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## MESSAGE FROM THE CHAIRPERSON

A number of important changes have arisen for the Board through the latter part of 2009. In September the Minister of Health announced four new appointments to the Board, and in doing so, responded to the Board's own request to reduce in size (from ten members to eight). The Board welcomed Ms Beverley Clarke (Lay Member, Wanaka), Dr Monique Faleafa (Clinical Psychologist, Auckland), Dr Ian Miller (Psychologist, Wellington), and Dr David Stephens (Lay Member, Hamilton). Also, two serving Board members were reappointed (Professor Fred Seymour, Auckland) and Dr Lois Surgenor (Clinical Psychologist, Christchurch) for one-year terms, while two other Board members (Mrs Beverley Burns (Psychologist, Hamilton) and Dr Jacqueline Horn (Clinical Psychologist, Christchurch) still have time remaining on their current terms.

Sincere appreciation is extended to departing Board members who have, collectively, provided 41 years of service to the Board. Leaving the Board in September were Ms Siatu Alefaio (Psychologist, Palmerston North), Mr Perry Cameron (Lay Member, Wairarapa), Dr Catherine Love (Lay Member, Wellington), Fuimaono Mr Karl Pulotu-Endemann (Lay Member, Wellington), Mrs Karen Ramsay (Clinical Psychologist, Dunedin), and Ms Waikaremoana Waitoki (Clinical Psychologist, Hamilton). In recognition of their dedicated service, the Board have awarded each a Certificate of Appreciation.

Arising from earlier work, the Board is well-placed to deal with expected developments through 2010 including those resulting from the Ministry of Health's recent review of the HPCA Act (see below in this Newsletter), the newly appointed Psychologists Board of Australia, and commencement of the accreditation assessments of all psychology training programmes in New Zealand. This newsletter also announces the beginning of consultation on the Board's first (draft) "Best Practice Guidelines". This proposed guideline on 'Supervision' marks an important new step in our effort to protect the public by guiding the profession. Other proposed guidelines will be published for consultation through 2010.

On behalf of all Board members, I wish you all a joyful holiday season, and may you come back refreshed and ready for the challenges of the new year.

Dr Lois Surgenor

## MESSAGE FROM THE CHIEF EXECUTIVE/REGISTRAR

**2010/2011 fees and levy (no change)** - The reductions made last year to the Annual Practising Certificate fees and the addition of a new disciplinary levy have worked as planned. I am currently forecasting that by the end of the current financial year (March 31, 2010) the Board should have a modest surplus which will go towards re-establishing a responsible operational buffer (as explained in the fees consultation document published broadly last year). I am very pleased to say that this means no increases to the Board's fees or disciplinary levy are required for 2010/2011.

**Advice giving limitations** - The Board's secretariat often field telephone and email enquiries about specific practice and ethical issues. While we try to be as helpful as possible, it is not appropriate for us to give specific advice or direction as this would compromise our ability to fairly assess and determine any notifications and/or complaints that may follow. Further, while we may be able to help identify some key issues or questions, we cannot fairly and robustly assess sensitive and/or ethically complex situations during a brief, informal contact. So while I encourage practitioners to continue to contact us for initial assistance, I also ask that you understand the limitations to what assistance we can offer. I also encourage all psychologists to engage in regular supervision, and to make full use of the supports and services offered through the two collegial bodies (NZPsS and NZCCP) and through the main indemnity insurance providers.

On behalf of the secretariat, our best wishes for an enjoyable summer and Happy New Year.

Steve Osborne

## FITNESS NOTIFICATIONS

Section 45 of the Health Practitioners Competence Assurance Act imposes a **mandatory obligation** on health practitioners (e.g., psychologists), their employers, health service organisations, and medical officers of health to promptly inform the Board (in writing) if they have reason to believe that a health practitioner is unable to perform the functions required for the practise of his or her profession because of some mental or physical condition. (This includes impairment caused by alcohol or drug abuse).

Despite this obligation, the Psychologists Board has received very few such notifications since the Act came into force in 2004.

The Board wishes to emphasise that we take a very collaborative and supportive approach to managing such situations. We prefer to work alongside a practitioner to facilitate their recovery, to support safe practice, and to minimise disruption to their personal and professional lives. It is much easier for us to accomplish these goals if we are informed of any difficulties earlier rather than later, and are included in any assessment, management, or remedial planning processes.

If in doubt, the Board's Psychology Advisor or Registrar can discuss your concerns with you to determine whether a formal notification should be made. Contact Anne Goodhead or Steve Osborne (contact information can be found on the first page of this newsletter).

### Update on the Continuing Competence Programme (CCP)

As we are now nearing the end of the first cycle of the Board-prescribed Continuing Competence Programme (CCP), psychologists are reminded that, coinciding with your 2010/2011 APC application, you will need to review your progress on the previous year's learning goals and self reflectively review your current status in order to plan your learning goals for the coming year. A random sample of approximately 20% of all practising psychologists will be audited, so your records should be kept in presentable form in case you are one of those chosen. Records of your CCP programme should be retained for five years as the time span in which you could reasonably be expected to be audited. (In future years the audit may review a practitioner's records from more than just the current year should there be concern about their CCP participation).

It should be noted that research evidence suggests practitioners tend to overestimate their competence if self reflection is conducted in isolation. Triangulating your self-perception with other sources of information helps to offset this tendency and to reduce the "I don't know what I don't know" deficit.

Your supervisor(s) should also play a valuable role in your Self Reflective Review (SRR) by actively participating to help you identify which competencies are associated with your particular domain(s) of practice, what is the optimal mastery of the related tasks, how your current performance compares to others or to earlier stages of your professional development, and to offer feedback regarding any perceived strengths and weaknesses.

## COMPLAINTS & DISCIPLINARY MATTERS

### HDC advice re clients at risk

The Health and Disability Commissioner, Mr Ron Paterson had this to say in his Annual Report for the year ended 30 June 2009 (page 2), with regard to Mental Health Services: "In three cases released in January and February 2009, HDC highlighted the importance of the involvement of family in a mental health consumer's care. Privacy should not be put above safety - even where a consumer has expressed a wish that their family not be involved in their care, providers should not be afraid to notify family of the risk of self-harm (08HDC08140). The involvement of family can be valuable for the provision of ongoing support and crisis management (07HDC16607), and to assist providers to identify warning signs of relapse and to access all available information in assessing and treating the consumer (07HDC14286)." The reference numbers here refer to the full reports which can be accessed on the HDC's website.

### Psychologists in the media

Over the last couple of years the Board has received a number of complaints arising from psychologists featuring in the media. Although it may provide excellent opportunities to educate the public, appearing as an expert media commentator requires some extraordinary ethical considerations.

- If you are commenting on an issue as a psychologist, or if your comments may reasonably be taken by a member of the public to be coming from a psychologist, then you should present what is the profession's generally accepted (evidence based, best practice) stance on that issue. If your opinion diverges from this position, then you should state clearly that this is your own opinion and not the view held by the profession as a whole. You may need to state the constraints on an opinion, for example, to comment that it relates to an area where experts vary in their opinions or to an evolving field, or in order to make a distinction between your professional viewpoint versus that made as a private citizen.
- If your comments could be taken to refer to a specific individual, then great care should be taken to state the limitations of your assessment, including whether or not you are commenting in a general way or whether you have actually had the opportunity to engage with or assess that person directly.
- You may also have an ethical duty to preserve the confidentiality and well-being of any specific person that may be discussed. Any potential benefits of educating the public need to be very carefully weighed against the individual's fundamental rights to privacy and dignity. This also means that a psychologist should not comment on an individual's situation in a manner that is likely to invite ridicule or unwarranted criticism.

A psychologist who puts themselves in the public domain runs the gauntlet of public opinion. Others may place extra, even unreasonable, weight on a psychologist's words because of their role and perceived status. A psychologist can quite easily and unintentionally bring themselves and the profession into disrepute by commenting in the media without careful forethought.

Practitioners with a particular interest in working with the media may wish to review Stephen Behnke's excellent article "Ethics Rounds - Reflections on media ethics for psychologists", available on APA Online (Monitor on Psychology, Vol 39, No 4, April 2008).

### Lessons to be learnt from a recent HPDT hearing

In September 2008 the Health Practitioners Disciplinary Tribunal (the **Tribunal**) heard a case brought against psychologist "Mr S" by the Professional Conduct Committee (**PCC**) which had investigated a complaint against him by a former patient, "Ms E". She had sought treatment from Mr S for her history of sexual abuse, post-traumatic stress disorder and dissociative-identity disorder. The PCC charged that:

1. Mr S had failed to observe sufficient professional boundaries with Ms E and/or had fostered dependence, and
2. had failed to obtain informed consent for the therapy approach used.

The alleged boundary infringements as referred to in the first charge included:

- treating Ms E in Mr S's home with no other support staff present.
- Mr S sometimes being in his dressing gown or eating his breakfast when she arrived.
- Mr S taking Ms E on errands.
- conducting therapy sessions of an inappropriate frequency and duration (sometimes 2 or 3 times a week for sessions lasting up to 2 hours), but only charging for one hour per week.
- that on one occasion when Ms E failed to attend, Mr S had gone to her house, climbed in a window and went to see her in her bedroom.
- Mr S behaving in a way that led Ms E to become confused about the nature of their relationship and led her to believe that she was "special".
- Mr S engaging in physical contact with Ms E which exceeded acceptable limits and was not in her best interests.

You may also want to consider seeking other external feedback by identifying colleagues whom you regard as holding particular expertise on a topic or area of practice and who are able to advise you on desired competencies, fields of knowledge, and appropriate learning goals pertaining to your practice.

The goals of the SRR are for each psychologist to be able to accurately gauge their competence and self-efficacy so that they can stay within their domains of competence, act with confidence so that they can persevere when difficulties are encountered, and to plan effective learning goals.

Your review of the results of the year's learning programme should also be an active process of critically appraising the gains made with the full participation and feedback of your supervisor.

Relevant questions include: Have you achieved what you intended to? What were the gains in knowledge? What changes have resulted in your professional behaviour? What change has it made to your practice? Has your supervisor noticed any changes in your competence in that domain? What is your current status compared to the optimal competence? What residual goals remain?

While any audit will focus primarily on the process of CCP rather than looking at the content of competencies, psychologists will be expected to present records that clearly show all stages of the programme:

- SRR showing a systematic review of competencies, either by following the Core Competencies template or an individually crafted outline to incorporate the relevant areas of practice. Ideally your records should also document the structured discussion held with your supervisor.
- Learning objectives identified, preferably setting out the goals or desired outcomes in terms of changes in your professional practice. These may be prioritised.
- The learning plan determined in order to meet these goals. You should retain records of your participation in these activities as you undertake them.
- Critical reflection on the results of your learning programme, as suggested above, and the SRR to set you up for the coming year.

## NEWS IN BRIEF

**Intern Psychologists no longer required to hold a practising certificate** - At its November 2009 meetings, the Board decided that it would no longer require students registered in the Intern Psychologist scope of practice to hold a practising certificate. It is important to note that as registered health practitioners Intern Psychologists will continue to be subject to most requirements of the Health Practitioners Competence Assurance Act 2003 (e.g., fitness and complaints). They will not, however, be subject to competence reviews under Part 3 of the Act, as competence development and review are integral to and properly managed within all Board-accredited training programmes.

### Scopes of Practice

The Board's recent decision to retain vocational scopes has reactivated the application for a Counselling Psychology scope. The original applicants have refreshed their documentation, and the Board will further consider the application in February 2010. No other formal applications have

Mr S did not dispute the facts as alleged, although there was some disagreement over estimates of the frequency with which some aspects occurred.

With regard to the second charge, the PCC alleged that Mr S had failed to obtain informed consent for the "holding therapy", including failing to give adequate information about the potential risks and benefits of that therapy. The Tribunal was told that Ms E had been treated over an extended period by Mr S between April 2000 and May 2006. While initially this therapy was helpful, independent assessment of Ms E by a psychiatrist on behalf of ACC stated that the more adult aspects of Ms E recognised that aspects of the treatment were problematic and consequently she had tried to terminate treatment a number of times. The more regressed aspects of her were activated by the holding therapy and had an intense infant-like dependence on Mr S. Efforts to finish therapy would lead to a sense of abandonment with suicidal urges acting outside Ms E's conscious awareness. The psychiatrist, in a written statement to ACC (June 2006), observed that Ms E's integration and regaining of autonomy was blocked by the "pathological dependence" of her younger aspects of self on the holding therapy offered by Mr S. The holding therapy involved Ms E lying across Mr S's lap with her head on a pillow supported by his arm while he gave reassurance and modelled breathing regulation to help her control strong emotional states.

An expert witness was called and gave advice to the Tribunal that it is inappropriate for a professional psychologist to use that approach to therapy and that to behave in this manner would have generated ambiguity rather than communicating clear cut boundaries. The expert stated that it is commonly accepted that a psychologist is in a position of power and that a client is vulnerable to coercion. Touch in therapy reduces normal defences and would have increased the client's vulnerability. The use of touch is not part of mainstream psychotherapy and there is no body of empirical research to support its use as an effective therapeutic technique.

The expert also stated that the professional literature is against the use of touch with those clients who have a history of childhood sexual abuse or the diagnosis of Dissociative Identity Disorder. Various authors have associated the following risks with the use of non-erotic touch in psychotherapy: disrupting the ability of the client to work through transference issues, creating client dependency and confusion, diluting the therapist's ability to manage counter-transference, creating a loss of objectivity, and reproducing boundary violations previously experienced by the client.

According to the Code of Ethics a psychologist is required to obtain explicit informed consent for any psychological services provided; the consent must be given freely and not as a result of coercion or pressure; and the consent must be informed by as much information as a reasonable or prudent person would want to know before making a decision. Mr S acknowledged that he had not advised Ms E about any potential risks in using holding therapy. The Tribunal stated that Mr S had an obligation to make himself familiar with those risks and to advise Ms E of those risks before engaging in holding therapy with her.

The Tribunal were satisfied that the facts of both charges were established. Each charge was found to constitute negligence and malpractice, and each was considered sufficiently serious to warrant discipline for the purposes of protecting the public, maintaining professional standards and punishing the practitioner. The Tribunal found both charges represented professional misconduct.

In mitigation Mr S stated he had discussed his use of holding therapy fully in supervision and had continued to use it because he believed progress was being made. With the benefit of hindsight he accepted there had been a detrimental outcome for his client, Ms E. He expressed remorse for this and had ceased to practise because of the complaint.

The Tribunal ordered that Mr S's registration be suspended for a period of 18 months, as from the 25 September 2008. If he chooses to practise after that time, he is ordered to practise only in accordance with certain conditions for a further period of three years. Specifically he must:

- not provide supervision to others;
- not teach on the topics of psychology, psychotherapy or counselling;
- not practise from his home;
- practise in a professional setting with other clinicians and support staff, such as a group private practice or community mental health service;
- only see clients with mild adjustment or mental health difficulties, and refer any client with a personality disorder or serious mental health disorder to another suitable practitioner;
- not use holding therapy or other touch based approaches;
- participate in Board approved supervision; and
- inform any employer of the outcomes of the Tribunal proceeding.

The Tribunal censured Mr S and expressed its strong disapproval for the breaches of accepted practice. Mr S was ordered to pay \$10,000 towards the costs of the PCC and the Tribunal.

The Tribunal ordered that a summary of the decision should be published in the publications of the NZ College of Clinical Psychology, the NZ Psychological Society and the Board's Annual report. After a successful appeal, the High Court ordered (judgement delivered 6 November

been submitted to the Board.

The Board will be conducting a consultation regarding proposed revisions to the Intern Psychologist and Trainee Psychologist scopes in the near future. The main purpose of the proposed revisions is to limit the practitioner's registration to the time period in which they are actually in a training programme.

#### Accreditation update

Accreditation assessments are currently underway for training programmes at the University of Auckland, Waikato University, Auckland University of Technology, and Massey University. Assessment of a programme at the University of Canterbury will also begin very soon.

Each NZ training programme will be assessed on a six-year cycle. The Board are extremely grateful to the academic staff and senior practitioners who have volunteered to serve as Assessors, and welcomes contact from others who may be interested in the role.

#### Privacy Act requests for client's notes

Practitioners are reminded that, in accordance with Principle Six of the Privacy Act 1993, your clients are entitled to access any personal information you hold about them (except where refusal is permitted under Part IV of that Act).

#### Record keeping

Psychologists are reminded that the Health (Retention of Health Information) Regulations 1996 require all health agencies or practitioners to retain records of health services for a minimum of 10 years, starting from the day after the most recent treatment.

**"Lost" psychologists** - Our sincere thanks to those of you who helped us find nearly 50 "lost" psychologists back in July. We now only have one still to find. If you know how we can contact the following practitioner, please phone or email us; Dr Carolyn Ann Smith (formerly of Auckland).

#### JOINT STATEMENT - Who can claim to practise psychotherapy?

The following is a joint statement from the New Zealand Psychologists Board and the Psychotherapists Board of Aotearoa New Zealand:

In accordance with section 7 of the Health Practitioners Competence Assurance Act (2003), both Psychologists and Psychotherapists can legally claim to be practising psychotherapy. These titles (Psychologist and Psychotherapist) are, however, legally protected. To avoid doubt;

- Only practitioners registered with the Psychotherapists Board as a psychotherapist may use that title or otherwise claim to be practising as a psychotherapist.
- Only practitioners registered with the Psychologists Board as a psychologist may use that title or otherwise claim to be practising as a psychologist.

We would add that any registered health practitioner should only practise psychotherapy if it is within their scope of practice and if they are personally competent to do so.

2009) that Mr S's name and all identifying details should be permanently suppressed.

*[The full report of this hearing can be read at the Tribunal's website at: [www.hpdt.org.nz](http://www.hpdt.org.nz) - refer to case Psy08/86P. Please note that permanent name suppression has been ordered for both the practitioner and the complainant.]*

## CONSULTATION

### Family Court Practice Note Review

The Family Court's Practice Note (June 2006), which sets out the requirements and recommended procedures agreed for the appointment of Specialist Report Writers and covers matters such as management of complaints, has now been in use for more than three years.

While both the Family Court and the Psychologists Board are very satisfied with how the Practice Note has been working, we are aware that a small number of practitioners and members of the public have expressed concerns regarding certain aspects of the Practice Note (and in particular the section on management of complaints). The Board have therefore decided to conduct a review, to inform any advice we might then offer to the Family Court.

If you are interested in the review, please go to the Board's website ([www.psychologistsboard.org.nz](http://www.psychologistsboard.org.nz)) for further information. Please note that the deadline for submissions is January 29, 2010.

### Best Practice Guidelines - Supervision

The first set of proposed/draft Best Practice guidelines is now available on the Board's website. We encourage all psychologists to review the proposed guidelines, and to let the Board know how you think they could be improved.

Please visit the Board's website ([www.psychologistsboard.org.nz](http://www.psychologistsboard.org.nz)) for further information. The deadline for submissions is January 29, 2010.

### HPCA Act Review

The Director-General of Health completed his review of the operation of the Health Practitioners Competence Assurance Act in March 2009. It was tabled in Parliament by the Minister of Health on 4 June 2009. Full details of the review and its recommendations are available on the Ministry of Health website ([www.moh.govt.nz](http://www.moh.govt.nz)).

The review contains thirty-seven recommendations, six of which the Ministry see as sitting with registration authorities such as the Psychologists Board. Most of the six recommendations have already been well advanced either through the collective of regulatory authorities (HRANZ) and/or by our Board itself. A brief overview of each recommendation and the steps the Board has or plans to take in response follows.

Recommendation 2: The Ministry want to work with boards to do more to inform the public about the HPCA Act. For example, they would like board websites to better cater to members of the public, as compared to members of the profession. Early plans for the rebuild of the Psychologists Board's website include such improvements.

Recommendation 3: Boards should improve their processes relating to scopes of practice. The Psychologists Board has just completed a major review of our scopes.

Recommendation 5: Boards should be mindful of the impact of practitioner fees on the health care system, and should try to restrain cost growth, look for ways to make efficiencies, minimise fee increases, and openly explain the basis for their fees and any increases. The Ministry recognises the effort boards have put into cost containment, but also the increase in costs made inevitable by the HPCA Act. They particularly seem to appreciate the added costs of discipline and competence processes for professions such as psychology. The Psychologists Board recently conducted a major consultation exercise regarding its fees, and continues to work to minimise costs while fulfilling our mandate.

Recommendation 6: That boards work together, and with their Australian counterparts, to identify and share best practice principles and arrangements for accreditation of educational institutions and programmes. The Ministry accept that for some professions (e.g., psychology) there are significant obstacles to Trans Tasman accreditation.

Recommendation 7: That boards collaborate with the Ministry of Health and Australian authorities to develop risk-based standards, processes and assessment models to be used for assessing overseas-trained practitioners. The NZ Psychologists Board will be discussing this with the new Psychology Board of Australia once they are better established.

Recommendation 8: That boards actively explore ways in which they can share with and learn from other authorities in order to improve quality and, where possible, reduce costs. The MoH recognises the gains made through HRANZ, but (reasonably) believe much more is possible. The Psychologists Board will continue to work closely with HRANZ toward this goal.