



CAPDA
Canadian Academy of Psychologists in Disability Assessment

The Joint OPA/CAPDA Guidelines for Best Practices in Psychological Insurer Examinations

OPA/CAPDA IE Guidelines Working Group
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The Boards of Directors of both the OPA and CAPDA and the OPA/CAPDA IE Guideline Working Group would like to thank the following contributors:

Dr. Graham Bean, C. Psych.

Dr. Michael Cheng, C. Psych.

Dr. Duncan Day, C. Psych.

Dr. Jonathan Douglas, C. Psych.

Dr. Jeremy Frank, C. Psych.

Dr. Joanna Hamilton, C. Psych.

Dr. Chris Hope, C. Psych.

Dr. Faith Kaplan, C. Psych.

Dr. David Kurzman, C. Psych.

Dr. Brian Levitt, C. Psych.

Dr. Tobi Lubinsky, C. Psych.

Dr. Amber Smith, C. Psych.

Dr. Jane Storrie, C. Psych.

Dr. John VanDeursen, C. Psych.

Dr. Diana Velikonja, C. Psych.

THE ONTARIO PSYCHOLOGICAL ASSOCIATION (OPA)

The Ontario Psychological Association acts as the voice for the profession of psychology in Ontario. Its articles of incorporation set its goals as enhancing the psychological health of Ontarians, and to bring psychological knowledge to bear on the provision of mental health services in order to ensure their quality and effectiveness. OPA works to establish cooperative relationships with other healthcare providers, organizations, and the government.

CANADIAN ACADEMY OF PSYCHOLOGISTS IN DISABILITY ASSESSMENT (CAPDA)

The Canadian Academy of Psychologists in Disability Assessment (CAPDA) is an organization of senior psychologists who practice primarily in the areas of psychological or neuropsychological assessment of disability and impairment. There are stringent requirements for membership, and all members are bound by comprehensive standards which guide their practice and outline their obligations to the individual assessed and to the referral source. It is the mission of CAPDA to share information, develop standards of practice and conduct; educate, and advocate on matters related to third party requested assessments and other assessments and on matters of rehabilitation and disability. CAPDA is a national organization and is invested in developing similar guidelines relevant to psychologists across Canada.

The OPA has produced Guidelines for best practices in many areas including:

- Guidelines for Best Practices in Electronic Communications
- Guidelines for Best Practices in the Provision of Telepsychology
- Guidelines for Best Practices in the Use of Social Media
- Ontario Psychology Remuneration Review (2013)
- OPA Bill of Rights for Supervisees
- OPA Guidelines for Assessment and Treatment in Auto Insurance Claims
- OPA Guidelines for Fees and Billing Practices
- OPA Guidelines for Supervisee Responsibilities
- OPA Guidelines-Supervision of Masters Graduates Preparing to Register as Psychological Associates
- OPA Self-Assessment Tool for Best Practices in Clinical Supervision
- Professional Practice Guidelines for School Psychologists in Ontario

ONTARIO STATUTORY ACCIDENT BENEFITS SCHEDULE (SABS) REGULATIONS

Inclusion of Insurer Examinations (IEs)

The provision of auto insurance benefits, including insurer examinations (IEs), falls under Section 44 of Ontario Regulation 34/10 of the Insurance Act, known as the Statutory Accident Benefits Schedule (SABS), effective September 1, 2010, and are for the purposes of assisting the insurer to determine benefit entitlement. Modifications to the SABS over time have changed the role and utilization of IEs. These IE Guidelines

provide a brief summary of some of the relevant history that has shaped the present IE system. Although the system has changed over time, each iteration provides for an examination that is done by a health professional who is not the insured person's treatment provider, a "third party examination". Within each of these successive systems, the insured person's ability to select their treatment provider to submit applications to the insurer has been preserved. The "third party examination", whether DAC or IE, has provided information for the insurer if they question or are denying an application.

Changes in Regulations

Until March 1, 2006, Designated Assessment Centres (DACs) were used to address questions of benefit entitlement and intended to be a mechanism to provide a neutral assessment to address disputes. DACs were limited to a specific roster of assessment centers that were "designated" by FSCO to conduct assessments for specific types of benefits. For example there were medical/rehabilitation DACs, Attendant Care DACs, Disability DACs, and Catastrophic (CAT) DACs. If an insurer did not approve a benefit application, they were required to obtain a DAC assessment to review that application. Each denied application required a separate DAC assessment. DACs operated under very specific guidelines, including the process for determining which DAC would be used to conduct the assessment (rather than selected by the insurer), the education, training and experience requirements of DAC assessors, the complement of assessment teams, protocols to address various questions; and report format. An insurer could only obtain an IE if they wanted to dispute the DAC results.

The DAC system was abolished in March 1, 2006 and replaced by a more adversarial arrangement. An insurer was to obtain an IE assessment if they wished to dispute an application made by the insured person's treatment provider. An IE was required for every application that was denied by the insurer. However, there were no guidelines for IEs. There was provision for payment for the IE assessor to contact the health professional who had created the application. (March 1, 2006- Sept 1, 2010) There was also funding for "rebuttal assessments" by a health professional chosen by the insured person. (March 1, 2006- Sept 1, 2010)

Specific funding for contact by the IE examiner with the health professional who prepared the application was removed in Sept 1, 2010 and "rebuttal examinations" were removed in September 1, 2010, both retroactively and for future accidents.

Assessment fee caps of \$2000 for any one assessment or examination were introduced in September 1, 2010, both retroactively and for future accidents. These fee caps apply to all types of assessments whether conducted by the treatment provider or by the IE examiner. The fee cap does not limit the number of distinct examinations or assessments by a single examiner.

There were further modifications to the system in September 1, 2010, and the requirement of an IE to deny an application was removed. IEs continue to be available and the insurer may, but is not required to, obtain an IE when denying an application.

Insurers are also allowed to ask a single IE to address multiple questions, including minor injury status, diagnosis, causation, disability, and reasonableness and necessity of treatment. It is imperative that the IE Psychologist be familiar with the disability issues being addressed and also keep abreast of any legal or arbitration decisions that may impact on the definitions of the specific legal test.

From FSCO Arbitration to LAT

Further change is expected to accompany the move of dispute resolution from the FSCO arbitration unit to the License Appeal Tribunal (LAT). While at the time of the preparation of these IE Guidelines the operational details of the LAT are not yet entirely clear, they are likely to result in some changes. It is understood that the LAT will involve paper reviews for smaller disputes, have limits on the number of experts testifying in a court proceeding, and restrict the length of reports (or require summaries). The LAT is intended to increase the confidence of all stakeholders in expert assessment reports. To that end the LAT rules of practice and procedures state:

10.2 EXPERT WITNESSES (IDENTIFICATION AND DISCLOSURE)

A party who intends to rely on or refer to the evidence of an expert witness shall provide every other party with the following information in writing:

- (a) The name and contact information of the expert witness;*
- (b) A signed statement from the expert, in the Tribunal's required form, acknowledging his or her duty to:

 - (i) Provide opinion evidence that is fair, objective, and non-partisan;*
 - (ii) Provide opinion evidence that is related to matters within his/her area of expertise; and*
 - (iii) Provide such additional assistance as the Tribunal may reasonably require to determine a matter in issue;**
- (c) The qualifications of that expert witness, referring specifically to the education, training and experience relied upon to qualify the expert;*
- (d) A signed report that sets out the instructions provided to the expert in relation to the proceeding, the expert's conclusions, and the basis for those conclusions on the issues to which the expert will provide evidence to the Tribunal; and*
- (e) A concise summary stating the facts and issues that are admitted and those that are in dispute, and the expert's findings and conclusions.*

Key message: The IE's role and processes are expected to continue to evolve with increased emphasis on providing reports that are "fair, objective, and non-partisan."

Psychologists and Psychological Practice

The College of Psychologists of Ontario provides the following description of psychologists and psychological practice

Only members of the College of Psychologists of Ontario may use the title 'psychologist' or 'psychological associate'; use the terms 'psychology' or 'psychological' in any description of services offered or provided, or hold themselves out to be a psychologist or psychological associate. Psychologists and psychological associates respectively may also identify themselves with the designation C.Psych. or C.Psych.Assoc. after their names.

To qualify for professional registration to practise psychology requires successful completion of graduate education and training in professional psychology, supervised professional experience and examinations. A member of the College is required to practise in accordance with applicable legislation, regulations, standards of conduct, professional guidelines and professional codes of ethics.

Psychologists and psychological associates are trained in the assessment, treatment and prevention of behavioural and mental conditions. They diagnose neuropsychological disorders and dysfunctions as well as psychotic, neurotic and personality disorders and dysfunctions. In addition, psychologists and psychological associates use a variety of approaches directed toward the maintenance and enhancement of physical, intellectual, emotional, social and interpersonal functioning.

Psychologists and psychological associates usually focus their practice in specific areas such as clinical psychology, counselling psychology, clinical neuropsychology; school psychology; correctional/forensic psychology; health psychology; rehabilitation psychology; or industrial/organizational psychology. Within these areas a psychologist or psychological associate may work with a variety of individual client populations such as children, adolescents, adults or seniors, or may focus their attention on families, couples or organizations. They work in a range of settings including schools, hospitals, industry, social service agencies, rehabilitation facilities and correctional facilities. Many psychologists and psychological associates have their own private practice.

A Psychologist or psychological associate who holds a certificate of registration authorizing autonomous practice may provide services without supervision, within his or her area of competence, and may charge a fee for these services. While most members of the College have no explicit term, condition or limitation on their certificates of registration, some do and must practice in accordance with any such restriction.

The College maintains a register of all current members. Information about an individual psychologist or psychological associate may be found in the searchable Public Register or obtained from the College by telephone 416-961-8817 or by e-mail: cpo@cpo.on.ca.

Occasionally clients of psychologists and psychological associates need to have forms completed and signed by their treating professional in order to obtain

insurance reimbursement for psychological services or to qualify for some other benefit or service from an insurer or government agency. Normally both psychologists and psychological associates may complete and sign such forms. If there are any questions or difficulties in having such forms accepted, please contact the College for guidance.

College of Psychologists of Ontario APPENDIX C – DEFINITION OF PRACTICE AREAS

In the practice of psychology, in order to formulate and communicate a diagnosis, a member must have the following knowledge, skills and training directly relevant to the area(s) of practice and client groups indicated on the Declaration of Competence in order to treat the client and evaluate the effectiveness of the treatment. Therefore, the ability to communicate a differential diagnosis must apply to every psychologist or psychological associate, with the exception of those practising exclusively within the area of industrial/organizational psychology.

<i>Formulating and Communicating a Diagnosis</i>
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Knowledge

The equivalent of a graduate half course in each of the four following subjects:

- *Psychopathology;*
- *Personality theory/individual differences;*
- *Psychological assessment; and,*
- *Psychodiagnostics*

Skills

- *Skill in establishing therapeutic rapport;*
- *Skill in eliciting information through interviewing;*
- *Skill in assessing fundamental psychological processes such as mental state, cognition, emotions and behaviours;*
- *Skill in formulating and testing diagnostic hypothesis;*
- *Skill in communicating diagnostic information clearly and sensitively; and,*
- *Skill in assessment of change in relevant psychological processes*

**Formal training:*

- *Coursework and supervised experience in administering and interpreting assessment materials for a diverse range of problems;*
- *Coursework and/or supervised experience in interviewing techniques;*
- *Training in formulating and testing diagnostic hypotheses in a practice setting;*
- *Supervised experience in communicating sensitive information; and,*
- *Coursework and/or supervised experience in assessment of change in order to evaluate the effectiveness of interventions.*
- *Formal training involves a combination of coursework and structured, supervised experience with evaluation of performance and feedback to the*

trainee. While it is accepted that some of the formal training may be acquired in a research setting, it is expected that most formal training will be acquired in a practice setting.

<i>Clinical Psychology</i>

All members of the College of Psychologists require the following minimum working knowledge base:

- *Knowledge in the foundational content areas of psychology, i.e., the biological bases of behaviour, the cognitive affective bases of behaviour, the social bases of behaviour, and the psychology of the individual;*
- *Knowledge of learning;*
- *Knowledge of all relevant ethical, legal and professional issues;*
- *Knowledge of research design and methodology;*
- *Knowledge of statistics; and,*
- *Knowledge of psychological measurement.*

Clinical Psychology is the application of knowledge about human behaviour to the assessment, diagnosis and/or treatment of individuals with disorders of behaviour, emotions and thought.

In addition to the above minimum knowledge base, members practicing Clinical Psychology require the following:

- *Knowledge of psychopathology/abnormal psychology;*
- *Knowledge of personality/individual differences;*
- *Knowledge of psychological assessment;*
- *Knowledge of psychodiagnostics;*
- *Knowledge of intervention procedures/psychotherapy; and*
- *Knowledge of evaluation of change.*

In addition, practitioners who provide services in Clinical Psychology to children and adolescents must have a background in developmental psychology and knowledge of appropriate assessment and therapeutic techniques.

For members practicing Clinical Psychology, the following minimum skills are required:

- *The ability to perform an appropriate clinical assessment;*
- *The ability to formulate and communicate a differential diagnosis; and*
- *The ability to plan, execute and evaluate an appropriate treatment program.*

Approved March, 2004

<i>Clinical Neuropsychology</i>

All members of the College of Psychologists require the following minimum working knowledge base:

- *Knowledge in the foundational content areas of psychology, i.e., the biological bases of behaviour, the cognitive affective bases of behaviour, the social bases of behaviour, and the psychology of individual;*
 - *Knowledge of learning;*
 - *Knowledge of all relevant ethical, legal and professional issues;*
 - *Knowledge of research design and methodology;*
 - *Knowledge of statistics; and,*
 - *Knowledge of psychological measurement.*

Clinical Neuropsychology is the application of knowledge about brain-behaviour relationships to the assessment, diagnosis and treatment of individuals with known or suspected central nervous system dysfunction.

In addition to the above minimum knowledge base, members practising in Clinical Neuropsychology require the following:

- *Knowledge of lifespan development;*
- *Knowledge of personality/individual differences;*
- *Knowledge of psychopathology;*
- *Knowledge of neuroanatomy, physiology and pharmacology;*
- *Knowledge of human neuropsychology and neuropathology;*
- *Knowledge of psychological assessment;*
- *Knowledge of neuropsychological assessment;*
- *Knowledge of Psychodiagnostics; and*
- *Knowledge of clinical and neuropsychological intervention techniques.*

In addition, practitioners providing services in Clinical Neuropsychology to children and adolescents must have a background in developmental psychology and knowledge of appropriate assessment and therapeutic techniques.

For members practising in Clinical Neuropsychology the following minimum skills are required:

- *The ability to perform an appropriate neuropsychological assessment;*
- *The ability to formulate and communicate differential diagnosis; and,*

- *The ability to plan, execute and evaluate an appropriate neuropsychological intervention.*

Approved March 2004

<i>Counselling Psychology</i>

All members of the College of Psychologists require the following minimum working knowledge base:

- *Knowledge in the foundational content areas of psychology, i.e., the biological bases of behaviour, the cognitive affective bases of behaviour, the social bases of behaviour, and the psychology of the individual;*
- *Knowledge of learning;*
- *Knowledge of all relevant ethical, legal and professional issues;*
- *Knowledge of research design and methodology*
- *Knowledge of statistics; and,*
- *Knowledge of psychological measurement.*

Counselling Psychology is the fostering and improving of human functioning by helping individuals experiencing distress and difficulties associated with life events and transitions, decision-making, work/career/education, family and social relationships, and mental health and physical health concerns.

In addition to the above minimum knowledge base, members practising Counselling psychology require the following:

- *Knowledge of psychological adjustment/lifespan development;*
- *Knowledge of personality/individual differences;*
- *Knowledge of psychopathology*
- *Knowledge of psychological assessment;*
- *Knowledge of Psychodiagnostics;*
- *Knowledge of intervention procedures/psychotherapy; and,*
- *Knowledge of evaluation of change*

In addition, practitioners who provide services in Counselling Psychology to children and adolescents must have a background in developmental psychology and knowledge of appropriate assessment and therapeutic techniques.

For those who intent to practise Counselling psychology, at minimum, the following skills are expected:

- *The ability to perform an appropriate counselling assessment;*
- *The ability to formulate and communicate a differential diagnosis in order to develop an appropriate counselling intervention and to identify clients who must be referred elsewhere; and,*

- *The ability to plan, execute and evaluate an appropriate counselling intervention.*

Approved April 2016

<i>Rehabilitation Psychology</i>

All members of the College of Psychologists require the following minimum working knowledge base:

- *Knowledge in the foundational content areas of psychology, i.e., the biological bases of behaviour, the cognitive affective bases of behaviour, the social bases of behaviour, and the psychology of the individual:*
 - *Knowledge of learning;*
 - *Knowledge of all relevant ethical, legal and professional issues;*
 - *Knowledge of research design and methodology;*
 - *Knowledge of statistics; and,*
 - *Knowledge of psychological measurement.*

Rehabilitation Psychology is the application of psychological knowledge and skills to the assessment and treatment of individuals with impairments in their physical, emotional, cognitive, social, or occupational capacities as a result of injury, illness or trauma in order to promote maximum functioning and minimize disability.

In addition to the above minimum knowledge base, members practising in Rehabilitation Psychology require the following:

- *Knowledge of lifespan development;*
- *Knowledge of personality/individual differences;*
- *Knowledge of psychopathology;*
- *Knowledge of brain-behaviour relationships;*
- *Knowledge of psychological and behavioural assessment;*
- *Knowledge of Psychodiagnostics; and,*
- *Knowledge of rehabilitative interventions.*

In addition, practitioners providing services in Rehabilitation Psychology to children and adolescents must have a background in developmental psychology and knowledge of appropriate assessment and intervention techniques.

For members practising Rehabilitation Psychology, the following minimum skills are required:

- *The ability to perform an appropriate rehabilitation assessment;*
- *The ability to formulate and communicate a differential diagnosis; and,*

- *The ability to plan, execute and evaluate appropriate rehabilitative interventions.*

Approved March, 2004

Guidelines for Best Practices in Psychological Insurer Examinations

Reliable and valid psychological IEs provide an especially cost-effective resource to all stakeholders for resolving disputes and determining benefit entitlement. The results from such psychological assessments are relevant to many questions which must be addressed within the auto insurance system, including diagnosis, causation, prognosis, extent of disability, and reasonableness and necessity of treatment, etc. Psychological assessment is also particularly effective for addressing questions regarding symptom exaggeration, malingering, suboptimal effort, defensiveness, etc., essentially response patterns related to reliability of symptom reporting. These IE Guidelines are intended to be a resource to assist in clarifying best practices for those who conduct these examinations and to other stakeholders who rely on the results of psychological IEs to address benefit questions. Adherence to these IE Guidelines will further increase their effectiveness.

Purpose, Scope, and Limitations of the Guidelines

Purpose: Like previous OPA Best Practice Guidelines, these *Guidelines for Best Practices in Psychological Insurer Examinations* (IE Guidelines) are intended to provide guidance to best practices to psychologists (Note: the title “psychologist” is used throughout this document to refer to psychologists and psychological associates). While these IE Guidelines are directed specifically to psychologists, the considerations regarding the requirements and expectations of the health professional are common to all health professionals. These expectations of all expert assessors are also reinforced by the new requirements for Expert Reports under the License Appeal Tribunal (LAT). As well, these IE Guidelines may be useful to government, FSCO, insurers, claimants and other stakeholders to provide information regarding appropriate conduct of IEs.

Scope: These IE Guidelines incorporate standards of professional practice from the College of Psychologists of Ontario (CPO) and other more general professional guidelines that have been developed by the American Psychological Association (APA), Canadian Psychological Association (CPA), and Ontario Psychological Association (OPA), the Canadian Academy of Psychologists in Disability Assessment (CAPDA), as well as other professional associations. The scope of these IE Guidelines will be limited to consideration of the application of professional standards and guidelines in the context of Ontario auto insurance regulations (the Statutory Accident Benefits Schedule (SABS), and legislation as they relate to the role and conduct of IEs. These IE Guidelines will not review the scientific literature regarding psychological disorders and evidence-based assessment and treatment. Nor are they intended to direct psychologists regarding how to conduct an appropriate examination. The IE psychologist is responsible to use their own clinical expertise and judgement.

These IE Guidelines are written from the perspective of health professionals. They are not intended to provide legal analysis or legal advice. In addition to providing relevant aspects of professional psychological guidelines and standards, these IE Guidelines will include reference to some relevant sections of the Auto Insurance Regulations, the

Statutory Accident Benefits Schedule (SABS), and other documents such as the new rules for the Licensing Appeal Tribunal (LAT). As these IE Guidelines cannot provide legal advice, they do not provide legal interpretation of terms such as “reasonable and necessary” or “essential” where these are not defined in the regulations. Rather they provide discussion of how they are applied by health professionals in the context of benefit applications and reviews. For some of these issues, there are arbitration and judicial decisions and there will be future decisions from the LAT. These decisions may provide an evolving understanding of the terms and their application over time. Arbitration decisions are available at [fsc.gov.on.ca](https://www.fsc.gov.on.ca) judicial decisions are available at <https://www.canlii.org/> and LAT decisions will be available at <https://www.canlii.org/>

Limitations: IEs are embedded in a broader context. The current system provides information to insurers to assist them in determining the benefit entitlement of their clients. Many of the issues that have been raised about IEs relate to other aspects of the auto insurance system and to health professional regulation in general, not specifically to the conduct of the health professional completing the IE. However, these IE Guidelines only attempt to address best health professional practices for health professional conduct of IEs. The OPA Auto Insurance Subcommittee and CAPDA have positions on some of these other issues and will continue to provide positions and recommendations to government, the professions and the insurance industry. These IE Guidelines do not address a number of other issues, including the role of the Health Professional Colleges, including the College of Psychologists of Ontario and the Health Professional Review and Advisory Committee (HPRAC), insurer behavior, FSCO licensing and concerns about remediation or removal of health professionals completing IEs or IE companies that produce assessment reports that are below professional standards and/or show bias. Further, the IE Guidelines do not address systemic issues related to the amount of benefits, the structure of Accident Benefits (ABs), the role of IEs and procedural requirements under the SABS. For example, these IE Guidelines do not address whether an IE should be required to deny a benefit, how often an IE may be required, the number of questions to be addressed in a single IE examination, the process for selection of the IE examiner, or time frames, etc.

Please note that the principles in these IE Guidelines provide general direction for the conduct of IEs. These Guidelines also address some of the issues involved when completing IEs regarding common medical and rehabilitation questions. In the future, the OPA and CAPDA may add companion documents with respect to other IEs addressing other types of benefits (e.g., IE assessments for Non-Earner Benefits, Housekeeping Benefits, Catastrophic Impairment Determination, and Income Replacement Benefits).

Process for Development of the Guidelines

Members of the OPA and CAPDA have raised questions and issues specifically related to the conduct of IEs within the context of the Ontario auto insurance system. These questions have been raised both by psychologists who provide clinical services and prepare assessment and treatment proposals and other benefit applications as well as by members who conduct IEs. Insurers, individual claimants, claimant advocacy groups,

Government, FSCO, lawyers, and other stakeholders have also raised questions about the conduct of IEs.

The OPA and CAPDA are committed to work toward development of IE Guidelines to provide direction to psychologists and inform other stakeholders about best practices when conducting IEs. This has been a protracted process that has been impacted by many factors, including the extent and complexity of the issues, ongoing changes in the auto insurance regulations, changes in the organizational structures surrounding the provision of IEs, as well as the overall evolution of professional guidelines and standards for practice. It is anticipated that the role and conduct of IE examinations will continue to evolve over time if and when there are further changes to the regulations and/or the organizational context. Therefore, ongoing updates to these IE Guidelines may be required and psychologists are reminded of the need to be aware of any such changes.

The development of these IE Guidelines has involved the work of many CAPDA and OPA members and their collective input through discussion and participation in workshops, working groups and listserv discussion as well as more focused work directly on the IE Guidelines. The IE Guidelines document has been reviewed at various stages by a number of psychologists who propose services as well as those who conduct IEs.

The process involved a number of steps including:

- Review of relevant existing professional Guidelines and Standards
- Consideration of application of these generic professional Guidelines to issues relevant to conducting IEs in auto insurance
- Repeated cycles of presentation and review by members
- Revision and incorporation of issues raised by members and other stakeholders
- Consultation with various legal counsel
- Review, ratification and publication by the OPA and CAPDA boards.

Overview

The Joint OPA-CAPDA Guidelines for Best Practices in Psychological Insurer Examinations have been developed to be a resource to provide direction to psychologists conducting IEs to meet the needs of all parties for valid and reliable opinions to address disputes. These Guidelines support best practice for psychological IEs that are unbiased, fair and independent. These Guidelines also provide information to government, FSCO, claimants, insurers and other stakeholders regarding the conduct of psychological insurer examinations.

The Guidelines contained in this document provide information to assist psychologists conducting IEs to understand and appreciate their roles and responsibilities to insurers and IE companies and to individuals who have been injured in motor vehicle accidents. 22 Guidelines were developed.

Each guideline offers a discussion of relevant issues, followed by a key message as well as relevant source material where indicated.

GUIDELINES

Psychologists' Role and Responsibilities

Whether the psychologist receives the request to conduct an IE evaluation directly from an insurer or from an IE brokerage company the psychologist continues to be responsible to ensure that they perform their examinations in a manner consistent with professional standards. Psychologists are encouraged to discuss with the referral source factors that would affect adherence to professional standards such as ensuring that reports and opinions are not altered, fees, timelines, access to relevant and essential documentation, under what circumstances the IEs will be a paper review or in-person assessment, and how many referral questions can reasonably be answered within a given time frame or under a fee cap, etc. Psychologists conducting IE assessments are responsible for adhering to the standards, guidelines and ethical code of the profession, regardless of fee caps and time limits.

In addition, psychologists may conduct psychological and neuropsychological IEs as part of multi-disciplinary assessments. Such assessments include an Executive Summary. The psychologist is responsible to ensure that their conclusions and opinion are properly represented in any summary report, and if they are completing the summary report that they have represented all other opinions appropriately. The psychologist should also ensure that they are able to review the final report and Executive Summary before the report is distributed to ensure that proper consideration to the implications of the findings of the psychological IE were given and not misrepresented.

Key message: If the IE Psychologist determines that the terms of engagement or the request is unreasonable, and/or that accepting it would compromise the standards of the profession, the assessor has a responsibility to decline the referral or engagement with the IE company.

The following sections from previous American Psychological Association (APA), Canadian Psychological Association (CPA) and Ontario Psychological Association (OPA) documents provide relevant information regarding the roles and responsibilities of psychologists. These apply regardless of the content or context of their work.

Canadian Code of Ethics for Psychologists (CPA, 2000)

Psychologists have a responsibility to:

III.36 Familiarize themselves with their discipline's rules and regulations, and abide by them, unless abiding by them would be seriously detrimental to the rights or welfare of others as demonstrated in the Principles of

Respect for the Dignity of Persons or Responsible Caring. (See Standards IV.17 and IV.18 for guidelines regarding the resolution of such conflicts.)

III.37 Familiarize themselves with and demonstrate a commitment to maintaining the standards of their discipline.

IV.14 Enter only into agreements or contracts that allow them to act in accordance with the ethical principles and standards of this Code. (p.30)

Third Parties in Psychological Practice: Resource Materials for Anticipating, Preventing, and Resolving Ethical Problems (OPA, 2012)

Principle IV: Responsibility to Society

We should not enter into contracts that do not allow us to act ethically.

A further complication is that third parties do not always have a clear understanding or appreciation of the ethical principles psychologists are obligated to follow. It is the psychologist's obligation to provide clarification as required. For instance, insurance companies have been known to make referrals for assessment with the condition that the psychologist must disclose to the client no information about the results (The College of Psychologists of Ontario, 2006). The Code and other ethical guides for psychologists provide a solid foundation for affirming the assessed person's right to request a copy of the report, and the psychologist's obligation to provide it with a corresponding obligation to inform the person of any significant problems identified in the assessment. The issue is no longer one of what may seem reasonable to an individual psychologist, but what is required by professional standards according to which that psychologist's profession is defined and regulated.

(p.12).

Specialty Guidelines for Forensic Psychology (APA, 2008)

Forensic practitioners seek to promote accuracy, honesty, and truthfulness in the science, teaching, and practice of forensic psychology and they resist partisan pressures to provide services in any ways that might tend to be misleading or inaccurate. (3.01)

Forensic practitioners seek explicit agreements that define the scope of, time-frame of, and compensation for their services. In the event that a client breaches the contract or behaves in a manner that would compromise the ethical obligations of the forensic practitioner, the forensic practitioner may terminate the relationship. Forensic practitioners act with reasonable diligence and promptness in providing agreed-upon and reasonably anticipated services. Forensic practitioners are not bound, however, to provide services not reasonably anticipated when retained, nor to provide every possible aspect or variation of service. Instead, forensic practitioners exercise professional discretion in determining the extent and means by which services are provided and agreements are fulfilled. (5.01)

Practicing within Areas of Competence

The previous documents from APA, CPA and OPA also provide relevant direction to the psychologist to restrict their practice to their areas of competence. Psychologists have a responsibility to practice within areas for which they possess the relevant education,

training and experience. This applies across settings including clinical treatment, within specific populations, in disability assessments, etc., as well as in IEs.

Consistent with the expectations of our College, psychologists are expected to ensure that they maintain their competence, review their continuing education needs regularly in a Self- Assessment, and seek opportunities for competence review.

Key message: When an IE Psychologist is asked to conduct an evaluation, it is incumbent upon that assessor to determine whether the request falls within his or her area(s) of competence, to inform referral sources of any limitations that may be present, and to decline assessments that are outside of their areas of competence.

The following sources are relevant to this issue:

Canadian Code of Ethics for Psychologists (CPA, 2000)

In adhering to the Principle of Responsible Caring, psychologists would...

- II.6 Offer or carry out (without supervision) only those activities for which they have established their competence to carry them out to the benefit of others...*
- III.8 Acknowledge the limitations of their own and their colleagues' knowledge, methods, findings, interventions, and views.*

Specialty Guidelines for Forensic Psychology (APA, 2008)

Forensic practitioners provide testimony only on those issues for which they have adequate foundation and only when a reasonable forensic practitioner engaged in similar circumstances would determine that the ability to make a proper decision is unlikely to be impaired. As with testimony regarding forensic examinees, the testimony identifies any substantial lack of corroboration or other substantive limitation that may affect the reliability and validity of the fact or opinion offered and communicates these to the decision maker. (p.9)

Guidelines for Assessment and Treatment in Auto Insurance Claims (OPA, 2010)

We would also suggest that those asked by insurers to review assessment and treatment proposals (Insurer Examiners) ensure their comprehension of these issues before conducting their reviews, in order to ensure full understanding of how their opinions will be used in potential future settlements, court cases, and determination of benefits. Given the amount of knowledge required to function appropriately in this practice context, it is our recommendation that assessors, treaters, and examiners only submit and review proposals for services in areas consistent with their usual practices (e.g. pain management, PTSD/ anxiety disorders, neuropsychology, psychovocational rehabilitation). (p.8)

Just as it is expected that psychologists will only propose assessments and treatments within their areas of competence, it is also expected that

psychologists working as Insurer Examiner reviewers will only review plans within their areas of practice and competence.

Practice Guidelines for Providers of Psychological Services (CPA, 2001)

Psychologists who provide services maintain current knowledge of scientific and professional developments that are directly related to the services they render. (CCE II.9; IV.4) (p.14).

Psychologists maintain knowledge of specialized standards and qualifications that are necessary in the areas in which they provide service. Where necessary and/or appropriate, psychologists obtain special training in the areas in which they provide service, and observe the standards for providers of those services. (CCE II.6, 8, 9; III.4, 36, 37; IV.10) (p.14).

Specialty Guidelines for Forensic Psychology (APA, 2008)

In determining one's competence to provide services in a particular matter, forensic practitioners consider a variety of relevant factors including the relative complexity and specialized nature of the service, relevant training and experience, the preparation and study they are able to devote to the matter, and the opportunities for consultation with a professional of established competence in the subject matter in question. Even with regard to subjects in which they are expert, forensic practitioners may choose to consult with colleagues... Forensic practitioners make ongoing efforts to develop and maintain their competencies. To maintain the requisite knowledge and skill, forensic practitioners keep abreast of developments in the fields of psychology and the law and engage in continuing study and education. (4.01)

Forensic practitioners adequately and accurately inform all recipients of their services (e.g., attorneys, tribunals) about relevant aspects of the nature and extent of their experience, training, credentials, and qualifications, and how they were obtained. (4.03)

Familiarity with Relevant Guidelines, Regulations, Legislation, and Professional Literature

Psychologists should familiarize themselves with the relevant APA, CPA, OPA, and CAPDA documents as well as the legislation and regulations. IE assessors should be using logic and methods that are similar to those used by proposing clinicians. Both proposers and reviewers should base all decisions about patient care, including reasonable and necessary assessment and treatment proposals, on known standards and the clinical literature, referring to evidence where available, and not solely on anecdotal evidence or their own experiences.

<p>Key message: Psychologists' decisions should be informed by relevant guidelines, regulations, legislation and professional literature.</p>
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The following sources are relevant to this issue:

Canadian Code of Ethics for Psychologists (CPA, 2000)

In adhering to the Principle of Responsible Caring, psychologists would...

- I.9 Keep themselves up to date with a broad range of relevant knowledge, research methods, and techniques, and their impact on persons and society, through the reading of relevant literature, peer consultation, and continuing education activities, in order that their service or research activities and conclusions will benefit and not harm others...*
- III.36 Familiarize themselves with their discipline's rules and regulations, and abide by them, unless abiding by them would be seriously detrimental to the rights or welfare of others as demonstrated in the Principles of Respect for the Dignity of Persons or Responsible Caring. (See Standards IV.17 and IV.18 for guidelines regarding the resolution of such conflicts.)*

Specialty Guidelines for Forensic Psychology (APA, 2008)

Forensic practitioners are responsible for a fundamental and reasonable level of knowledge and understanding of the legal and professional standards, laws, rules, and precedents that govern their participation in legal proceedings and that guide the impact of their services on service recipients. (p.6)

Forensic practitioners use assessment procedures in the manner and for the purposes that are appropriate in light of the research on or evidence of their usefulness and proper application (p. 14)

Guidelines for Assessment and Treatment in Auto Insurance Claims (OPA, 2010)

CAUTION AND RECOMMENDATIONS

We also are reminded that because of the legal and regulatory requirements of practice in this area, there is much more to consider when conducting and reviewing assessments and/or treatment of an individual affected by an auto injury than simply his/her clinical presentation and/or diagnosed psychological disorder(s). Because clinical psychological assessments and opinions expressed in reports can have far-reaching legal and financial consequences for individual claimants and insurers, we must recommend that psychologists not enter into this area of practice until they are familiar with the applicable legal definitions, arbitration decisions, and regulations that must be considered when seeing these individuals, as well as the applicable science to deal with the clinical presentation. All psychologists providing and reviewing services under auto insurance in Ontario should be familiar with the content of these Guidelines, in order to address the science and regulations that apply to practice in this area; however, legal definitions and arbitrations are not reviewed here and should be pursued by practitioners separately.

All psychological assessment and treatment is subject to current professional standards and ethical principles, as identified by the Canadian and Ontario Psychological Associations, as well as the College of Psychologists of Ontario. Specific standards for ethical practice with regard to assessments and treatments under auto insurance have also been published by the College of Psychologists of Ontario, and disability assessment standards have been published by the Canadian Academy of Psychologists in Disability Assessment. Organizations associated with specific areas of specialty training (e.g. pain/clinical health/rehab and neuropsychology) also publish clinical guidelines and principles for appropriate assessment and treatment of patients with particular conditions (e.g. International Association for the Study of Pain, International Neuropsychological Society, National Academy of Neuropsychology, etc.). Psychologists in all their practices are expected to adhere to the professional standards established by national and provincial associations, current scientific standards in their areas of expertise, and the College of Psychologists of Ontario. Psychologists practicing under auto insurance should be familiar with relevant publications and follow these specific relevant standards, as well as the content of these guidelines when proposing, conducting, and reviewing assessment and treatment services.
(p.10)

The American Academy of Clinical Neuropsychology (AACN) (2007) has published guidelines for neuropsychological assessment that are consistent with the American Psychological Association's (2002) Ethical Principles of Psychologists and Code of Conduct, the Criteria for Practice Guideline Development and Evaluation (2002) and the Determination and Documentation of the Need for Practice Guidelines (2005) document.

Just as it is expected that psychologists will only propose assessments and treatments within their areas of competence, it is also expected that psychologists working as Insurer Examiner reviewers will only review plans within their areas of practice and competence. It is also recommended that both those proposing and those reviewing applications are familiar with arbitration decisions affecting access to benefits....

Practice Guidelines for Providers of Psychological Services (CPA, 2001)

Psychologists who provide services maintain current knowledge of scientific and professional developments that are directly related to the services they render.
(CCE II.9; IV.4) (p.14).

Practice Standards for Psychological Assessment of Disability and Impairment (CAPDA, 2004)

The standards outlined below are practice standards. They do not replace those ethical standards, or conduct regulations, standards or guidelines endorsed by provincial regulatory bodies. CAPDA urges psychologists in disability assessment to attend especially to those provincial conduct principles, which

speak to competency, objectivity, thoroughness, the limits of psychometric assessment and the limits of professional judgments and confidentiality.

The practice of psychologists who offer assessments of disability is also governed by other provincial statutes, which determine the procedures for the administration of insurance policies and the procedures for managing claims, releasing information and complaints. Psychologists have the responsibility of being aware of those statutes, which are relevant to their practice. (p.3).

Specialty Guidelines for Forensic Psychology (APA, 2008)

Forensic practitioners are responsible for a fundamental and reasonable level of knowledge and understanding of the legal and professional standards, laws, rules, and precedents that govern their participation in legal proceedings and that guide the impact of their services on service recipients.

Cultural Context and Experience of the Claimant

Psychologists completing IE examinations face a number of particular challenges in the Ontario auto insurance context. Although it is ideal for the assessment to be conducted in the claimant's preferred language by a person familiar with their culture, this is usually not possible. This requires that the IE Psychologist be sensitive to the effects of language and culture on the assessment results. There are many considerations when completing diagnostic interviews through interpreters. For instance, the results may be influenced by the competence of the interpreter. Although claimants may often request that a friend or family member participate in the interview and provide interpretation, it is recommended that IE Psychologists require that only professionally certified and supplied interpreters be utilized in these examinations. In addition, a dual relationship and/or conflict between the interpreter and the claimant will occasionally be identified at the time of the examination. In these instances, it is recommended to suspend the examination and seek the services of an alternative interpreter.

A similar issue arises regarding the use and interpretation of standardized psychological test instruments. While it is true that there are translated versions of some tests, these do not exist for most tests for most language groups. In addition, even when a translated test protocol is available the norms for interpretation of the test often do not consider the cultural experience and presentations of the range of claimants seen. These tests are still often useful with these groups as long as they are interpreted with appropriate skill and consideration of possible confounding factors. For example, a psychologist might choose to administer self-report questionnaires in an attempt to corroborate the client's report of symptoms in different domains at interview. In this example, test scores might be interpreted with greater flexibility or using "error bars" rather than with the use of hard cut off scores. All issues with related limitations of various evaluation instruments should be fully discussed in the report.

When conducting IEs, psychologists must also consider that many claimants have pre-existing and/or co-existing physical impairments including chronic pain, sleep issues

and symptoms that may be exacerbated or masked by medications. These factors must be appropriately considered and discussed including the impact on ability to participate in the psychological examination and the influence on their symptoms which should be reflected in their clinical results/formulation.

IE Psychologists must also consider the claimant's emotional context and their perspective about being assessed. For example, some claimants will consider the assessment to represent some question of their credibility, and may feel hostile or severely anxious toward the process. This adversarial or anxiety provoking situation will pose additional challenges to the assessment and should be addressed by the IE assessor. As an example, some claimants may request/demand that a friend or family member be allowed to sit in on the examination as a witness or chaperone. If the IE Psychologist agrees that a chaperone is appropriate this should be provided by a professional service. However, there may be exceptional circumstances wherein the IE Psychologist may determine that it is appropriate to permit a family member to be present during the clinical interview. It is reasonable to request that the family member remain quiet during the interview and to respond to questions only when they are directed to him/her. In the case of a neuropsychological assessment, it is reasonable to refuse permission for a family member to remain present during testing. When possible, a collaborative interview (when appropriate consent is provided by the client), can provide additional clinical information that can help the assessor understand the issues and challenges that the client is experiencing.

Other claimants may request to audio or video record the session or record it covertly. The issue around recording is highly controversial and there is considerable debate in the professional literature on this issue. On the one hand, some feel that this adds transparency to the process which is helpful given variation in styles of interviewing. On the other hand, there are those who feel that the inclusion of recording creates a distraction which would be likely to impact upon the assessment findings. Many psychologists are unwilling to conduct an examination with recording citing the risk of intrusion on the examination process. In addition, recording may result in a threat to the security of test instruments and interview protocols.

Key message: IE Psychologists must consider the cultural context and the experience of the claimant.

The following sources are relevant to this issue:

Specialty Guidelines for Forensic Psychology, APA 2011

2.07 Considering the Impact of Personal Beliefs and Experience

Forensic practitioners recognize that their own cultures, attitudes, values, beliefs, opinions, or biases may affect their ability to practice in a competent and impartial manner. When such factors may diminish their ability to practice in a competent and impartial manner, forensic practitioners may take steps to correct or limit such effects, decline participation in the matter, or limit their participation in a manner that is consistent with professional obligations.

2.08 Appreciation of Individual and Group Differences

When scientific or professional knowledge in the discipline of psychology establishes that an understanding of factors associated with age, gender, gender identity, race, ethnicity, culture, national origin, religion, sexual orientation, disability, language, socioeconomic status, or other relevant individual and cultural differences affects implementation or use of their services or research, forensic practitioners consider the boundaries of their expertise, make an appropriate referral if indicated, or gain the necessary training, experience, consultation, or supervision (EPPCC Standard 2.01, American Psychological Association, 2003; American Psychological Association, 2004; American Psychological Association, 2011c; American Psychological Association, in press; American Psychological Association Task Force on Guidelines for Assessment and Treatment of Persons with Disabilities, 2011).

Forensic practitioners strive to understand how factors associated with age, gender, gender identity, race, ethnicity, culture, national origin, religion, sexual orientation, disability, language, socioeconomic status, or other relevant individual and cultural differences may affect and be related to the basis for people's contact and involvement with the legal system.

Forensic practitioners do not engage in unfair discrimination based on such factors or on any basis proscribed by law (EPPCC Standard 3.01). They strive to take steps to correct or limit the effects of such factors on their work, decline participation in the matter, or limit their participation in a manner that is consistent with professional obligations.

Responsibilities of the IE Assessor to Multiple Clients

While the term “client” can be ascribed to individuals, couples, families, groups, or corporations depending on the services being provided and/or the referral/funding source in the case of IEs, the insurer, the IE company, and the individual being assessed are all appropriately considered to be clients. Therefore the rules of professional conduct apply to each of these relationships. The Canadian Psychological Association's second draft of the “The Canadian Code of Ethics for Psychologists, Fourth Edition”, released for comment in March 2016, suggests using the terms “contract examinee” and “retaining party” to provide greater clarification of the nature of the relationships with multiple clients. This document also suggests “contract examinees” may be “independent”, “partially dependent”, or “fully dependent” in terms of their decision making regarding their involvement.

IE Psychologists have a responsibility to provide fair, objective, and non-partisan evaluations regardless of the referral/funding source or other circumstances. This is similar to the duty of the expert as per the LAT regulations to “Provide opinion evidence that is fair, objective, and non-partisan”. This responsibility of the IE Psychologist is reinforced by the Inquiries, Complaints and Reports Committee (ICRC) of the College of Psychologists of Ontario which has consistently ruled that the role of the IE Psychologist is to be objective and unbiased, which means not favouring either the insurer or the

person who is assessed. Specifically, IE Psychologists must ensure that they not lean in favour of the insurer because they view the referral/funding source as the client and feel pressure to protect their interests; while also ensuring that they do not lean in favour of the claimant.

Of note, the CPA Code of Ethics (2000; and the 2016 draft released for comment) describes the concept of “vulnerability” and the ethical duty of psychologists to view their greatest responsibility to be to persons in the most vulnerable position. Some might perceive this heightened responsibility as indicating that the IE Psychologist should approach the assessment with a fixed view that the claimant (who is typically more “vulnerable” as per the CPA Code definition) should be “given the benefit of the doubt” in the assessment. There is risk however that this assumption could lead the assessor to lean in favor of the claimant which would compromise impartiality and objectivity. Given that the principal goal of an IE assessment is to offer an objective and impartial/unbiased opinion, we cannot allow the concept of “greatest responsibility to the more vulnerable client” to taint the impartial nature of the opinion. Quite simply, the IE Psychologist must strive to offer an objective and unbiased opinion and to accurately document assessment findings and to formulate opinions based on the entirety of the data set.

This being said, the concept of “greatest responsibility to the more vulnerable client” is critical in ensuring that the IE Psychologist carry out the examination, interpret the results, and formulate the conclusions in a manner that is respectful and clinically sound in the context of the individual claimant. It is also critical for the IE Psychologist to consider the potential vulnerability of the claimant when making other decisions that are unrelated to the assessment findings and opinions. For instance, the IE Psychologist might recognize that the claimant’s mental health status is such that they should not be assessed on the scheduled date and might choose to terminate the assessment early even though the insurer would prefer for the assessment to be completed. In this situation, the IE Psychologist is placing the more vulnerable client’s mental health needs above those of the insurer. In another example, the IE Psychologist might determine that the claimant is suicidal and might engage in crisis intervention/suicide risk protocols, once again at the expense of timely completion of the assessment.

Key message: IE Psychologists have a responsibility to provide fair, objective, and non-partisan evaluations regardless of the referral/funding source or other circumstances.

The following are relevant to this issue:

The Canadian Code of Ethics for Psychologists, Fourth Edition” released for comment March 2016

“Contract examinee” is an individual or group that is the subject of a psychological assessment at the request of a retaining party, for the purpose of assisting an external decision maker (e.g., court, insurance company, or employer) to make a decision. Contract examinees may be independent, partially

dependent, or fully dependent in terms of their decision making regarding their involvement.

“Retaining Party” means the individual or group that has retained a psychologist to assess a contract examinee for the purpose of helping an external decision maker (e.g., court, insurance company, or employer) to make a decision.

“Independent”, “partially dependent,” and “fully dependent” are terms that can apply to primary clients, contract examinees, research participants, students, trainees, and any other individuals or groups with whom psychologists come in contact in the course of their work. Such individuals or groups are “independent” if they can independently contract or give informed consent, are “partially dependent” if the decision to contract or give informed consent is shared between two or more parties (e.g., parents and school boards; workers and Workers’ Compensation Boards; retaining party and contract examinee; adult members of a family coming for service), and “fully dependent” if they have little or no choice about whether or not to receive a particular service or participate in a particular activity (e.g., patients who have been involuntarily committed to a psychiatric facility; very young children involved in a research project).

Canadian Code of Ethics for Psychologists (CPA, 2000)

Although psychologists have a responsibility to respect the dignity of all persons with whom they come in contact in their role as psychologists, the nature of their contract with society demands that their greatest responsibility be to those persons in the most vulnerable position. Normally, persons directly receiving or involved in the psychologist’s activities are in such a position (e.g., research participants, clients, students). This responsibility is almost always greater than their responsibility to those indirectly involved (e.g., employers, third party payers, the general public). (p.8)

In addition, psychologists recognize that as individual, family, group, or community vulnerabilities increase, or as the power of persons to control their environment or their lives decreases, psychologists have an increasing responsibility to seek ethical advice and to establish safeguards to protect the rights of the persons involved. For this reason, psychologists consider it their responsibility to increase safeguards to protect and promote the rights of persons involved in their activities proportionate to the degree of dependency and the lack of voluntary initiation. For example, this would mean that there would be more safeguards to protect and promote the rights of fully dependent persons than partially dependent persons, and more safeguards for partially dependent than independent persons. (pp. 8-9)

However, as with Principle I, psychologists’ greatest responsibility is to protect the welfare of those in the most vulnerable position. Normally, persons directly involved in their activities (e.g., research participants, clients, students) are in such a position. Psychologists’ responsibility to those indirectly involved (e.g., employers, third party payers, the general public) normally is secondary. (p. 15)

Practice Guidelines for Providers of Psychological Services (CPA, 2001)

The psychologist practitioners recognize that when there is conflict between employer or third party user need and that of the direct recipient client need, that the latter takes priority. (CCE I. Values Statement; 1.26) (p.8)

Standards of Professional Conduct (CPO, 2009)

3.3 *Potential Conflict between the Needs of Individual Clients and those of Corporate Clients*

The provision of psychological services on behalf of a corporate client does not diminish a member's obligations and professional responsibilities to the individual client. (p.5).

12.2 *Compromised Objectivity, Competence or Effectiveness Due to Other Factors*

A member shall not undertake or continue to provide psychological services when personal, scientific, professional, legal, and financial or other interests could reasonably be expected to:

- a) impair his/her objectivity, competence or effectiveness in delivering psychological services; or*
- b) expose the client to harm or exploitation. (p. 15).*

Third Parties in Psychological Practice: Resource Materials for Anticipating, Preventing, and Resolving Ethical Problems (OPA, 2012)

Referring to the corporation as a client is consistent with definition in the Code of "...an individual, family, or group (including an organization or community) receiving service from a psychologist." It is also consistent with the definition in the 2005 Code of Conduct of the Association of State and Provincial Psychology Boards: "Client' means one who engages the professional service or advice of a psychologist. Clients may include individuals, couples, families, groups or organizations."

However, job candidates being assessed also may be considered "clients" in a sense, because the psychologist has direct contact with them and has responsibility for their personal information and data, and for assessing them in a competent manner. Clearly, the psychologist has responsibilities to them as well as the corporation paying for the service.

In sum, any service delivery situation may include numerous people and/or groups who, depending on one's perspective, might be considered clients. Attempting to identify "the" client is a potentially confusing task that does not seem a useful approach to identifying relative responsibilities to all concerned (see also Fisher, 2009) (p.6).

The Canadian Code's position is that a psychologist may have several "clients" in a particular situation, all of whom are owed respect for dignity and responsible caring (p.7).

The Code defines "client" as "...an individual, family, or group (including an organization or community) receiving service from a psychologist." As such, the

term “client” is a useful descriptor. However, attempting to identify “the” client or even the “primary” client will not necessarily satisfy the Code’s call to protect the welfare of those in the most vulnerable position. Those in the most vulnerable position may not be clients. For example, in a duty-to-warn situation, the most vulnerable person may be someone the psychologist has never met and certainly could not be regarded as a client by any reasonable definition (p.8).

The Canadian Code of Ethics for Psychologists gives the concept of “vulnerability” great importance for psychologists considering obligations to various parties. Relative obligations should not be based on whom the psychologist happens to meet first (e.g., a parent who arranges an appointment to discuss problems with a child) or who is paying for the service (e.g., an insurance company requiring assessment for continued coverage).

- *Characteristics of the individual. What is the developmental status of the First Party (i.e., the “individual”)? What is the individual’s level of cognitive and emotional functioning? Persons who are dependent due to limitations in cognitive or emotional functioning are more vulnerable than those who are independent with fewer limitations.*

- *Context of consent/assent. Is the individual fully informed of the possible consequences of consenting to participate and/or involve other parties in psychological service? Is the consent/assent voluntary or coerced (e.g., an insurance claim that cannot proceed unless the individual agrees to participate)? Are there alternatives, or are no alternatives available? Is the individual able to withdraw consent, or is it fixed and irreversible? Our presumption is that individuals are more vulnerable in situations where they have fewer alternatives and consequences are unclear.*

- *First- and third-party interests. Are financial and non-financial (e.g., personal) interests competing or shared? Is the individual clear about those interests and the potential conflict? Our presumption is that individuals are potentially more vulnerable in situations where their interests compete with those of third parties, and/or when those interests are unclear.*

- *Nature and likelihood of harm. In the context of a psychological service, how susceptible is the individual to physical or psychological harm? What is the likelihood, the magnitude, or the possible duration of such harm? Our presumption is individuals at higher risk of psychological or physical harm are more vulnerable than those at lower risk (p.9).*

Practice Standards for Psychological Assessment of Disability and Impairment (CAPDA, 2004)

11.5.3 At all times, Psychologists must be aware of who their corporate client(s) are and their obligations to each client and the individual assessed. (p.16).

Specialty Guidelines for Forensic Psychology (APA, 2008)

When offering expert opinion to be relied upon by a decision maker, providing forensic therapeutic services, or teaching or conducting research forensic

practitioners demonstrate commitment to the goals of accuracy, objectivity, fairness, and independence. Forensic practitioners recognize the adversarial nature of the legal system and strive to treat all participants and weigh all data, opinions, and rival hypotheses objectively. When conducting forensic examinations, forensic practitioners are unbiased and objective, and they avoid partisan presentation of unrepresentative, incomplete, or inaccurate evidence that might mislead finders of fact. This guideline does not preclude forceful presentation of the data and reasoning upon which a conclusion or professional product is based. (3.02)

Forensic practitioners avoid undue influence that might result from financial compensation or other gains. Because of the threat to objectivity presented by the acceptance of contingent fees and associated legal prohibitions, forensic practitioners avoid providing professional services on the basis of contingent fees. Letters of protection, financial guarantees, and other security for payment of fees in the future are not considered contingent fees unless payment is dependent on the outcome of the matter. (7.02)

Need to Obtain Multiple Sources of Information

The IE Psychologist is reminded that the purpose of the assessment is to provide the insurer with a fair, objective, and non-partisan, third-party opinion, in regard to the claimant's psychological impairment and/or functioning, to supplement that provided by the insured's treatment providers in order to inform the insurer about eligibility for benefits. As one would expect from psychologists assessing for treatment planning and/or benefit application purposes, the IE Psychologist should conduct a fair and balanced assessment based on multiple sources of information (e.g., clinical interview, psychometric testing, file review, behavioural observations, etc.) and to analyze both inconsistencies and consistencies in the data with an unbiased and reasonable approach.

When conducting an IE, assessors are strongly encouraged to use evidence-based methods and to clearly articulate strengths, limitations and appropriateness of any psychometric measures used as part of the evaluation. Consideration should be given to the unique factors affecting the individual being assessed, including cultural, linguistic, demographic, psychosocial and situational factors relevant to the evaluation context. IE Psychologists should indicate if the patient falls outside the normative sample for the test in terms of age, language, culture, education or if the test is being utilized for a purpose for which there is incomplete empirical support.

Key message: IE assessors are reminded of the need for multiple sources of information before coming to conclusions about an individual and to consider the appropriateness of each source of information for the purpose to which it is being applied.

Time Required to Complete a Fair, Objective, and Non-Partisan Psychological IE

Prior to starting the clinical examination interview, the IE Psychologist must engage in a process to obtain informed consent (see earlier discussion regarding informed consent).

The IE Psychologist must spend sufficient time in direct interview examination of the patient in order to fairly respond to the questions that are being asked. The interview may be protracted due to the claimants' psychological impairments themselves, which may make them slow and hesitant and needing abundant time to respond to the interview. Excessively brief interviews may not allow the claimant to become more comfortable and reveal more of themselves. Pain factors, which are often the case following a motor vehicle accident, may also result in a slower than expected assessment process due to the need for multiple breaks. A longer interview may result in more accurate and complete observations and findings.

Additional interview time is required when there is a need to work through an interpreter and/or when cultural issues need to be addressed. Ideally the IE would be conducted by a psychologist with proficiency in the person's native language and familiarity with cultural issues, however this is often not possible. In this situation, the limitations of working outside of cultural familiarity and/or with an interpreter should be addressed within the report.

Modified procedures for use of psychometric tests may also require additional time. In many instances, lack of proficiency with written language and/or lack of translation into the person's preferred language require nonstandard administration and additional time. In nonstandard administrations, test interpretation is also more complex and may require additional time. It is incumbent on the IE psychologist to provide a rationale for nonstandard administrations and how this may or may not affect the conclusions.

In addition to the lengthy diagnostic interview examination, time is required for file review, test administration, and scoring and data interpretation, as well as report preparation, review of co-assessor reports (in multi-disciplinary assessment situations), and quality assurance procedures (such as review and approval of post-Quality Assurance edits and phone consultations with Quality Assurance staff, as needed).

We note that when surveillance material needs to be reviewed this adds significant additional time to the process. Time is required to review the surveillance tapes, consider the data provided, review with the claimant, and integrate with other sources of information. IEs regarding other specific questions such as neuropsychological functioning require additional assessment and examination.

Key message: Psychological IE examinations and reports require far more professional time than typical physical examinations and reports. Depending upon the complexity of the claimant situation, additional time may be required.

Reporting Fraud

If an IE Psychologist identifies that there is a basis for suspecting that either the claimant or professional proposing a service is being fraudulent, this must be dealt with appropriately. The IE Psychologist must distinguish these situations from those in which there may be a professional difference of opinion or in which they may require further clarification from the proposing psychologist. If the IE Psychologist has reason to suspect that the claimant and/or the proposing psychologist is engaging in fraudulent behavior they may make a report to Anti-Fraud Hot Line 1855-5TIPNOW (1855-584-7669) or through the website, fsc.gov.on.ca/en/auto/hotline for appropriate investigation. The report to the Anti-Fraud Hot Line may be made anonymously.

Key message: When an IE Psychologist has reason to suspect that the proposing psychologist or claimant is engaging in fraudulent behavior they may report this to the anti-fraud hot line for appropriate investigation.

The following sources are relevant to this issue:

The Canadian Code of Ethics for Psychologists, Fourth Edition” released for comment March 2016

II.43 Act to stop or offset the consequences of seriously harmful activities being carried out by another psychologist or member of another discipline, when there is objective information about the activities and the harm. This may include reporting to the appropriate regulatory body, authority, or committee for action, depending on the psychologist’s judgment about the person(s) or body(ies) best suited to stop or offset the harm, and would be consistent with the privacy and confidentiality rights and limitations of the individuals and groups involved. (See Standards I.45 and IV.17.)

II.44 Act also to stop or offset the consequences of harmful activities carried out by another psychologist or member of another discipline, when the harm is not serious or the activities appear to be primarily a lack of sensitivity, knowledge, or experience. This may include talking informally with the psychologist or member of the other discipline, obtaining objective information and, if possible and relevant, the assurance that the harm will discontinue and be corrected. If in a vulnerable position (e.g., employee, student, trainee) with respect to the other psychologist or member of the other discipline, it may include asking individuals or groups in less vulnerable positions to participate in the meeting(s). Any action taken would be consistent with the privacy and confidentiality rights and limitations of the individuals and groups involved. (See Standards I.45 and IV.17.)

Canadian Code of Ethics for Psychologists (CPA, 2000)

In adhering to the Principle of Responsible Caring, psychologists would...

- III.38 Seek consultation from colleagues and/or appropriate groups and committees, and give due regard to their advice in arriving at a responsible decision, if faced with difficult situations. (p.27)*
- IV.13 Uphold the discipline's responsibility to society by bringing incompetent or unethical behaviour, including misuses of psychological knowledge and techniques, to the attention of appropriate authorities, committees, or regulatory bodies, in a manner consistent with the ethical principles of this Code, if informal resolution or correction of the situation is not appropriate or possible.*

Specialty Guidelines for Forensic Psychology (APA, 2008)

Forensic practitioners make a reasonable effort to guard against misuse of their services and exercise professional discretion in addressing such misuses. (4.09)

Addressing Proposed Assessment Fees and Fee Caps

The 2010 changes to the Statutory Accident Benefits Schedule (SABS) introduced a fee cap which stipulated that an insurer could not pay more than \$2000.00 for any one assessment or examination. The SABS do not preclude a professional from either proposing or carrying out of multiple assessments in order to address a given issue. For instance, an orthopaedic evaluator might propose both an orthopaedic assessment (\$2000.00) and an MRI (\$2000.00), much as a neuropsychologist might propose a neurocognitive assessment (\$2000.00), a psychometric assessment (\$2000.00), and a psychoeducational assessment (\$2000.00) whereby each evaluator would use data from all of the assessments to arrive at a final conclusion. Similar approaches are used by Occupational Therapists, Speech Language Pathologists, and others.

The IE Psychologist should expect the proposing psychologist to reasonably substantiate the need for the funding he or she is requesting when reviewing assessment proposals. One should also expect that the proposing psychologist would outline the anticipated services and to propose a cost that is in keeping with the current FSCO-mandated hourly fee for psychologists. If the need for multiple assessments has been substantiated in order to advance the claimant's rehabilitation goals, the IE Psychologist should approve the requested assessments so as to not hinder the claimant's ability to access required services. The onus is on the treating psychologist to include sufficient detail so as to substantiate the proposed cost for an assessment. However, in the case where a treating psychologist proposes an assessment in which there is a proposed cost with no breakdown or details, the IE Psychologist should use his or her clinical discretion when evaluating the need for assessment services given the specifics of the case and should consider the proposed cost accordingly. In this case the IE Psychologist should include a disclaimer indicating that the decision in regard to approved funding is based on the IE Psychologist's understanding of assessment requirements alone and that he or she would welcome additional documentation from the treating psychologist with information substantiating the proposed cost so that the IE Psychologist could have an opportunity to hone the opinion.

The \$2000.00 fee cap applies to insurance examinations as well. IE companies cannot bill more than \$2000.00 for any one assessment or examination. As a result, there has been downward pressure on assessment fees over the last six years. When an IE Psychologist agrees to accept a referral, he or she is committed to carrying out an assessment that is sufficiently robust to answer the insurer's questions, regardless of the assessment fee. If an assessor does not feel he or she can carry out an adequate assessment given the fee offered by the insurance examination company, he or she should not accept the referral.

Key message: The \$2000 fee cap is limited to any one assessment or examination. Proposing psychologists are expected to reasonably substantiate the rationale for multiple assessments when more than one assessment is being proposed. Psychologists conducting IEs are expected to reasonably consider and provide approval when the need for multiple assessments is documented.

The following sources are relevant to this issue:

Statutory Accident Benefits Schedule

Cost of examinations

25. (1) The insurer shall pay the following expenses incurred by or on behalf of an insured person:

- 1. Reasonable fees charged for preparing a disability certificate if required under section 21, 36 or 37, including any assessment or examination necessary for that purpose.*
- 2. Fees charged in accordance with the Minor Injury Guideline by a person authorized by the Guideline for preparing a treatment confirmation form and for conducting an assessment or examination and preparing a report as authorized by the Guideline.*
- 3. Reasonable fees charged by a health practitioner for reviewing and approving a treatment and assessment plan under section 38, including any assessment or examination necessary for that purpose, if any one or more of the goods, services, assessments or examinations described in the treatment and assessment plan have been:

 - i. approved by the insurer,*
 - ii. deemed by this Regulation to be payable by the insurer, or*
 - iii. determined to be payable by the insurer on the resolution of a dispute in accordance with sections 279 to 283 of the Act.**
- 4. Reasonable fees charged by an occupational therapist or a registered nurse for preparing an assessment of attendant care needs under section 42, including any assessment or examination necessary for that purpose.*
- 5. Reasonable fees charged for preparing an application under section 45 for a determination of whether the insured person has*

sustained a catastrophic impairment, including any assessment or examination necessary for that purpose. O. Reg. 34/10, s. 25 (1).

(2) Despite subsection (1), an insurer is not required to pay for an assessment or examination conducted in the insured person's home unless the insured person has sustained an impairment that is not a minor injury. O. Reg. 34/10, s. 25 (2).

(3) The insurer is not liable under subsection (1) for expenses related to professional services rendered to an insured person that exceed the maximum rate or amount of expenses established under the Guidelines. O. Reg. 34/10, s. 25 (3); O. Reg. 14/13, s. 3.

(4) The insurer shall pay reasonable expenses incurred by or on behalf of an insured person for authorized transportation expenses incurred in transporting the insured person to and from an assessment or examination referred to in subsection (1), including transportation expenses for an aide or an attendant. O. Reg. 34/10, s. 25 (4).

(5) Despite any other provision of this Regulation, an insurer shall not pay,

(a) more than a total of \$2,000 in respect of fees and expenses for conducting any one assessment or examination and for preparing reports in connection with it, whether it is conducted at the instance of the insured person or the insurer; or

(b) any amount in respect of fees for preparing a future care plan, a life care plan or a similar plan or for any assessment or examination conducted in connection with the preparation of the plan. O. Reg. 34/10, s. 25 (5); O. Reg. 289/10, s. 4.

Canadian Code of Ethics for Psychologists (CPA, 2000)

In adhering to the Principle of Responsible Caring, psychologists would...

II.18 Provide services that are coordinated over time and with other service providers, in order to avoid duplication or working at cross purposes. (pp.15-17)

Standards of Professional Conduct (CPO, 2009)

S.3 Duplication of Services

A member should not provide or offer to provide services to a client who is known or should be known to be receiving similar from another provider, except in exceptional circumstances. Before agreeing to provide such services the member should discuss with the client the reasons for seeking services and the potential disadvantages of receiving similar services from two providers at once. A member should seek the client's consent to notify the other provider and coordinate service provision. (p.22).

Reviewing Referral Questions

IEs are conducted to examine eligibility for specific benefits; to this end, all IE assessors must know the specific benefits they are being asked to address before they conduct an

assessment. The IE Psychologist cannot always acquire the full list of questions he or she will be asked to answer by the time of the assessment. Moreover, insurers often provide additional information (including surveillance reports and tapes) and ask for addendums and paper reviews in the weeks or months following an assessment. It is incumbent upon the IE assessor to determine whether the insurer's questions can be addressed by addendum or paper review and to inform the IE company if an additional in-person examination is required.

Because the IE Psychologist can sometimes respond to additional questions in a paper review or addendum report, it is important that the process of obtaining informed consent at the beginning of all in-person assessments should include: a) providing clarity to the examinee as to what benefit(s) is/are being addressed in the present assessment and b) advising that the insurer might request follow-up opinions that the assessor would address through paper review or addendums. Any follow-up report should indicate that the opinion is based on how the IE Psychologist understood the examinee to have been functioning psychologically at the time of the in-person assessment. If several months have passed, the IE Psychologist should give consideration to requiring a new in-person assessment as the examinee's psychological functioning may have changed.

Key message: IE Psychologists must know the specific benefits they are being asked to address before the conduct an assessment. If they are asked for an addendum to address follow up questions they must indicate that their opinions are based on their findings at the time of the in person assessment.

Documentation Review

IE Psychologists are responsible to review relevant documents. It is helpful if relevant documents can be reviewed prior to the assessment, so that the IE Psychologist has an adequate understanding of the course of the injury, relevant issues, and potential contrasting information which can then be reviewed with the claimant during the assessment. Ideally the insurer and the IE company would make this information available to the IE Psychologist with sufficient time to complete the review. We are aware that this is often not the case in current practice.

IE Psychologists are advised to indicate if they notice that important documents that are referenced in other reports are missing from those they were provided for review, particularly those which the assessor believes will be critical for drawing conclusions relevant to the questions asked.

If important documentation is missing, it may still be possible for the examination (be it Paper Review or in-person examination) to be completed but the IE Psychologist should transparently state what documentation is missing. The IE Psychologist might still render an opinion based on available information (and might for instance opine that a proposed OCF-18 has or has not been demonstrated to be reasonable and necessary or that an individuals is or is not disabled given available information) but should make it

clear that the opinion is subject to change should the essential documents be made available. With discretion, the IE Psychologist might also choose to defer an opinion until such time as essential documentation becomes available. It is the responsibility of the IE Psychologist to clearly outline the logic that is being used and to describe the limitations that may be present when there is not enough available data to draw a conclusion. IE Psychologists are reminded that this is not the same as saying the services are NOT reasonable and necessary.

It would also be appropriate to include a statement in IE Reports noting that opinions and conclusions might be altered should new information become available for review.

Key message: Psychologists' opinions are dependent on the information available at the time of their examinations. They distinguish between essential versus important information for completing assessments. If essential information is not available, the IE Psychologist may not be able to provide an opinion.

The following sources are relevant to this issue:

Specialty Guidelines for Forensic Psychology (APA, 2008)

Forensic practitioners utilize appropriate methods and procedures in their work. When performing examinations, treatment, consultation, educational activities or scholarly investigations, forensic practitioners maintain integrity by examining the issue or problem at hand from all reasonable perspectives and seek information that will differentially test plausible rival hypotheses. (p.13)

Forensic practitioners ordinarily avoid relying solely on one source of data, and corroborate important data whenever feasible. When relying upon data that have not been corroborated, forensic practitioners make known the uncorroborated status of that data, any associated strengths and limitations, and the reasons for relying upon it. (p.13)

Forensic practitioners only provide written or oral evidence about the psychological characteristics of particular individuals when they have sufficient information or data to form an adequate foundation for those opinions or to substantiate their findings. Forensic practitioners make reasonable efforts to obtain such information or data, and they document their efforts to obtain it. (p.13)

When conducting a record review or providing consultation or supervision that does not warrant an individual examination, forensic practitioners identify the sources of information on which they are basing their opinions and recommendations, including any substantial limitations to their opinions and recommendations. (p.13)

When the validity of an assessment technique has not been established in the forensic context or setting in which it is being used, the forensic practitioner

describes the strengths and limitations of any test results and explains the extrapolation of these data to the forensic context. Because of the many differences between forensic and therapeutic contexts, forensic practitioners are aware and make known that some examination results may warrant substantially different interpretation when administered in forensic contexts.

Forensic practitioners consider and make known that forensic examination results can be affected by factors unique to, or differentially present in, forensic contexts including response style, voluntariness of participation, and situational stress associated with involvement in forensic or legal matters. (p. 14)

When interpreting assessment results, forensic practitioners consider the purpose of the assessment as well as the various test factors, test-taking abilities, and other characteristics of the person being assessed, such as situational, personal, linguistic, and cultural differences that might affect their judgments or reduce the accuracy of their interpretations. Forensic practitioners identify any significant strengths and limitations of their procedures and interpretations. (p. 14)

Guidelines for Assessment and Treatment in Auto Insurance Claims (OPA, 2010)

It must be noted that assessment instruments and treatment approaches may vary widely. It is incumbent upon IE examiners to pay special attention to presented evidence of patient progress to date, complicating/extenuating circumstances which may have resulted in a premature plateau in recovery, and appreciate the notion of staged clinical and functional intervention phases and evidence of outstanding rehabilitation barriers to maximal recovery. (p.85)

Standards of Professional Conduct (CPO, 2009)

14.1 Familiarity with Tests and Techniques

Members shall be familiar with the standardization, norms, reliability, and validity of any tests and techniques used and with the proper use and application of these tests and techniques.

14.2 Familiarity with Interventions

Members shall be familiar with the evidence for the relevance and utility of the interventions used and with the proper use and application of these interventions.

14.3 Rendering Opinions

A member shall render only those professional opinions that are based on current, reliable, adequate, and appropriate information.

14.4 Identification of Limits of Certainty

A member shall identify limits to the certainty with which diagnoses, opinions, or predictions can be made about individuals or groups.

14.5 Freedom from Bias

A member shall provide professional opinions that are clear, fair and unbiased. A member shall make reasonable efforts to avoid the appearance of bias.

14.6 Clarity of Communication

A member shall make reasonable efforts to present information in a manner that is likely to be understood by the client.

14.7 Documentation of Sources of Data

- (1) *When, as part of a psychological service, a member conducts a review of a client record and the evaluation of the client is not necessary, the member shall document this and indicate the sources of information used to form his/her opinions.*
- (2) *In situations in which all reasonable attempts have been made to conduct an evaluation of a client but a complete evaluation is not possible, a member shall ensure that the efforts made to conduct the evaluation and the obstacles encountered are documented. Additionally, a member shall indicate the extent to which the availability of only limited information influenced the certainty of his/her opinion.*

14.8 Use of Computer-Generated Reports

Computer-generated assessments, reports or statements shall not be substituted for a member's professional opinion. (p.17).

Practice Standards for Psychological Assessment of Disability and Impairment (CAPDA, 2004)

Once the individual agrees to undergo the assessment, the psychologist has a number of obligations. The psychologist:

- *Strives for the utmost fairness and objectivity in the assessment;*
- *Is mindful of the fact that their ultimate client is the members society and the public as a whole, and that their reports will be judged in a legal and regulatory context in which impartiality is particularly important;*
- *Is also mindful of the types of monetary and personal influences and pressures, which can be brought to bear in such assessments;*
- *Strives to provide services, which are based upon sound and contemporary knowledge and practice standards;*
- *Makes every effort to consider all the relevant factors in interpreting assessment findings, including cultural, demographic and psychosocial factors which may be unrelated to the reason for referral but which may be affecting the individual;*
- *Strives to understand the nature of the compensation process and how it affects all the parties;*
- *Strives to understand the nature of the compensation process as a reinforcement system, which can affect the individuals' presentation, and make reasonable efforts to understand how the individual's perceptions and expectations of that process can affect behaviour;*
- *Shall cause no physical or psychological harm to individuals referred for assessment;*

- *Is mindful of the pressures that may be on an individual to attend an assessment and the ways in which this may affect the individual's presentation and behaviour;*
- *Shall, in the interest of all parties, have a clear understanding of the disability test used by the referral source. (p.5)*

Psychologist assessors of disability shall be competent in the use, description and reporting of psychometric procedures and, whenever possible, utilize contemporary and appropriate psychometric instruments in the assessment of disability and its consequences.

- 7.1 *Disability assessors and their staff shall make themselves aware of those contemporary psychometric instruments, which are useful in disability assessment.*
- 7.2 *Psychologists shall employ multiple standardized psychometric tests whenever possible.*
- 7.3 *Assessors shall be aware of the psychometric properties and limitations of the tests that are employed and of their interpretive value with various populations and diagnostic groups.*
- 11.4 *Psychologists shall prepare objective reports, which outline the supportive information for any conclusions, diagnosis, recommendations, etiology of symptoms etc., including any discussion of contradictory evidence and the reasons for their diagnosis.*

Informed Consent

All standards and guidelines that govern psychological practice identify the need for open and honest disclosure with the claimant regarding the purpose of any services rendered, the limits of confidentiality that apply, and the need to obtain appropriate and current informed consent to proceed with the service. There are a number of alternative processes including, for example, documentation of a discussion and/or reviewing and obtaining written consent through a formal consent document. The IE Psychologist should determine what processes they will utilize. However, as noted above, they should not proceed with the assessment if the claimant does not provide consent. The IE Psychologist should consider that while having consent in writing is not a mandatory requirement stipulated by the College of Psychologists of Ontario, a written consent form may be useful to provide documentation of the process.

We note that providing informed consent requires disclosure that there are potential risks and benefits associated with participation or non-participation. We understand that the IE Psychologist may not fully be aware of the risks involved if the examinee chooses not to participate, as every insurer may behave differently depending on the case specifics. The IE Psychologist should review potential risks and benefits of participating

and explain that, should the examinee choose not to participate, the insurer may take some action but that the IE Psychologist could not say what specific action would be taken. The IE Psychologist might advise the examinee to consult with his or her insurer and/or legal representative if they have questions about their entitlements or if they have a question about choosing not to participate.

Informed consent also requires providing information regarding the process. For example, it should also be explained to the claimant that the results of the IE will not be reviewed with them, and that the IE Psychologist will not be providing a report directly to them, but that the insurer will be providing them a copy of the report.

It is recommended that members ensure that adequate informed consent is obtained at the time of the examination rather than simply relying on the signed “blanket” OCF-5, OCF 18, or any other form provided by the insurer, IE company, lawyer or other third party. The IE Psychologist must determine if the consent form provided with the assessment referral is adequate and, if not, supplement it with one of their own. Although the language of the OCF 18 addresses consent to an IE, the IE Psychologist must personally determine that the claimant understands the purposes and consents to the examination.

It is also noted that claimants may indicate that they wish to withdraw their consent during the examination or after it has been completed. The response to the request will depend on the point in the process when the consent is withdrawn. It appears consistent with the above understanding of the dynamic nature of consent that if the claimant chooses to withdraw consent prior to the IE Psychologist sending out the report, the IE Psychologist should inform the parties that the claimant has withdrawn consent and not produce a report. If the IE Psychologist has already sent the report to the IE company, the IE Psychologist should inform the IE company that the claimant has withdrawn consent for distribution. The IE Psychologist should also suggest to the claimant to communicate their withdrawal of consent directly to the IE company and insurer. If the report is already with the insurer, IE Psychologist would inform the claimant to communicate their withdrawal of consent for the use and distribution of the report to the insurer. However, the IE Psychologist cannot be responsible for the insurer’s behavior.

Key message: IE Psychologists are reminded that informed consent is a dynamic process that needs to be obtained and documented.

The following sources are relevant to this issue:

From OCF 18:

In the event that my insurer does not agree to pay for all the goods and services contemplated in this Treatment and Assessment Plan, I understand that an examination may be required to determine my eligibility to the goods and services outlined in this Treatment and Assessment Plan.

In the event that an examination is requested, I authorize my insurer and my health care providers to give the person identified by the insurer to review this application only such information relating to my health condition, treatment and rehabilitation received as a result of the accident, as is reasonably required for the purposes of determining my eligibility to benefits.

Canadian Code of Ethics for Psychologists (CPA, 2000)

In adhering to the Principle of Respect for the Dignity of Persons, psychologists would...

- I.24 Ensure, in the process of obtaining informed consent, that at least the following points are understood: purpose and nature of the activity; mutual responsibilities; confidentiality protections and limitations; likely benefits and risks; alternatives; the likely consequences of non-action; the option to refuse or withdraw at any time, without prejudice; over what period of time the consent applies; and, how to rescind consent if desired. (Also see Standards III.23-30.) (p.11)*
- III.14 Be clear and straightforward about all information needed to establish informed consent or any other valid written or unwritten agreement (for example: fees, including any limitations imposed by third-party payers; relevant business policies and practices; mutual concerns; mutual responsibilities; ethical responsibilities of psychologists; purpose and nature of the relationship, including research participation; alternatives; likely experiences; possible conflicts; possible outcomes; and, expectations for processing, using, and sharing any information generated).*

Specialty Guidelines for Forensic Psychology (APA, 2008)

Forensic practitioners disclose to the examinee information that may include, but may not be limited to the purpose, nature, and anticipated use of the examination; who will have access to the information; associated limitations on privacy, confidentiality, and privilege including who is authorized to release or access the information contained in the forensic practitioner's records; the voluntary or involuntary nature of participation, including potential consequences of participation or non-participation, if known; and, if the cost of the service is the responsibility of the examinee, the anticipated cost (pp. 10-11).

Practice Guidelines for Providers of Psychological Services (CPA, 2001)

Psychologists strive to make their client relationships clear and unambiguous. a. Psychologists discuss with their clients the nature of their relationship, and clarify any factors that bear upon that relationship. They clarify limits to confidentiality of psychological records and, if there is a third-party payer for the services, they inform the client of the nature and extent of details that may be released to the third party (e.g., insurance companies, lawyers, courts). (CCE I.23, 24, 26; III.14) (p. 12).

Third Parties in Psychological Practice: Resource Materials for Anticipating, Preventing, and Resolving Ethical Problems (OPA, 2012)

The Canadian Code includes many sections addressing this issue, addressing the same points as the APA code, calling upon psychologists to “Provide, in obtaining informed consent, as much information as reasonable or prudent persons would want to know before making a decision or consenting...” [Code I.23 (emphasis added)]. It emphasizes the importance of informing prospective clients about limits on confidentiality before they consent to any psychological service, and obtaining informed consent of an individual using language that is reasonably understandable to that person (see Fisher, 2008; O’Neill, 1998, for further discussion). (p.13).

Text-based consent forms are, of course, still normally required for matters such as requesting information from other professionals. As well, identifying those who will receive information about a client is only part of the psychologist’s task, because the client must also understand what information will be provided to third parties, a process that may be lengthy if the client is to give consent that can accurately be described as “informed” (p.14).

Practice Standards for Psychological Assessment of Disability and Impairment (CAPDA, 2004)

Psychologists who practice in the area of disability assessment are reminded of the importance of respecting the dignity of persons. Disability assessments are different than many other forms of psychological assessments in that the principal client is the person or agency that requests the service, and not the individual who is assessed. The decisions of the psychologist in such assessments may have a substantial impact on the individual’s life, potentially resulting in the cessation or reduction of benefits, or the cessation or reduction in some forms of treatment.

Psychologists are mindful of the fact that the individual who is being assessed may not have chosen to be assessed and may find the experience stressful. Psychologists must take into account the pressure that the individual may be experiencing in attending the assessment.

Psychologists should make every reasonable effort to ensure that the patient understands the nature of the assessment, its purpose, potential outcomes and the psychologist’s role. The individual must make as free and informed a decision as possible about whether or not to undergo the assessment and authorize the release of information to third parties. The individual must be provided with all the information necessary for them to make an informed decision.

Validity Testing

Accurate determination of impairments resulting from MVAs is in the interest of all parties and helps to ensure that benefit applications are appropriately evaluated. Identifying instances of underreporting and minimization, as well as instances of exaggeration, over-reporting and malingering, is necessary to determine the degree of

actual impairment. There is a strong evidence base for the use of psychological measures to identify profile distortion and response bias. Therefore, it is expected that IE Psychologists will include relevant Symptom and/or Performance Validity Tests when possible in IE examinations. If Symptom and/or Performance Validity Tests are not administered, it is incumbent on the IE examiner to provide a rationale as to why this was not done.

It is also incumbent upon the IE Psychologist to utilize symptom and performance-based validity tests appropriately. IE Psychologists should have extensive training and experience in the administration, scoring, and interpretation of psychometric instruments including validity indices. IE psychologists should have post-graduate knowledge of statistics, psychometric theory, and research design so that they understand the strengths and limitations of different psychometric measures. IE psychologists should also be experienced in integrating test data with other sources of information, accounting for consistencies and inconsistencies. The assessor should have a thorough understanding of the evidence based literature in regard to the psychometric properties, strengths and limitations of the specific validity tests being used. IE Psychologists should avoid concluding broad opinions on single points of data. Moreover the assessor should try to contextualize validity test scores with other sources of information and a determination of over-reporting, exaggerating, feigning, or malingering of symptoms should be offered thoughtfully, based on sound assessment methodology and in consideration of other possible explanations. The IE Psychologist must be cautious in attributing causation and motivation to failed validity scores.

The term “malingering” should only be used when the IE Psychologist has confidence, drawn from multiple sources, that the distortion is intentional and for purposes of external incentives (as defined both in DSM-IV and DSM-5). That is, the examiner must be confident that they have determined the motivation for the behavior. In the absence of such confidence the IE Psychologist should provide alternate explanations for the complete data set. Such explanations might include deliberate over-reporting but not for purposes of external incentive (as is seen in Factitious Disorder); non-deliberate or unconscious over-reporting owing to a dramatic communication style; depressogenic or catastrophic thinking; or a naïve display of distress whereby the individual may potentially be symptomatic though not to the extent that he or she demonstrates.

In this context, it is important that the IE Psychologist appreciate the reality that individuals who present with significant distortion could still potentially be legitimately impaired to some degree. The examinee may be experiencing significant psychological symptoms AND be engaging in a significant degree of exaggeration/fabrication. Given that the IE Psychologist will have to provide a summary opinion on a balance of probabilities as to whether the claimant is eligible for a benefit (e.g., approval of treatment, income replacement benefits, etc.) from a psychological perspective, it is incumbent upon the assessor to rely on all sources of information and to offer a fair and balanced opinion. We note for instance that a review of the medical file can often provide valuable information that can help to contextualize assessment findings and that may influence the IE Psychologist’s opinion.

Key message: Appropriate use of psychometric testing should be integrated with other sources of information to arrive at conclusions based on sound clinical judgment which account for both consistencies and inconsistencies in the available information and examinee presentation.

Use of Surveillance Material

If the IE Psychologist makes it a practice to look at and subsequently to possibly rely on video surveillance when formulating an opinion, we recommend that the consent process include a statement that video surveillance material could be provided for review at the time of the assessment or at a later date and that this material may be considered.

However, we caution the IE Psychologist that the College of Psychologists has suggested [see Bulletin 24.3] that the IE Psychologist should provide the examinee with an opportunity to review the surveillance with the psychologist and to explain or contextualize what is on camera if it shapes their opinion. The same processes may be relevant when the insurer asks the IE to consider other materials they have gathered through investigation such as the claimant's social media profile.

Key message: The IE Psychologist must be responsible for interpreting video surveillance material and other material, such as social media profiles, in the context of all of the information gathered in the assessment.

The following is relevant to this issue:

College of Psychologists of Ontario, Bulletin 24.3

Viewing of Covert Surveillance Videotapes

An individual who was in a work-related accident was referred to you for an assessment as part of the evaluations beginning conducted to determine her eligibility for benefits. The insurance company, for whom you do a lot of work, forwards a surveillance videotape of the client to you noting the contents bear directly on the referral questions. They explain that the use of surveillance videotaping is standard practice in many disability claim situations and ask that you not discuss the contents or even the existence of the videotape with the client. Of the following options, please circle the most appropriate one(s).

1. *Viewing the videotape but only comment on aspects which are directly related to information gathered during the assessment.*
2. *Refuse to review the videotape since you are not experienced at interpretation of surveillance videos and being an ardent "X-Files" fan, know that things on film are not always as they seem.*

3. *View the videotape but only after completing the assessment so as not to be influenced by the content of video.*
4. *Refuse to view the videotape without being able to speak with client about it.*
5. *View the videotape but do not use the information as the quality of the tape is poor and it is difficult to be sure the person on the tape is actually the client.*

DISCUSSION

The Council of the College recently discussed this question s has other regulatory bodies including the college of Physicians and Surgeons and the College of Occupational Therapists. The main concern with respect to the viewing of covert videotapes is the use of information about a client that the client does not know exists and is thus unable to explain or comment upon.

The psychologist or psychological associate is in a position of trust within the client/therapist relationship. The use of covert surveillance material, without the client's knowledge, could be considered a serious breach of this relationship.

Other issues arise with respect to the use of surveillance videotapes. Is the member experienced in the interpretation of video material? Does the member know the exact circumstances under which the tape was made? Can the activity in the videotape be explained or accounted for in any other way? A classic example of potential misinterpretation is one in which a video purports to show an individual carrying a heavy garbage can to the front of their house in the face of a claim of severe back pain and inability to carry heavy weights. The patient explained that the garbage can in question was empty and constituted almost no weight at all. Without being able to discuss the video with the individual, misinterpretation could have readily occurred.

Comments on Answers to Scenario

1. *View the videotape but only comment on aspects which are directly related to information gathered during the assessment.*

This answer would seem inappropriate as it raises all of the concerns noted above with respect to the use of covert surveillance videotapes.

2. *Refuse to review the videotape since you are not experienced at interpretation of surveillance videos and being an ardent "X-Files" fan, know that things on film are not always as they seem.*

This answer may be appropriate as it suggests not viewing the tape due to inexperience at videotape interpretation. This answer is of concern as it does not address the issue of the use of this material without the client's knowledge or consent.

3. *View the videotape but only after completing the assessment so as not to be influenced by the content of video.*

This answer would seem inappropriate as it does not address the concerns raised in the above discussion.

4. *Refuse to view the videotape without being able to speak with the client about it.*

This would appear to be the most appropriate answer and the course of action recommended by the Council of the College. If one is able to speak with the client, one is then able to discuss the activity in the video to ensure proper understanding and interpretation. One would be able to obtain explanations of inconsistencies with assessment findings or incongruities between presentation in the assessment milieu, referral material reports and behaviour seen on the video.

5. *View the videotape but do not use the information as the quality of the tape is poor and it is difficult to be sure the person on the tape is actually the client.*

This answer would seem inappropriate as it does not take into account the concerns raised with respect to the use of videotapes. It does highlight an additional concern regarding the quality of these types of videotapes to which one must be attentive.

Summary

The Council urges members to be very cautious with respect to the use of surveillance videotapes, to consider them only with the knowledge of the client, and permission to openly discuss the contents. Under these conditions, the member would have the best opportunity to ensure most complete understanding of this information and to avoid the dangers inherent in relying on covert surveillance videotapes without taking such adequate precautions.

Rick Morris, Ph.D., C.Psych

Report Content

The psychologist must remain aware that the IE report will be read by multiple individuals. For example, the report will be read by the claimant, the insurer, and other health professionals, as well as lawyers for the claimant and the insurer. The report may also be relied upon in tribunal and court proceedings in addition to being used by the insurer in making their benefit determination.

The IE Psychologist may consider omission or careful phrasing of information which is highly sensitive but not germane to the adjudicated issues (e.g., a remote history of substance dependence in full-sustained remission when medication / substances are not relevant post-accident; specific details related to previous trauma such as abuse or

rape, while the issues may be relevant with respect to dealing with subsequent trauma and treatment process, the specific details may not be necessary to be included.

The content of the IE report must be sufficiently comprehensive so as to provide the reader with a basis to evaluate the conclusion of the report. While there is no standard report template required, in general IE reports are expected to provide the following: the date of the examination; credentials of the IE Psychologist; the referral source and the referral questions; documentation of the consent process; description of the assessment methodology and any special considerations such as use of an interpreter; clinical observations; information collected at interview; test results; information derived from the file documentation; conclusions, as well as the rationale or formulation that leads to the conclusions; and answers to specific questions.

When providing this information the report must strive to avoid jargon and be written in accessible language, not use biased or inflammatory/derogatory language, and not include information that would compromise test procedures and security.

The LAT also has introduced a list of expectations for expert reports. These include:

10.2 EXPERT WITNESSES (IDENTIFICATION AND DISCLOSURE)

A party who intends to rely on or refer to the evidence of an expert witness shall provide every other party with the following information in writing:

- (a) The name and contact information of the expert witness;*
- (b) A signed statement from the expert, in the Tribunal's required form, acknowledging his or her duty to:

 - (i) Provide opinion evidence that is fair, objective, and non-partisan;*
 - (ii) Provide opinion evidence that is related to matters within his/her area of expertise; and*
 - (iii) Provide such additional assistance as the Tribunal may reasonably require to determine a matter in issue;**
- (c) The qualifications of that expert witness, referring specifically to the education, training and experience relied upon to qualify the expert;*
- (d) A signed report that sets out the instructions provided to the expert in relation to the proceeding, the expert's conclusions, and the basis for those conclusions on the issues to which the expert will provide evidence to the Tribunal; and*
- (e) A concise summary stating the facts and issues that are admitted and those that are in dispute, and the expert's findings and conclusions.*

In the case of an insurance examination that addresses the reasonableness and necessity of a Treatment and Assessment Plan (OcF-18), if the IE Psychologist chooses to partially approve a Treatment and Assessment Plan, he or she should provide a clear and specific evidence and/or clinically-based rationale as to why the entire plan is not considered to be reasonable and necessary.

Key message: IE reports must provide sufficient information to support their conclusions in a clear and easily understood manner. IE Psychologists are

reminded that it is essential to provide a rationale when denying or modifying a treatment plan proposal.

Report Time Frames

Although there are currently no regulated timeframes, all IE reports should be completed within a reasonable timeframe, given that assessment, treatment or other benefits may be delayed otherwise. Insurers are able to limit access to further benefits, pending results of an IE; IE Psychologists should be mindful that other benefits, including reasonable and necessary treatment and rehabilitation, may be on hold while awaiting the results of their assessment. Anticipated timelines should be discussed with the IE company at the onset of the examination and reviewed if unforeseen issues arise.

Delays in completion of IEs may occur because of patient unavailability or scheduling difficulties. When a claimant encounters difficulty completing psychological tests, however, IE Psychologists should consider whether there are alternatives and/or if the tests are essential to the examination.

Key message: Although there are no requirements in the SABS for report content, format and time lines for completion of IEs, psychologists are reminded of the importance of timely completion of the examination and robust reports as further steps in the process are dependent upon the report.

The following sources are relevant to this issue:

Specialty Guidelines for Forensic Psychology (APA, 2008)

Forensic practitioners act with reasonable diligence and promptness in providing agreed-upon and reasonably anticipated services. Forensic practitioners are not bound, however, to provide services not reasonably anticipated when retained, nor to provide every possible aspect or variation of service. Instead, forensic practitioners exercise professional discretion in determining the extent and means by which services are provided and agreements are fulfilled. (p.7)

Practice Guidelines for Providers of Psychological Services (CPA, 2001)

All levels of providers of psychological services are responsible for providing services efficiently and effectively.

Agencies, psychologist administrators, and practitioners work to ensure that users receive services in a timely fashion. Psychologists take action to avoid waiting periods or delays in the provision of services by monitoring the volume of service requests, and the capability of meeting those demands. Options for avoiding unreasonable delays may include increasing the number of psychologists in a service unit, establishing a hierarchy of user needs, or directing users to alternate services. (CCE II.1, 2, 13, 22, 31; IV. 9) (pp.8-9).

Understanding “Causation” and the “Reasonable and Necessary” Test

There are different legal tests for causation and determining the role of the motor vehicle accident (MVA) in the development of impairments or the exacerbation of existing impairments: the “but for” test and the test of “material contribution”.

As noted in the preamble to these Guidelines, IE Psychologists approach the question of causation as clinicians/scientists and not as lawyers. In conducting assessments, both within and outside of the auto insurance system, psychologists are trained to consider etiology of a person’s disorder and/or impairments. The role of various factors including pre-existing and co-existing conditions is considered in determining whether or not a person’s disorder or impairment is “a result of a motor vehicle accident”.

As psychologists, we are aware that many disorders/impairments are multiply determined and it is often not scientifically accurate or possible to try to determine a single cause of a disorder or impairment. If the MVA contributed materially to the injured person’s current impairments and clinical presentation, it is clinically reasonable to conclude that the impairment is a result of the accident. It is also our understanding that, if this is determined, one has met the test of causation in determining access to auto insurance benefits. This is the case for all benefit types and levels. Under the SABS, the role of an MVA is considered to be a relevant contributor to an injured person’s impairment if it is judged to have made a “material contribution” to the impairment. In this way, it is not required that the MVA in question be the only factor in creating the impairment. IE Psychologists must be aware that they are not expected to limit benefits to those cases where the impairment in question is caused solely by the MVA. It must also be noted that it is not required that the MVA create the impairment in the first place; people with conditions that may have been exacerbated by an MVA are also eligible for benefits related to this exacerbation and any deterioration in function that results from it.

Similarly, the test for listed rehabilitation benefits under the SABS, such as psychological assessment and treatment services, is whether they are considered to be “reasonable and necessary” to rehabilitate the injured person and restore functioning as close as possible to their pre-MVA status. Note that there is no definition of “maximum medical recovery” or similar such terms in the SABS. And “reasonable and necessary” are defined broadly and clinically in terms that are relevant to the injured individual and not restricted solely to ability to function in the work place. However, it is reasonable for the IE Psychologist to expect the proposing psychologist to provide a rationale for the proposed services in terms of expectations that the treatment will either improve functioning in personal, home, or work life, or reduce the risk of deterioration.

We note that the “essential test” was implemented on June 1, 2016 for certain other goods and services but not to psychological services as per the SABS.

Key message: If the MVA contributed materially to the injured person’s current impairments, it is reasonable to conclude that the impairment is a result of the

accident. Similarly, people with conditions that have been exacerbated by an MVA are also eligible for benefits. In determining if proposed services are “reasonable and necessary”, these tests are defined broadly and clinically.

The following sources are relevant to this issue:

The Statutory Accident Benefits Schedule

Medical benefits

15. (1) Subject to section 18, medical benefits shall pay for all reasonable and necessary expenses incurred by or on behalf of the insured person as a result of the accident for:

- (a) medical, surgical, dental, optometric, hospital, nursing, ambulance, audiometric and speech-language pathology services;*
- (b) chiropractic, psychological, occupational therapy and physiotherapy services;*
- (c) medication;*
- (d) prescription eyewear;*
- (e) dentures and other dental devices;*
- (f) hearing aids, wheelchairs or other mobility devices, prostheses, orthotics and other assistive devices;*
- (g) transportation for the insured person to and from treatment sessions, including transportation for an aide or attendant;*

Note: On June 1, 2016, the English version of clause 15 (1) (g) of the Regulation is amended by adding “and” at the end. (See: O. Reg. 251/15, s. 5 (1))

- (h) other goods and services of a medical nature that the insured person requires, other than goods or services for which a benefit is otherwise provided in this Regulation. O. Reg. 34/10, s. 15 (1).*

Note: On June 1, 2016, clause 15 (1) (h) of the Regulation is revoked and the following substituted: (See: O. Reg. 251/15, s. 5 (2))

- (h) other goods and services of a medical nature that the insurer agrees are essential for the treatment of the insured person, and for which a benefit is not otherwise provided in this Regulation.*

Assessment Proposals and the Use of Paper Reviews

When an insurer asks the IE Psychologist to determine if an assessment as proposed on an OCF-18 is reasonable and necessary, it is not only reasonable but in fact ideal for the IE Psychologist to address the issue through a paper review. If there are important omissions of necessary information, lack of preliminary evidence of a psychological impairment resulting from the MVA, or indication that the OCF-18 does not conform to the Guidelines for Assessment and Treatment Planning in Auto Insurance Claims (OPA, 2010) then the OCF-18 for assessment would not be approved. However, it is important to distinguish between the level of information that can reasonably be expected in an application submitted after a screening interview to propose an assessment from the more precise diagnostic formulation expected after the assessment is completed when treatment is being proposed. It is not realistic to require

“evidence of a psychological impairment or disorder” at the stage of the assessment proposal, as this would require completion of the assessment that is being proposed. It should be sufficient that there is documentation that a screening has been conducted by a psychologist and found indicators that the claimant likely has psychological impairments for which treatment is likely reasonable and necessary. Similarly, IE assessors should not render diagnoses or recommend specific treatment in the context of a paper review as such opinions would require the IE Psychologist to conduct an in-person assessment.

In-person psychological IEs are intrusive and should only be carried out to assist the insurer’s adjudication purposes when necessary. This being said, we recognize that insurers often request that the examiner answer other questions only indirectly related to the specific benefit question such as asking for opinions in regard to the claimant’s diagnosis, prognosis, level of impairment, etc. As noted above, the claimant should be made aware that the assessment results will be used to address the reasonableness and necessity of the proposed OCF-18 and also may be used to address further benefits in addendums or paper reviews. As discussed above, if an in person assessment is conducted by the IE Psychologist, the fact that the IE Psychologist has completed an assessment should never be a basis to deny an assessment by the treatment provider.

In the case of IE reviews of proposals for neuropsychological examinations, if an in-person examination is scheduled, the neuropsychologist should offer an opinion (as to whether the proposed neuropsychological assessment is reasonable and necessary) based only on interview and file review. Ideally, the reasonableness and necessity of specific, specialized assessments can be determined based on a paper review.

In contrast to the usefulness of paper reviews to address questions regarding assessment proposals, in-person IE assessments are reasonable to determine a number of questions including for example, diagnosis, Minor Injury status, and prognosis.

If rather than relying on paper review, the IE assessor has completed an in person assessment, the IE Psychologist may have sufficient information to comment on diagnosis and general treatment recommendations, in addition to the reasonableness of the proposed assessment even when a treatment proposal has not been submitted. This IE assessment does not replace the need for the assessment by the treating psychologist. Therefore, they should not attempt to provide specificity about the treatment needs as the treatment plan needs to be developed in the specific context of the treating psychologist/patient relationship. Feedback to the patient by their psychologist is a key component of any assessment when planning treatment, and should be provided by the clinician who intends to provide the treatment. IE assessors are encouraged to be mindful of the importance of communicating a diagnosis and formulating the specific treatment plan in the context of a therapeutic alliance between the patient and their psychologist.

Key message: When an insurer asks the IE assessor to determine if an assessment as proposed on an OCF-18 is reasonable and necessary, it is reasonable and in fact ideal for the IE assessor to address the issue through a paper review.

Reviewing Treatment Plan Proposals

If an IE Psychologist is asked to review a proposal for an assessment or a treatment plan, the examiner should have clinical experience in assessing and treating patients and impairments substantially similar to those described in the proposal. The IE assessor should aim to accept referrals for assessment based on the specifics of his or her competencies. We appreciate that the IE Psychologist may not always be in a position to know certain important details of a case or the type of impairment a claimant may be presenting with prior to engaging in the assessment. In the event that the assessor realizes that the clinical picture is one that he or she does not have sufficient experience with, the assessor should: consider terminating the assessment if necessary; only offer an opinion within the bounds of his or her competencies, should be transparent about any limitations to the opinion; consult with another psychologist if appropriate, and/or if necessary indicate that the person should be assessed by another professional.

IE Psychologists should only offer opinions about the reasonableness and necessity of assessment and treatment plans if they have psychological assessment and clinical treatment experience with the population and impairments in question. Those who provide assessment for treatment planning and treatment under the SABS will have a more nuanced perception of the specific services and time required for effective assessment and treatment. This includes direct and indirect service time requirements given the specifics of the case. The most appropriate reviewer for a psychological assessment proposal or treatment plan would have relevant education, training, and experience with the population and clinical presentation in question, as well as competence and registration with the College of Psychologists of Ontario in the appropriate areas to address the referral questions. Assessors should not only be familiar with treatment and rehabilitation of the relevant impairments, but knowledgeable about the type of assessment and intervention and the reasonable cost based on profession-specific guidelines. For these reasons, psychologists are most suited to conduct these IEs. It is each assessor's responsibility to ensure that they only complete assessments where they have appropriate competence. In the event that the assessor determines that further more specialized assessment is required they should recommend that this be obtained.

IE assessors may consider speaking to the proposing provider for clarity where there are questions about the proposal under review. IE assessors may want to obtain a separate consent for this communication.

IE assessors are reminded to be mindful of a sometimes unrealistic expectation that patients can articulate psychological concepts or details of proposed services accurately. This is not always the case. IE Psychologists should be aware of patients' cognitive (including linguistic) and emotional levels of sophistication in attempting to report what they have gained or learned from assessment or treatment. IE Psychologists should not expect patients to articulate fully what they have learned and/or deny services based on a lack of such explanation by the patient.

IE Psychologists should cite clinical standards and guidelines, or other reasons that are the basis for their recommendations; this includes when denying or altering a proposed plan (e.g., reducing time or sessions proposed). If a proposed plan for assessment or treatment falls within the OPA Guideline ranges for proposals (and can therefore be assumed to be broadly consistent with the clinical assessment and treatment literature), the IE should provide a rationale for any changes recommended to the proposal.

Remember that an OCF-18 is a proposal that requests "estimates" for the maximum times and costs required only; it is not an invoice for services that will be billed. Billing is based on time actually spent providing the goods and services.

An IE assessment to review the reasonableness and necessity of an assessment proposal is not equivalent to an assessment for treatment planning. The IE serves the adjudicative purpose for an insurer who needs psychological expert information to help them to determine the appropriateness of a benefit request. This should not be confused with the situation where the patient and their treatment provider are proposing an assessment. Some activities may appear to be the same, such as test administration, but they are carried out with different goals.

Assessments conducted by a psychologist completing an IE and those conducted by a treatment provider differ in some fundamental respects. The IE assessor only has to identify impairments, establish causation, and determine if assessment and/or treatment is warranted. The treating psychologist needs to begin the formation of a therapeutic alliance, assess the nature of the relationship and of the client's ability to engage, tailor a specific treatment plan to the patient's needs, carry out specific assessment tasks that help the process of goal setting and treatment planning, provide feedback and determine if there is informed consent to the proposed treatment. Our professional standards require us to do an assessment prior to beginning treatment. It is not reasonable to require a proposing psychologist to rely on the IE Psychologist's interview, test data, and review of documents. Assessments for treatment planning and for IEs do not have the same process or goals, and therefore are not redundant. The proposing psychologist needs to be able to perform his or her own assessment as the first stage of treatment.

IE Psychologists should be respectful of individual differences in practice and the responsibility of the treating psychologist for the assessment and treatment services they provide to their individual patient. IE assessors should respect a colleague's right, within the bounds of professional standards, to: assess comprehensively, choose their

own test battery, include collateral information, consider interdisciplinary team input, formulate an integrated plan, as well as, to provide treatment from a variety of theoretical perspectives and evidence based clinical approaches. However, it is reasonable that the IE examiner expect that proposing psychologist will have indicated that the proposed services are reasonable and necessary to reduce symptoms and impairments, improve functioning or reduce the risk of deterioration if the services are withdrawn.

IE assessors are advised to take caution in speaking with patients to avoid harming the therapeutic relationship or confidence in the treatment provider, when there is no clear indication that the treatment is not consistent with standards of professional practice. If planning to modify the duration or session time within a proposed treatment plan, IE assessors should provide a rationale for making such changes.

When an IE assessor is determining the reasonableness and necessity of a proposed assessment or treatment plan he or she should consider both: a) whether proposed services and durations are in accordance with the recommended ranges outlined in the research regarding evidence based psychological treatments for this population including the OPA Guidelines for Assessment and Treatment in Auto Insurance Claims (2010); and b) the IE assessor's understanding of the claimant's clinical picture and specific rehabilitation needs. If an IE assessor plans to modify treatment duration or session time, appropriate rationale should be provided to support the modification.

IE assessors must also be mindful of the need to include non-clinical session (indirect) services time such as time to consult with other treatment providers, review incoming reports, interpret test data, write status reports, etc. These services require time outside of treatment sessions; they do not represent "a cost of doing business" and are not administrative tasks. Rather they are health professional services that are billable by the hour and do not have the "result of increasing the effective hourly rate". These services are necessary to ensure communication between team members which is essential to effective treatment. This would be equivalent to case conference and phone consultations payable under OHIP and other third-party systems.

Key message: Psychologists conducting IE examinations are responsible to ensure that: they have the necessary competence; their assessment methodologies are scientifically based and professionally appropriate; the opinions they provide are fair, objective, and non-partisan and provide clear rationale for any denial or reduction in proposed services; and they respect the difference in the role of the IE examiner and the treatment provider.

The following sources are relevant to this issue:

FSCO Professional Services Guideline

Expenses Related to Professional Services

"Expenses related to professional services" as referred to in the SABS and the Professional Services Guideline include all administration costs, overhead, and

related costs, fees, expenses, charges and surcharges. Insurers are not liable for any administration or other costs, overhead, fees, expenses, charges or surcharges that have the result of increasing the effective hourly rates, or the maximum fees payable for completing forms, beyond what is permitted under the Professional Services Guideline.

In addition, insurers are not liable to pay any amount for appointments that are missed or cancelled by an insured person, or for costs of rescheduling such appointments.

Release of the Clinical File and Test Information

IE Psychologists may receive requests to release their clinical file or test data. These requests may raise questions regarding integrity of data sources (copyright protection) and privacy. IE Psychologists should consider these issues and determine how they will handle various situations.

In order to protect psychological test integrity and security, when responding to requests made with proper consent for test data, it is understood that it is professionally correct to provide test materials, scores and profile sheets only to other psychologists. On the other hand, IE Psychologists should release only test responses but not questions, scores, profile sheets and other test material to non-psychologists. However, they should provide complete materials, as requested, to other psychologists.

IE Psychologists should release material in a timely manner so as to not create delays in process. While it may be appropriate to charge a fee for providing test data to recover the cost of the time and processes involved, these charges should be reasonable and not present an obstacle to obtaining the test data.

Key Message: IE Psychologists should respond to requests for information and provide appropriate information in a timely manner. Fees charged should be reasonable.

Keeping Communications Professional

Proposers and reviewers are advised to remain professional when describing the advice, opinions, and recommendations of their psychologist colleagues. While differences of clinical opinions are to be expected, language should remain polite, careful, and collegial, communicating respect for the credentials, skills, and humanity of the other clinician.

Psychologists are reminded that how we handle disagreement and conflict reflects upon the profession. The SABS require use of the terms “reasonable” and “necessary” to consider when determining whether to approve a medical or rehabilitation benefit. Disagreement on the reasonableness and necessity of a service can be indicated without pejorative language. Noting the absence of appropriate evidence required to approve a proposed plan may help to avoid language which could be perceived as inflammatory or derogatory. It may also be helpful for IE Psychologists to note areas of

agreement with the psychologist who has prepared the benefit application as well as areas of reasonable difference of opinion.

Proposers and reviewers also should not make false or unsupported allegations in reports. Communications about our professional colleagues should remain professionally appropriate. In particular, all psychologists are reminded of the need to protect the therapeutic relationship, and not undermine the patient's confidence in his/her chosen treatment provider, unless there is clear and substantial evidence of some wrong-doing or failure to adhere to professional standards of practice.

In some situations an IE Psychologist may consider communication with the proposing psychologist if there are questions about a plan that has been submitted, or if the patient communicates anything that seems contradictory to a proposed plan. In these instances, the IE Psychologist should obtain informed consent from the client/claimant to communicate with the treating psychologist.

Key message: While differences of clinical opinions are to be expected, language should remain polite, careful, and collegial, communicating respect for the credentials, skills, and humanity of the other clinician.

The following sources are relevant to this issue:

Canadian Code of Ethics for Psychologists (CPA, 2000)

In adhering to the Principle of Respect for the Dignity of Persons, psychologists would...

- 1.2 Not engage publicly (e.g., in public statements, presentations, research reports, or with clients) in degrading comments about others, including demeaning jokes based on such characteristics as culture, nationality, ethnicity, colour, race, religion, sex, gender, or sexual orientation.*
- 1.3 Strive to use language that conveys respect for the dignity of persons as much as possible in all written or oral communication. (p.9)*

Specialty Guidelines for Forensic Psychology (APA, 2008)

When evaluating or commenting upon the work or qualifications of other professionals involved in legal proceedings, forensic practitioners represent their disagreements in a professional and respectful tone, and base them on a fair examination of the data, theories, standards and opinions of the other expert or party. (p.16)

Third Parties in Psychological Practice: Resource Materials for Anticipating, Preventing, and Resolving Ethical Problems (OPA, 2012)

Principle II: Responsible Caring

We have a responsibility to work constructively and collaboratively with others to maximize benefit and minimize harm to the persons involved.

Principle III: Integrity in Relationships

We need to manage multiple relationships in ways that protect objectivity and that do not undermine trust in the profession.

Practice Standards for Psychological Assessment of Disability and Impairment (CAPDA, 2004)

It is expected that there will be disagreements between psychologists and other psychologists and practitioners. Psychologists are respectful of their professional colleagues.

12.1 Psychologists shall respect the opinion of other practitioners such that they:

Consider, at all times, the opinions of other practitioners to be a professional opinion based on professional judgment;

Never use innuendo, denigration or personal defamatory statements to discredit the opinions or services of other practitioners;

Respond to requests for information in a timely and ethical manner. (p.17).

REFERENCES

Canadian Code of Ethics (CPA, 2000)

<http://www.cpa.ca/cpaside/UserFiles/Documents/Canadian%20Code%20of%20Ethics%20for%20Psycho.pdf>

Practice Guidelines for Providers of Psychological Services (CPA, 2001)

[http://www.cpa.ca/cpaside/UserFiles/Documents/publications/Practice%20Guidelines2001\(2\).pdf](http://www.cpa.ca/cpaside/UserFiles/Documents/publications/Practice%20Guidelines2001(2).pdf)

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<http://www.cpo.on.ca/Resources.aspx>

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Guidelines for Assessment and Treatment in Auto Insurance Claims (OPA, 2010)

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