



Société canadienne de **PSYCHANALYSE**
Canadian **PSYCHOANALYTIC** Society

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THE CPS ETHICS CODE

I. SCOPE AND PURPOSE OF THE CODE

- 1) The CPS shall take reasonable measures to ensure that every psychoanalyst, each training facility, and other activity operated by the CPS and its branches maintains high ethical and professional standards which are consistent with the rule of law in a democratic society. The CPS Ethics Code and Implementation Procedures, collectively referred to as "The Code" will be one document replacing the CPS Principles of Ethics and CPS Guidelines for Implementation of the Principles, bringing the CPS into conformity with the IPA Ethics Code. The Code sets out the basic ethical rules for CPS members in their practice and in their conduct within their designated organizations including Training Institutes, Training Programs and teaching programs of branch societies of the CPS.
- 2) The Ethics Code:
 - A) Reflects humanitarian values, psychoanalytic principles and professional obligations to patients and the public.
 - B) Applies generally wherever CPS members practice psychoanalysis or any other clinical practice, including psychotherapy, supervision, psychoanalytic teaching and work in an institutional setting.
 - C) Must be followed by Analysts in Training at the Canadian Institute of Psychoanalysis (the CIP) and members of CPS psychotherapy training programs. Analysts in Training and members of CPS psychotherapy training programs who are undergoing analysis have the same rights as any other patient.
 - D) Applies to child and adolescent psychoanalysis and psychotherapy although specific provisions may need to be modified. For example fee issues need to be discussed with a parent or guardian, as well as or instead of, the patient.

- 3) The CPS has primary jurisdiction over Ethical Complaints and Inquiries regarding its members and itself and must maintain and publish a written Code of Ethics and Implementing Procedures to address ethical complaints and inquiries. The CPS must maintain a standing Ethics Committee. A Complaint challenges the professional action or inaction of a CPS member psychoanalyst. An Inquiry seeks interpretation of one or more of the Ethical Principles or element(s) of the Ethics Code principles or an advisory opinion regarding the proper application or procedural implementation of the code. Advice may be sought from the IPA with regard to an Inquiry.
- 4) The IPA Ethics Committee will manage any complaint involving a psychoanalyst acting in their capacity as officer, Board Member or other official of the IPA. Where the CPS declines to hear an appeal against a decision in an ethics case, the IPA Ethics Committee and the IPA Board of Representatives may assume responsibility for holding that appeal and may require the CPS to co-operate. The cost of this appeal may be levied to the CPS.

II. ETHICAL CODE FOR ALL PSYCHOANALYSTS AND ANALYSTS IN TRAINING

1) Human Rights

A psychoanalyst must not participate in or facilitate the violation of any individual's basic human rights, as defined by the UN Declaration of Human Rights, the IPA policy of non-discrimination and the CPS anti-racism statement. A psychoanalyst must respect the dignity and freedom of each person and conducts themselves in their personal and professional life with competence and integrity.

2) General Integrity and Consent

- A) When providing professional services, the psychoanalyst must obtain the free and enlightened consent of the patient. A patient's psychoanalytic treatment with a psychoanalyst is voluntary and the patient may discontinue treatment or seek other treatment or advice at any time.
- B) Termination of an analysis or other treatment should usually be by mutual consent. If a psychoanalyst decides to discontinue a treatment, he or she must give to the patient reasonable notice and ensure that the withdrawal of the professional service causes as little prejudice as possible. He or she must ensure insofar as they are able that the patient may continue to obtain the professional services required and give reasonable requests for information about possible alternative sources of treatment.

- C) All fees and other financial arrangements must be fully disclosed to, and agreed by, the patient during consultation for analysis or, in the case of fee adjustments, prior to their taking effect. No other financial transactions may take place between psychoanalysts and their patients.

3) General Integrity and confidentiality

- A) Confidentiality is one of the foundations of psychoanalytic practice. A psychoanalyst must protect the confidentiality of patients' information and documents.
- B) A psychoanalyst must not act in any way which might bring the profession into disrepute. Occasionally, psychoanalytic ethical principles may appear to conflict with local laws or regulations. Members may wish to consult with colleagues regarding what they may reasonably do to uphold the ethical principles contained herein. Breach of confidentiality may cause considerable harm to patients, the community, and to the reputation of psychoanalysis.
- C) A psychoanalyst must not be reckless or malicious as to whether they damage the reputation of any person or organization including but not limited to, other psychoanalysts, or willfully interfere in peer review evaluations in the absence of compelling and extenuating circumstances.
- D) A psychoanalyst must (subject to the requirements of professional confidentiality) be honest with patients and colleagues, and must not mislead or engage in any act of fraud, deceit or coercion.

4) Abuse of Power and Conflicts of Interest

- A) The psychoanalyst must take due account in an analysis of the power imbalance that exists between the analyst and the analysand. He must not act in a way that is contrary to the autonomy of the patient or to serve his own personal interests. He or she must also be aware of the power imbalance with an ex-patient.
- B) A psychoanalyst must not use a professional or institutional position to coerce patients, supervisors or colleagues. Neither must confidential information be used for this purpose.
- C) A psychoanalyst must not solicit nor have sexual relations with a patient or with an Analyst in Training under the psychoanalyst's treatment or supervision.

5) Maintenance of Standards, Professional Impairment, and Sickness

- A) A psychoanalyst is committed to Continuous Professional Development and should maintain appropriate levels of contact with professional colleagues. This is to ensure that an adequate standard of professional practice and current knowledge of relevant professional and scientific developments are maintained.
- B) All psychoanalysts should refrain from practicing their profession or performing certain professional acts to the extent that their health hinders this.
- C) Any psychoanalyst must notify the Chair of the Ethics Committee in writing within ten (10) days from the day they are informed that they are or have been the subject of a judicial or disciplinary decision.
- D) A psychoanalyst informs the CPS Executive if they have reasonable doubt that a colleague is capable of carrying out their professional responsibilities. When they have acquired such information in a situation of confidentiality, they may not transmit it without the permission of the person who confided it to them.
- E) A psychoanalyst will inform the executive of the CPS, - or the CPS Ethics Committee or the corresponding committee of their CPS branch if they see evidence that another psychoanalyst is behaving in a manner which contravenes the CPS Code of Ethics. If this evidence was transmitted to them in a confidential situation, they may not transmit it without the permission of the person who confided it to them.
- F) A psychoanalyst must, with due regard for patient confidentiality, make provision for each patient to be informed (including options for continuing treatment) in the event of the psychoanalyst's death or unavailability.
- G) If it is found that an Analyst in Training must lose their analytic treatment because their analyst is unfit, including having been sexually abusive, the CIP will attend carefully and respectfully to the statements of the Analyst in Training about the ways in which they feel compromised and to their requests regarding a second treatment.

III. COMPOSITION AND DUTIES OF THE ETHICS COMMITTEE

1) Composition of the Ethics Committee

- A) The Ethics Committee of the Canadian Psychoanalytic Society (hereinafter referred to as the Ethics Committee) is appointed in accordance with CPS By-law 2.02. All members of the Ethics Committee will be members in good standing of the Canadian Psychoanalytic Society (CPS). Members will have at least five years of psychoanalytic experience beyond graduation.
- B) Five members and five or more alternates will be appointed by National Council, of whom three members or alternates will take part in each hearing or investigation. A principle of rotation will be observed, with one of the members being replaced every year. Committee members will serve a five years term. Alternates do not have a term limit and are replaced, by National Council, in event of the person's illness, death or resignation. The Ethics Chair may only serve one mandate as Chair but may choose to be a member for a second term. In the event of illness or death of a member, the President of the CPS will appoint a new member from the panel of alternates within thirty days. No member may serve more than two terms on the Ethics Committee.

2) Duties of the Ethics Committee

- A) The Ethics Committee will review guidelines, principles and procedures and make recommendations for changes, as it considers appropriate, to the CPS National Council.
- B) The Ethics Committee will function as a consultative and adjudicative body for the CPS, the branches of the CPS and for individual analysands, members and candidates, receiving and responding to both Ethics Inquiries and Ethics Complaints.
- C) Confidentiality: All complaints of an alleged breach of the Ethics Code shall be processed in confidence. Confidentiality must be maintained by the members of the CPS Ethics Committee and by the CPS Executive. This duty of confidentiality extends after any term of office has ended.
- D) Conflict of Interest: Any officer or committee member with a material conflict of interest - family, personal, or economic - in relation to an Ethics Inquiry or Complaint shall promptly disclose the conflict in writing to the Ethics Committee Chair, and not participate in the review or action on the matter.
- E) Timing: All communication shall be done with reasonable expedition. Other than in exceptional circumstances, the entire process of dealing with a complaint must be completed within one year of receipt of the formal complaint. Other than in exceptional

circumstances, any appeal must be lodged within six months of notice being given of the outcome of the original complaint (notification of the intent to appeal must be within thirty days) and any appeal must then be completed within one year of the receipt of the formal Notice of Appeal.

- F) The Ethics Committee may consider any matter to do with the ethical conduct of members of the CPS and Analysts in Training with the CIP. The Ethics Committee may receive an inquiry or complaint from an Analyst in Training about a CPS member. Upon receiving a complaint about the conduct of an Analyst in Training, the CPS Ethics Committee will notify the CIP and support the CIP as needed to apply the Code.
- G) The Ethics Committee will devise a rotation by which two members will undertake a preliminary investigation of any issue, including a complaint that comes to the Committee's attention. The other three members will constitute a Hearing Panel if a Hearing Panel is determined to be necessary. In matters more complex than a single issue, the Ethics Committee may consult the CPS executive and adopt the method of review required.
- H) Documentation: From the moment the preliminary investigation committee is appointed, a record of all matters relating to the concern or complaint will be kept.
- I) Ethics Committees in Branches of the CPS: A branch can establish its own Ethics Committee. The Code of Ethics of branches of the CPS must conform to the CPS Code of Ethics. A branch may not suspend or expel a member. If a branch considers either action appropriate, it will refer the matter to the CPS Ethics Committee. If there is a perceived conflict of interest within a branch, the branch Ethics Committee shall refer the concern or complaint in question to the Chair of the Ethics Committee of the CPS.
- J) Except when a complaint is upheld and the sanction imposed is suspension for a year or more or expulsion from membership, names of individuals presented to the Ethics Committee in whatever capacity will be kept confidential, and will be known only to the members of the CPS Ethics Committee.
- K) If the Ethics Committee decides that a member should be suspended for more than a year or expelled, their duty is to notify the CPS Executive that this is their decision. The execution of these decisions shall be done by the CPS President in consultation with the CPS Executive. At the point of execution of the decision by the CPS President, the Chair of the Ethics Committee will send their report to the parties involved.
- L) In addition to concerns and complaints about individuals, the Ethics Committee may also receive and consider inquiries that seek an interpretation of one or more of the CPS's Ethical Principles or the proper implementation or application of such a Principle.

IV. GENERAL GUIDELINES FOR HANDLING ETHICAL INQUIRIES AND COMPLAINTS

1) Receiving an Ethics Inquiry or Complaint

Complaint or Inquiry must be in writing in French or in English, signed, delivered by registered mail or by courier to the CPS office. The complaint should be clearly marked "Attention: Ethics". It must contain a detailed account of the nature of the concern or complaint including a detailed description of what is alleged to have happened and why the complainant considers that it should be investigated by the Ethics Committee. The CPS administrator will acknowledge receipt of the Inquiry or Complaint and send a copy of it to the Chair of the Ethics Committee. The original signed complaint will be kept in a locked Ethics file at the CPS office.

2) Possible Actions to Respond to an Inquiry

- A) Advisory opinion: the Ethics Committee may give an opinion applying an element of the Code of Ethics to stated facts, actual or hypothetical.
- B) Elucidations of Principles: The committee may explain or document the reasons for the ramifications of one or more of the elements of the Code.
- C) Amendment of Principles or Procedures: Amendments to the CPS Ethics Code must be passed by 2/3 majority of the AGM.

3) Procedure for Response to an Ethics Complaint

- A) The Chair of the Ethics Committee will inform the complainant that their complaint will be sent to the subject(s) of the complaint who will be given full opportunity to respond. The complainant must agree in writing. (The subject of the complaint is the psychoanalyst or the organization alleged to have behaved unethically).
- B) The Ethics Chair will then send a copy of the complaint by registered mail to each subject of the complaint. The subject(s) concerned will have thirty (30) days to provide the Ethics Committee with a response. Receipt of complaint can be taken as permission from the complainant for release of clinical information by the subject(s) of the complaint.

- C) **Withdrawal of Complaint or Resignation of Subject of Complaint:** Once a complaint has been formally made to an Ethics Committee, the complainant may not withdraw it without the consent of the Ethics Committee. If the complainant withdraws co-operation, the Ethics Committee may at its own discretion continue hearing the complaint or appeal. Similarly, when a formal complaint has been made, if the subject of the complaint withholds or withdraws co-operation or resigns their membership or dies, the Ethics Committee may at its discretion continue to hear the complaint or appeal.
- D) All relevant information will be taken into account by the members of the Ethics Committee investigating the concern or complaint in the course of determining an appropriate action. Action may include exoneration, dismissal of complaint with or without prejudice, further fact finding, full evaluation and consultation, referral to an appropriate body, and decision about whether a formal hearing is warranted.
- E) If it is found that a formal hearing is warranted, the Ethics Committee will prepare and send by registered mail a Notice of Hearing, which will inform the complainant and the subject(s) of the complaint of the names of the members of the Hearing Panel and the time and place of the hearing.
- F) A dossier will be compiled which will be presented to the Hearing Panel. The Notice of Hearing will be included in the dossier. The dossier will be kept in a secure place in the national office and may not be circulated or copied beyond the Hearing Panel and the parties involved. The hearing is considered to have begun when the dossier is presented to the Hearing Panel.

4) Procedure for a Formal Hearing

- A) The Hearing Panel will be comprised of the three members of the Ethics Committee who have not previously investigated the case and who have been isolated from those performing the investigation. The Hearing Panel will designate one member to chair the proceedings. In the event that a member of the hearing Panel has a conflict of interest, the President of the CPS will designate an alternate from the panel of alternate members.
- B) The person or persons who are the subject of the concern or complaint and the complainant may each request the withdrawal of one Hearing Panel member. The President of the CPS in consultation with members of the Executive will determine if there is sufficient reason to grant such a request and if there is, the Executive will appoint an alternate from the panel of alternates.

- C) If the Hearing Panel or one or both of the parties chooses to have legal counsel present, counsel will advise only on matters of procedure, not on matters of substance. If the Ethics Committee retains counsel in response to a person appearing before it having done so, the person in question may be required to pay the cost of the Ethics Committee doing so.
- D) The parties shall be notified by registered mail of the time and location of the hearing and of the membership of the Hearing Panel.
- E) The Hearing Panel will follow Hearing Tribunal Rules of Procedure, provided that such procedures abide by the principles of natural and administrative justice. The Chair may ask a party to absent themselves for a particular piece of testimony. Except in the case of such a request, the parties will have the right to be present at the hearing. The hearing is not limited to one sitting. The decision of the Hearing Panel will be reached in closed session. The decision of the Hearing Panel is the decision of the Ethics Committee.
- F) The Hearing Panel will make a summary of the relevant information presented by and on behalf of the parties, of its procedures, and of the reasons for the decision it reached. The document will be kept in a secure place in the national office and may not be circulated or copied without the written permission of the Chair of the Ethics Committee at the time of the request.

V. POSSIBLE ETHICS COMMITTEE DECISIONS

The IPA Ethics Code describes possible actions in response to an Ethics Complaint in more detail and can be consulted. The possible actions are:

- 1) Exoneration. The member is not found culpable because the evidence failed to demonstrate material unethical conduct.
- 2) Dismissal of Complaint without prejudice. This disposition permits subsequent proceedings on the same charge - for example, when a current determination cannot be made because of insufficient reliable evidence or a procedural defect.
- 3) Dismissal of Complaint with prejudice with or without admonition or censure. The complaint is dismissed without a finding that unethical conduct did or did not take place and further proceedings on the same charge are barred. Where appropriate, such a dismissal may be accompanied by either a letter of admonition, expressing Ethics Committee and CPS Board concerns about the alleged conduct and suggesting that further education, consultation, supervision or other remedial action be pursued, or a letter of censure which requires remedial action.

4) Suspension from the CPS. The period of suspension should be stipulated and should be minimum for one year but not longer than three years.

5) Expulsion with possibility to reapply. Re-application for membership in the CPS will not be entertained within five years from the date of expulsion.

6) Permanent expulsion.

7) Bar on readmission. Where a member resigned during processing of an Ethics Complaint or Appeal, the member can be barred from readmission for a length of time or permanently.

VI. EXECUTION OF CENSURE AND SANCTIONS

1) The decision regarding censure or sanction is made by the Hearing Panel at a meeting on a different day from the hearing. If the Ethics Committee finds that the correct response to a complaint is 1) exoneration 2) dismissal without prejudice, 3) dismissal with prejudice with or without admonition or censure, the Chair of the Ethics Committee will convey this decision to the complainant and the subject(s) of the complaint in a timely manner in their report sent by registered mail.

2) If the Ethics Committee finds that the correct response to a complaint is sanction of a member, this opinion and the reasons for it are sent to the CPS President. If approved by the CPS Executive, the sanction is carried out and the Ethics Committee report is sent to the complainant and to the subject(s) of the complaint by registered mail.

3) If a CPS member is suspended for over one year, or expelled, or resigns while an Ethics Complaint is outstanding against them, the CPS President owes a Duty of Care to the public. The CPS President, in consultation with the CPS Executive, will arrange that the name of the member, the sanction, and a brief generic statement of the reason(s) will be sent to the president of the member's branch society, to the member's accrediting college, and to the IPA within 30 days of the Ethics Committee decision.

VII. PROCEDURE FOR APPEAL

1) A complainant and/or member named in a complaint may appeal a decision of a branch Ethics committee or the CPS Ethics Committee. The Ethics Committee will treat such appeals in the same way as they treat complaints or other issues presented before them. Since a decision of the Ethics Committee is normally final and binding, a decision of the Ethics Committee may be appealed only on one or more of the following grounds:

- A) The Ethics committee did not follow proper procedures.
- B) There was a violation of a principle of natural or administrative justice.
- C) A new fact has or new facts have emerged since the Ethics Committee process or which no party to the process had knowledge at the time of the process and which is or are materially relevant to the case.

2) Notification of intention to appeal must be given to the Chair of the Ethics Committee within thirty (30) days of the date of mailing of the Ethics Committee Decision. An appeal based on criterion **A** or **B** by a member against whom a sanction has been imposed, or by a complainant whose complaint has been dismissed must be addressed in writing by registered mail to the President of the CPS and mailed within thirty (30) days of the date of mailing of the notice of the decision of the Ethics Committee. Any appeal based on criterion **C** must be addressed in writing to the President of the CPS within thirty (30) days of the date of the alleged new fact(s) first becoming available to the party making the appeal.

3) If an appeal of a decision of the Ethics Committee on one of the above 3 grounds is lodged, the President of the CPS, in consultation with the Executive Committee, shall decide whether grounds for appeal have been met. If grounds for appeal have been met, the CPS Executive shall appoint an Appeal Committee. The Appeal Committee will consist of three members of the CPS who are at least five years beyond graduation and who are not current members of the Ethics Committee, the panel of alternate members, or the Executive committee of the CPS. The Appeal committee will govern itself by the procedures described in these guidelines.

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