



CRPO / OPAO

College of Registered Psychotherapists of Ontario
Ordre des psychothérapeutes autorisés de l'Ontario

Stakeholder Feedback Form – October-December 2016 By-Law Amendments

Please complete this form and include it with your written submission. You may provide comments using this form (preferred), or send them in a separate document if the space provided here is insufficient. Your personal information is collected for internal statistical and informational purposes.

Please save the form to your computer, then open with Adobe Reader, prior to filling out the form. If you fill out the form in your web browser, contents may not be saved.

A. How to Submit Your Comments

1. Complete this form.
2. You may provide your comments on this form or attach comments in a separate document.
3. Submit no later than December 12, 2016, via:

EMAIL: **submissions@crpo.ca** **OR**

FAX: **(416) 874-4079** **OR**

MAIL: **Consultations**
College of Registered Psychotherapists of Ontario
163 Queen Street East, Toronto, ON M5A 1S1

B. Your Contact Information

First name:

Last name:

Email address:

Phone number:

I am a:

Member

Student

Health care professional (describe below):

Other (describe below):

Applicant

Member of the public

Client or former client

C. Association

I am submitting feedback on behalf of an organization or association.

If you checked the box “yes”, please provide the following information:

Name of organization/ association: Canadian Association for Psychodynamic

Your position: Chair: Advocacy & Outreach Committee

Mailing address: [REDACTED]

Your email address: [REDACTED]

D. Consent

I understand that by ticking the checkbox below, my submission may be publicly posted on the College’s website. I understand that identifying information of individuals, including name and contact information, such as address, phone number and email address, will be removed from submissions that are posted publicly.

I understand that the names of organizations and individuals submitting on behalf of organizations will be posted publicly, though contact information will not be posted.

I understand that the College will review submissions and, at its discretion, may choose not to post submissions if the content or wording is derogatory, defamatory, threatening, abusive or otherwise inappropriate, or if a submission reveals private or personal information. Negative comments about organizations or their positions on issues will also not be posted.

I consent to having my submission/ comments posted publicly.

Na

D

E. Your Comments

Note: The response field begins on the next page. Please add additional pages if needed.

Please provide any feedback on the proposed amendments to the CRPO By-laws.

**CANADIAN ASSOCIATION FOR PSYCHODYNAMIC THERAPY
("CAPT")**

**SUBMISSION TO THE COUNCIL (the "COUNCIL") OF THE COLLEGE OF
REGISTERED PSYCHOTHERAPISTS OF ONTARIO ("CRPO")**

**COMMENTARY ON TRANSPARENCY BY-LAWS (PHASE II)
& CRIMINAL RECORD CHECK**

CAPT welcomes the opportunity to provide our commentary on CRPO by-law amendment proposals, and issues concerning criminal record checks.

I. Names of former members

CAPT supports the retention of the names of those members who have had disciplinary proceedings for 25 years on the public register as a measure to protect the public. However, if the member left the college in good standing, we believe that a two-year retention period for their names to remain on the register is sufficient. We support a five-year retention period with the provision that members have the option to request their names be removed after two years. The requirement for extending a two-year period to a five-year one is not a significant transparency initiative and does not further the protection of the public. Therefore CAPT believes that such a listing should be optional for the ex-member after the two-year period.

II Publication of Criminal Charges

CAPT notes that CRPO is a college in a nascent stage of operation and many of its by-laws and policies have not been fully operationalized. CRPO therefore has an opportunity to deliberate on all initiatives fully to determine their impact, implications and legality. Initiatives should bear in mind conflicts with current legislation and privacy rights and potential challenges to those rights.

CAPT understands that any criminal charge against a member is a matter to be taken extremely seriously; however, the presumption of innocence, as a constitutionally protected right, must take precedence overall. We believe that the protection of the public is served to a greater extent by ensuring the rights of all individuals involved. While it is true that any criminal charge may be public information, the damage caused to a member's reputation and practice is often irreparable even if the person is ultimately found to be not guilty of the alleged conduct.

CAPT therefore supports the notation of criminal convictions relevant to practice on the register. The publication of convictions may discourage false allegations, associated costs of investigative resources, as well as prevent prejudice to all parties involved. It is also totally consistent with the right of all Canadians to due process of law. By upholding this right, CRPO would maintain a credible, ethical, legal and fair position in its dealings with both its membership and the public they serve.

Should the CRPO decide to post criminal charges, CAPT requests that the by-law be at least specific and clear by the inclusion of a definition and/or concrete examples of “relevancy to practice.” This would provide additional information and promote fairness to members and the public alike.

III Publication of Undertakings

CAPT does not support mandatory publication of all voluntary undertakings and concurs with the CRPO’s current practice of doing so on a case-by-case basis. The current practice allows the CRPO to exercise discretion in favour of public disclosure where the matter is deemed serious enough. Where CRPO has an option to use discretion, CAPT believes this is a preferable option and displays a wise and judicious approach that protects the public.

With respect to the CRPO statement, “the public wants to know if the College is making ‘deals’ with members to avoid an open discipline hearing,” CAPT would like to point out that neither the CRPO nor its Members have any control over public perceptions about “deal-making” and there is no impartial measure or standard that can be applied here. For example, in the criminal justice system many guilty pleas are proffered and a trial is not held. However, this does not mean justice is not served despite some opposing public sentiment.

IV Publishing In-Person Cautions and Removal of Cautions

The college states: ‘Being ordered to receive a caution is “one step away” from being referred to the Discipline Committee. Cautions are not punitive in nature, but bring the Member’s attention to particular issues. The hope is to encourage the Member to take remedial steps and prevent similar concerns from arising in the future”.

CAPT believes that if cautions are not punitive in nature, their publication is itself ‘punitive’ to the member since it raises doubt regarding a member’s suitability to practise. If the purpose of cautions is to not to penalize but to encourage better practice and adherence to all standards, publication of them is contradictory and dispenses with the stated purpose of in-person cautions.

CAPT believes that CRPO understands that practitioners may make mistakes without malice or negative intent. Therefore, CRPO must pay due attention to the best intentions of practitioners, precisely for the sake of the public and their access to reputable and reliable services. This is the purpose of intermediary measures that 'encourage' members to fulfill their obligations.

While transparency is a positive goal that CAPT supports, we recommend caution in creating by-laws and /or policy that might create an imbalance between the rights of users and providers of services. We note that in his letter directing Colleges to increase transparency, Minister Eric Hoskins also asked that publicly disclosed reports "bear in mind applicable principles of privacy and transparency."

The removal of cautions after a two-year period or any information after any period does not protect the public in the age of the internet. Almost everything that is attached to an individual's name arises from an internet search for indefinite and uncertain periods of time and such information is available world-wide. We also note that a simple search of an individual's name will return information relevant to a college membership. CRPO has a legal and ethical obligation to publish accurately and clearly for its own protection and that of the public. Any information that has the potential to negatively impact any individual must be underpinned by ethical and legal considerations.

CAPT notes that any and all information on a public register has the potential to affect the framework of the client/therapist trust relationship. The whole intent of regulation is to promote the public trust and the protection of that trust must be the goal of every initiative. Again, CRPO has a window of advantage because it is relatively new and can take its time to assess how each initiative may or may not impact the mandate of protecting the public trust. If undertakings and cautions are not punitive, CRPO is well within its mandate not to publish them. Further, the option to not publish cautions retains CRPO flexibility to develop cautions that consider the diversity of modalities in psychotherapy.

CAPT believes that such visibility could be significantly enhanced by other means such as providing more comprehensive information regarding its monitoring practices on the College website. The public and membership would be well served by description of the types of cautions and SCERPs, an explanation of their intent and College procedures with respect to their implementation. This would provide greater access to the workings and procedures of the college which would improve transparency on that level and create confidence.

V. Publication of SCERPS

The College states: "SCERPs are not punitive in nature, but allow the Member to develop in particular areas to prevent concerns from arising in the future. If adopted, the proposed amendment would require information about SCERPS to be published on the Public Register."

CAPT believes that if SCERPs are not punitive in nature, their publication is itself 'punitive' to the member since it raises doubt regarding a member's suitability to practise. If the purpose of SCERPs is to not to penalize but to allow the member to develop, publication of them is contradictory and dispenses with their stated purpose. Development goals may be actually delayed or prevented by the publication of SCERPs.

CAPT believes that CRPO understands that practitioners may make mistakes without malice or negative intent. Therefore, CRPO must pay due attention to the best intentions of practitioners, precisely for the sake of the public and their access to reputable and reliable services. This is the purpose of intermediary measures that are aimed at the development of best practices.

While transparency is a positive goal that CAPT supports, we recommend caution in creating by-laws and /or policy that might create an imbalance between the rights of users and providers of services. We note that in his letter directing Colleges to increase transparency, Minister Eric Hoskins also asked that publicly disclosed reports "bear in mind applicable principles of privacy and transparency."

The removal of SCERPs after a two-year period or any information after any period does not protect the public in the age of the internet. Almost everything that is attached to an individual's name arises on an engine search for indefinite and uncertain periods of time and such information is available world-wide. We also note that a simple search of an individual's name will return information relevant to a college membership. CRPO has a legal and ethical obligation to publish accurately and clearly for its own protection and that of the public. Any information that has the potential to negatively impact any individual must be underpinned by ethical and legal considerations.

CAPT notes that any and all information on a public register has the potential to affect the framework of client/therapist trust relationship. The whole intent of regulation is to promote the public trust and the protection of that trust must be the goal of every initiative. Again, CRPO has a window of advantage because it is relatively new and can take its time to understand how each initiative may or may not impact the mandate of protecting the public trust. If SCERPs are not punitive, CRPO is well within its mandate not to publish them. . Further, the option to not publish SCERPs retains CRPO flexibility to develop SCERPs that consider the diversity of modalities in psychotherapy.

CAPT believes that such visibility could be significantly enhanced by other means such as providing more comprehensive information regarding its monitoring practices on the College website. The public and

membership would be well served by description of the types of cautions and SCERPs, an explanation of their intent and College procedures with respect to their implementation. This would provide greater access to the workings and procedures of the college which would improve transparency on that level and create confidence.

VI. Removal of Transfer Fee

CAPT supports the administrative by-law amendment to remove the transfer fee. CAPT agrees with the rationale given by CRPO that it removes barriers or disincentives to enter a different category of membership. It supports a more prompt and seamless transition to another category and eliminates the need to oversee the administration of fees.

VII. Police Record Check

CAPT recommends that the decisions around a Police Record Check for CRPO members be deferred at this time in light of the Police Records Check Reform Act 2015. This new legislation that has passed but has not been proclaimed seeks to limit the disclosure of non-conviction information. The new legislation seeks to create province-wide standards with respect to the disclosure of information by police and also standards for the process of obtaining a police record check.

CRPO has introduced safeguards with the requirements for self-disclosure and signed affidavits relating to information provided upon application to the College. Again, CRPO as a new college has an advantage and can tailor requirements that are consistent with new and upcoming directions and legislation. The Police Records Check Reform Act was developed in response to wide public concern due to the barriers created by previous disclosure of non-conviction information.

This Act received positive support and input from major stakeholders such as the Ontario Human Rights Commission and the Civil Liberties Association and prioritizes due process of law. This Act recognizes the implications and difficulties as well as the unfairness of disclosure of non-conviction information. This direction also supports our recommendations (above) to not publish cautions and SCERPs as such publication could be seen to create barriers and impinge upon the rights of individuals

VIII RECOMMENDATIONS

CAPT recommends the following:

1. A five-year retention period of a member's information on the register include a provision that members have the option to request their names be removed after two years.

2. The sole notation of criminal convictions relevant to practice on the register.
3. CRPO retain its current practice to publish voluntary undertakings on a case-by case basis.
4. CRPO not publish in-person cautions.
5. CRPO not publish SCERPs.
6. The removal of the transfer fee.
7. Any decisions around a Police Record Check for CRPO members be deferred at this time in light of the Police Records Check Reform Act 2015.

In conclusion, CAPT commends the College for continuing to seek ways to enhance transparency and improve visibility of its policies and practices.