

## President's Message

### **Fostering collaboration and information exchange – The valuable role of CCPA Regional and Special Interest Chapters**

Each November, the CCPA Board of Directors gathers for a two day in-person board meeting in Ottawa, Ontario. One of the recent topics that we discussed and reflected on in November 2016 was fostering collaborations in the Association and across Canada – *recognizing opportunities for promoting information exchange and for critical discussion of counselling and psychotherapy issues in Canada; and developing and sharing best practices, research and professional development for CCPA members.* As a collective, the CCPA Board of Directors acknowledges the valuable role that CCPA Chapters play in operationalizing these strategic objectives of CCPA's mandate.

As my Board colleagues reflected on CCPA collaborations across Canada, we recognized that maintaining communications with the various CCPA Chapters is one of the essential components of being an effective CCPA Board Director. Each CCPA Chapter has a special relationship with a CCPA Board member who has agreed to become a Chapter liaison. This system is intended to provide a two-way information conduit between the Chapter and the CCPA Board of Directors. Canada is a large country. Therefore, to help our CCPA members feel more like a community, the regional and special interest chapters in CCPA are a reflection of specific areas of interest or regions of practice. At present, CCPA has 16 active Chapters:

#### *Regional Chapters*

- Alberta & NWT Chapter
- British Columbia Chapter
- Manitoba Chapter
- National Capital Region Chapter
- Nova Scotia Chapter

#### *Special Interest Chapters*

- Animal Assisted Therapy in Counselling Chapter
- Career Counsellors Chapter
- Counsellor Educators Chapter
- Creative Arts in Counselling Chapter
- Indigenous Circle Chapter
- Pastoral and Spiritual Care in Counselling Chapter
- Private Practitioners Chapter
- School Counsellors Chapter
- Social Justice Chapter
- Technology and Innovative Solutions Chapter
- Post-Secondary Counsellors Chapter

CCPA continually strives to understand the needs of the diverse community of counsellors and psychotherapists in Canada. Therefore, CCPA Chapters provide important pathways to engage CCPA members in promoting dialogue and building relationships amongst counselling and psychotherapy professionals.

***For CCPA's regional chapters***, I acknowledge your work to date in terms of promoting local and regional networking, coordinating professional development opportunities and advancing counsellor regulation activities in your respective provinces/territories.

***For CCPA's special interest chapters***, you embody the inclusive and multifaceted dimensions of the counselling/psychotherapy profession in terms of the knowledge, skills and services that you provide in various settings across Canada.

As CCPA continues to grow as an organization (5,800+ CCPA members and growing!), I encourage all of you as new or current CCPA members to participate in one or more of the CCPA Chapters.

Thank you to all CCPA Chapters, their respective Executives and members – your continued endeavours for your regional and special interest Chapters signify and reinforce the *depth and breadth that we collectively bring to the counselling and psychotherapy profession in Canada!*

For more information about CCPA Chapters, please visit the following CCPA website links:

- **CCPA Chapters:** <https://www.ccpa-accp.ca/chapters/>
- **Chapter Formation – Section 8.1 of the CCPA Constitution and Bylaws:** <https://www.ccpa-accp.ca/constitution-bylaws/>
- **Chapter Support Fund:** [https://www.ccpa-accp.ca/wp-content/uploads/2015/06/Chapter.Support.Fund\\_.pdf](https://www.ccpa-accp.ca/wp-content/uploads/2015/06/Chapter.Support.Fund_.pdf)

Thank you/Merci/Meegwetch,  
Natasha Caverley, PhD, CCC  
CCPA President

## President-Elect Article

Dear CCPA Members,

Our party date is set, we've rented a house, the bands are booked, the lobster and cod will be cooking, a new batch of Screech is ready made. And we've booked it all on an island, so if the music gets too loud and the dancing is rocking the floor boards, the neighbours won't complain. So, come on out for our **2017 CCPA Annual Conference that will be held on the "Rock" in St. John's Newfoundland, May 16-19.** <https://www.ccpa-accp.ca/continuing-education/annual-conference/>

Since becoming a member of CCPA in 2002, I found that attending the CCPA Annual Conference is not just a great, "Road Trip", but it is also a wonderful and powerful way to explore who you are as a professional, meet new friends and colleagues, and discover another great part of what it means to be a Canadian counsellor/psychotherapist in a country that has a dynamic and wide ranging culture to explore. For relatively new members of CCPA, it is also a face-to-face way to have an experience of what it means to be member and how valuable that membership can be as you journey in your chosen profession.

On our web site, we read:

*Why attend?*

*This conference provides a professional development opportunity for attendees that will enhance their ability to help their clients. It allows opportunity for networking and sharing of information and best practices among attendees. Conference participants will leave the sessions with new practical tools, information, and contacts to help them in their day-to-day work as they assist clients.*

*The conference strives to:*

- *further the field of counselling in Canada;*
- *facilitate the professional development of its practitioners;*
- *promote the exchange of theory and research in counselling and;*
- *encourage the exchange of ideas and information between delegates, and between delegates and the CCPA Board of Directors.*

This year, our Newfoundland colleagues have partnered with the *Newfoundland and Labrador Counsellors' and Psychologists' Association which is a Special Interest Council of the Newfoundland and Labrador Teachers' Association.* This type of partnering very exciting. Professional partnering not only adds to the learning opportunity but creates a synergy for future conversations and collaboration. For all of us and especially our members who are School Counsellors or Psychologists, it is a reminder that our mission; *CCPA is a national bilingual professional organization, dedicated to serving the interests of Canadian counsellors and psychotherapists who work in many diverse fields of education, employment and career development, social work, business, industry, mental health, public service agencies, government and private practice,* is so important to our profession. Being a member of the Canadian Counselling and Psychotherapy Association ensures that we are connected in a very personal way to the whole breadth of our profession, our whole Canadian Landscape from sea-to-sea-to-sea.

I do hope to see you at the 2017 CCPA Annual Conference. Perhaps we will chat as we walk down Fifth Street enjoying the music and friendly atmosphere, meet atop the historic Signal Hill, or stand together

watching an iceberg pass the harbour. *Really, in May? Yes, bring clothes for all occasions!* Seriously, it will be a great conference, including an abundance of memorable social moments.

<https://www.facebook.com/events/1757585141161900/>

<http://www.stjohns.ca/visiting-our-city/things-do>

Sincerely,

John Driscoll, RCT, CCC

President-Elect CCPA

## Two achievements deserving our attention and celebration

Dr. Glenn Sheppard

### Number 1.

In November 2016, Dr. Kevin Alderson, Editor of the **Canadian Journal of Counselling (CJC)**, informed us that the final issue of Volume 50 was available for all CCPA members and others. The completion of this volume marks 50 years for the publication of this important journal! It continues to be published four times per year and is the only bilingual refereed national counselling journal in Canada. Let us celebrate this tremendous half-century achievement and reaffirm that CJC continues to be essential to the positive status of both CCPA, nationally and internationally, and to the counselling profession in Canada. Congratulations also to Dr. Kevin Alderson whose excellent editorship continues to build on the impressive legacy left by these previous editors: Myrne Nevison, Harvey Zingle, Jacques Perron, Vance Peavy, Rey Carr, Max Uhlemann and Vivian Lalande.

### Number 2.

In May 2016 at the CCPA National Conference held in Montreal, Lieutenant General and retired Canadian Senator, Romeo Dallaire, was presented with the **CCPA Professional Champion Award**. He was honoured for his stellar and exemplary role in championing the importance of counselling and psychotherapy to addressing mental health issues in the military and in society at large. This champion has recently made another major contribution to advancing our understanding of mental health issues with the publication of his new book **Waiting for First Light: My Ongoing Battle with PTSD**. Lewis in his assessment of this important book says “I was left reeling by this book, overcome by shock, dismay, amazement. I’ve never read anything about Post-Traumatic Stress quite so stark, honest and graphic. Rome’o Dallaire bares his soul to the world.... it’s an act of stunning courage and a literacy tour de force.”

# Notebook on Ethics, Standards, and Legal Issues for Counsellors and Psychotherapists

## *A Standard of Care and a Case of Malpractice*

Dr. Glenn Sheppard

As an explanatory demonstration of the meaning of the ethical concept of *Standard of Care* and how it's implicated in a *malpractice* case, I invite readers to consider the following scenario. Let us imagine an academic college such as the College of Basic Studies at which I worked as a graduate student many years ago. This college was established by a university to provide one year of study to upgrade the academic qualifications and scholastic practices of students who had barely met its entrance requirements. This year long preparation was required before these students could begin their university studies.

In our similar and fictional college there is a fairly large counselling centre. To ensure a reasonable distribution of the counsellors' responsibilities each counsellor is assigned a cohort of students. Students in each cohort are expected to see the counsellor assigned to them should they need their services.

During the spring semester one of the counsellors was absent for several weeks. During her absence a female student from her cohort saw another counsellor for a number of counselling sessions. When the counsellor returned this student was transferred to her and she was informed by her counsellor colleague that the student was suicidal. Following this transfer she saw the student for one half-hour session and spoke with her privately but briefly several times in the corridor of the college. Just two weeks after this counsellor's return the student committed suicide. Once the student's parents learned of their daughter's involvement with this counsellor they brought a legal suit against her as well as against the college alleging that she was negligent in the standard of care provided to their daughter.

Should this case go to court as a malpractice suit it will be dealt with as a civil case rather than a criminal one. Civil law is a body of rules that defines and protects the private rights of citizens and deals with disputes between them including negligent acts that cause harm. Such legal offences or wrongs against one individual by another are called **torts**. There are **intentional** (e.g. defamation) and **unintentional torts** and a case of counsellor negligence will be addressed as an unintentional one. The test for liability or guilt in civil law is somewhat less rigorous than for criminal law. It is based on *the balance of probabilities* rather than *guilty beyond a reasonable doubt*. (A note of interest: 5% of malpractice suits against psychologists in the much more litigious United States have to do with suicide, Pope and Vasquez 2016).

This case of malpractice, based on alleged counsellor negligence, will be adjudicated by considering whether or not the evidence meets the four requirements of the protocol that is followed for such judicial decisions. (See CCPA Standards, P. 2015, P. 8). It can be captured in following abbreviated form:

Duty ⇒ Breach ⇒ Causation ⇒ Damage

The expanded version of this abbreviation is as follows:

1. Did the counsellor have a professional duty to provide a standard of care? In this instance the answer will very likely be yes she did. A counselling relationship is a **fiduciary** one in which we commit ourselves to fulfilling a **fiduciary duty**. This duty is an ethical one that has also been recognized in law. It is stated in the CCPA Standards as follows:

***Fiduciary Relationship:***

***A fiduciary relationship is one founded on trust or confidence relied on by one person in the integrity and fidelity of another. A fiduciary has a duty to act primarily for the client's benefit in matters connected with the undertaking and not for their own personal interest. (from Black's Law Dictionary,2004).***

2. Given that there is such a duty was this duty breached by the counsellor's failure to provide a normal standard of care? In considering this question it will be necessary to determine what that standard should have been. Should it have been a normal standard or one at the highest level possible. This question appears to been answered a long time ago in the following court decision from 1833:

**Standard of Care:**

***"Every person who enters into a learned profession undertakes to bring to the exercise of it a reasonable degree of care and skill. He does not undertake, if he is an attorney, that at all events you shall gain your cause, nor does a surgeon undertake that he will perform a cure; nor does he undertake to use the highest possible degree of skill. There may be persons who have a higher education and greater advantages than he has, but he undertakes to bring a fair, reasonable, and competent degree of skill...." Lamphier v.Phipos,1833***

The view expressed in this decision so long ago is captured in our present day ethical expectations for a **standard of care** such as the following:

***"Render counselling services and care to a degree of skill, knowledge and ethics commonly possessed and practised under similar circumstances in the community by the average prudent reputable member of the profession."***

The court will approach its decision in this matter by having an "expert" member of the profession testify in court as to what the normal standard of conduct should be when dealing with a suicidal client. This witness will not judge the case before the court but

only establish criterion against which the counsellor's professional behaviour will be judged.

In this case, as in other malpractice suits, the plaintiff must prove causation. This is sometimes called *a proximate cause*. It means in this example that the counsellor's failure to provide an appropriate standard of care is sufficiently related to the client's suicide as to be considered its cause. A tall order for sure! This is the biggest challenge and often very difficult to prove. The issue could be framed in this instance by the following question: "should the counsellor be held liable for damages in this case if the student was at high risk to commit suicide and therefore it could be seen to have likely resulted from the counsellor's failure to fulfill her professional duty?" Of course, the defense will very likely argue that even with a counsellor's best efforts sometimes a suicide cannot be prevented if someone is really determined to do so.

3. If all of the previous conditions are proven in court and the counsellor is found liable for the student's death then the court must decide how to bring *judicial relief* for the consequences that resulted. Often the only relief possible is a monetary one.

**Note:** In this fictional scenario there is much we do not know. For example, we do not know whether or not the first counsellor who saw this student conducted the usual risk assessment such as; in addition to suicidal ideation, did she have a plan to take her own life, and did she have the means to carry out this plan? If the answer is affirmative to these questions what did the counsellor do about it or should have done? What information was shared with the second counsellor and what follow-up is reasonable to expect from her? If the risk of self harm was high was there a responsibility to notify the parents under a **duty to warn**. (See CCPA Standards, p. 14, 2015)

I invite readers, if they have or can create an opportunity, to expand on this scenario in their classes and/or workshops. Maybe conducting a mock malpractice trial would contribute additional insights and other learnings. In my experience such pedagogical drama can be a very potent learning opportunity.

## Question to CCPA's Ethics Committee

***What is required when a client who is temporarily relocating to another province and wants to continue counselling sessions while away using E-counselling. What are the ethical and legal implications for counselors under such an arrangement and how does one proceed to address this situation with a client?***

E-counselling is an increasingly viable way to render counselling more accessible to clients, especially when there are barriers to receiving quality assistance. The main ethical consideration is that providing e-counselling is deemed a subspecialty that requires specific competencies acquired through training, education, and supervision prior to engaging in that practice. Article B17: Delivery of Services by Telephone, Teleconferencing and Internet of the CCPA Code of Ethics would also be relevant, which states:

### **B17 Delivery of Services by Telephone, Teleconferencing and Internet**

Counsellors follow all additional ethical guidelines for services delivered by telephone, teleconferencing, and the Internet, including appropriate precautions regarding confidentiality, security, informed consent, records, and counselling plans, as well as determining the right to provide such services in regulatory jurisdictions.

We would encourage reviewing the standards of practice related to this article (see p.35 of CCPA Standards or <https://www.ccpa-accp.ca/ccpa-publications/>). Another important resource is Chapter 14 of the “Canadian Counselling and Psychotherapy Experience: Ethics-based Issues and Cases” text by Simon Nuttgens entitled “Working with Clients using Electronic Platforms.” Ethical considerations which the chapter elaborates on that may be relevant to the situation you describe include:

- Managing crisis situations when working with clients who live far from the online counsellor's practice
- Proficiency in online communication technology
- Knowledge of Internet and email security systems
- Knowledge of ethical and legal issues regarding online counselling
- Knowledge of jurisdictional and regulatory issues when providing counselling across provinces/territories

The chapter addresses each point in turn and may serve as a good starting point to assist in your decision-process of whether/how to proceed.

Worth noting is that ethical responsibilities in maintaining client confidentiality remain the same regardless of modality of delivery. This requires ensuring counselling is provided over a secure network.

Legal issues related to e-counselling are closely tied to the question of “where counselling occurs” (i.e., where the client resides or where the counsellor resides?) and ensuring that the use of technology does **not** violate provincial/territorial laws (e.g., privacy laws, reporting of abuse, etc. applicable in the province/territory the client is residing in). Another question regards whether the counsellor needs to

be licensed in the province in which the client is receiving the services or perhaps restrict online practice to **her or his** province/territory of residence.

As can be seen, there are several considerations to e-counselling. Counsellors engaging in this subspecialty should acquire additional training (e.g., webinars/workshops on online counselling may be a good place to start). Such training would likely include how to engage clients in the process of online counselling and what to cover with them during informed consent specific to e-counselling. Assessing potential risks and benefits to the client with regard to the online modality would be part of informed consent. If the risks to online counselling with the client outweigh the benefits, or competencies in that modality are not sufficiently developed, then the counsellor might discuss alternative forms of support for the client and how to identify/access those resources in the province/territory where the client will be residing.

We hope these considerations will be of assistance moving forward.

**- CCPA Ethics Committee  
Queries/Education Division**