



# Saskatchewan College of Psychologists

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## Member Advisory

### Limitations Act

The College recently received notice from Saskatchewan Justice that the *Limitations Act* will be proclaimed in force on May 10, 2005. The Act applies to all professional groups in the province of Saskatchewan. The Act establishes limits of time during which an individual can take action/make a claim against a professional when they believe that they have been wronged. The Act defines an action or claim as “a claim to remedy an injury, loss or damage that occurred as a result of an act or omission.” The existing legislation identifies exceptions with regard to limitations of actions in cases relating to sexual abuse/assault, persons with a disability and certain other assaults, and these will continue to apply. The *Limitations Act* will make the time limits for action the same across professions, and will according to Saskatchewan Justice “clarify and modernize the law relating to limitation periods in Saskatchewan.”

Under the present legislation, the *Limitations of Actions Act* (amended 2001), action can be taken against a psychologist within six years after the cause of action arose. Section 3(1)(j) of the *Limitations of Actions Act* states:

#### “Periods of Limitation

3(1) The following actions shall be commenced within and not after the times respectively hereinafter mentioned:

(j) any other action not in this Act or any other Act specifically provided for, within six years after the cause of action arose.”

The *Limitations Act* will decrease the time limit for initiation of action from six years to two years “from discovery of the cause of action,” with an outside limit of 15 years in some situations. Thus an individual has two years from the day that they knew or ought to have known that damage/injury had occurred. Exceptions to this are outlined in the Act.

Of particular importance to all psychologists and especially those working with minors, the mentally ill, or with those deemed “not competent to manage his or her affairs or estate and are (is) not represented by a guardian” pursuant to the *Public Guardian and Trustee Act* or the *Adult Guardianship and Co-decision-making Act* is that limitation periods do not apply for the time during which the claimant is either a minor or is incapacitated by mental disability. Theoretically, therefore, in the case of a minor the outer limits of the limitation period could be 15 years from the time they legally become an adult. Again theoretically, in the case of the mentally disabled the outside limit for taking action could be indefinite.

The *Limitations Act* has implications for all psychologists. Liability coverage and record keeping are central (especially for those individuals who are in private practice). An action theoretically could be initiated against a retired member for events which occurred during a

period of practice, therefore, the College strongly recommends that members ensure that they have adequate insurance coverage for liability, and maintain their records for a suitable period of time.

Members are urged to give serious consideration to purchasing their own liability insurance in addition to any potential employer coverage. An employer may receive legal advice to claim that a member was not acting in a manner consistent with the employer's standards in order to limit employer liability. Further, the College advises that members download a copy of the *Limitations Act* from the Queen's Printer website at [www.qp.gov.sk.ca](http://www.qp.gov.sk.ca) (until proclaimed – Bill 51), and consult with legal counsel if necessary.