President's Message

Regulation and Third Party Billing

In 2011 when I became Chair of the Nova Scotia College of Counselling Therapists, I vividly recall after the celebration several new and senior members of the College coming up to me and saying, " Well now we have a College. But you know it won't survive unless our members are hired because they have a license and our full and part-time private practitioners are accepted under the benefit plans of insurers and also obtain third party billing" That statement carries a lot of truth and reality. Luckily, the College had a committee that worked tirelessly on this and there have been good results. Of course there is much more work to be done. In Nova Scotia, there is the work of promotion that is being done and it may be done in other smaller provinces too. Resources and staff support can be a challenge. However, those decisions will be up to each College. In larger provinces, the role of the regulator does not include the promotion of its licensed members nor does it appear the Colleges engage in creating third party billing access for their members.

Ahead to 2018 and as President, I know that one of the main supports that our association works tirelessly to provide is recognition of our CCC designation and the promotion of that high standard to employers to hire our members. Included in this work of advocacy is CCPA's efforts to communicate to the public the value in seeking the services of a nationally certified counsellor/psychotherapist.

Related to this is the fact that the number one priority that CCPA members are concerned about is access to third party billing. As well, we now have members who are also licensed in regulated provinces. Consideration now has to be given to a greater level of complexity in supporting all our members.

I am very excited to tell you about a third party billing project that will pursue third party billing in both regulated and unregulated provinces. The initial phase of the project was funded by our Regional Development Fund with the second phase supported through a regular budget process and will have two parts. A private sector component where National Office staff will be collaborating with Julie Holden of Charlton Consulting Group and a public sector component lead by national office staff in collaboration with Impact Public Affairs of Ottawa. We currently are in the early stages of a pilot project in Manitoba.

Our national office staff has produced a presentation to highlight the value and need for the project. Below are several key points that I would like to share with you.

- In 2006 CCPA launched a third party billing project and hired a consultant to contact all the major insurance companies regarding the acceptance of counsellors and psychotherapists as eligible service providers for mental health services.

- The message received was, come back when you are regulated. CCPA turned its attention to supporting regulatory matters and heavily supported provincial regulatory efforts. On our website, you can reference our current efforts to support provincial regulatory efforts through our involvement and support of the FACT committees (Federation of Associations of Counselling Therapists) https://www.ccpa-accp.ca/profession/regulation-across-canada/ .

- Examples of our support include the extensive knowledge that Barbara MacCallum, our CEO, has provided to these committees, staff support, expertise and resources, CCPA members and Directors sitting on provincial committees, and through the Legislative Support Fund we provide our members and these associations with funding supporting their efforts.

- Even though we now have four provinces regulated, insurance companies and employers have been slow to respond. Even in this climate, CCPA has continued to send letters to employers and insurance companies advocating for our members. On the Federal Level CCPA continues to support our members in the area of billing with Pre-budget submissions, meetings with MP's, Senators and senior departmental officials, outreach to key stakeholders in the Assembly of First Nations and advocating for our Indigenous, military and Veterans.

- Key messages for private and public stakeholders we meet with include: Cost effectiveness of counselling and psychotherapy, appropriateness of care and timely access to care, lower wait times and therefore potentially less time off work, possibly lower drug costs, attraction and retention of employees and the potential of a new addition to the disability management process. This project and the pilots associated with it began in January 2018.

Associated with this work will be the introduction of an infographic that will highlight the value of CCPA professionally trained counsellors and psychotherapists. Included in the infographic, among others things will be: how counselling and psychotherapy can help a person, information about regulation, the impact and cost of mental health problems or illness, the knowledge that counsellors and psychotherapists are trained to deliver culturally appropriate mental health services, and the positives associated with seeing a professional counsellor/psychotherapist.

A second exciting event being held at our conference in Winnipeg, which is being co-hosted by our Private Practitioners Chapter and CCPA National Office is a round table on third party billing. It will be held on Thursday, May 10 from 1:30-4:30 in the Kildonan Room at the Delta Winnipeg. https://www.ccpa-accp.ca/private-practitioners-third-party-billing-round-table-conference-session/

The round table organizers issue a special invitation to attend and if you will be attending our conference, I invite you to consider this session.

We invite all those interested in discussing this to attend the round table. We would like to hear about your successes and challenges with respect to third party billing as well as best practices and lessons learned when advocating for coverage of fees with insurance companies and employers. You will also have an opportunity to learn more about CCPA's outreach activities in this area including an overview of our national third party billing project and how you can get involved. We look forward to an engaging afternoon of networking and sharing on this important matter for our profession and the clients we serve.

Advances in third party billing occur in a variety of ways. Some of which I have referenced above but they also occur through the individual efforts of our members and their relationships and ties to any number of companies, associations, and elected government officials at all three levels of government. In the past few months, we have seen individual members advocate and lobby and be successful in having our members included as providers for mental health services for a school board in BC. In addition, we have individual members notify our national office of potential opportunities to have our members included in benefit plans for employees. In these cases, official letters from our National Office provides a level of surety and confidence that by including CCC's as mental health providers the employer is supporting their employees well.

These initiatives form a vital part of our association's work in supporting our members and raising the public profile of counselling and psychotherapy on the National Stage.

We are a powerful organization, with over 6400 highly qualified and professional members. I continue to be amazed and heartened by what we have and can accomplish for our profession and CCPA members. Never hesitate to call our National Office if you have questions, information or concerns about an issue important to you, and in relation to what I have mentioned above please let our National Office know when you think there is an opportunity for us to build upon the very important and helpful services we provide.

Sincerely,

John Driscoll

President CCPA

President-Elect's Message

The Energy is Building for CCPA's 2018 Annual Conference in Winnipeg, Manitoba!

It is time to welcome in Spring season, which arrives with a sense of newness and growth. And, it also represents the beginning of my conference season! Our CCPA conference is a wonderful place to start with many opportunities for building community and networking, sharing and learning, and exploring the territory we are visiting. Within this newsletter, I will provide a few highlights of our May 10-13, 2018 conference.

Our pre-conference day on May 10th offers eleven different opportunities for half-day and full-day learning intensives on a variety of topics. Most recently, the *Third Party Billing Roundtable* was added to the agenda during the afternoon session. For any new attendees, we will offer our second annual *First Timers Orientation*, which I will co-facilitate again with New Brunswick Francophone Director, Serge Hall. This will be an opportunity to learn about the structure of the conference, gain practical suggestions on how to benefit the most, which will include a reminder to take time for fun activities. And, speaking of fun, this session will take place just before the first evening keynote address by Don Burnstick entitled *Laughter is Good Medicine*. Don is a Cree from the Alexander First Nation, located outside of Edmonton, and I'm really looking forward to learning about how he utilizes humour and performance in his holistic approach to healing.

Our first day of the conference begins with opening ceremonies and a keynote address by Tayyab Rashid called *The Next Frontier - Integrating Yin and Yang of Human Experience*. Tayyab is a licensed clinical psychologist, and an associate faculty at the University of Toronto Scarborough. He will remind us of the importance of focusing on the strengths of our clients, and will offer evidence based strategies that integrate the yin-yang of clients, and capture their complexity and diversity. Our agenda on Friday includes concurrent sessions, with approximately 20 different presentations to choose from! There will also be poster sessions from 12:30-2:30 pm, and a conversation café during the afternoon. Please check the agenda for various Chapter meetings taking place throughout Friday and Saturday, as well.

Social activities are scheduled to take place on Friday evening. These include a Sweat Lodge Ceremony; a tour of the Canadian Museum for Human Rights; the Hermetic Code Tour of The Manitoba Legislative Building; and a Capital K Distillery Tour. Please register for these events before the conference as there may be limited space. There will also be a Welcome Reception on Friday evening from 8:00-9:30 pm.

Our keynote on Saturday morning is by Anne Bisson entitled *The DNA of Happiness*. Anne is a passionate motivational speaker, singer, pianist and a producer! She will inspire participants, through the use of practical tools and tips, to take care of themselves and optimize health and happiness. Once again, there will be approximately 25 presentations to choose from throughout the day, with another conversation café scheduled for the afternoon session. Our CCPA Annual General Meeting will take place from 12:00-1:15 pm. Our annual Banquet, Awards, and Dance also takes place Saturday evening, and is sure to be a fun-filled evening.

Finally, on Sunday morning, there will be a choice of 16 presentations to attend. Our closing ceremony and final keynote will take place from 1:00-2:30 pm with Michael Hart. His keynote is titled *Cultural-Based Helping Practices: Understanding the Continuum*. Michael is a citizen of Fisher River Cree Nation, and Professor in the Faculty of Social Work at the University of Manitoba. This keynote will include the impacts of colonialism in relation to helping professions, a spectrum of options for practice with Indigenous peoples, and a discussion of Indigenism. It has been a couple years since I attended one of Michael's presentations, and I am really looking forward to this learning opportunity.

Here are a few resources that you may find helpful as you prepare for our 2018 conference.

Program at a glance:

https://www.ccpa-accp.ca/wp-content/uploads/2018/02/2018-CCPA-Schedule-at-a-Glance-.pdf

Full program:

https://www.ccpa-accp.ca/wp-content/uploads/2018/02/2018-Full-Program-Feb-9.pdf

Social Activities on Friday, May 11th:

https://www.ccpa-accp.ca/social-activities/

Register here:

https://crm.ccpa-accp.ca/public/event/details/02189bce1a165d24faf63eef93721917928317a7/1

Until next time, may your Spring season be filled with fresh beginnings, and an abundance of inspiration and growth. And, lots of sunshine.

With Gratitude, Merci beaucoup, Wela'lin, Woliwon!

Jenny Rowett, MEd, CCC-S, LCT

President-Elect, CCPA

NOTEBOOK ON ETHICS, LEGAL ISSUES AND STANDARDS FOR COUNSELLORS AND PSYCHOTHERAPISTS

Can a Regulator Compel a Professional Registrant to Complete Continuing Professional Development Requirements?

An Answer from the Supreme Court of Canada

Dr. Glenn Sheppard

For this Notebook, I decided to review a recent decision of the Supreme Court of Canada because it has significant implications for the regulatory bodies in Canada that now regulate, with statutory legislative authority, the professional practices of registered counsellors and psychotherapists. It is particularly relevant to what regulators can do to protect the public interest through quality assurance policies to ensure the continuing and improved competence of their members. One quality assurance practice typical of self-governing professional bodies is to expect registrants to complete a number of continuing professional development requirements. It was this type of provision that was at issue in this court case *Green v. Law Society of Manitoba, 2017 SCC 20.*

The Issues in this Case:

Prior to 2012, the *Law Society of Manitoba* took a voluntary approach to the continuing professional development (CPD) activities of its members. However, a study in 2007 revealed that many lawyers reported no CPD activities or only minimal engagement. So, in 2012 the benchers made their CPD requirement mandatory requiring all practicing lawyers to complete 12 hours of CPD per year, the equivalent of one hour per month. This change was stated in the following Rules of the Law Society:

> *2-81.1(8) Commencing January 1, 2012, and subject to subsection (10), a practising lawyer must complete one hour of eligible activities for each month or part of a month in a calendar year during which the lawyer maintained active practising status…*

> *2-81.1(12) Where a practising lawyer fails to comply with subsection (8), the chief executive officer may send a letter to the lawyer advising that he or she must comply with the requirements within 60 days from the date the letter is sent. A member who fails to comply within 60 days is automatically suspended from practising law until such time as the requirements have been met and a reinstatement fee paid.*

Mr. Green, the appellant in this case, was a practising lawyer for more than 60 years. There had been no disciplinary action against him and he had been a bencher of the Law Society and had helped to deliver some CPD activities. Despite the mandatory CPD rules of the Law Society, Mr. Green had not reported any CPD credits for 2012 or 2013. Consequently, in 2014, he was sent a letter by the Society in which he was informed that his failure to comply with the CPD Rules within 60 days would result in his suspension from practising law. He was also provided with an opportunity to request an extension of the 60 days, if needed to complete his CPD hours. Mr. Green did not reply to the letter. However, he decided to legally challenge the validity of the CPD Rules and the pending suspension of his practising certificate. In light of this action his suspension was postponed until the outcome of the litigation.

The Manitoba Court of Queen's Bench first heard his legal challenge. The judge concluded that the Rules in question were within the Law Society's legislative mandate under *The Legal Profession Act*. It states that the Law Society is required to "establish standards for the education, professional responsibility and competence" of lawyers. He also dismissed Mr. Green's natural justice and procedural fairness arguments regarding the suspension process. *The Manitoba Court of Appeal* dismissed his appeal to it for similar reasons. Mr. Green then appealed this decision to the *Supreme Court of Canada (SCC)*.

The Supreme Court Decision:

In reaching a decision to uphold the appeal decision of the *Manitoba Court of Appeal* the Justices of the SCC were informed by their following observations:

- *The standard applicable to the review of a Law Society Rule is reasonableness .....this means that the substances of the Rule must conform to the rationale of the statutory regime set up by the legislature.*
- *The standard of review must reflect the Law Society's broad discretion to regulate the legal profession on the basis of policy considerations related to the public interest.*
- *A Law Society must be afforded considerable latitude in making rules based on its interpretation of the "public interest" in the context of its enabling statute.*
- *The right to practice law is not a common law right or a properly right but a statutory right and depends on the principles set out in the Act and the Rules.*

The majority position of the Supreme Court Justices, written by Justice J. Wagner, is expressed in the following decision:

> *In this case, the impugned Rules are reasonable in light of the Law Society's statutory mandate. It is reasonable for the Rules to expose a lawyer to a suspension as a consequence for non-compliance with the CPD program. The Act provides clear authority for the Law Society to create a CPD program that can be enforced by means of a suspension, and the overall purpose of the Act, the words used in it and the scheme of*

the Act show that the impugned rules are reasonable in light of the Law Society's statutory mandate. A suspension, the purpose of which related to compliance, not to punishment or professional competence, is a reasonable and effective way to ensure consistency of legal service across the Province and to guarantee that even lawyers who are not interested in meeting the educational standards will comply.

There were two dissenting Justices to this decision. They had procedural fairness and natural justice concerns because the Society did not provide for an appeal of the suspension. They also saw the suspension for non-compliance as disciplinary in nature. However, the Court of Appeal found the suspension as administrative and therefore it did not require the procedural provision typically available when there is a charge of professional misconduct or incompetence. The majority SCC Justices also held this point of view. They also elaborated on their decision as follows:

A lawyer's professional education is a lifelong process. Legislation is amended, the common law evolves, and practice standards change as a result of technological advances and other developments. Lawyers must be vigilant in order to update their knowledge, strengthen their skills, and ensure that they adhere to accepted ethical and professional standards in their practices….

CPD programs serve this public interest and enhance confidence in the legal profession by requiring lawyers to participate, on an ongoing basis, in activities that enhance their skills, integrity and professionalism. CPD program have in fact become an essential aspect of professional education in Canada.

To ensure that those standards have an effect, the Law Society must establish consequences for those who fail to adhere to them. As a practical matter, an unenforced educational standard is not a standard at all, but is merely aspirational.

A suspension is a reasonable way to ensure that lawyers comply with the CPD program's educational requirements. Its purpose relates to compliance, not to punishment or professional competence. Other consequences, such as fines, may not ensure that the Law Society members comply with these requirements. An educational program that one can opt out of by paying a fine is not genuinely universal.

I have quoted extensively from this SCC court case to give readers access to the thoroughness of the decision and to the thoughtful reasoning that informed it. Also, it is reasonable to conclude that: the views expressed about the significance of the legislative statutory authority granted to regulatory bodies to protect the public interest, the considerable discretion given to regulators to pursue this mandate, and the importance of continuing professional development as a contemporary quality assurance requirement, can be applied to all professional regulatory bodies including those that regulate counsellors and psychotherapists. Information about this case can be found at **http://canlii/t/h2wxl.**

Understanding Deported Mothers and Their American Children: An Attachment Perspective

By Vandana D'Sena

Maria (pseudonym), a Mexican citizen crossed the U.S.A. border illegally and decided to stay when she met her future husband, Adam (pseudonym), and subsequently gave birth to two children. Maria applied to legalize her immigration status, but she was informed that she had broken the law, would be deported to Mexico, and was banned from entering the U.S.A. for over five years. Maria's children were both below the age of four years when she was separated from them. Unfortunately, Maria's story is not unusual. A projected 11.2 million undocumented immigrants live in United States and hundreds of thousands of illegal immigrants are removed from the country each year.

Relation to Attachment Theory

Three main aspects of the child-mother attachment system are that the child (a) seeks proximity with the attachment figure, (b) uses the attachment figure as a secure base to explore from, and (c) perceives the attachment figure as a safe haven. When the child feels distressed or threatened, the attachment system is activated and the child seeks proximity with the primary attachment figure. Maria was deported to Mexico when her children were preschoolers and she was not available as their primary attachment figure. Although Adam was there to attend to the girls, he was working full-time to provide for the girls and to pay for the trips to Mexico. Therefore, it is likely that when the girls perceived threats in the environment, their attachment system was activated due to the lack of terminating stimuli such as Maria's soothing voice or her proximity. Mother-child separation leads to intense distress in the child even if other individuals are available to take care of the child's physical needs. Therefore, lack of Maria's presence in the children's lives could have led to intense distress, which may affect psychological well-being.

When the child is assured of the protective function of the attachment figure through close proximity, the child develops secure attachment and is able to confidently explore the environment; when the attachment figure is unresponsive or unavailable, the child may develop insecure attachment. Secure attachment results in eagerness to learn, healthy self-awareness, affective self-regulation, trust in social interactions, and empathy. Early positive or negative experiences are encoded in the child's brain as internal working models that become the template that the child, and later the adolescent and adult, rely on to create and maintain relationships with others. With the absence of their mother as a secure base, Maria's children may have developed maladaptive affective and behavioural responses stemming from insecure attachment, which could lead to negative representations of self-doubt and low self-esteem. When these patterns become encoded as internal working models, dysfunctional interrelational patterns are repeated throughout an individual's lifespan.

The primary attachment figure also serves as an emotional safe haven wherein she/he alleviates distress, and provides comfort and support. Proximity seeking in infants and children is an inborn affect-regulation device that is intended to relieve stress and safeguard against physical and psychological threats. Maria was unable to help regulate the girls' emotions by providing

comfort and support. Her children's fear response to perceived threatening situations may be amplified, leading to the development of anxious attachment style and affect dysregulation.

Attachment bond is described as one individual forming an affectional tie with another whom the individual perceives to be wiser or stronger. Depending on the individual's felt security with the other individual, an attachment bond is considered secure or insecure. The girls may have developed insecure attachment bonds with Maria, as they sought security with her, and were distressed due to her absence.

Attachment disruptions arise when the child experiences fear due to severe or prolonged threat that the caregiver will not be available during moments of stress or danger. Attachment disruption may have occurred when the girls were unable to engage in reparative processes that would reinstate confidence in their attachment bond with Maria. In spite of visiting Maria every weekend, the girls may have fears of abandonment and separation, and experience emotional dysregulation. That being said, it seems that the children had a positive attachment bond and secure attachment with Adam, which may protect them to a certain extent from adverse childhood emotional experiences related to insecure attachment and attachment disruption. Internal working models are amenable to change, and when permanently reunited with their mother, the children may develop adaptive internal working models that foster optimal functioning. However, the loss of their mother and the anticipation that one day they will be reunited, can hinder the children's successful advancement through developmental stages since they do not allow for the grief process to begin.

Forced separation results in changes in the family structure by creating single parent households, economic hardship, and changes between the relationship of men with their wives and children. Many children are forced to take on the role of the caregiver for younger siblings, while the remaining parent in the home provides for the family's basic needs. These children frequently live in poverty, suffer discrimination, watch and experience their parents' own emotional distress, and have poor physical and mental health. Children of undocumented immigrants who experience separation from a parent, often experience emotional and behavioural difficulties: anxiety, depression, social withdrawal, somatisation, aggression, and challenging behaviours.

Implications for Counsellors and Psychotherapists

As the attachment system has an enduring effect on developmental systems, it is vital that the children develop secure attachment to facilitate adaptive functioning and psychological wellbeing. By creating a trusting therapeutic alliance within the confines of a safe environment, the therapist and client could work collaboratively towards repairing client's attachment disruptions and foster secure attachment system and attachment bonds. Parent-child separation creates instability within the family environment, which causes acute stress for the children. The severity of the stress often disrupts their sense of security and ability to successfully cope with stressors that are present at each developmental stage. Vital services like individual and group therapy sessions, psycho-education, parenting classes, loss and grief counselling can make a significant difference in ways children and remaining parent/caregiver cope with their situation. Therapists need to be particularly sensitive to the impact of trauma on these children and should provide services using a trauma-informed perspective to help them overcome the psychological and emotional difficulties brought about by the removal of a parent from their lives.