supervising the part of a pharmacy where such drugs are kept.[4]
9. Prescribing or dispensing, for vision or eye problems, subnormal vision devices, contact lenses or eye glasses other than simple magnifiers.
10. Prescribing a hearing aid for a hearing impaired person.
11. Fitting or dispensing a dental prosthesis, orthodontic or periodontal appliance or a device used inside the mouth to protect teeth from abnormal functioning.
12. Managing labour or conducting the delivery of a baby.
13. Allergy challenge testing of a kind in which a positive result of the test is a significant allergic response.
14. 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 judgment, insight, behaviour, communication or social functioning.

[3] Examples of these forms of energy include the use of electricity for aversive conditioning, electromagnetism for magnetic resonance imaging, and soundwaves for diagnostic ultrasound.
[4] As a general rule, if a substance has a DIN (Drug Identification Number), it is usually considered to be a drug. Some non-drug substances have different kinds of drug numberings, such as a Natural Product Number (NPN) or Homeopathic Medicine Number (DIN-HM). These products are generally not considered to be drugs.

Assessment vs. Diagnosis

CRPO registrants are not authorized to communicate a diagnosis to clients; however, they are permitted to *assess* clients. It is important to keep the distinction in mind. A diagnosis is a conclusive statement that identifies a disease or disorder as the cause of a client's symptoms. An assessment describes those symptoms and is aimed toward treatment planning.

As an example, the following statement made by an RP to a client would be an inappropriate communication of a diagnosis: "It appears you are experiencing mild or moderate depression." Depression is a mental health diagnosis, and the way the statement is phrased could lead a client to rely on it.

In contrast, the following statement by an RP to a client would be appropriate as a form of assessment, planning, and referral: "You have reported sadness and low energy. I am proposing we engage in CBT, and I suggest you follow up with your family physician to consider depression or other issues." This statement does not apply a diagnostic label but summarizes what the client reported and makes a recommendation about treatment. It also suggests contacting a regulated health professional who is authorized to communicate a diagnosis. In situations that could confuse a client as to whether they are being diagnosed, registrants should make clear they are not authorized to communicate a diagnosis.

Confusion can arise when an RP works with another professional authorized to communicate a diagnosis. Registrants are permitted to refer to and treat a previously diagnosed condition but may not take on the role of the diagnosing professional.

Standard 1.4 Scenario 1
Rian is an RP who works in the motor vehicle accident sector. Rian receives clinical supervision from a professional who is authorized to communicate a diagnosis to clients, i.e., a physician or psychologist. Normally, Rian conducts a preliminary assessment interview with a client. The supervisor then reviews the assessment, arrives at a diagnosis, communicates the diagnosis to the client, signs a report, and sends the report to the insurance company.

Lately, the practice has been extra busy. To save time, Rian has been discussing cases with their supervisor, then Rian signs the reports for insurance and tells the client about the diagnosis.

Rian's conduct is improper. Even though they work with a professional authorized to communicate a diagnosis, Rian should not be the first care provider to communicate the diagnosis to clients.

Legal Authority to Perform a Controlled Act

Standard 1.4 describes the following three ways a health care provider can receive the legal authority to perform a controlled act:

1. if authorized to do so as a regulated health professional;
2. as an exception or exemption; or
3. if a controlled act is delegated by another regulated health professional who is authorized to perform the controlled act.

Restriction on Delegating the Controlled Act of Psychotherapy

Except in very limited circumstances, RPs are not permitted to delegate the controlled act of psychotherapy to another person. Psychotherapy is a relational process rather than a technique. Providing psychotherapy requires extensive training and accountability. For these reasons, unlike other controlled acts, it generally cannot be delegated.

In exceptional circumstances, with prior approval of the CRPO Council, an RP may delegate the controlled act of psychotherapy. Alternately, an RP may delegate the controlled act of psychotherapy if circumstances exist where time does not allow the RP to obtain prior approval of CRPO Council, and the registrant notifies CRPO of the delegation as soon as reasonably possible.[5] These exceptional circumstances could conceivably involve an individual or public health emergency. To date, CRPO has not provided approval nor received notification of delegation of the controlled act of psychotherapy.

Standard 1.4 Scenario 2

Diana, a registrant, engages in psychotherapy with her client Petra to treat a potentially serious eating disorder diagnosed by Petra's physician. The treatment Diana will perform falls within the controlled act of psychotherapy. Diana is authorized to perform that controlled act and has extensive training to treat the presenting issue.

Standard 1.4 Scenario 3

Frank, an RP, has a client named Connor who reports severe allergies on his intake form. During a session, Connor indicates he is beginning to go into anaphylactic shock. Frank looks inside Connor's briefcase and finds an EpiPen containing a measured dose of epinephrine. Frank injects the epinephrine into Connor's muscle and calls 911. Connor recovers. While Frank did perform a controlled act he is not authorized to perform (injecting a drug), he did so during an emergency, which is a recognized exception to the controlled acts rule.

Standard 1.4 Scenario 4

Karen works part-time as a therapist. Her other, separate career is to perform body piercings. Even though such piercings go beyond the dermis, this procedure is exempted under the Minister's regulation on controlled acts.

[5] O. Reg. 317/12: PROFESSIONAL MISCONDUCT, s. 1, para 12.

Practice Question

Which of the following is a controlled act?

i. Removing broken glass that has been deeply embedded in a child's leg.
ii. Cleaning a scrape on a child's elbow with soap and water.
iii. Applying alcohol to that scrape on a child's elbow.
iv. Wrapping the child's wounds.

The best answer is i. Deeply embedded glass has almost certainly gone beyond the dermis and is sitting in deeper tissue. There may be an issue as to whether this is an emergency (likely not as in most cases it would be possible to take the child to a hospital or physician's clinic for treatment), but that does not change the fact that removing the glass is a controlled act. Similarly, the household exemption does not apply to these sorts of procedures.

Answer ii is not the best answer because a scrape on the skin implies that it has not gone beneath the dermis.

Answer iii is not the best answer because applying a substance to the skin is not administering a substance by inhalation or injection.

Answer iv is not the best answer because the procedure is above the skin and does not fall within any of the other controlled acts.

MARGARITA CASTILLO
Applicant

-and-

XELA ENTERPRISES LTD. et al.
Respondents

Court File No. COA-22-CV-0206

COURT OF APPEAL FOR ONTARIO

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Court File No. COA-22-CV-0206

COURT OF APPEAL FOR ONTARIO

PROCEEDING COMMENCED AT TORONTO

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