

**Prince Edward Island Psychologists Registration Board**  
**Notes regarding Especially Relevant Local Jurisprudence**

Acts and Regulations are available at <http://www.gov.pe.ca/law/regulations/index.php3>.

**Please note that the following list is not intended to constitute a full identification of all laws on Prince Edward Island which can bear upon the practice of psychology, nor does the following reduce each psychologist's individual responsibility to be aware of relevant law, nor is it presented as legal advice.**

**Adoption Act**

- with regard to Placement, the Act (3(b)) enables the Director to authorize, in accordance with regulations, persons to make placements. The Adoption Act Regulations (2) identify psychologists as one of 4 groups of professionals eligible to apply for license to arrange placements; such psychologists would need to be intimately familiar with the Act and Regulations.

- Act (4) refers to “professional counselling” for persons placing a child to be carried out by a person authorized by the Director, by Adoption Act Regulations (21) restrict placement counselling to authorized social worker

- Act (19) refers to “pre-hearing adoption” study to be carried out by a person authorized by the Director, but Adoption Act Regulations (59) limit conduct of studies to Director, an agency or authorized social worker

-Act (1(c)) provides a definition of “best interests of the child”

**Adult Protection Act**

-sections 1-4 of the Act (interpretation, intent, principles, report)

-psychology is not referenced (10) in list of types of assistance which may be provided or arranged by the Minister (there is a reference to “counselling and other social work”), but the detailed list does not limit the generality of section 9, which addresses assistance if it “is in accordance with the case plan”)

**Age of Majority Act**

Act (1) sets eighteen years as the age of majority and the age when one ceases to be a minor

**Child and Youth Advocate Act**

- Part 3, Right to Communicate
- Part 5, Information and Confidentiality
- Part 6, Reports and Investigations of Serious Injury or Death

**Child Protection Act**

- Preamble

- section 1, definitions (including of a child(h))

- section 2, purpose (including best interests of the child)

- section 3, child in need of protection

- section 12, investigation
  - (3) Powers of Director to obtain information without consent
  - (4) Court-ordered cooperation
- section 22, mandatory reporting
- section 59, offenses

### **Children's Law Act**

- Part 5, Care of and Time with Children
  - o 34. Parents' rights and responsibilities  
Parenting Time, Decision-Making Responsibility and Contact Orders
  - o 39. Parenting order
  - o 40. Parenting time consistent with best interests of the child
  - o 41. Allocation of decision-making responsibility
  - o 42. Entitlement to information

### **Consent to Treatment and Health Care Directives Act**

- Part 1, sections 1-3, interpretation
- Part 2, sections 4-19, consent to treatment
- (Part 3, Health Care Directives, is probably not necessary to highlight for psychologists)
- Regulations, for psychologist who might make formal assessment or reassessment of capacity

### **Correctional Services Act**

- knowledge of Act and Regulations necessary for psychologists working in a correctional services facility but otherwise would not need to be highlighted
- Act (8) grants employees power of peace officer
- Act (14) provides for inspection of records by Director

### **Freedom of Information and Protection of Privacy Act**

- Full Act applies to and should be familiar to psychologists who are employed by a public body—any department, branch, or office of the Government of PEI, or a designated public body as designated in Schedule 1 of the Regulations.
  - Provides for full access to a person's own personal information and records, except under limited circumstances stated in the Act, and provides for privacy with respect to gathering and release of personal information
    - Act 4(e) exempts from disclosure a question that is to be used on an examination or test
    - Act (24) permits refusal to disclose testing materials, tests, and audits, including intelligence tests
    - Act (15 (4)) states that a disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy is (a) the personal information relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation.

### **Health Information Act**

- Full Act applies to and should be familiar to all psychologists, not only those employed by government.

- Addresses collection, use, disclosure, retention, and secure destruction of personal health information.
- Note in 4(3)(a) that the Act does not apply to standardized tests, including intelligence tests, or a record that contains raw data from a standardized test or assessment.

### **Human Rights Act**

- Preamble, recognizing the inherent dignity and the equal and inalienable rights of all members of the human family
- Definitions, 1 (a) professional association; (d) discrimination; (l) physical or intellectual disability
- Part 1, Discrimination Prohibited, especially:
  - (6) employment
  - (9) professional association membership
  - (13) discrimination because of association

### **Hospitals Act**

- p. 3 6-7. talks about medical staff and the Medical Advisory Committee. Does not list who is medical staff.
- p.4 8. (2) disclosure of information and electronic systems access. Describes conditions upon which information can be disclosed. This is more broad than what we would require. For example, information can be given without consent of the patient to the staff of a hospital.

### Hospitals Act Hospital Management Regulations

- p.2 definitions of medical staff, medical practitioner and allied health professionals. Psychologists are listed as an allied health professional under section (y).
- p.16 56. Definition of hospital employee. Also seems we would fall under this definition although we are not listed here. Not sure what relevance this has to our practice other than allowing the administrator to keep a permanent record of all examinations and tests of every employee of the hospital (under section 60).

### **Mental Health Act**

- p.1 definitions of (a) addiction assessment (by a medical addiction consultant), (b) addiction examination (by a physician), (j) medical addiction consultant (legally qualified medical practitioner working in association with an addiction treatment facility and approved by the director), and (k) mental disorder (substantial disorder of thought, mood, perception..... but a mental handicap or learning disability does not, of itself, constitute mental disorder).
- p. 4 6. Psychiatric Examination - only a physician may make application to a psychiatrist for an involuntary psychiatric assessment of the person.
- p.5 7. Any person may make an application to a judge requesting an order for the involuntary psychiatric examination by a physician of another person allegedly suffering from a mental disorder and setting out the reasons of the request.
- p.6 8. Peace officer powers to place for involuntary exam if urgency of situation doesn't allow for judicial order

- p.7-10 Involuntary Patient - describes process for involuntary admissions. All psychiatrist based.
- p.12 Treatment - information about consent to treatment (psychiatric or other medical treatment). Lists age of consent for psychiatric treatment.
- p.15-18 Review Board. (3) m'ship one of whom shall be neither a lawyer or a physician
- p.18-19 Clinical Records. Details management of the clinical record.
31. (2) (a/b). Consent is required to disclose or transmit the record EXCEPT where
31. (2) (f). A physician or community mental health worker engaged in the direct care of the patient, where the delay in obtaining the authorization mentioned in clause (a) or (b) is likely to endanger the mental or physical health of the patient.

### **Psychologists Act**

- Obviously, all relevant. All needs to be fully read and understood.
- Psychology Act Registration Regulations
- Psychology Act Standards and Discipline Regulations

### **Public Health Act**

- p.13 22.4 (1-3) States that a limited license may be granted when there is a state of public health emergency. "...authorization may be necessary by the licensing body of a health profession to enable a person to practice a function in an emergency, notwithstanding that the qualifications for licensure may not be fully met or evidence not fully provided".

### **Public Trustee Act**

- p.2 Definition of "incompetent person" means a person who, in the opinion of two physicians, is incapable of managing and understanding that person's financial affairs.
- Psychologists are not mentioned or alluded to in this act. It is very physician based.

### **School Act**

- Part VI. A. 68. Free School Privileges. All persons as described in (a-c) between 6-20 have the right to free school privileges in the public schools of the province, as defined by the Regs and provided in accordance with the act
- B. 69. (1) Compulsory school age means a person between 7-16
- (2) if these children reside in PEI and have not graduated, they must attend school (3) parent must cause this child to attend school
- (4) (a-d) describes what attends school means, including provisions for home schooling
- E. 73. Discipline of Students.
- (1) corporal punishment is prohibited. States that discipline while attending school shall be similar to that administered by a kind, firm and judicious parent.
- (2) section (1) allows for reasonable restraint of child where danger exists
- G. 77. Student Records. (1-6), 77.1, 77.2 Lists information about records, procedures for storage, retrieval and use of records, as well as disclosure requirements.

Part VII. H. 97. Supervisory or Administrative Positions. A supervisor of those with a license to teach must themselves hold a license to teach.

I. 98. Lists Responsibilities of Teachers (a-j)

J. 99. Lists Responsibilities of Principals (a-p)

Part XI. 116. (1-2) Report child abuse and disclosure to director of child welfare allowed

Part XIII. 141. Youth Programs. (1) educational program may be authorized at a youth custody facility.

#### Private Schools and Home Education Regulations

4.(1) Minister has the right to inspect school, examinations, facilities and has right to administer tests to the students.

#### **Supreme Court Act**

38. (1-5) definition of “health practitioner” includes psychologist (along with those licensed to practice medicine or dentistry). The court can order physical or mental examination by one or more health practitioners.

#### **Victims of Family Violence Act**

1 (a) definition of child includes those who periodically reside with the victim (not the parent) and is under 18

(q) definition of victim

2 (1) definition of family violence

(2) definitions of violence

#### **Workers Compensation Act**

Medical Aid and Rehabilitation

18. (9) Every person attending or consulted respecting or having the care of a worker shall furnish to the (workers comp) Board such reports as may be required by the Board in respect of the worker.

(12-14) Board may direct a worker, applying for or receiving compensation, to submit to and cooperate in vocational, occupational and medical examinations, assessments and rehabilitation. Can suspend benefits if they refuse.

Workers Compensation Board

59. (2) Every physician..... psychologist.... attending or consulted upon any case of injury to any worker shall furnish reports as required.....

#### **Youth Justice Act**

1(b) definition of child, less than 12 years old

1(i) definition of young person, 12-17

11 (3) (e) conditions of probation order to attend school or place of learning, training or recreation (if suitable)

14(1) (b) if committed to youth custody facility, conditions of release to attend school, outpatient treatment program or other programs to address needs of young person