

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

## The Impairment of Counsellors and Other Health Professionals: Some Ethical Challenges

By

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Counselling and psychotherapy can be demanding work and despite the tremendous satisfaction that can be experienced from doing it well it can also be emotionally challenging. This is not surprising if Squyres (1986) is correct when he states that therapists make a 'loan of self' to the therapeutic relationship. Also, to be the cradlers of the secrets of others in our therapeutic work is both a special privilege and a challenge. Some of those secrets can evoke our own rogue thoughts and remind us of our unfinished business about which we may occasionally need to find our own therapeutic help.

Fortunately, our profession is becoming increasingly aware of these and other vulnerabilities. The potential for stress and burnout is being recognized and the reality of vicarious trauma for those who work with traumatized clients and victims of violence is being acknowledged.

This is why our profession and other health professions are adopting and promoting an ethic of self care. The adoption of this ethic in our lives can help us sustain our enthusiasm, competences, and resilience throughout our career. However, the promoting of a healthy lifestyle will unfortunately not inoculate all health professionals from showing signs of impairment from their own physical, mental and emotional problems. These can include mental health issues, changes to cognitive capacity, and substance abuse. This is why CCPA has this ethical obligation in its *Standards of Practice*:

### ***Professional Impairment:***

*Counsellors should take steps to appropriately limit their professional responsibilities when their physical, mental or personal circumstances are such that they have diminished capacity to provide competent services to all or to particular clients. Counsellors in such situations may seek consultation and supervision and may need to limit, suspend, or terminate their professional services.*

Cottone and Tarvydas (2003) define impairment as follows:

*Impairment is a covert, often insidious condition that suggest a level of diminished function (obtained by documented evidence) that may be manifested on a continuum by varying degrees of loss of optimal function and may be caused by many reasons.*

Some counsellors and other health professionals may be capable of adhering to their ethical obligations when they are impaired. Of course, others will not be able to comply because it is at a time when their level of personal insight and the capacity for self regulation is already diminished due to the effects of the impairment. Also, as readers know, denial is a typical ego-protective

response to acknowledging the reality of an addiction and other conditions that diminish personal and professional functioning. So, it is often colleagues who take the responsibility to intervene in such circumstances. This may mean sharing their concern with a family member, and it may involve a report to a professional regulator or a certification/registration agency.

For this Notebook, I thought it might be of benefit to examine a case of severe impairment involving a family physician who was denied continued registration due to significant substance abuse and related psychiatric disorders. At that time a psychiatric assessment prompted by several complaints about the physician to his regulatory college reported a diagnosis of alcohol and cocaine dependence, cannabis abuse, delusional disorder, grandiosity, and dysthymia. After seven years and several failed efforts to acquire registration, the physician applied for registration again. At that time, he had not used cocaine for seven years and reported a moderate use of alcohol. The College placed a number of restrictions and conditions on his registration. The physician challenged those requirements. His challenge was heard the details of which are reported in the case entitled. (*D.W.C. v. College of Physicians and Surgeons of Ontario, 2017, CanLii 55551*).

The independent Board appointed by the College to address the matters at issue made a number of determinations including: there was no evidence of bias on the part of those who assessed the applicant including any bias because of his indigenous status and his human rights were not violated. Also, the applicant's right to free expression did not prevent medical experts from using his statements, some of which appeared to be bizarre, in diagnosing his condition.

The Board concluded the following restrictions were necessary for protection of the public:

- *Monitoring by a psychiatrist and an addictions medicine physician and compliance with treatment recommendations.*
- *Unannounced biological testing for alcohol and any substance of abuse at an independent laboratory rather than at the applicant's office.*
- *Total abstinence from drugs and alcohol despite the contested evidence as to whether completed abstinence from alcohol was necessary in the applicant's case.*
- *Communication by the regulator with family members, workplace monitors and support group leaders about the applicant's behaviour.*
- *The restrictions would be in place for at least five years and*
- *It would generally, be in accordance with the established principles of professional regulation for a registrant to bear the ongoing cost of conditions on his or her certificate of registration.*

Although somewhat extreme in terms of the degree of impairment and associated restrictions, the events and processes would be similar in most cases. There were complaints made to a regulatory college, an assessment, denial of registration, the imposition of restrictions when registration was granted again, an opportunity to appeal these requirements with a commitment to due process, and a priority by the regulatory college to ensure public protection. Also, the Board stated in its decision that the practice of medicine is not a constitutionally protected right. It is a reminder that neither is the practice of counselling and psychotherapy. This underscores, in my view, the privilege and responsibility we are given by our society for professional self regulation by the maintenance of ethical standards of conduct and a way for clients when they believe we have failed to do so to have their complaints addressed.