

## DRAFT Council Agenda

**Date:** Thursday, June 28, 2018  
**Time:** 9:30 a.m. to 3:35 p.m.  
**Location:** 375 University Avenue, Suite 803; Boardroom  
**Chair:** Andrew Benedetto, President

	Time	Item	Pg	Action	Lead
1.	9:30	Welcome and Opening Remarks		INFORMATION	A. Benedetto
2.		Approval of Draft Agenda	1-2	MOTION	A. Benedetto
3.		Approval of Draft Minutes <ul style="list-style-type: none"> <li>• February 22, 2018</li> <li>• March 29, 2018</li> </ul>	3-13	MOTION	A. Benedetto
4.		Conflict of Interest Declarations			A. Benedetto
5.	9:35	President's Remarks		INFORMATION	A. Benedetto
6.	9:45	Registrar's Report	14-15	INFORMATION	D. Adams
7.	10:00	<b>Council Education Session:</b> "Regulating in the Public Interest" presented by Deanna Williams	16-31		
	<b>12:45</b>	<b>LUNCH</b>			
8.	1:30	Committee Reports to Council <ul style="list-style-type: none"> <li>• 8.1. Client Relations</li> <li>• 8.2. Discipline</li> <li>• 8.3. Examination</li> <li>• 8.4. Executive</li> <li>• 8.5. Inquiries, Complaints &amp; Reports</li> <li>• 8.6. Nominations &amp; Elections</li> <li>• 8.7. Quality Assurance</li> <li>• 8.8. Registration</li> </ul>	32-45	MOTION	<ul style="list-style-type: none"> <li>• C. Cowan-Levine</li> <li>• S. Kasal</li> <li>• K. Lomp</li> <li>• A. Benedetto</li> <li>• K. VanDerZwet Stafford</li> <li>• P. Rayman</li> <li>• M. Kardos Burton</li> <li>• M. MacFarlane</li> </ul>
9.	1:50	Draft Regulation: <i>Categories of Prescribed Therapies Involving the Practice of Psychotherapy</i>	46-47	MOTION	C. Cowan-Levine
10.	2:10	Proposed By-Law Amendments	48-49	MOTION	A. Benedetto
	<b>2:30</b>	<b>BREAK</b>			
11.	2:40	<i>Sexual Contact with Former Clients</i> <ul style="list-style-type: none"> <li>• 11.1. Draft Policy <i>Sexual Contact with Former Clients within 5-Years Post Termination of Care</i></li> <li>• 11.2. Draft Guideline <i>Sexual Contact with Former Clients beyond 5-Years Post Termination of Care</i></li> </ul>	50-58	MOTION	C. Cowan-Levine
12.	3:10	Guideline on <i>Disclosing Information to Prevent Harm</i>	59-67	MOTION	K. VanDerZwet Stafford

13.	3:25	Question Period			
14.	3:35	Adjournment		MOTION	A. Benedetto
		<b>Next Meetings:</b> <ul style="list-style-type: none"> <li>• September 13, 2018</li> <li>• November 29, 2018</li> </ul>			

**DRAFT Council Minutes**  
**February 22, 2018**

Approved: \_\_\_\_\_

Present Council Members	Staff Members
<ul style="list-style-type: none"> <li>• Andrew Benedetto, RP (President)</li> <li>• Barbara Locke Billingsley (<i>via teleconference</i>)</li> <li>• Shelley Briscoe-Dimock, RP</li> <li>• Tapo Chimbanga, RP</li> <li>• Gary Cockman</li> <li>• Carol Cowan-Levine, RP</li> <li>• Mary Kardos Burton</li> <li>• Sheldon Kawarsky</li> <li>• Kenneth Lomp, RP</li> <li>• Malcolm MacFarlane, RP (Vice-President)</li> <li>• Len Rudner</li> <li>• Steven Stijacic</li> <li>• Kevin VanDerZwet Stafford, RP</li> </ul>	<ul style="list-style-type: none"> <li>• Deborah Adams, Registrar</li> <li>• Jo Anne Falkenburger, Director of Operations and HR</li> <li>• Amy Fournier, Executive Coordinator (Recorder)</li> <li>• Sarah Fraser, Acting Manager, Registration</li> <li>• Shauna Grey, Manager, Communications</li> <li>• Tav Kanwar, Acting Manager, Registration</li> <li>• Lene Marttinen, Manager, Quality Assurance</li> <li>• Mark Pioro, Director, Professional Conduct &amp; Deputy Registrar</li> </ul>
Council Member Regrets	
<ul style="list-style-type: none"> <li>• Shikha Kasal</li> <li>• Pat Rayman, RP</li> </ul>	

**1. Welcome and Opening Remarks**

The Chair, A. Benedetto, called the meeting to order at 9:30 AM and welcomed all present. He noted that the public gallery had access to the Council meeting package via the website and any walk-in materials will be available to public with council highlights within a week.

**2. Approval of Agenda**

The Chair introduced the draft agenda, with the addition of appointing new public member, Gary Cockman to committees, to occur before the first morning break.

**MOTION C-22FEB2018 – M01:** Moved by L. Rudner, seconded by C. Cowan-Levine

That the agenda of the February 22, 2018, meeting of Council be approved as amended.

**CARRIED**

### 3. Conflict of Interest Declarations

The Chair asked Council members to declare any conflicts of interest. No conflicts of interest were raised.

### 4. Approval of Minutes and Business Arising

The minutes of November 30, 2017, were presented for approval. One typographical error was corrected.

**MOTION C-22FEB2018 – M02:** Moved by L. Rudner, seconded by C. Cowan-Levine

That the minutes of the November 30, 2017, meeting of Council be approved as amended.

**CARRIED**

### 5. President's Remarks

A. Benedetto, President and Chair, welcomed new public member, Gary Cockman to the Council. G. Cockman began his three-year term in January 2018. The Chair highlighted the progress that has been made in terms of Registration Panel processes, the Quality Assurance portal and the practice advisory service that is now available to members. Overall, the College is running well and the Chair thanked Council members for their contributions.

The Chair informed Council that the proclamation of the controlled act of psychotherapy was made public via Health Bulletin from the Ministry of Health and Long-Term Care (MOHLTC) on December 21, 2017. The MOHLTC is requiring psychotherapy training programs to meet mandatory compliance as set out in the Registration Regulation.

Council was reminded that elections will take place in fall 2018 in Districts 1 (West), 5 (South West) and 6 (Central West). The Chair noted that Tapo Chimbanga will not be running for re-election.

### 6. Committee/Task Group Chairs' Reports

#### 6.1. Client Relations Committee

C. Cowan-Levine, Chair, presented highlights from the Client Relations Committee's report to Council noting that the committee continues to remain focused on building a robust program for clients alleging sexual abuse by an RP and ensuring proper education and training for committee members, including a more in-depth collection of training materials. C. Cowan-Levine noted that the committee has spent a considerable amount of time discussing the five-year 'cooling off' period. This item will be presented at the March Council meeting.

Council members were then directed to the draft Funding for Therapy or Counselling for Primary Partner document and the draft Application for Funding for Therapy or Counselling for Primary Partner document in the meeting package. The intention of the policy is to provide support to the primary partner of an alleged victim of sexual abuse by an RP, so treatment can be more enhanced.

**MOTION C-22FEB2018 – M03:** Moved by C. Cowan-Levine, seconded by K. VanDerZwet Stafford

That the Client Relations Committee Report to Council, including the Funding for Therapy or Counselling for Primary Partner and the Application for Funding for Therapy or Counselling for Primary Partner be approved as presented.

**CARRIED**

**Action Item:** Post the Funding for Therapy or Counselling for Primary Partner and the Application for Funding for Therapy or Counselling for Primary Partner to the CRPO website.

## **6.2. Discipline Committee**

No report from the Discipline Committee was provided in the absence of committee chair. A. Benedetto noted that there had been one discipline hearing since the last Council meeting. The decision will be posted to the CRPO website.

## **6.3. Executive Committee**

A. Benedetto, Chair, thanked members of the Executive Committee noting that good deliberation has taken place and much time has been committed to the Controlled Act Task Group.

## **6.4. Inquiries, Complaints and Reports Committee Report**

K. VanDerZwet Stafford, Chair, introduced the ICRC report to Council and welcomed Sheldon Kawarsky to the committee. K. VanDerZwet Stafford thanked staff for their diligence in preparing files and ensuring the committee members are well-prepared for panels. It was also noted that many of the files that come before the committee are complex and outcomes often have a great impact on clients and members alike.

## **6.5. Quality Assurance Committee Report**

M. Kardos Burton, Chair, welcomed new committee members and acknowledged the work of staff, committee members and former chair, Pat Rayman. M. Kardos Burton informed Council that the QAC met twice since the November Council meeting; once, in the capacity of a panel to review seven cases and another to discuss the Electronic Practice Guideline and review the Informed Consent Workbook. The QAC also explored the possibility of Prescribed Regulatory Education (PRE).

## **6.6. Registration Committee Report**

M. MacFarlane, Chair, welcomed G. Cockman to the committee and presented further highlights from the committee's report. It was noted that one plenary meeting and five panel meetings have occurred since the November Council meeting, with panels being held twice per month. The Registration Committee is making good progress getting through the backlog of grandparenting applications. M. MacFarlane thanked panel members for careful review of each file and diligence in ensuring that each applicant receives fair and thorough consideration. There are currently 24 decisions drafted and awaiting panel approvals.

## **7. Registrar's Report**

D. Adams, Registrar, introduced highlights from her report, including membership numbers. D. Adams noted that the CRPO anticipates that we will have 6,000 registered members by March 31, 2018, and once again, thanked the Registration team for their diligence in moving through the grandparenting process.

In terms of staffing, D. Adams noted that there is now a dedicated decision and reason writer for the Registration Committee. Sonya Teece was recently contracted to assist the committee

in clearing its decision backlog. Council was also informed that Amy Fournier was recently hired as Executive Coordinator.

D. Adams provided Council with an update on the 'town halls' that will occur in the fall, noting that there will be four meetings held across the province, with one of those meetings being Livestreamed and recorded. In the meantime, we will be reaching out to members and stakeholders to create and agenda.

Council was also informed that CRPO staff will be presenting at the upcoming Council on Licensure, Enforcement and Regulation (CLEAR) conference taking place in Philadelphia in September 2018.

### **8. Changes to Private Career Colleges Act**

D. Adams, Registrar, introduced the topic and provided relevant background information. Changes made to the *Private Career Colleges Act, 2005* in January 2017, saw the loss of an exemption from government registration under which private colleges offering psychotherapy operated to date. In light of this, private colleges operating in Ontario that provide students with the skills and knowledge necessary to obtain employment must register with and have their programs approved through the Ministry of Advanced Education and Skills Development by the Superintendent of Private Career Colleges as a private career college (PCC). Based on the programs identified on current registration applications and the number of colleges that have created accounts or begun the review and recognition process, staff believes that there are somewhere between 30 and 40 education programs that should be determining if they need to register as PCCs.

D. Adams highlighted that this is a government process and was not initiated by the CRPO. The CRPO will continue to make the recognition and review process as straightforward as possible and work with the Ministry where possible.

### **9. Updating the Review and Recognition Framework for Evaluating Education Programs**

With the changes to the *Private Career Colleges Act*, noted above, and the anticipated resulting influx of program applications, staff feels that it is now necessary to land on an alternative process – one that is not as labour intensive for the College – to supporting programs making an application for recognition.

One of the first steps in capacity building is providing programs with a more detailed guide. In addition to the guide, the College is looking to create a checklist for educational institutions and reviewing the CRPO's online application form to further streamline the process.

The Registration Committee recently reviewed the guide and approved its use going forward. Staff will also be working with the third party reviewer to train more reviewers in anticipation of the expected influx. Updates on this will be provided at a future meeting.

### **10. New Council Member Committee Appointments**

New public appointment, G. Cockman, was appointed to the Registration, Examinations and Discipline committees.

**MOTION C-22FEB2018 – M04:** Moved by L. Rudner, seconded by S. Briscoe-Dimock

That G. Cockman be appointed to the Registration, Examinations and Discipline committees.

**CARRIED**

### **11. Prescribed Regulatory Education: A Membership Education Tool**

L. Marttinen, Manager, Quality Assurance, provided a presentation to Council with information on Prescribed Regulatory Education (PRE) and how it can be a useful tool for members in their continuing professional development. PRE can be defined as compulsory professional development designed by regulators to provide information to members regarding practice and where practice intercepts with legislation, for example, informed consent.

Overall, the purpose of PRE is to highlight important pieces of legislation and regulation for the membership and is a low-cost professional development opportunity that offers consistent education and reflective exercises, which can lead to improvement in practise. It was noted that the QAC is supportive of PRE and used the informed consent workbook, which was developed as a remediation tool, as a starting place to further explore the positive and negative implications of PRE.

**Action Item:** L. Marttinen to provide Council members with copy of informed consent workbook.

### **12. Council Member Per-Diems**

D. Adams, Registrar, introduced the topic of Council Member Per-Diems, noting that in recognition of the fact that ICRC panel materials are often lengthy and detailed, Staff is proposing to allow the panel chair to approve up to one additional day of preparation time, where appropriate. Public appointments may not get the same consideration, but staff has been in contact with the Health Boards Secretariat (HBS) to ensure that special requests for billing could be coordinated and done proactively. The panel chair, Registrar and staff will work collaboratively to ensure that public members are informed so they can submit their requests appropriately.

### **12. 2018-2019 Expense Budget**

**MOTION C-22FEB2018 – M05:** Moved by G. Cockman, seconded by S. Kawarsky

That the public be excluded from the meeting pursuant to clause 7(2)(b) of the *Health Professions Procedural Code* of the *Regulated Health Professions Act, 1991*, in that financial or personal or other matters may be disclosed of such a nature that the harm created by the disclosure would outweigh the desirability of adhering to the principle that meetings be open to the public.

**CARRIED**

**MOTION C-22FEB2018 – M06:** Moved by X, seconded by X

That the meeting resume open session at 1:00 PM.

**CARRIED**

### **13. Controlled Act Update**

A. Benedetto, Chair, informed Council that in light of the letter from Minister Hoskins received in December 2017, a CRPO task group, consisting of professional and public Council members, was formed. The Executive Committee endorsed the Controlled Act Task Group Terms of Reference and recommended that Council approve the document.

**MOTION C-22FEB2018 – M07:** Moved by M. Kardos Burton, seconded by S. Kawarsky

That the Controlled Act Task Group Terms of Reference be approved as presented.

**CARRIED**

C. Cowan-Levine noted that due to the prescriptive nature of the letter and the time constraints involved, the Task Group has been working hard to ensure that we stay within the mandate of the College. The Task Group is being asked to define the controlled act of psychotherapy and develop a corresponding regulation.

The group has been conducting research to develop guiding documents and tools to assist members and the public in understanding what constitutes the controlled act. The task group will meet on February 26 and provide draft documentation to Council by February 28.

In addition, the task group will be meeting with the Health Professions Regulatory Advisory Council (HPRAC) on March 15 for their input on the work that the group has done. A further developed iteration of the materials will be brought forward to Council in March. Pending approval from Council in March, the draft regulation will be posted for 60-day public consultation in April, with the intention of incorporating relevant consultation feedback and drafting a finalized regulation for approval by Council in June. Submission to the Ministry is due July 1.

Staff will work with the College of Psychologists of Ontario, the Ontario College of Social Workers and Social Service Workers, the College of Nurses of Ontario and the College of Occupational Therapists of Ontario to ensure consistency in messaging to health care providers and the public with regard to the controlled act.

### **13. By-law Review**

M. Piore, Deputy Registrar, introduced the proposed by-law amendments noting that the proposed amendments are intended as 'housekeeping' items, removing out-of-date content and correcting non-controversial issues.

J. Falkenburger, Director of Operation and Human Resources, and D. Adams, Registrar, noted that the proposed amendments to the Fees By-laws are intended to incorporate reasonable fee changes, which are in alignment with other regulatory bodies with similar membership size, to best position the College to carry out its regulatory mandate over the longer term. This includes thorough investigation of all complaints and reports, discipline hearings where necessary and funding for therapy for clients who allege sexual abuse by a member of the profession.

**MOTION C-22FEB2018 – M08:** Moved by G. Cockman, seconded by M. Kardos Burton

That the Council approve the proposed by-law amendments as presented for 60-day public consultation.

**CARRIED**



**Action Item:** Post the proposed by-law amendment to the CRPO website for 60-day public consultation

#### **14. Stakeholder Question re: Cost of Professional Corporation**

M. Piore, Deputy Registrar, informed Council that a question was posed to staff from a member regarding concerns about the fees for registering professional corporations. The member indicated that they would like the answer addressed publicly, and the member was informed that a response would be provided at the February Council meeting.

The member was informed that when the CRPO set its professional corporation fees in 2013, it adopted amounts that were within the range of what other health profession colleges in Ontario charge for the same services. In addition, decisions around revenue are made after careful deliberation and in consideration of the College's responsibilities. Initiatives to keep fees as low as possible have and continue to include careful investments in technology and efficient operations.

With respect to a member using a professional corporation for the delivery of psychotherapy services—for example, to hire other mental health providers or provide workshops as suggested in the Stakeholder question—it is important to acknowledge that Ontario law concerning professional corporations existed before the College was established and is beyond the control of the College.

#### **15. Council Member Question Period**

Council discussed the current format of the Council meeting package and the current status of the Indigenous Registration Task Group (IRTG). A. Benedetto, Chair, informed Council that Indigenous practitioners will be practicing outside of the controlled act and will therefore continue with the exemption.

#### **16. New Business and Call for Agenda Items**

Updates from the Controlled Act Task Group and the Client Relations Committee will be provided at March Council, as noted in the minutes.

**MOTION C-22FEB2018 – M09:** Moved by S. Kawarsky, seconded by S. Briscoe-Dimock

That the meeting be adjourned at 2:06 PM.

**CARRIED**

**DRAFT Council Minutes**  
**March 29, 2018**

Approved: \_\_\_\_\_

Present Council Members	Staff Members
<ul style="list-style-type: none"> <li>• Andrew Benedetto, RP (President)</li> <li>• Shelley Briscoe-Dimock, RP</li> <li>• Tapo Chimbanga, RP (<i>via teleconference</i>)</li> <li>• Gary Cockman</li> <li>• Carol Cowan-Levine, RP</li> <li>• Mary Kardos Burton</li> <li>• Shikha Kasal (<i>via teleconference</i>)</li> <li>• Sheldon Kawarsky (<i>via teleconference</i>)</li> <li>• Kenneth Lomp, RP</li> <li>• Malcolm MacFarlane, RP (Vice-President)</li> <li>• Pat Rayman, RP</li> <li>• Len Rudner</li> <li>• Steven Stijacic (<i>via teleconference</i>)</li> <li>• Kevin VanDerZwet Stafford, RP</li> </ul>	<ul style="list-style-type: none"> <li>• Deborah Adams, Registrar</li> <li>• Jo Anne Falkenburger, Director of Operations and HR</li> <li>• Amy Fournier, Executive Coordinator (Recorder)</li> <li>• Shauna Grey, Manager, Communications</li> <li>• Sarah Fraser, Acting Manager, Registration</li> <li>• Lene Marttinen, Manager, Quality Assurance</li> </ul>
Council Member Regrets	
<ul style="list-style-type: none"> <li>• Barbara Locke Billingsley</li> </ul>	

**1. Welcome and Opening Remarks**

The Chair, A. Benedetto, called the meeting to order at 9:32 AM and welcomed all present.

**2. Approval of Agenda**

The Chair introduced the draft agenda.

**MOTION C-29MAR2018 – M01:** Moved by K. Lomp and seconded by M. Kardos Burton

That the agenda of the March 29, 2018, meeting of Council be approved as presented.

**CARRIED**

### 3. Conflict of Interest Declarations

The Chair asked Council members to declare any conflicts of interest. No conflicts of interest were raised.

### 4. President's Remarks

A. Benedetto, President and Chair, thanked council for making time for this meeting, noting that the meeting was an addition to the 2018 schedule in light of the Minister of Health's proclamation in the December 21, 2017 Health Bulletin regarding the Controlled Act of Psychotherapy. In order to comply with the July 1, 2018 deadline for submission of a regulation on the prescribed categories of therapies, the Controlled Act Task Group (CATG) has been working diligently to draft materials and obtain feedback and approvals. The Chair thanked the CATG members, Registrar and support staff in facilitating this work.

D. Adams, Registrar, informed Council of a recent [Toronto Star article](#) that focuses on the College of Nurses of Ontario's [Governance Report](#). Many of the Federation of Health Regulatory Colleges of Ontario (FHRCO) are considering changes to the governance model that would support a more proactive approach to regulation. The CRPO is in an excellent position to learn from other colleges as we move forward with strategic planning and governance policies. D. Adams also noted that the College of Psychologists of Ontario (CPO) has recently made changes to their standards regarding the CPO's expectations around supervision of non-CPO members solely for the purpose of billing and in the provision of the controlled act. This topic will be discussed in more detail at the June Council meeting, as the CRPO seeks to understand the implications of these changes for the CRPO's membership.

### 5. Controlled Act Task Group Consultation

C. Cowan-Levine, Controlled Act Task Group Chair, expressed appreciation to task group members and the Registrar for their ongoing hard work. Council was informed that since February 2018, the CATG has had two task group meetings, one meeting with the Health Professions Regulatory Advisory Council (HPRAC) and a meeting with the Ministry of Health's Controlled Act Advisory Committee, which had a variety of different ministries present to take part in the conversation and contribute to the draft consultation documents.

C. Cowan-Levine noted that the draft consultation documents included in the meeting package have been reviewed by Council members, and much thoughtful and informative feedback was received and incorporated into the document. The document has been posted to the CRPO website for stakeholder review, with a link to an accompanying survey to provide comments. The survey will remain open until April 6, but Council has been provided with the most up-to-date response from the consultation. In total, the survey has been sent out to approximately 7,500 individuals. As of March 28, 2018, 365 respondents have completed the survey.

C. Cowan-Levine walked Council through the documents under review, noting where feedback was received and changes were made. In an overall review, HPRAC suggested increasing public information, specifically looking at the controlled act of psychotherapy versus the broader notion of psychotherapy. D. Adams also noted that she has met with the registrars of the other controlled act Colleges (College of Psychologists of Ontario, the Ontario College of Social Workers and Social Service Workers, the College of Nurses of Ontario and the College of Occupational Therapists of Ontario) and they are all supportive of the direction that the CRPO is taking, with the suggestion that "serious disorder" be more clearly defined.

D. Adams provided a brief presentation to Council that included preliminary survey results and feedback. The feedback received from the stakeholder consultation survey was largely positive and supportive. D. Adams highlighted modalities that were suggested to be added to the document. The Ministries on the Controlled Act Advisory Committee (CAAC) also provided feedback on the documents. It was noted that Ministries' feedback was more technical in nature and tended to focus more on the implications of how the documents might work within a larger framework of mental health and community services. The CATG will be reviewing survey results in more detail at their next meeting.

The Council then went on to discuss the proposed regulation, *Categories of Prescribed Therapies Involving the Practice of Psychotherapy*. After some discussion Council suggested amending the wording in the draft regulation to read as follows:

*"The following are the categories of prescribed therapies involving the practise of psychotherapy"*

Council felt that the addition of the word 'the' added clarity and specificity.

**ACTION:** Post the updated survey results presentation slides with Council Highlights.

**MOTION C-29MAR2018 – M02:** Moved by C. Cowan-Levine and seconded by G. Cockman

That Council approve, in principle, the proposed regulation: *Categories of Prescribed Therapies Involving the Practice of Psychotherapy*.

**CARRIED**

**MOTION C-29MAR2018 – M03:** Moved by K. Lomp and seconded by S. Briscoe-Dimock

That Council charge the Executive Committee with approving a final draft recommended by the Controlled Act Task Group and directing staff to circulate the regulation for the required 60-day formal consultation period.

**CARRIED**

## **6. Draft Policy for Cooling Off Period**

C. Cowan-Levine, Client Relations Committee Chair, presented the draft policy for *Sexual Contact with Former Clients Within a Five-year 'Cooling Off' Period* and provided Council with background information on the development of the policy. It was noted that work on this draft policy began in June 2017, when Bill 87, *Protecting Patients Act, 2017*, came into force and since then, the committee and staff have consulted with other Ontario regulators and other jurisdictions, and performed an extensive review of literature and best practices of the profession.

There is a range of thinking on this issue, and other regulators each have their own views on 'cooling off' periods and how long those periods should be, ranging from 'never' to one year, to five years. Bill 87, *Protecting Patients Act, 2017*, will enforce a mandatory one-year cooling off period. The draft policy being presented proposes a five-year cooling off period for CRPO members.

D. Adams noted that this draft policy is an interim solution that will be put in place while the CRPO waits for the government to proclaim into force the ability of College's to be able to pass a regulation extending the cooling off period in the RHPA. It is likely that we will have this ability before the fall of 2018.

**MOTION C-29MAR2018 – M04:** Moved by K. VanDerZwet Stafford and seconded by M. Kardos Burton

That Council authorize the 60-day circulation of the draft *Sexual Contact with Former Clients Within a Five-year Cooling off Period Policy* as presented.

**CARRIED**

### **7. Draft Guideline on Post-'Cooling Off' Period**

C. Cowan-Levine, Client Relations Committee Chair, introduced the draft guideline, noting that the intention of the document is to inform both members and the public about expectations related to when it is never appropriate for an RP to have a relationship with a former client. In the future, the guideline may be used as a benchmark for Inquiries, Complaints and Reports Committee (ICRC) and Discipline Committee panel deliberations as related matters come forward.

Council members reviewed and discussed the draft guideline and sought further clarification from the committee regarding power imbalances. They discussed whether or not more or fewer examples and scenarios were required. Ultimately, Council felt that the intention of the guideline was appropriate but that the draft required more work in order to be useful to members. The document will go back to CRC for further review and will come back to the Council table in June.

**ACTION:** Draft Guideline on Post-'Cooling Off' Period will go back to CRC for further revision and will come back to Council for review in June.

### **8. New Business and Call for Agenda Items**

None provided. Next Council meeting is scheduled to take place on June 28, 2018.

### **9. Adjournment**

**MOTION C-29MAR2018 – M05:** Moved by G. Cockburn and seconded by P. Rayman.

That the meeting be adjourned at 12:03 PM.

**CARRIED**

## **Registrar's Report to Council**

**June 28, 2018**

### **Controlled act consultation**

- Ongoing work took place on the regulation, policy and supporting documents related to the controlled act of psychotherapy. The consultation documents were sent to roughly 7,500 individuals. This was made up of all 6,000 of our members plus 1,500 people from our stakeholder list and the stakeholder groups provided by the various government branches. At writing, approximately 30 in person and telephone consultations have taken place with stakeholders that include: providers from the victim services, community services, children's mental health and addictions service sectors; interested members of the public; other regulated health professionals; professional associations; and service provider organizations.

We received 503 responses to the consultation document survey in English & 2 to the survey in French. There were another 429 responses to the mandatory 60 day regulation survey in English and, again 2 to the survey in French.

- Current work includes finalizing the documents, preparing a submission report to the Ministry of Health. Future work will focus on participating in the government advisory committee that will be addressing implementation issues at a system level.

### **Clinical supervision**

- Considerable work has gone in to understanding, responding to and communicating about the impact of the proclamation of the controlled act on clinical supervision. Initial communication to members has been undertaken and further work will be needed with the Registration Committee to address the issue of supervision hours for the purposes of registration or category transfer.

### **Presentations**

- D. Adams, Tav Kanwar and Sarah Fraser presented at the Addictions Mental Health Ontario conference on May 29, 2018. This presentation was to 60 front line staff and program managers from addictions treatment programs across the province. The focus of the presentation was the proclamation of the controlled act and its impact on registration with CRPO.

### **Association stakeholder meeting**

- D. Adams presented with President A. Benedetto to representatives of 15 stakeholder associations who attended a meeting at CRPO on May 29, 2018. A copy of the [slides](#) presented at the meeting can be viewed on the CRPO website.
- It is imagined that this meeting will be the first of ongoing engagement opportunities with the various professional associations.

## Consultations

- A number of consultations have been undertaken since March. These can be viewed at
  - [Controlled act regulation \(English and French\)](#)
  - [Controlled act consultation documents \(English and French\)](#)
  - [By law changes](#)
  - [Policy on Sexual Contact with former clients within a 5-year period post termination of care](#)

The results of these consultations are being presented at this meeting.

## Review and recognition

- Work with our third party provider, Word it Write, continues with new assessors having been trained in order to respond to programs coming forward for recognition.
- The Ministry of Advanced Education and Skills Development has communicated with programs and shared information with the College regarding their expected deadline of August 15 for programs to pre-screen and begin the registration process with them.
- They have reiterated their position that no enforcement action would be taken against any institution provided that:
  - There were no issues reported to the Ministry which involved student protection concerns, and;
  - The institution was making a bona fide attempt to register as a private career college, and was taking steps in that regard.

## Formal Motions to Council

n/a

## The Committee Recommends:

- That the Registrar's Report to Council be accepted as presented.

## Attachments:

n/a

Respectfully submitted,

Deborah Adams  
Registrar

## Council Education Session Regulating in the Public Interest

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### Defining "Public Interest"

- "the welfare or well being of the general public"
- "appeal or relevance to the general populace"  
(Wikipedia)

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### Regulating in the Public Interest...

- A Social Contract



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## Perspective is Everything

- Are our actions and decisions representative of the public interest or a constituency?
- How would others see our actions and words?



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## Different Perspectives?

- No matter our role in professional regulation, we are all members of the public too
- So how and why do our perspectives differ?

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## The Upside and Downside

- All bring forth unique and important perspectives
- All must recognize (and abandon) the unique issues/concerns/conflicts that stand in the way of doing the 'right' thing(s)

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### Perspective vs. Bias

- Experience can be very valuable
- When can experience lead to unacceptable bias(es)?

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### Common Biases

- "Beauty" Bias- assumptions based on appearances
- Anchoring Bias- assumptions based on hearsay, others
- Affinity Bias- personally relating to someone or their cause
- Halo Effect- as professional experts, they (must) know best
- Recency Bias- weighing heavily on latest but not all results
- Confirmation Bias- lean towards positions that support own

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### Addressing Bias

- Requires Insight
- Requires honest reflection
- Requires the strength to declare and act

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### Some Examples

- Pharmacy and impact of decisions on a 'bottom line' or business model
- Raising registrant fees to meet regulatory obligations/expectations
- Personal biases (racial, sexual orientation, history of abuse, etc)
- "mental model constructs"-strongly held beliefs or impressions

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### Regulating in the Public Interest...

- A Social Contract



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### What Public Interest Means...

- To the Regulator
- To the (Professional) Members
- To Government
- To the Public

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### The Regulator....

- Safe and competent professionals
- Set and enforce standards
- Hold members accountable
- Investigate and adjudicate complaints

\*We are accountable too

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### Regulatory Framework

- Implications
  - Government can remove self-regulation
  - College has to continuously earn and keep public trust and confidence

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### Major Themes of Enabling Legislation

- Accountable public interest
- Public access and transparency
- Restrictive regulation
- Reactive regulation
- Proactive regulation
- Equity and Fairness

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### The Professional Members...

- WIFM
- The hard reality
- The cost of self regulation
- Self preservation\Self interest

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### Searching for the Public Interest

- We must put public, not members first
- But to be effective we do need general support of profession

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### Professional/Advocacy Associations

- Relationship- respectful and cooperative but not 'collaborative'
- Separation from the regulator is best practice
- Competing interests must be balanced
- Agreement is ok; agreement on all issues is not

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### Regulatory Councils Must Work To:

- Recognize overlap between public interest and self-interest
- Build on areas where interests truly intersect

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### The Government...

- Privilege granted, but.....
- Ministerial oversight and controls
- Perceived need for greater oversight/ pressure to act

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### Government

- Generally oversight without political interference
- May ask/direct a College to make a regulation
- What if the council or profession does not agree?

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### Finding leverage

- Public safety and protection
  - If the College isn't convinced it can effectively protect the public with an 'ask', find the solution for going forward the way you need it to
- There is little to gain in just saying NO

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### The Public

- Wants:
  - Fairness, transparency, honesty and accountability
  - Trusts regulators to 'have their backs'

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### Why then....

- Is there a growing perception that public confidence and trust in professional regulators is being lost?

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### Reasons for the Confusion

- Public interest is a subjective concept
- Perspective is everything
- Human nature

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### We say Public Interest is our First Concern

- Yet...
  - Professional majority on Council, committees and panels
  - Professionals run on a platform they think will get them elected, not one that highlights public interest first
  - Using confidentiality provisions as a reason to be less transparent loses trust\*\*
  - Is it clear to the public how our decisions benefit them?

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### Defining "Public Interest"

- If our decision/action were to end up in the public domain for all to see, would we be:
  - Okay with that?
  - Seen to be protecting the public and the public's interest?
  - Seen to be credible and effective at doing our job?

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### What is not Public Interest

- Is easier to define
- Cloaking an action or 'ask' as public interest (when its clear it's in the profession's interest) creates most significant risk to regulators

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### Issues to Avoid....

- Re-imbursement/funding/employment Issues
- Competition issues
- Decisions that could impact numbers of professionals or schools
- Collaborative meetings or submissions with advocacy associations

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### Public and Professional Interests Can and Do Intersect

- Quality Assurance/ Continuing Competency programs
- Enhanced practice to increase public access to care
- Embracing principles of Fairness, Objectivity, Accountability
- Timeliness and Transparency in processes; information provision

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## Transparency

- Best Practices lean toward 'open by default' practices
- More is good but....must be meaningful and relevant
- Ask "is there a compelling reason why this should NOT be disclosed?"
- i.e. Is there evidence that one's disability prevents them from providing safe and competent care?

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## Searching for the Public Interest

- Start with the enabling legislation
- Expected activities and programs
  - Entry to practice
  - Complaints and discipline
  - Incapacity
  - Proactive regulation (e.g., quality assurance)
  - Ethics and Codes of Conduct (ideals, not bare minimum)
  - Public education (including client rights) and transparency
- These should be focus of the debate

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## Some Scenarios

- Let's look at and consider the following:

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### Public Interest Scenario

A proposal is made to require all members of the profession to “re-certify” every five years. What is your first thought?

1. I don't want to do that!
2. The profession will go ballistic!
3. How will I look if I vote for or against this?
4. I wonder what the pro's and con's are?

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### Reprimand Scenario

You are on the discipline panel crafting a reprimand for a member who crossed emotional and physical boundaries with a patient (but not sexual abuse). Another panel member asks the group: “Who are we writing this for?”

What would you say?

How would this affect wording of the reprimand?

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### Public Interest Scenario

The College has done a feasibility study and pilot project on an enhanced quality assurance program involving on-site visits and peer feedback. Results indicate potential for a dramatic impact on the quality of practice, but it would require an increase of \$250 per member in fees to fund.

Should annual fees be raised?

Should professional members of the Council take part in the discussion and vote?

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### For Discussion

A journalist assigned to do an investigative article on whether regulatory Colleges are serving the public interest. What concerns might he find to support the view that the "self-regulation" model for regulating health professions isn't working and needs to change?

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### Scenario

You are dealing with a complaint about a practitioner who allegedly was verbally abusive towards a patient / client. The practitioner says she was simply trying to encourage the patient / client who was missing appointments and not following through on agreed upon treatments. How might the perspective of the practitioner differ from that of her client?

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### Public Education Scenario

You heard a presentation where a lawyer said that public education is one of the core activities of the College. You bring a motion supporting a public awareness campaign about the advantages of using members of your profession. You want to emphasize their unique skills and training compared to others who have a similar scope. What are some potential challenges?

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### Public Interest Scenario

The Investigation Committee has referred specified allegations of professional misconduct (harassment) against the Dean of the leading educational program in the province. The alumni association has organized a fee boycott of the College in protest, saying that he is the victim of a vendetta. The College will run an enormous deficit this year if the problem is not solved. What do you do?

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### For Discussion

Council is discussing adding information about complaints outcomes to the public register. A fellow Council member has previously confided to you that she is under investigation. It seems likely that the outcome of that investigation would result in the posting of the matter on the public register under the proposed new rules. What issues are raised here? What should you do?

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### Forms of Accountability

- Structural (e.g., public members)
- Political (to the Minister)
- Internal (governance)
- External review of individual decisions
- Program scrutiny (e.g., by the Fairness Commissioner)
- Direct to the profession
- Direct to the public

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### Decision-Making in the Public Interest

- ICRC Risk-Assessment Tool- use risk levels to drive consistent decision-making
- Harm- Reduction Strategies- what are the risks to the public that we are here to mitigate/prevent and how do our decisions and directions align with these?

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### Public Interest Mandate of Regulators

- Does it relate to the regulator's statutory objects?
- Does it further one of the four regulatory activities (i.e., restrictive, reactive, proactive, transparent)?
- Is it being done transparently?
- Who is the primary beneficiary of the initiative?
- Would this better fit into another's mandate?
- Who would be unhappy with the initiative? Why?
- How would it look on the front page of ...?
- How would our accountability bodies respond?

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### The Public Interest

Implications

- Set aside personal baggage
- Focus on public interest
- Use public interest language
- Call others out when they forget



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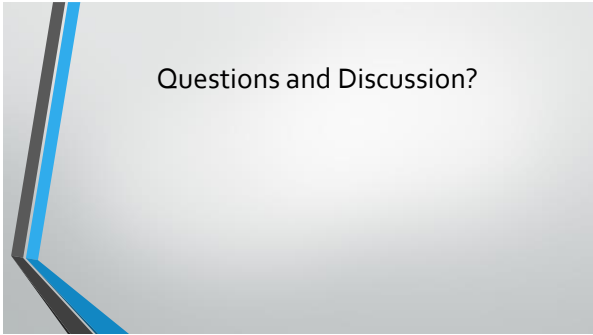
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## Client Relations Committee Report to Council June 28, 2018

### Committee Members

- Carol Cowan-Levine, RP (Chair)
- Shelley Briscoe-Dimock, RP
- Sue Lymburner, RP (non-Council appointment)
- Steven Stijacic
- Mary Kardos Burton
- Barbara Locke Billingsley

### Committee meetings:

- June 1, 2018

At the June 1, 2018 meeting, the Client Relations Committee approved the revised guideline:

***Sexual contact with former clients beyond 5-years post-termination of care*** (formerly known as the 'cooling-off period,' terminology that is no longer to be used) for recommendation to Council.

Taking into consideration the substantial, thoughtful feedback from Council at the March 29 meeting, the Committee deliberated on a number of revisions to the guideline. The version that was approved is aligned with other CRPO guidelines and strives to provide members with substantive direction to support them in professional practice.

At its next meeting, the Committee will be considering what support and direction members need with regards to the broader question of post-termination relationships (e.g., friendships), education for staff and Council, and the process for approving and disbursing [funding for therapy and counselling for sexual abuse by a members of CRPO](#) in accordance with O. Reg. 59/94: Funding for Therapy or Counselling for Patients Sexually Abused by Members Under the *Regulated Health Professions Act, 1991, S.O. 1991, c. 18*.

### Formal Motions to Council

- See agenda items 11.1 and 11.2 regarding the draft *Sexual Contact with Former Clients* policy and guideline.

### The Committee Recommends:

- That the Client Relations Committee's Report to Council be accepted as presented.

Respectfully submitted,

Carol Cowan-Levine, RP  
Chair, Client Relations Committee



## Discipline Committee Report to Council June 28, 2018

### Committee Members

- Shikha Kasal (Chair)
- Heidi Ahonen, RP (Non-Council Committee Member)
- Andrew Benedetto, RP
- Malcolm MacFarlane, RP
- Shelley Briscoe-Dimock, RP
- Carol Cowan-Levine, RP
- Tapo Chimbanga, RP (term ending June 23, 2018)
- Mary Kardos Burton
- Sheldon Kawarsky
- Barbara Locke Billingsley
- Kenneth Lomp, RP
- Pat Rayman, RP
- Len Rudner
- Steven Stijacic
- Kevin VanDerZwet Stafford, RP

#### Committee meetings:

- n/a

#### Panel meetings:

n/a

#### Hearings

The Discipline Committee has not held any hearings since the February and March Council meetings.

#### Decisions & Reasons

A panel of the Discipline Committee has been drafting a decision in relation to the January 11, 2018, discipline hearing. The decision is in the final stages and will be posted to the CRPO website when available.

#### Formal Motions to Council

n/a

#### The Committee Recommends:

- That the Discipline Committee's Report to Council be accepted as presented.

Respectfully submitted,

Shikha Kasal  
Chair, Discipline Committee

## Examination Committee Report to Council

June 28, 2018

### Committee Members

- Kenneth Lomp, RP (Chair)
- Andrew Benedetto, RP
- Gary Cockman
- Sheldon Kawarsky
- Barbara Locke Billingsley
- Steven Stijacic
- Kevin VanDerZwet Stafford, RP

#### Committee meetings:

- February 27, 2018
- April 3, 2018 (teleconference)
- June 19, 2018

#### Panel meetings:

n/a

At the time this report was written, the June 19 meeting had not yet taken place. At the February and April meetings, the Examination Committee considered the following matters:

#### Examination Appeals

- Five examination appeals were considered. Four appeals were upheld and one appeal was refused.
- Three extension requests to the 24-month first exam attempt deadline; three extension requests were granted.

#### Decision Tree

Introduction of a decision tree (competency deficiency flowchart) that could guide deliberations on remediation options for candidates with one attempt remaining at the competency-based Registration Examination.

#### Presentations

Lorna Martin of COMPASS Centre for Examination Development, the national body established to develop and administer the assessment, presented on the preliminary framework for a competency-based case study workbook.

#### Member Submissions

The Committee approved a learning plan submitted by a member, which must be completed successfully before the member's third and final attempt at the exam.

At the time this report was written, the June 19<sup>th</sup> teleconference meeting had not yet taken place.

**Formal Motions to Council**

n/a

**The Committee Recommends:**

- That the Examination Committee's Report to Council be accepted as presented.

**Attachments:**

n/a

Respectfully submitted,

Kenneth Lomp  
Chair, Examination Committee

## Executive Committee Report to Council

June 28, 2018

Committee Members
<ul style="list-style-type: none"> <li>• Andrew Benedetto, RP (Chair)</li> <li>• Carol Cowan-Levine, RP</li> <li>• Mary Kardos Burton</li> <li>• Sheldon Kawarsky</li> <li>• Malcolm MacFarlane, RP</li> </ul>

**Committee meetings:**

- February 23, 2018
- April 10, 2018
- April 12, 2018 (in camera)
- May 15, 2018
- June 22, 2018

**Panel meetings:**

n/a

At the time this report was written, the June 22 meeting had not yet taken place. At the February, April and May meetings, the Executive Committee considered the following matters:

**Council Meeting Attendance**

The Executive Committee discussed the current expectations regarding in-person attendance at Council meetings, noting that in-person attendance is preferred, and teleconferencing is an exception made with appropriate arrangements made in advance. The Committee directed staff to explore the use of videoconferencing for future meetings to facilitate members who are unable to attend in person.

**Town Hall Meetings**

The Executive Committee discussed the approach, timing and format of the town hall meetings that will be held in the fall. The town halls have been tentatively scheduled to take place on October 2 (Toronto), October 16 (Sudbury), October 23 (Ottawa) and October 30 (London). The April CRPO Communique included a link to a brief survey to help determine the level of interest and agenda content for the town hall meetings.

**Fee Payment Policy**

The Executive Committee was informed of the *Fee Payment Policy*, which addresses the administrative burden of member's making membership fee payments via online banking in small increments throughout the year rather than in one lump sum at renewal. The policy will take effect immediately, and College staff will further explore fee payment options for members.

### **Review and Recognition Update**

The Executive Committee was informed that five CRPO members submitted applications to be program assessors for the College's Review and Recognition process. The CRPO has signed a contract with consultant, Pauline Beggs of Word It Write (WIW) who will be selecting the program assessors based on their submissions. Three education programs are currently being reviewed by WIW and the existing program assessors. Consideration is being given to the requirement for a review of adult education programs by the Ministry of Advanced Education and Skills Development and the Executive Committee will be informed of progress as the Registration Committee makes further review of this matter.

### **Circulation of Controlled Act Regulation**

The Executive Committee was informed that the Controlled Act Task Group deliberated and considered all feedback from the consultation surveys and feedback from the Ministry and government stakeholders. The Executive approved the proposed regulation for mandatory 60-day public consultation. The consultation closes on June 15, 2018.

### **College of Psychologists of Ontario Supervision**

The Executive Committee was informed that effective September 2017 the College of Psychologists of Ontario (CPO) amended its practice standards, saying that CPO members may not provide supervision solely for the purpose of facilitating third-party payment. More recently, CPO has released a Q & A document regarding the controlled act, further prohibiting their members from supervising independent RPs in providing the controlled act. This has resulted in confusion and concern amongst our members. The CRPO has since posted [Clinical Supervision FAQs](#) on the website.

### **Circulation of Plenary Committee Minutes**

The Executive Committee supported the process of having committee staff leads draft plenary meeting minutes, provide draft minutes to the committee chair and circulate within about one week of the meeting date. Staff has been informed of this new process.

### **Formal Motions to Council**

n/a

### **The Committee Recommends:**

- That the Executive Committee's Report to Council be accepted as presented.

### **Attachments:**

n/a

Respectfully submitted,

Andrew Benedetto  
Chair, Executive Committee

## Inquiries, Complaints and Reports Committee Report to Council June 28, 2018

### Committee Members

- Kevin VanDerZwet Stafford, RP (Chair)
- Shelley Briscoe-Dimock, RP
- Carol Cowan-Levine, RP
- Kali Hewitt-Blackie, RP (Non-Council Committee Member)
- Mary Kardos Burton
- Sheldon Kawarsky
- Kenneth Lomp, RP
- Pat Rayman, RP
- Len Rudner
- Steven Stijacic

#### Committee meetings:

- April 5, 2018

#### Panel meetings:

- March 2, 2018
- March 9, 2018
- April 5, 2018
- May 9, 2018
- May 17, 2018
- May 29, 2018
- June 7, 2018

#### **Guideline on *Disclosing Information to Prevent Harm***

The College's consultation on its draft guideline, *Disclosing Information to Prevent Harm*, closed on February 14<sup>th</sup> and ICRC reviewed feedback at its plenary meeting in April. Recommendations will be presented to Council today. See agenda item 12.

#### **Ethics Program Review**

One of the outcomes available to ICRC panels is to require that members take a specified course on ethics. As part of our continuing resource development, a number of ethics program providers are currently being reviewed by ICRC. Providers have been invited to attend the College to present before the Committee about the programs they offer. These presentations are ongoing.

#### **Ethical Decision Making Frameworks**

At the April plenary meeting, ICRC learned about ethical decision making processes and frameworks. The Committee discussed risk-based models and learned about how these methods might be applicable to the complaints process.

## Complaints & Reports Summary

Fiscal year (April 1-March 31)	2017-2018	2016-2017	2015-2016
Formal Complaints	34	15	15
Registrar's Investigations	5	8	5

## Current Complaints & Reports Summary

Current fiscal (to date)	April 1, 2018-
Formal Complaints	12*
Registrar's Investigations	0

\*one formal complaint has been withdrawn

## Complaint Processing Timelines

The College has contracted three new investigators to assist with incoming files. The Committee continues to discuss factors impacting complaint processing timelines and is making efforts to manage these delays.

## Common Allegations

Common allegations in ICRC matters include general conduct (e.g. professionalism, communication), confidentiality, scope of practice (e.g. practising outside of one's competence), discontinuing services, and consultation, supervision, and referral. CRPO receives a large number of complaints about members working with families involved in custody/ access disputes.

## Health Professions Appeal and Review Board (HPARB) Update

ICRC received its first decision from an appeal filed with HPARB. The College's decision was confirmed. HPARB orders and reasons are posted on CanLii.

- [C.L.G., RP v. P.D.](#)

## Formal Motions to Council

- See agenda item 12 regarding the Guideline on *Disclosing Information to Prevent Harm*.

## The Committee Recommends:

- That the Inquiries, Complaints and Reports Committee's Report to Council be accepted as presented.

Respectfully submitted,

Kevin VanDerZwet Stafford  
Chair, Inquiries, Complaints and Reports Committee

## Nominations and Elections Committee Report to Council June 28, 2018

Committee Members
<ul style="list-style-type: none"><li>• Pat Rayman, RP (Chair)</li><li>• Tapo Chimbhanda, RP (term ending June 23, 2018)</li><li>• Shikha Kasal</li><li>• Malcolm MacFarlane, RP</li><li>• Len Rudner</li></ul>

**Committee meetings:**

- June 25, 2018

**Panel meetings:**

n/a

At the time this report was written, the June 25 meeting had not yet taken place.

**Approval of Candidate Platforms**

On May 1, 2018 the Nominations and Elections Committee approved the candidate platforms via email. Three candidates put their names forward to run for election in District 1 and two candidates put their names forward to run in District 5. No candidates put their names forward for District 6. Eligible voters may cast their vote until June 22, 2018. A verbal update on the election results and a debrief of the June 25 meeting will be provided at the June 28 Council meeting.

**Committee Membership Changes**

Tapo Chimbhanda will be leaving both Council and the Nominations and Elections Committee. The Chair would like to express appreciation for her valuable contribution to the Committee and wish her the best in her future endeavours.

**Formal Motions to Council**

n/a

**The Committee Recommends:**

- That the Nomination and Elections Committee's Report to Council be accepted as presented.

Respectfully submitted,

Pat Rayman  
Chair, Nominations and Elections Committee



## Quality Assurance Committee Report to Council June 28, 2018

### Committee Members

- Andrew Benedetto, RP
- Tapo Chimbanga, RP
- Sheldon Kawarsky
- Mary Kardos Burton (Chair)
- Kenneth Lomp, RP
- Malcolm MacFarlane, RP
- Pat Rayman, RP
- Len Rudner

#### Committee meetings:

- May 11, 2018

#### Panel meetings:

- May 11, 2018

At the May 11, 2018 plenary meeting, the Quality Assurance Committee considered the following matters:

#### **Electronic Practice Guideline**

A focus group took place on April 5, 2018, where participants reviewed the guideline and provided feedback. The Committee revised the draft guideline in a number of areas. The Committee then approved a motion recommending Council circulate the guideline for stakeholder consultation. This matter will come before Council in September.

#### **Informed Consent Workbook**

A draft of the Informed Consent Workbook was reviewed. The intent of the workbook is to help members understand the law and their obligations with respect to the informed consent process. I am pleased to report that the committee has approved the Informed Consent Workbook as a remediation tool. It will be posted to the College website as a resource available to all members.

#### **Prescribed Regulatory Education (PRE)**

Committee approved a policy framework that sets PRE as a new QA requirement. Recall that staff presented on PRE at Council's last meeting. At that time, Council learned that PRE is a form of mandatory professional development, and the College was exploring how to deliver PRE at little to no cost to members. While we are a long way from being able to implement PRE, committee is working diligently on this matter because it will be an important resource that will help the College to relay information about regulation and practice in a timely manner. Council will hear more about this topic at a next meeting.

### **Clinical Supervision**

Committee discussed the matter of clinical supervision, and how the QA Program can be leveraged to support member's understanding of clinical supervision requirements and obligations.

Committee also convened as a panel for a portion of the May meeting, where 2 cases were reviewed. Committee will next meet on August 17, 2018, where it will spend the larger portion of the meeting convened as a panel to review Peer and Practice Review results of individual members.

I would like to thank my colleagues on the committee as well as College staff – Jessica, Andrew and Lene. The resources and policies that we develop in this committee are important to members and the College alike. They help to satisfy members' desire for information and they provide the College with tools that support its public protection mandate.

### **Formal Motions to Council**

n/a

### **The Committee Recommends:**

- That the Quality Assurance Committee's Report to Council be accepted as presented.

### **Attachments:**

n/a

Respectfully submitted,

Mary Kardos Burton  
Chair, Quality Assurance Committee

## Registration Committee Report to Council June 28, 2018

Committee Members
<ul style="list-style-type: none"> <li>• Malcolm MacFarlane, RP (Chair)</li> <li>• Heidi Ahonen, RP (Non-Council Committee Member)</li> <li>• Andrew Benedetto, RP</li> <li>• Tapo Chimbanga, RP (term ending June 23, 2018)</li> <li>• Gary Cockman</li> <li>• Carol Cowan-Levine, RP</li> <li>• Tamar Kakiashvili (Non-Council Committee Member)</li> <li>• Shikha Kasal</li> <li>• Sheldon Kawarsky</li> <li>• Barbara Locke Billingsley</li> </ul>

**Committee meetings:**

- April 12, 2018

**Panel meetings:**

- February 16, 2018
- March 2, 2018
- March 23, 2018
- April 6, 2018
- April 13, 2018
- April 20, 2018
- May 4, 2018
- May 9, 2018
- May 16, 2018
- May 18, 2018
- June 15, 2018

At the April 12, 2018 plenary meeting, Registration Committee considered the following matters:

**Presentations**

A presentation was made by Nava Israel from the Mennonite New Life Centre regarding the Bridge to Registration and Employment in Mental Health (BREM) program.

**Review & Recognition**

- A report from Curriculum Services Canada (CSC) regarding the Toronto School of Theology's Master of Pastoral Studies, Spiritual Care and Psychotherapy program. The Registration Committee accepted the recommendation that the program be recognized.

- Information that CSC is no longer in business. The College has contracted with Word it Write (WIW), a new curriculum assessment company led by former CSC employee Pauline Beggs.
- Information that the College's program review and recognition process will be designated as a subject matter expert review for purposes of private colleges offering programs in psychotherapy in Ontario to register with the Ministry of Advanced Education and Skills Development. The Ministry is also considering whether this review and recognition process would be equivalent to a review of Ministry adult education requirements.

### **Indigenous Pathway to Registration (IPR)**

The Registration Committee decided that members of the Indigenous community would make up the majority of a panel that deliberates on an Indigenous Pathway application.

### **Clinical Experience Hours**

Information that the regular route policy guidelines regarding the minimum 125 hours of direct client contact (DCC) and 30 hours of clinical supervision required to become registered as a Registered Psychotherapist (Qualifying) are not in the Registration Regulation. The Registration Committee instructed staff to register applicants who do not meet the minimum clinical experience hours but do meet all other requirements, while leaving any reported hours that do not fall within the scope of practice of psychotherapy as unaccepted.

### **College of Psychologists of Ontario (CPO) Supervision Policy**

The Registration Committee was informed that the CPO had communicated a new policy on the supervision of the controlled act of psychotherapy. Impacts on Registered Psychotherapists were discussed.

### **Panel Meetings**

The April 13, May 9 and 16 meetings were one hour in length. The other listed meetings were full-day meetings. Below are the statistics for these meetings up to May 18. At the time this report was written, the June 15 meeting had not yet taken place.

<b>Total applications reviewed between Feb. 16 &amp; May 18</b>	133
<b>Approved</b>	9
<b>Conditionally approved</b>	2
<b>Refused</b>	114
<b>Terms, Conditions &amp; Limitations</b>	2
<b>Request for more information</b>	6

### **Health Professions Appeal and Review Board (HPARB) Update**

Since the February 22, 2018 Council meeting, the Health Professions Appeal and Review Board (HPARB) has returned four decisions. In the first decision, HPARB returned the matter back to the Registration panel for reconsideration with a recommendation that the applicant be registered. The applicant was subsequently registered following reconsideration. In the second and third decisions, HPARB confirmed the decision of the Registration panel refusing registration. In the fourth decision, the matter was returned back to the Registration panel requiring it to reconsider the decision in accordance with reasons contained in HPARB's decision. Staff is in the process of confirming whether the applicant wishes to make further submissions before scheduling the reconsideration.

HPARB orders and reasons are posted on CanLii. These are linked below:

- [S.L. v. College of Registered Psychotherapists](#)
- [Y.H.P. v. College of Registered Psychotherapists](#)
- [R.M. v. College of Registered Psychotherapists](#)
- [J.M. v. College of Registered Psychotherapists](#)

### **Committee Membership Changes**

Tapo Chimbganda will be leaving both Council and the Registration Committee. The Chair would like to express appreciation for her valuable contribution to the Committee and wish her the best in her future endeavours.

### **Formal Motions to Council**

n/a

### **The Committee Recommends:**

- That the Registration Committee's Report to Council be accepted as presented.

### **Attachments:**

n/a

Respectfully submitted,

Malcolm MacFarlane  
Chair, Registration Committee

## Briefing Note for Council

<b>Meeting Date:</b>	June 28, 2018
<b>Agenda Item #</b>	9
<b>Issue:</b>	Draft Regulation: <i>Categories of Prescribed Therapies Involving the Practice of Psychotherapy</i>
<b>Attachment(s):</b>	<i>Note: final version of consultation documents to follow under separate cover after June 22, 2018</i>
<b>References:</b>	<a href="#">CRPO public consultations</a>
<b>For:</b>	Information <input checked="" type="checkbox"/> Discussion <input checked="" type="checkbox"/> Decision <input checked="" type="checkbox"/>
<b>Staff Contact:</b>	D. Adams
<b>Submitted by:</b>	Controlled Act Task Group

### Background:

On December 30, 2017, the government of Ontario proclaimed into force the controlled act of psychotherapy with a two-year transition period to allow the mental health sector a period of time in which individuals may become registered with one of the appropriate colleges or restrict their services so that they do not perform the controlled act.

In conjunction with the proclamation, the Minister of Health and Long-Term Care directed the College of Registered Psychotherapists of Ontario (CRPO) to provide more clarity on the meaning of the controlled act of psychotherapy and what practices would not be considered to be part of the controlled act.

The Controlled Act Task Group (CATG) drafted a regulation and policy in response to the Minister's direction to CRPO. Additional resource documents have been developed to provide further clarity to the controlled act of psychotherapy as provided by Registered Psychotherapists.

On March 29, 2018 Council approved the proposed regulation in principle and charged the Executive Committee with approving a final draft of the regulation as recommended by the CATG. The proposed regulation was posted to the CRPO website for 60-day public consultation on April 16, 2018. This 60-day circulation was undertaken as required by section 95 of the Health Professions Procedural Code that comprises Schedule 2 of the *Regulated Health Professions Act*.

The consultation will close on June 15, 2018. The CATG will be meeting on June 22, 2018 to review all feedback received in response to the proposed regulation and to finalize the documents before they are presented to Council at this June 28, 2018 meeting.

### Key Considerations:

- CATG is working to meet the July 1, 2018 deadline imposed by the Minister for CRPO to submit a proposed regulation “prescribing therapies involving the practice of psychotherapy, governing the use of prescribed therapies and prohibiting the use of therapies other than the prescribed therapies in the course of the practice of psychotherapy.”

### **Recommendations:**

Review and approve the proposed regulation *Categories of Prescribed Therapies Involving the Practice of Psychotherapy* for submission to the Ministry of Health and Long-Term Care.

### **Proposed Motion:**

**[Be it moved]** That Council approve the proposed regulation, *Categories of Prescribed Therapies Involving the Practice of Psychotherapy* for submission to the Ministry of Health and Long-Term Care as presented [or amended].

## Briefing Note for Council

<b>Meeting Date:</b>	June 28, 2018
<b>Agenda Item #</b>	10
<b>Issue:</b>	Proposed By-law Amendments
<b>Attachment(s):</b>	-
<b>References:</b>	<a href="#">Public Consultation Feedback</a>
<b>For:</b>	Information <input checked="" type="checkbox"/> Discussion <input checked="" type="checkbox"/> Decision <input checked="" type="checkbox"/>
<b>Staff Contact:</b>	D. Adams
<b>Submitted by:</b>	Executive Committee

### Background:

On February 22, 2018, Council approved the proposed by-law revisions be circulated for 60-day public consultation. The proposed amendments were presented in two categories:

- technical & administrative
- fees

The administrative amendments consisted of removing out-of-date content and correcting non-controversial issues.

The proposed amendments to fees are intended to incorporate reasonable fee changes, which are in alignment with other regulatory bodies with similar membership size, to best position the College to carry out its regulatory mandate over the longer term.

The proposed by-law revisions were posted to the CRPO website for 60 days, with the consultation closing on May 14, 2018. The feedback can be reviewed [here](#).

In summary:

<b>Total respondents</b>	<b>173</b>
<b>Do not support fee changes</b>	97
<b>Support fee changes</b>	10
<b>No comment</b>	59
<b>Comments re: administrative changes</b>	3

The feedback received regarding fee changes fell into the following categories:

<b>Feel that fees were not comparable to other colleges</b>	44
<b>Feel that fees are already too high</b>	17
<b>Feel that part-time work should allow for a fee reduction</b>	4
<b>Feel that it is unfair to raise fees when third party coverage and HST issues are not resolved</b>	8

The Executive Committee will review the public consultation feedback at their June 22, 2018 meeting.



## Key Considerations:

CRPO registration fees are the lowest of the five newly proclaimed colleges and among the lowest of all of the health regulatory colleges in the province. This is despite the fact that our membership is still in its growth stage. It is important to note that larger, more established colleges benefit from economies of scale that we do not yet have; CRPO has made careful investments in technology and efficient operations in order to fulfil its mandate and operate in a way that provides excellent service to both the public and its members, but that maintains fees that are demonstrably lower than other regulatory bodies.

Membership fees are the College's only source of income and they must provide the financial means to develop and manage all of the CRPO programs required by the [RHPA](#). Decisions around revenue are made after careful deliberation and in consideration of the College's responsibilities, which include developing a [Quality Assurance Program](#); addressing unregulated practice; handling [complaints](#), reports and [discipline](#); and maintaining adequate reserves for victims of [sexual abuse](#) by RPs.

Regardless of whether an RP works full-time or part-time, the work of the College in relation to each member is the same: to protect the public interest. A complaint of abuse at the hands of an RP, for example, takes investigatory and disciplinary resources to process; the volume of clients that RP has does not influence CRPO's obligations.

## Recommendations:

Approve the proposed by-law amendments as presented.

## Implementation date:

Immediately

## Proposed Motion:

**[Be it moved]** that Council approve the proposed by-law amendments as presented [or amended].

## Briefing Note for Council

<b>Meeting Date:</b>	June 28, 2018
<b>Agenda Item #</b>	11.1
<b>Issue:</b>	Policy approval: Sexual Contact with Former Clients within 5-Years Post Termination of Care
<b>Attachment(s):</b>	<i>Policy: Sexual Contact with Former Clients within 5-Years Post Termination of Care</i>
<b>References:</b>	CRPO consultation <a href="#">results</a>
<b>For:</b>	Information <input type="checkbox"/> Discussion <input checked="" type="checkbox"/> Decision <input checked="" type="checkbox"/>
<b>Staff Contact:</b>	D. Adams
<b>Submitted by:</b>	Client Relations Committee

### Background:

At the March 29, 2018 meeting, this policy was recommended for implementation in anticipation of the relevant section of Bill 87, *Protecting Patients Act, 2017*, being proclaimed into force. Council accepted the recommendation and directed staff to circulate the draft policy for a 60-day consultation.

Note, to remove the reference to a 'cooling off period' and in order to align with government language related to the definition of patient in the RHPA, this policy has been retitled as the policy on *Sexual contact with former clients within 5-years post termination of care*.

This consultation was completed on June 9, 2018 with 67 respondents having accessed the survey. The feedback received can be [here](#).

In summary:

<b>Total individual responses received</b>	67
<b>Registered Psychotherapists (RP)</b>	58
<b>Other regulated health professional</b>	1
<b>Representing a professional association</b>	1
<b>Representing a service provider organization</b>	1
<b>Individuals working to qualify as an RP</b>	6

<b>Respondents in support of the proposed 5-year period</b>	23
<b>Respondents not in support of the proposed 5-year period</b>	2
<b>Respondents who provided alternative options</b>	19

The suggested post-termination periods were as follows:

Post-termination period	Respondents
3 months	1
1 year	4
2 years	4
3 years	3
Indefinite	3

### Key Considerations:

- The section of Bill 87 that will allow the College to set out in regulation the time period for defining a post termination of care period during which an individual would continue to fall under the definition of “client” for the purpose of the sexual abuse provisions of the Regulated Health Professions Act (RHPA) has been proclaimed.
- CRC will be working to develop a draft regulation on the post-termination period for Council’s consideration at a subsequent meeting.
- This policy is an interim measure that is being proposed while we wait to be able to pass a regulation since it is unknown how long the regulation making process will take. The impetus for implementing this policy is to put members on notice that this will be the expected post termination of care period and to start the clock so that we can use the five-year retrospective period before the regulation gets passed.

### Recommendations:

That the Council approve the adoption of the policy *Sexual Contact with Former Clients within 5-Years Post Termination of Care* as presented.

### Proposed Motion:

**[Be it moved]** That Council approve the adoption of the policy *Sexual Contact with Former Clients within 5-Years Post Termination of Care* as presented.

## DRAFT POLICY

### *Sexual Contact with Former Clients within 5-Years Post Termination of Care*

#### Introduction

The College of Registered Psychotherapists of Ontario (CRPO) has a duty to protect the public interest. This mandate drives the College's work to prevent and address sexual abuse of clients by members. As regulated health professionals, Registered Psychotherapists (RPs) owe a duty of care to their clients and the general public to safeguard client well-being, including clients' physical and emotional safety. When an RP sexually abuses a client, they betray that duty of care, causing harm not only to the person they abuse, but to all Ontarians. Abuse erodes the public's trust in the profession and undermines the skill and credibility of all RPs who provide safe, effective and ethical care.

Given the harmful impacts of abuse, the College must impose penalties that will deter abuse, ensuring that individual clients and the broader public are better protected.

#### Purpose

Sexual abuse of a client is defined in the *Health Professions Procedural Code* (HPPC), which is Schedule 2 to the *Regulated Health Professions Act, 1991* (RHPA), as:

- a) *sexual intercourse or other forms of physical sexual relations between the member and the patient<sup>1</sup>,*
- b) *touching, of a sexual nature, of the patient by the member, or*
- c) *behaviour or remarks of a sexual nature by the member towards the patient.*

Once proclaimed, a recent change to the RHPA will establish a mandatory post termination of care period under which there may be no sexual conduct toward a former client for at least one year. The RHPA will allow individual colleges to extend this post termination of care period. CRPO's Council has determined that a five-year post termination of care period is appropriate for its members and will be using its regulation-making authority to make this period mandatory.

While working through the process for creating a regulation, this policy is intended to establish the five-year time as the expected **minimum** post termination of care period for sexual contact with a former client. In cases where a complaint or report is referred for a discipline hearing and involves allegations of sexual abuse by a member within five years post-termination of the client-therapist relationship, the College will refer to this policy and urge the Discipline Committee to impose the most serious penalty available, revocation of the member's certificate of registration.

The College will consult with stakeholders about this before asking the Ontario government to bring this into law.

#### Guiding Principles

##### Principle 1:

CRPO's Professional Practice Standard on the Client-Therapist Relationship ([section 3](#)) identifies that the client-therapist relationship itself is the foundation of psychotherapy. RPs are expected to place client well-being at the forefront of this relationship, relying on their knowledge, skill and judgement to do so safely, ethically and effectively.

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<sup>1</sup> The Regulated Health Professions Act uses the term "patient." In keeping with the terms common to the profession of psychotherapy, CRPO uses the term "client" instead of "patient."

**Principle 2:**

Because RPs possess and use professional knowledge, skill and judgment to establish and maintain the therapeutic relationship, an inherent power imbalance exists between RPs and their clients. As a result, it is not possible for an RP to have a sexual relationship with a client where the balance of power can be considered equal.

In light of the principles described above, the College believes sexual contact between an RP and their client (including with an individual who received therapy or other services from the RP within the past five years) must be strictly prohibited.

Members should understand that it may never be appropriate to enter into a romantic or sexual relationship with a former client, specifically where a power imbalance continues to exist between the member and the former client, which places the former client at risk of undue influence, harm or exploitation.

**Mandatory Penalty: Sexual Abuse of Current and Former Clients (Within the Past Five Years)**

The College believes sexual conduct by a member toward a current client or former client (within five years of termination) must be strictly prohibited. Once the College makes a regulation to this effect, the mandatory penalty will be a reprimand and revocation of the member's certificate of registration for five years, regardless of the circumstances. Prior to this, the College will rely on this policy in recommending revocation and a reprimand in discipline cases involving allegations of sexual misconduct by a member toward a former client.

## Briefing Note for Council

<b>Meeting Date:</b>	June 28, 2018
<b>Agenda Item #</b>	11.2
<b>Issue:</b>	Guideline approval: Sexual contact with former clients beyond 5-years post termination of care
<b>Attachment(s):</b>	<i>Guideline:</i> Sexual contact with former clients beyond 5-years post termination of care
<b>For:</b>	Information <input checked="" type="checkbox"/> Discussion <input checked="" type="checkbox"/> Decision <input checked="" type="checkbox"/>
<b>Staff Contact:</b>	D. Adams
<b>Submitted by:</b>	Client Relations Committee

### Background:

At the March 29, 2018 meeting, the draft guideline, *Sexual Contact with Former Clients Beyond 5-years Post Termination of Care*, was presented to Council.

Note, to remove the reference to a 'cooling off period' and in order to align with government language related to the definition of patient in the RHPA, this guideline has been retitled as the guideline on *Sexual contact with former clients beyond 5-years post termination of care*.

Council provided feedback and requested that the Client Relations Committee (CRC) revise and resubmit the guideline for approval at June Council. Feedback included concern that the guideline was focused too much on the consequences of sexual contact with former clients and not enough on providing members with practical direction related to this issue. The CRC met on June 1, 2018 to review the draft guideline.

### Key Considerations:

The Committee deliberated on a revised draft of the guideline. The version that comes forward for Council is aligned with other CRPO guidelines and strives to provide members with substantive direction to support them in practice.

- Council should note that this guideline will be linked to the policy *Sexual Contact with Former Clients beyond 5-Years Post Termination of Care*.
- The guideline will provide screening and discipline committees with a framework in which to evaluate complaints and reports related to sexual contact beyond 5-years post termination of care.

### Recommendations:

That the Council approve the guideline *Sexual Contact with Former Clients beyond 5-Years Post Termination of Care* as presented for a 60-day public consultation.

### Proposed Motion:

**[Be it moved]** That Council approve the 60-day circulation of the guideline *Sexual Contact with Former Clients beyond 5-Years Post Termination of Care* as presented.

### **Sexual Contact with Former Clients beyond 5-Years Post Termination of Care**

*Note*

*Guidelines published by CRPO are intended to clarify CRPO's Professional Practice Standards, providing additional information that will help a member consider or respond to common situations that arise in practice in a manner that accords with the Standards.*

*Information provided in a guideline is to be considered along with other relevant sources of information, such as the Code of Ethics, applicable Standards, regulations, and laws. Members must rely on their knowledge, skill and judgement to determine when it is appropriate to apply a particular guideline, being mindful that ultimately, members are responsible for their own actions.*

*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.*

## **Introduction**

The College of Registered Psychotherapists of Ontario (CRPO) has a duty to protect the public interest. This mandate drives the College's work to prevent and address sexual abuse of clients by members. As regulated health professionals, Registered Psychotherapists (RPs) owe a duty of care to their clients and the general public to safeguard client well-being, including clients' physical and emotional safety. When an RP sexually abuses a client, they betray that duty of care, causing harm not only to the person they abuse, but to all Ontarians. Abuse erodes the public's trust in the profession and undermines the skill and credibility of all RPs who provide safe, effective and ethical care.

Given the harmful impacts of abuse, the College must impose penalties that will deter abuse, ensuring that individual clients and the broader public are better protected.

The Sexual Contact with Former Clients Beyond the 5-Years Post Terminations Guideline provides additional information that may be helpful to members in: recognizing the power imbalance that is inherent in the psychotherapeutic relationship; assessing if an imbalance continues to exist that then places a former client at risk of undue influence, harm, or exploitation; and understanding, their obligations as an RP as dictated by CRPO's Regulations, Code of Ethics and Professional Practice Standards.

## **Guideline**

**Even if more than five years has passed since the last day of treatment, RPs must refrain from sexual conduct toward a former client where a power imbalance continues to exist and that places the former client at risk of undue influence, harm, or exploitation. Where there is a risk of undue influence, harm or exploitation, CRPO takes the position that the RP is guilty of professional misconduct, and may recommend that the member's certificate of registration be suspended or revoked by the Discipline Committee.**

## **Applicable Standards and Entry-to-Practice Competencies**

This guideline complements Professional Practice Standards and Entry-to-Practice Competencies:

Standards	<a href="#">Professional Practice Standards For Registered Psychotherapists</a>	<p>Section 1: Professional Conduct</p> <p>1.3 – Reporting Unsafe Practices</p> <ul style="list-style-type: none"> <li>○ Members have a legal obligation to report to the College of another Member’s unsafe practice or behaviour</li> </ul> <p>1.5 – General Conduct</p> <ul style="list-style-type: none"> <li>○ Standard states that members should refrain from illegal conduct related to the practice of the profession</li> </ul> <p>1.7 – Dual or Multiple Relationships</p> <ul style="list-style-type: none"> <li>○ Members should avoid dual or multiple relationships with clients in addition to their professional one</li> </ul> <p>1.8 – Undue Influence and Abuse</p> <ul style="list-style-type: none"> <li>○ The College’s Professional Misconduct Regulation requires that members not inflict any form of verbal, physical, psychological and/or emotional abuse on client.</li> <li>○ RHPA prescribes penalties – sexual intercourse with a client carries a mandatory revocation of registration for a minimum of five years</li> </ul>
Competencies	<a href="#">Entry-to-Practice Competency Profile for Registered Psychotherapists</a>	<ul style="list-style-type: none"> <li>○ The competency profile lists the competencies that must be possessed by individuals entering the profession for the first time, in order for them to practice safely, effectively and ethically across a variety of practice settings</li> <li>○ A Member must: <ul style="list-style-type: none"> <li>2.2 Maintain effective relationships</li> <li>3.1 Comply with legal and professional obligation</li> <li>3.2 Apply an ethical decision making process</li> <li>4.2 Establish and maintain core conditions for therapy</li> <li>4.3 Ensure safe and effective use of self in the therapeutic relationship</li> <li>4.5 Structure and facilitate the therapeutic process</li> </ul> </li> </ul>

### Regulatory Context

Sexual abuse of a client is defined in the *Health Professions Procedural Code (HPPC)*, which is Schedule 2 to the *Regulated Health Professions Act, 1991(RHPA)*, as:

- a) *sexual intercourse or other forms of physical sexual relations between the member*



- and the patient<sup>1</sup>,*
- b) touching, of a sexual nature, of the patient by the member, or*
  - c) behaviour or remarks of a sexual nature by the member towards the patient.*

Once proclaimed, a recent change to the RHPA will establish a mandatory period under which there may be no sexual conduct toward a former client for at least one year. The RHPA will allow individual colleges to extend this period. CRPO's Council has determined that a five-year period is appropriate for its members and will be using its regulation-making authority to make this period mandatory.

This guideline is intended to address how, in some cases, sexual conduct with a former client will never be appropriate. In these cases, the Discipline Committee may make a finding of professional misconduct in the event a complaint or report is referred for a hearing.

## Guiding Principles

### Principle 1:

CRPO's Professional Practice Standard on the Client-Therapist Relationship (section 3) identifies that the client-therapist relationship itself is the foundation of psychotherapy. RPs are expected to place client well-being at the forefront of this relationship, relying on their knowledge, skill and judgement to do so safely, ethically and effectively.

### Principle 2:

Because RPs possess and use professional knowledge, skill and judgement to establish and maintain the therapeutic relationship, an inherent power imbalance exists between RPs and their clients. As a result, it is not possible for an RP to have a sexual relationship with a client where the balance of power can be considered equal.

In light of the principles described above, the College believes sexual contact between an RP and their client (including with an individual who received therapy or other services from the RP within the past five years) must be strictly prohibited.

Members should understand that it may never be appropriate to enter into a romantic or sexual relationship with a former client, specifically where a power imbalance continues to exist between the member and the former client, which places the former client at risk of undue influence, harm or exploitation.

## Assessment Framework

In assessing the risk of exploitation or harm that sexual contact with a former client may carry, members should consider if a reasonable RP would determine that:

- the contact would likely demonstrate an impairment in objectivity, competence or effectiveness of the psychotherapist; or

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<sup>1</sup> The Regulated Health Professions Act uses the term "patient." In keeping with the terms common to the profession of psychotherapy, CRPO uses the term "client" instead of "patient."

- the dual relationship would likely cause impairment to the former client.

Members should look at the following factors to determine whether there is the risk of undue influence, harm, or exploitation:

- the nature and length of the former client-therapist relationship;
  - Was the therapy individual, couple, family and/or subsystems (e.g., in therapy for an adolescent, brief work with parent and child or siblings) and/or group?
  - Was the therapeutic relationship brief or long-term? Was the approach to therapy individual or relational?
  - Did the therapist's use of self primarily inform the therapeutic approach (e.g., working with transference and countertransference)?
  - Were the issues addressed related to trauma, addiction or serious mental illness?
- the issues presented by the client in therapy;
  - Were the issues serious, relational, sexual and/or trauma related?
  - Was the presenting problem or focus of therapy on difficulties in intimate relationships or failed relationships, which might re-traumatize the client if the sexual relationship with the RP then fails?
- the length of time since the client-therapist relationship ended; and
  - Has significant time elapsed post five-year?
- the vulnerability of the client.
  - Does the client have distressing symptoms or a significant or serious mental illness or condition that would impair their judgement (e.g., unmanaged personality disorder, severe depression, unresolved or unmanaged trauma) that is adversely affecting their day-to-day lives, relationships and the ability to enjoy life?

## Briefing Note for Council

<b>Meeting Date:</b>	June 28, 2017
<b>Agenda Item #</b>	12
<b>Issue:</b>	Guideline on <i>Disclosing Information to Prevent Harm</i>
<b>Attachment(s):</b>	Draft Guideline on <i>Disclosing Information to Prevent Harm</i>
<b>References:</b>	CRPO consultation <a href="#">results</a>
<b>For:</b>	Information <input checked="" type="checkbox"/> Discussion <input checked="" type="checkbox"/> Decision <input checked="" type="checkbox"/>
<b>Staff Contact:</b>	M. Pioro
<b>Submitted by:</b>	Inquiries, Complaints & Reports Committee

### Background:

Members are expected to maintain client confidentiality; however, there are a number of circumstances where disclosure of personal health information is required without consent. If the member believes a significant, imminent risk of harm exists, there may be a professional and legal duty to warn the intended victim and relevant authorities.

In April 2016, the Inquiries, Complaints and Reports Committee (ICRC), discussed potential guidelines to help members determine whether concern for public safety warrants an exception to confidentiality. In April 2017, the ICRC directed staff to draft a guideline on the duty to warn.

In November 2017, Council approved that the draft guideline, *Disclosing Information to Prevent Harm*, developed by the ICRC, be circulated for feedback. The draft was posted to the website for public consultation.

Staff and the ICRC chair incorporated Council's feedback from the November 2017 meeting, as well as feedback from stakeholders, and presented a revised draft to the ICRC.

The ICRC made minor amendments to the draft in April and recommended approval. The attachment includes the draft guideline and a summary of feedback with staff comments.

### Recommendations:

Staff and ICRC recommend that Council approve the draft Guideline, *Disclosing information to Prevent Harm*.

### Proposed Motion:

**[Be it moved]** That Council approve the draft Guideline, *Disclosing Information to Prevent Harm*, as presented (or amended).

## 14.1 Disclosing Information to Prevent Harm

### Professional Practice Guideline

#### Introduction

Registered Psychotherapists have an obligation to maintain client confidentiality. In some circumstances, however, disclosure of client information is permitted or required by law. The *Personal Health Information Protection Act, 2004*<sup>1</sup> (PHIPA) allows health information custodians to disclose personal health information about an individual, without that individual's consent,

if the custodian believes on reasonable grounds that the disclosure is necessary for the purpose of eliminating or reducing a significant risk of serious bodily harm to a person or group of persons.<sup>2</sup>

This guideline document explores when and how a Member of the College can disclose information under this provision.

The question of whether to disclose confidential information to prevent harm is multifaceted, involving aspects of law, ethics, and professional practice standards. The College advises Members that they may be held accountable for failing to take steps to prevent harm. Members have lost their employment, been the subject of complaints or reports to the College, and can be sued in court, for failing to respond appropriately to situations involving risks to clients or third parties.

**Comment [MP1]:** Added following Council discussion, prior to consultation.

The expectation that a professional disclose confidential information to prevent harm is sometimes referred to as the 'duty to warn'. This exception to confidentiality is *in addition* to other reporting obligations, for example reporting to a Children's Aid Society about a child in need of protection. Members should review the College's *Professional Practice and Jurisprudence* manual, and *Professional Practice Standards*, for an understanding of these obligations.

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<sup>1</sup> SO 2004, c 3, Sch A.

<sup>2</sup> *Ibid.*, s. 40(1).

## Interpretation

The following are brief explanations of key concepts quoted above:

<i>Reasonable grounds</i>	A concern that is based on more than suspicion, rumour or speculation.
<i>Necessary</i>	There is no other reasonable way (such as continuing therapy with the client) to prevent the risk of harm to the client or others. If disclosure is necessary, as little information as possible is disclosed to eliminate or reduce the risk of harm; that is, extraneous information is not shared.
<i>Significant risk</i>	Requires a case-by-case evaluation of both the likelihood and magnitude of harm. "Significant risk" falls in between the extremes of low risk and certainty.
<i>Serious bodily harm</i>	Death or "any hurt or injury, whether physical or psychological, that interferes in a substantial way with the integrity, health or well-being of a victim." <sup>3</sup>
<i>Person or group of persons</i>	The victim(s) are identifiable or their characteristics are described specifically.

## Professional Judgment, Consultation and Documentation

Each situation involving a potential risk of harm is different. The Member is responsible for using professional judgment to determine whether and how to disclose information appropriately.

Part of developing and applying professional judgment is knowing when to seek consultation. Consulting with supervisors and colleagues allows multiple perspectives and options to be presented, allowing the Member to make an informed decision. Consultation is especially important in complex situations, or where a Member is accountable as part of a team or organization. A Member should consult early, as potential risks begin to emerge, and not wait until harm is imminent. As the law regarding disclosure of confidential information to prevent harm is complex and evolving, members may find it helpful to consult with their legal advisor.

**Comment [MP2]:** Added following Council discussion, prior to consultation.

Deciding whether to make a report requires serious consideration. Members should recognize that the therapeutic relationship may be compromised as a result of disclosing information without the consent of the client. Concern about maintaining the therapeutic relationship, however, should not prevent a Member from disclosing information where doing so is needed. Members should use their judgement in determining when it is therapeutically relevant and safe to inform the client that they are disclosing information to a third party.

**Comment [MP3]:** Added in response to stakeholder submission.

Members should document their actions, including consultations made and action taken. Doing so can show that a Member made reasonable efforts, even if it was not possible to prevent or reduce harm in a given situation.

**Comment [MP4]:** Added based on discussion at November Council meeting.

## Working with Clients at Risk

When working with clients who are at risk of harm, it is strongly recommended that Members consider ways of facilitating their own self-care and strengthening resilience. They may do this by engaging in education, supervision, personal therapy or other personal care activities, e.g. meditation, connecting with personal supports, taking a break, etc. While this should be ongoing, it may be particularly important after dealing with more challenging clinical issues or in the unfortunate event that a client has been injured or dies as a result of suicide or homicide.

## Example Situations

<sup>3</sup> *R. v. McCraw*, 1991 CanLII 29 (SCC), [1991] 3 SCR 72, at p. 88.

This section covers types of situations a Member could encounter. Actual situations are likely to be nuanced and involve elements of uncertainty. The examples given here are simplified for basic learning purposes.

#### *Client self-harm or suicide*

Members are expected to have competence in risk assessment. Minimally they should know when and how to conduct a risk assessment (during intake, the initial session, and/or at some point during the course of therapy). There are various methods for conducting a risk assessment, which may include having the client completing a written form, orally asking the client a series of standard questions, or some combination of the two. Risk may need to be re-assessed based on new information presented by the client or after following up with the client at a later session.

It is important to explain the limitations to confidentiality at the outset of therapy, to request that clients provide an emergency contact person, and to maintain up-to-date contact information of the client. The Member should have the client's address in case the Member learns in between sessions that the client is at risk and needs to contact emergency services.

Members should be familiar with the safety planning process, including helping the client identify internal and external resources and strengths, and discussing when the client should seek additional help. Members should be aware of, and with, treatment and referral options for suicidal ideation or other self-harming behaviours. In situations where the risk of harm is not imminent, treatment may be effective and disclosure may not be necessary.

Members should be alert to distinguish between 'passive' suicidal ideation (where there is no intention to take action), and active planning. Depending on the situation, it may be appropriate to offer to escort the client to hospital, get in touch with the client's emergency contact person, call the client's other known healthcare providers, contact police or dial 911.

Example: The client regularly discusses end of life decision-making in session, including the option of thoughts of suicide. To date the idea of suicide has been hypothetical in nature with no indication of active planning. In between sessions, the client emails the therapist indicating that they plan to take their own life in the next several days. The therapist replies that they will need to report this to police and the client's family physician, and does so.

Example: An individual calls a community mental health agency threatening to die by commit suicide. Agency staff phones the police. The police inform the agency that the individual in question is known to police for making false reports of suicidality, and tell the agency that they do not need to contact the police if the individual calls again. The individual calls again stating that they will take their own life. Notwithstanding the advice from police, agency staff contacts the police again about the individual.

Suicide is distinct from medical assistance in dying (MAID). A therapist whose client discusses or plans to receive MAID in accordance with Canadian law is not expected to disclose client information to any third party about these discussions or plans.<sup>4</sup>

*Client knowledge of a third party at risk, e.g. of suicide*

<sup>4</sup> For information about MAID, see Ministry of Health and Long-Term Care, online: <http://health.gov.on.ca/en/pro/programs/maid/>.

**Comment [MP5]:** Staff suggests adding as a helpful detail.

**Comment [MP6]:** Clarifies that this guideline does not only apply to suicide, but non-lethal self-harm as well, and that treatment will be warranted in many situations, rather than disclosure.

**Comment [MP7]:** Based on discussion at ICRC, April 2018, to avoid confusion between suicide and medical assistance in dying.

**Comment [MP8]:** Based on discussion at ICRC, April 2018, to avoid confusion between suicide and medical assistance in dying.

Sometimes a client will share that someone they know is at risk, for example planning ~~to die by~~ ~~to~~ ~~commit~~ suicide. Where disclosure is warranted, the client can be involved in the process if this can be of therapeutic benefit. Therapists should be cautious in assuming the client will make a report about a third party at risk. Relying on the client to report may be appropriate if the risk is not imminent and the therapist believes it is likely the client will follow through; however, once the therapist is aware of an imminent risk, the therapist may have a responsibility to disclose information themselves to prevent harm.

It is understandable that the therapist may not be able to fully assess the situation using second-hand information. Likewise, the therapist may not be able to obtain the contact information of the individual at risk. The expectation is that members make reasonable efforts when the client informs them that a third party may be at risk.

Example: The client tells the therapist about their friend's social media posting that they plan to take their own life shortly. The therapist explains their duty to report, and offers to phone the police together with the client. The client agrees and they do so.

**Comment [MP9]:** Added based on discussion at November Council and stakeholder feedback.

#### *Risk of harm to the client by a third party, e.g. intimate partner violence*

In some situations, the client may be at risk of serious injury or death from another person. Examples may include intimate partner violence or elder abuse. The client may be reluctant to share this information with anyone else. This can put the therapist in a very difficult position for deciding whether or not to disclose information. Members must respect the client's autonomy in deciding whether or not a report should be made. In addition, reporting a client's partner or family member to police can potentially increase risk and re-traumatize the client. A thorough history and risk assessment is required.<sup>5</sup>

**Comment [MP10]:** Added another example aside from intimate partner violence. Based on suggestion at November Council meeting.

**Comment [MP11]:** Based on discussion with violence against women sector representatives.

Example: The client discloses to the therapist concern for their safety and that they may be at risk of harm by their partner. The therapist assesses risk and lethality and in establishing a safety plan<sup>6</sup> with the client, explores a variety of options (e.g. accessing a shelter, supportive resources in the client's life, the client's calling police).

**Comment [MP12]:** Expanded on safety planning in footnote. Added reference to "elder abuse or other forms of violence" based on discussion at ICRC meeting, April 2018.

Related, Members should view threats of self-harm by a third party communicated to the client as potentially *both* an attempt to exercise control over the client, as well as a legitimate risk to the third party.

#### *Risk to a third party by the client*

The client may disclose in session their intention to harm a specific person or group. The therapist should assess the level of risk on an ongoing basis, by considering factors such as specificity of planning, history of violence and access to weapons. If the risk is significant, contacting police will generally be sufficient to fulfill one's responsibility. There is debate about whether warning the intended victim of a threat is necessary in addition to advising police (assuming it is reasonably possible to obtain contact information of the intended victim). In contemplating this step, a Member needs to weigh the severity of the risk to the intended victim against the negative impact disclosure may have on the intended victim. That is, the greater the risk of harm, the more important it may be to alert the intended victim, if it is possible to do so.

<sup>5</sup> For safety planning resources specific to violence against women, see e.g. Peel Committee Against Woman Abuse, online: <https://www.pcawa.net/safety-planning-guide.html>; Neighbours, Friends and Families, online: <http://www.neighboursfriendsandfamilies.ca/how-to-help/safety-planning>.

<sup>6</sup> Members should assess the client's risk, and their own competence to create a safety plan. Members should be familiar with safety planning in general, and consult with centres specializing in intimate partner violence, elder abuse or other forms of violence when the level of risk or complexity exceeds their competence.

Once information is disclosed, Members should consider whether it is reasonable in the circumstances to follow up with the recipient of the information, in particular if circumstances change. Expect that police may not be able to provide updates about their investigation.

Example: The client confides in the therapist that he plans to kill his former spouse. After the session, the therapist immediately contacts police. In addition, the therapist's records include the former partner's name and workplace, and the therapist provides this to the police as well.

In some cases, risk may not be to an identifiable individual, but to a group. For example, road users, e.g. motorists, cyclists, pedestrians, may be at risk where a client tells the therapist they struggle with substance use and have driven while intoxicated. In many cases, treatment may be more effective at reducing risk than disclosing client information to the police. However, where risk is imminent, disclosure may be warranted.

Comment [MP13]: Added in response to stakeholder feedback.

Example: The client is about to drive away from the session and appears to be intoxicated. The therapist asks them about their state and offers to call a taxi, or wait until someone else can drive them home. If the client does not agree, the therapist is prepared to report to police by dialing 911.

Comment [SA14]: New example for this issue.

The issue of a client's disease status, particularly HIV, can raise questions about the need to disclose information to prevent harm. A client's HIV status is confidential personal health information. Improvements in treatment are drastically reducing the risk of sexual transmission of the virus. This will form part of the analysis of whether the client's conduct constitutes a "significant risk" of serious bodily harm.

Example: The client discloses to the therapist that they are having unprotected sex with partners who are unaware of the client's disease status. Because this is a specific and evolving area of law and medicine, the therapist consults clinical literature, as well as individuals and organizations with specialized knowledge.<sup>7</sup>

#### *Risk to the therapist by the client*

Clients expressions of anger or hostility 'toward' a therapist are often part of the therapeutic process and can most often be worked out through therapeutic conversation. However, there may be situations where it is most therapeutic to refer the client elsewhere or terminate the therapeutic relationship altogether. In rare circumstances, a client may pose a risk of harm to a therapist, and it may be necessary to contact police in order to ensure the safety of the Member.

Example: A client becomes angered by the outcome of therapy, which very quickly escalates into resentment and clear threats of physical violence. The therapist terminates the therapeutic relationship and provides referral options to community resources. The therapist then contacts police to discuss safety planning and available legal measures.

#### **Reflection Questions**

Members can ask themselves the following questions when facing a situation that may call for disclosure of information to prevent harm. This list is not exhaustive (there may be additional or different questions to ask). *The italicized words are defined on page 2.*

Comment [MP15]: This new section added by staff and ICRC Chair as potentially helpful.

Comment [MP16]: Added based on discussion at ICRC, April 2018.

- Does this situation present a *significant risk of serious bodily harm to a person or group*?
- Is the therapist's *assessment or opinion* based on *reasonable grounds*?

Comment [MP17]: Added word "assessment" based on discussion at ICRC, April 2018.

<sup>7</sup> See e.g. HIV & AIDS Legal Clinic Ontario, online: <http://www.halco.org/>; Canadian HIV/AIDS Legal Network, online: <http://www.aidslaw.ca/>.



- Is disclosure *necessary* to prevent or reduce the risk of harm?
- Is this a situation that would benefit from consultation?
- Is disclosure required by law, e.g. to a children's aid society?
- When not required by law, would disclosure put the person (client or third party) at risk?
- Would discussing the possibility of disclosure with the client be therapeutic and safe?

**See Also**

[Professional Practice Standards for Registered Psychotherapists](#), standards 1.3: Reporting Unsafe Practices, and 3.1: Confidentiality.

[Professional Practice & Jurisprudence for Registered Psychotherapists](#), pages 51-56 and 83-87.

[CRPO web page: Reports about Members](#)

[Mandatory Reporting Obligations for Registered Psychotherapists](#)

## 14.2 Feedback from Stakeholder Consultation

### Draft Guideline: Disclosing Information to Prevent Harm

December 2017-February 2018

Feedback	Agree/ Disagree	Staff comments
More case examples.	Disagree	There are seven varied examples. They are sufficient as a first step.
Confirm if therapist's duty is to notify the client they will be making a report, as a part of ongoing informed consent.	Agree	Could add statement on page 2, paragraph 4.
Clarify the reasonable expectation of the legal requirement to inform intended victim. Don't always have contact information of person in danger.	Agree	Already addressed, end of page 3.
Discuss risk to therapist by violent partner or client.	Disagree	This point is addressed in the draft and appears sufficient.
More information about client knowledge of a third party at risk.	Agree	A new paragraph has been added.
How to navigate situations where client discusses suicide. Concerned that some clients would be sent to the hospital/ police would be called every session.	Disagree	This point is addressed in the draft, with an example.
More detail about how to address self-harm not described by client that is suicidal (e.g. eating disorders)	Agree	Added reference to non-lethal self-harm, and that treatment, rather than disclosure, will be appropriate in some situations.
Guidance for intoxicated clients that disclose they drink/smoke weed and drive.	Agree	Staff has added draft wording to incorporate this issue briefly.
Smith vs. Jones 1999 mentions danger must be imminent, but this does not appear in the PHIPA consent. Guideline could address the difference.	Disagree	<i>PHIPA</i> applies to CRPO members, while the <i>Smith and Jones</i> case is older and not specific to healthcare professionals. Staff recommends not confusing readers with two legal tests. The concept of imminence is referred to in the document at several points.
Use of the term 'bodily harm' gives the impression of physical harm only, which could be misleading.	Disagree	The draft already explains that "bodily harm" includes psychological injury.
Greater focus on practical side of responding to such matters (consultation,	Disagree	Appears to be covered, albeit in a general way. Could refer to practice

legalities, repercussions).		standards, or to contact a Practice Advisor.
Wording for policy/informed consent forms.	Disagree	Not within the scope of draft. Members can refer to practice standards or contact their advisors.