PSYCHOLOGY COUNCIL of New South Wales

PRESIDENT'S ADDRESS
Associate Professor Caroline Hunt
President, Psychology Council of New South Wales

Welcome to the first issue of the Psychology Council of New South Wales (Council) Newsletter. The Council hopes that this newsletter will allow us to make the role and work of the Council more familiar to psychologists in NSW. Ultimately the objective of the Council is the protection of the public, yet in doing this we focus on the work of psychologists, across the areas of ethical conduct and competent practice. As such, the Council deals with complaints about psychologists through three main pathways: conduct, performance and health. In this newsletter we will be introducing in more detail the work of the Council in the health pathway. In addition, there will be features on the recent changes to WorkCover assessments, self care for psychologists, the unique challenges faced by psychologists working in rural and remote areas, and we will be reintroducing the previous NSW Psychologists Registration Board ethical dilemmas.

In regard to the conduct pathway, most practitioners in NSW will be aware of the co-regulatory system in NSW in which the regulation of registered health professionals is managed by the Health Professional Councils Authority, in conjunction with the Health Care Complaints Commission (HCCC). This function is separate to the registration of psychologists, which is managed through Australian Health Practitioner Regulation Agency (AHPRA) and the NSW Regional Board of the Psychology Board of Australia.

The Council deals with approximately 12- 15 new complaints or notifications each month that are lodged either directly with the Council, the HCCC or through AHPRA. The majority of these are complaints by the public about the conduct of psychologists, most often relating to boundaries, dual roles and problems in communication such as perceived rudeness or inappropriate comments. These relatively "low level" conduct issues take up a large proportion of the Council's time and more often than not result in the Council providing specific advice to the psychologist, either though a letter or in the form of a "counselling interview". The Council would like psychologists to be particularly mindful of the following two issues:

(1) Beware of any "loosening" of boundaries, however seemingly insignificant. Such loosening can often lead to problematic boundary violations. For example, practice rooms within or near a psychologist's residence, and helping out clients by providing them with practical assistance outside the practice of psychology have lead to several complaints following the confusion and distress of clients about the psychologist's mixed roles.
(2) Take care of any communication that may be perceived as rude or inappropriate, even if your intention is well meaning. The Council takes the view that, in the majority of cases, if a client finds the behaviour of a psychologist rude or insensitive, there was likely a problem with that behaviour no matter what was the psychologist's intention. Psychologists should be particularly careful when dealing with clients whose personalities make them more sensitive to interpreting behaviours in a negative light. In our experience, clear communication, properly informed (written) consent, and an ability to apologise when in the wrong are all important qualities that will circumvent potential complaints or hasten the resolution of a complaint.

In conclusion, we hope that this Newsletter becomes a useful communication about the work of the Council, which contributes to the professional practice of psychology in NSW, and greater protection

of the public. If you have any requests for features in future newsletters, we would be happy to consider these.

PSYCHOLOGY COUNCIL of New South Wales

WE NEED TO CARE FOR OUSELVES TOO! SELF CARE FOR PSYCHOLOGISTS

Dr Robyn Vines
Council Member (Psychologist)

As with our patients and clients, self care and lifestyle management are crucial to our health and wellbeing. Notifications to the Australian Health Practitioner Regulation Agency and the Psychology Council of New South Wales frequently exemplify outcomes resulting from not paying adequate heed to:

- the need for self care;
- establishing an adequate work-life balance; and
- seeking preventative and early interventions in relation to the risk of burnout and professional impairment.

As health professionals, we may be expert at advocating the benefits of health and well-being to those who consult us, but may be sadly lacking in developing our own strategies for developing and maintaining good physical and emotional health.

We face unique hazards in our profession which make us particularly vulnerable to occupational stress:

- working with people in distress;
- frequent professional isolation in the work setting;
- role demands that increase the probability of burnout (e.g. responsibility for "people rather than things";
- limited and unpredictable control of outcome;
- high emotional involvement, etc.); and
- ongoing frequent interactions between our own personal stresses and the demands of our work.

Factors which increase our vulnerability include:

- poor self care;
- a deficit in leisure and non-work activities (i.e. inadequate work-life balance);
- unrealistic self-expectations; and
- the tendency to focus on the needs of others at the expense of our own.

There are high costs associated with ignoring the need for factoring self care and lifestyle management into our lives as busy professionals. Potential consequences and damage include:

- a tendency to stress-related illnesses;
- depression and overall impairment;
- growing job dissatisfaction;
- alcohol and other drug dependency and relationship conflict;
- a higher risk of unprofessional conduct and ethical violations in the work setting, which can lead to complains and disciplinary action.

Hence, management of health and well-being is both a personal and professional priority and will provide focus for an ongoing column in our new Psychology Council Newsletter.

Next edition: Sleep, diet and exercise: How these mitigate stressors unique to our profession

PSYCHOLOGY COUNCIL
of New South Wales

OVERVIEW OF THE PSYCHOLOGY COUNCIL'S HEALTH PROGRAM

Ms Myra Nikolich
Executive Officer

As you are already aware, the Council's principal role is to protect the public of NSW by ensuring that all psychologists in the State are fit to practise psychology at the high standard the public is entitled to expect. The Council's role and responsibilities are prescribed by the *Health Practitioner Regulation National Law (NSW) No 86a* (Law (NSW)). It is within this legislative framework that the Council exercises its functions in relation to conduct, performance and health.

This article focuses on the Council's Health Program in which a strong, secondary objective is to maintain participating impaired psychologists in practice when it is safe to do so.

The Health Program is non-disciplinary and functions in a supportive manner; however, it is backed by the Law (NSW) and some aspects of the Program are mandatory. Essentially, it provides a positive framework to address health issues in a way that is protective of the public and fair to the profession by allowing participants with health problems to remain in active practice. The Program is notification based, receiving both self-notifications and third party notifications. It manages registrants with mental illness, problems with the abuse of alcohol or the self-administration of addictive drugs and occasionally, physical illness.

When the Council receives a notification about a practitioner it consults with the Health Care Complaints Commission (HCCC) to ensure that the particulars of the notification do not raise issues more appropriately dealt with in the disciplinary pathway. If no issue of professional conduct is raised the matter is referred to the Council and the HCCC takes no further part. The Council then considers the notification further and may require an independent assessment of the practitioner's health status by a Council Appointed Practitioner (CAP). The CAP is a health practitioner selected by the Council for their skill in a particular specialty. Their role is to make an independent assessment about the extent and nature of the impairment and whether participation in the Health Program is appropriate. It is important to note that the assessment by the CAP is a medico-legal rather than a therapeutic consultation.

When a practitioner enters the Health Program, they will generally see the same CAP for periodic review of their health status. These interviews take place at the request of the Council or in compliance with a condition which has been imposed on the practitioner's registration. Upon receipt of the medical assessment report, the Council considers it and any recommendations to decide whether to convene an Impaired Registrants Panel (IRP / Panel).

An IRP has the responsibility of inquiring into impairment matters that come to the Council's attention. The Panel consists of two or three members appointed by the Council. Panel members are drawn from a pool of members, which includes psychologists and medical practitioners, all of whom are experienced in working with practitioners experiencing problems with their health. The inquiries and reviews are held at the Council premises and last approximately half an hour to an hour. At the IRP, the Panel inquires into the nature and extent of the practitioner's health problem and its impact on their practice of psychology. Toward the end of the hearing, the Panel will adjourn to discuss the matter. It may do any one or more of the following:

(a) counsel the practitioner or recommend that they undertake specified counselling;
(b) recommend that the practitioner agrees to conditions being placed on their registration;
(c) recommend that the practitioner agrees to be suspended from practising psychology for a specified period; and/or

(d) make recommendations to the Council as to any action that the Panel considers should be taken in relation to the matter.

Where a Panel forms an opinion that conditions are required, it will formulate the conditions before reconvening the hearing. On return from its adjournment, the Panel will explain to the practitioner the implications of its decision and the reasons behind it. If conditions or suspension are proposed, they will then be discussed with the practitioner who will be given an opportunity to respond. Any recommendations by the Panel with respect to conditions will form part of a document known as a *Voluntary Agreement to Conditions of Registration*. This document sets out the practitioner's responsibilities under the conditions as well as their rights in dealing with the Council. Under the Law (NSW) conditions arising from an IRP can only be imposed with the practitioner's voluntary agreement. However, the Law (NSW) provides that should the practitioner fail to agree, the Council may recommend that the matter, which was the subject of the initial referral, be dealt with as a complaint against the practitioner.

Where the Panel believes the practitioner's impairment is of such concern that they should not practise, it may recommend to the Council that the practitioner be suspended from the practice of psychology for a specified period. This is to ensure that the practitioner receives urgent treatment and does not work directly with clients/patients during that time. In that case, the practitioner would be asked to sign an acknowledgment of that notice. Unlike conditions, suspension may be imposed on a practitioner without agreement where the Panel feels that it is warranted and the Council endorses the Panel's recommendation.

Following an IRP, a report is prepared by the Panel which is submitted to the Council for consideration and endorsement. After the Council has endorsed the report, the practitioner is sent a copy. It should be noted that new or altered conditions of registration do not come into effect until the Council endorses the report.

You may already be aware that with the commencement of the National Registration and Accreditation Scheme, health practitioners who have conditions placed on their registration or have been suspended from practising their profession, have those conditions or suspension placed on the Australian Health Practitioner Regulation Agency's national register. It is important to note that any conditions relating to a practitioner's health are kept private and are not disclosed.

Next edition: Conduct Pathways – Course of actions available to the Council

CHANGES TO THE NSW WORKCOVER SCHEME AFFECTING PSYCHOLOGICALLY INJURED WORKERS AND THOSE WHO PROVIDE PSYCHOLOGICAL TREATMENT AND RELATED SERVICES

Thomas O'Neill
Council Member (Psychologist)

The NSW WorkCover changes introduced in July 2012 were designed to encourage and assist injured workers to stay at work to recover, or return to work as early and as safely as possible. The framework embraces the prevention of workplace injury, ensuring employers provide a supportive and safe workplace, focusing on early intervention when an injury occurs and advocating the therapeutic benefits of being at work. The reforms were also designed to provide (1) improved financial and medical assistance for seriously injured workers, and (2) returning the scheme to financial sustainability without increasing employer premiums to compensate for the 2012 deficits.

In the past 12 months, WorkCover has being focusing on arranging a transition to the new legislation, fostering a focus on work capacity rather than incapacity, while also managing cultural and legislative reform.

The scheme supports the less injured worker to recover and achieve a return to work and financial independence. Eighty percent of injured workers return to sustainable employment within three months. The new changes will reduce regulatory burden and simplify the processes for all stakeholders involved in working with the NSW workers compensation system. It also applies to most NSW employees, except: paramedics, police officers, fire fighters, coal miners, workers who make dust claims and emergency service volunteers.

There are several changes to types of claims. A journey claim to and from work is no longer compensable, unless there is a real and substantial nexus between the employment and the incident from which the injury arose. Having a heart attack or stroke at work is no longer necessarily a workplace injury, with a focus now on the employment giving rise to a significantly greater risk to the worker suffering such an injury being demonstrated. Disease injuries are now only compensable if employment was the main contributing factor. This includes claimed psychological injuries and impairment. The reforms accept claims by workers for nervous shock. It does not accept claims of nervous shock when it is not a work injury, or by relatives of an injured worker or a deceased person. However, existing statutory compensation death payments remain.

Workers receive up to 95 percent of their Pre-Injury Average Weekly Earnings for the first 13 weeks. Between 14-130 weeks, these reduce to levels depending on work capacity and earnings. Details of the financial and other changes can be found on www.workcover.nsw.gov.au. An impairment is required for continued entitlement to benefits from 130-260 weeks. After this period (5 years), benefits will cease except for seriously injured workers or those with greater than 20 percent permanent impairment who have no work capacity, or who are working significantly reduced hours with lower earnings.

WorkCover introduced a new regulatory process for the provision of psychological treatment in 2010. It required service providers to register with the scheme to provide treatment services, as well as requiring practitioners to attend mandatory training in understanding treatment principles within WorkCover's operational and regulatory framework. In particular, there is a focus on early intervention and return to work. Six sessions of intervention are now automatically provided for reasonably necessary treatment to those injured workers receiving psychological or counselling

services for the first time, and once referred by the nominated treating doctor. Treatment plans are then submitted for any treatment deemed reasonably necessary after this point, and every subsequent six sessions. A treatment plan is required at the start of treatment if a client has received prior psychological intervention. This can be clarified with the case manager when approval for services is sought. Psychologists are reminded that treatment is deemed by WorkCover to be reasonably necessary when:

- there is a clear link between treatment and the workplace injury;
- the treatment and provider are appropriate;
- treatment effectiveness is demonstrated by reducing distress and enhancing functioning, including a return to work;
- there is acceptance of this treatment amongst professional peers;
- alternative treatments have been considered; and
- the treatment is cost effective.

The Psychology Council of New South Wales (Council) has considered areas where complaints may arise for psychologists working in this therapeutic context. These include, but are not limited to:

- not explaining and clarifying the limits to confidentiality;
- failing to provide evidence based practice;
- over servicing;
- charging for cancelled appointments;
- charging for services not provided;
- blurring of professional boundaries (for example, becoming an advocate throughout the journey of a claim, or taking adversarial positions in navigating the need for treatment and supporting claims for impairment);
- providing treatment for a presentation that is not substantially related to injury
- providing inappropriate reports; and
- failing to comply with contracted agreement to provide psychological treatment services to WorkCover.

Psychologists are referred to the Psychology Board of Australia's Code of Conduct, in particular to sections pertinent to managing confidentiality, dual relationships, working with multiple parties, working within areas of competence and report writing. The following reference documents are also available on the WorkCover website: the 'Psychologists and Counsellor's Guide to WorkCover NSW' and the 'Treatment Principles for the Provision of Psychological and Counselling Services'.

The Council continues to receive a volume of complaints per year regarding processes and reporting of assessments conducted for pre-liability consideration, independent assessment of psychological status and need for treatment under the WorkCover Scheme. The Council supports past correspondences issued by the NSW Psychologists Registration Board to the profession in dealing with such matters. Ensuring you have the worker's written consent, and providing an outline (preferably in writing) of the assessment processes and potential consequences of findings, should enhance transparency of your role and actions, and the worker's perception of due process. Advising paths of recourse if they are dissatisfied with the outcome of an assessment and its report may minimise potential complaints. Workers normally receive a Section 74 Notice from an insurer if liability for any aspect of a claim is being denied. If the concerns are about the outcome of liability determination and/or disputes about this, and/or other claims processes, these paths are:

- Request the insurer to conduct an internal review of the findings and decisions
- If the worker is still unhappy with this outcome, he/she can contact the WorkCover Assistance Service on 131 500 who will, in a timely manner, review whether the insurer has made a soundly based decision in determining liability for a claim, treatment or other benefits.
- If the worker is still not satisfied with this outcome, refer the case to the Workers Compensation Commission. A worker may self represent or employ the services of a solicitor. There is no provision for legal costs, although assistance may be given by the WIRO (see below). Note Myra that I deleted the sentence on arbitration for impairment and treatment disputes, as this is complex to explain and is beyond the purpose of this document.

If the matters concerned about relate to Health, Performance or Conduct of you as a Psychologist, the matter may be referred to the Council by the worker, an associated party or any member of the public.

Finally, WorkCover has introduced work capacity assessments which are ongoing processes of assessing and re-assessing capacity for work throughout the life of a claim. The assessment is not "a test", nor a one off assessment. It will be a multidisciplinary and evidence based process to determine what level of capacity an individual has, whether that be for pre-injury or alternative employment, with or separate from the same employer. Insurers are now responsible for making these determinations which are binding. Multiple sources of information gathering may be used to assess this capacity for claimants to work, including NSW Work Capacity Certificates (these have replaced the NSW WorkCover Medical Certificates), independent psychological assessments, response to treatment, opinions formed by treating practitioners, functional assessments, evidence of a claimant working to capacity in other areas of life, including another job role, and other sources of information about function.

Given the threat to financial security that may evolve as a result of a work capacity evaluation, the Council is mindful of potential complaints against psychologists that may be made, for reasons similar to those already involved with pre-liability and other independent assessments. In addition to the advice provided above, if there is a dispute about work capacity, a worker can request an internal review be conducted by the insurer. If the worker is dissatisfied with the outcome of that process, he/she can request a merit review conducted by WorkCover. If the worker is not satisfied with WorkCover's response, then he/she can refer concerns to the new WorkCover Independent Review Officer (WIRO) for procedural review. The WIRO is responsible for:

- investigating complaints made by workers about insurers when entitlements, rights and obligations are affected, with recommendations being made for possible actions an insurer or worker may take;
- reviewing work capacity assessment decisions made by insurers;
- ensuring that employers and insurers have high quality complaint resolution processes in place;
- reporting annually to the NSW Parliament on their responsibilities; and
- administering the Independent Legal Assistance and Review Service.

PRACTICING AS A PSYCHOLOGIST IN RURAL AND REMOTE AUSTRALIA
Dr Robyn Vines
Council Member (Psychologist)

The story of our country indicates that there are progressively becoming "two Australias" separated by a Great Divide stretching between Port Douglas in far north Queensland and Eucla on the Great Australian Bight. In the east lies "heartland Australia", a globally connected nation of 19 million people; to the west lies "frontier Australia", a vast resource-rich state with only three million people (Salt, 2011). In parallel, there are large inequities in health service provision across the country and, whilst considerable effort has been made over the past 20 years to resolve the problem, there remains enormous difficulty in recruiting and retaining health practitioners, including psychologists, to regional, rural and particularly remote ("RRR") Australia.

On the whole, Australia's rural and remote populations have poorer health than those in the city. Life expectancy declines with increasing remoteness (more so amongst men than women). The gap is widening between urban and rural people, with life expectancy increasing more than 20 per cent faster for residents of metropolitan compared to rural areas (Cresswell, 2008). People living in rural and remote communities also have particular risk factors and mental health needs associated with isolation and exposure to environmental hazards such as drought, flood and fire. The impact of drought alone, and the consequent enormous financial stress on farming families, has been found to lead to anxiety, depression, family breakdown, grief and anger. Unpredictable weather (intrinsic to rural life) also forms a back-drop to other occupational hazards – such as working with dangerous machinery and farming accidents, equipment breakdowns, exposure to dangerous chemicals, changing government regulations/legislation, lack of leisure time/long hours, difficulties for couples in balancing roles with the increasing need for off-farm work – all of which combine to create higher health risk levels for rural and remote people.

Recruitment and retention of health professionals (GPs, medical specialists, psychologists and others) to "RRR" communities in Australia are major challenges, with the majority of health service providers residing and working in the large cities. Access to specialist mental health professionals is particularly limited beyond the main metropolitan centres, and rural residence has been found to be negatively correlated with frequency of use of both psychologists and psychiatric services (Parslow and Jorm, 2000).

There are therefore unique pressures on those who choose to undertake work as a psychologist in "RRR" Australia. The work is demanding and services scarce (as outlined above), and professional support (including professional development) limited. Those who choose to live in rural and remote locations are personally subject to many of the same pressures as their clients, and the work itself has unique issues (such as managing the "dual relationships" inherent in living in small towns and isolated locations).

The Psychology Council is hoping to focus on the unique needs of psychologists practising outside the metropolis, providing a continuing focus on these issues in ongoing editions of the newsletter.

Resources
See Vines, RF "Equity in health and well-being: Why does regional, rural and remote Australia matter?" (InPsych, October, 2011) - http://www.psychology.org.au/Content.aspx?ID=3960

References
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PSYCHOLOGY COUNCIL of New South Wales

ETHICAL VIGNETTES

Case 1

You live in a small rural town and while at the local farmers market with a group of friends one of your neighbours approaches you. You know him to be a good friend of a patient of yours who you are treating for depression and anxiety. He says that he has very important information about your patient that he wishes to tell you, that he says will be critical to the therapeutic work you are doing. How do you respond? What are the ethical issues?

Case 2

(a) You have been treating your patient for several months for dysthymia; there are also some personality issues in the presentation, including longstanding problems with emotional regulation. Your patient is currently engaged in a difficult custody contest in the family court, and asks you to write a report for them for the court. Should you agree to write the report? What ethical issues would you need to keep in mind in doing so?
(b) You write the report, and give a copy to your patient. Your patient then asks you to amend the report with additional information they have about their ex-partner that they haven't previously disclosed in therapy. Should you amend your report? What ethical issues would you need to keep in mind in doing so?

The Council encourages you to reflect on these issues and where appropriate raise them for discussion in supervision, or just informally with fellow practitioners.

The Council also invites you to provide “solutions” and will publish the best one in the next issue of the Council’s newsletter. Word limit = under 500.