

NOTEBOOK ON ETHICS, LEGAL ISSUES, AND STANDARDS FOR COUNSELLORS

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The issue of confidentiality when a client dies

It is often challenging for counsellors when a current or previous client dies. Like all experiences with death, it can be effected by many factors, such as: the recency of the relationship, length and intensity of the counselling relationship, the degree of counselling success with the client, the cause of death, whether it was anticipated or not, and so forth. One of the many questions that can confront the counsellor on such occasions is “What is my responsibility with respect to the client’s right to confidentiality?”

The CCA Ethics Committee was recently asked by a member to address this question and the following is intended to provide direction to counsellors.

- The right to confidentiality does not end with the death of the client and counsellors have a continuing responsibility to protect client confidentiality.
- A deceased client’s right to confidentiality can be transferred to a legally appropriate personal representative of the client. However, this person would not usually be a parent in the case of adult clients. This representative can then exercise informed consent on behalf of the client.
- Counsellors are advised to demand formal verification of an individual’s claim to be legally sanctioned to act on behalf of a deceased client.
- Counsellors should consult and/or inform the personal representative in the same way they would the client with respect to any request for access to the client’s counselling record, including informing them of court orders and subpoenas.
- Counsellors in such situations continue to have the duty to retain client counselling records for a minimum of 7 years from the conclusion of counselling.

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