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Membership Advisory

Legislation Relevant to Privacy Issues for Psychologists: Saskatchewan

Psychologists are expected to know the legislation relevant to the practice of their profession and in particular to have a working knowledge of legislation relevant to their specific area of practice. This list is provided as an aid to facilitating knowledge of legislation relevant to privacy issues in the practice of psychology in the province of Saskatchewan. It is not an exhaustive list. Legislations is constantly added, removed and amended. Psychologists should note that there may be instances where several different acts apply to a particular circumstance, and some may take precedent over others. Psychologists are therefore advised to study all of the acts carefully. Legislation typically also has regulations that should be consulted. This list is intended to be a helpful educational document and is not a substitute for, and may not be relied upon, as legal advice. The list should not be viewed as wholly inclusive, and is current to July 2020.

SASKATCHEWAN LEGISLATION		
	Name	Purpose of the Legislation and Relevance to Privacy Issues for Psychologists
1.	<i>The Psychologists Act 1997</i> https://publications.saskatchewan.ca/api/v1/products/781/formats/1200/download	Regulates the profession of Psychology and its practice. The Act requires compliance with all prevailing bylaws and the Canadian Code of Ethics for Psychologists. The Code identifies responsibility in regard to consent, confidentiality and privacy. The Code is to be augmented by the SCP Professional Practice Guidelines which speak again to the issues of consent, confidentiality and privacy.
2.	<i>The Freedom of Information and Protection of Privacy Act</i> https://publications.saskatchewan.ca/api/v1/products/527/formats/694/download <i>The Freedom of Information and Protection of Privacy Regulations</i> https://publications.saskatchewan.ca/api/v1/products/1128/formats/1893/download	<p>The legislation speaks to the right of access to information possessed or controlled by government, subject to certain exemptions (e.g. cabinet decisions, information requested by law enforcement). The establishes rules for how the government may collect and use personal information. It includes special provisions and some exemptions regarding several of the other acts which specifically govern privacy and confidentiality issues for psychologists (Section 23 of the Act).</p> <p>Speaks to the process by which is to be utilized to access information in the control of the government.</p> <p>Provides additional legal regulations to be consulted in conjunction with the <i>Freedom of Information and Protection of Privacy Act</i>.</p>

<p>3.</p>	<p><i>The Local Authority Freedom of Information and Protection of Privacy Act</i></p> <p>https://publications.saskatchewan.ca/api/v1/products/605/formats/850/download</p> <p><i>The Local Authority Freedom of Information and Protection of Privacy Regulations</i></p> <p>https://publications.saskatchewan.ca/api/v1/products/1243/formats/2123/download</p>	<p>The legislation speaks to the right to access information held or controlled by a local authority, such as a municipality, board of education, hospital or special-care home. The Act also establishes privacy rules for how a local authority may collect and use personal information.</p> <p>Part III 22 (3) Speaks to exemptions under the Act where other legislation appears to be in conflict with requirements under LAFOIP.</p> <p>Psychologists are trustees under HIPA. It is important to note that the College position is that this includes those psychologists employed by school divisions. Part III 23(1.1) of LAFOIP states: On and after the coming into force of subsections 4(3) and (6) of The Health Information Protection Act, with respect to a local authority that is a trustee as defined in that Act, “personal information” does not include information that constitutes personal health information as defined in that Act.</p> <p>Provides additional legal regulations to be consulted in conjunction with <i>The Local Authority Freedom of Information and Protection of Privacy Act</i>.</p>
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6.	<p><i>The Mental Health Services Act</i></p> <p>https://publications.saskatchewan.ca/api/v1/products/626/formats/892/download</p>	<p>Provides guidelines for the treatment of people with mental illnesses. Specifies the conditions and procedures under which a certificate of committal may be enacted. Contains specific provisions regarding the confidentiality and release of information about patients receiving services under the Act.</p>
7.	<p><i>Child and Family Services Act</i></p> <p>https://publications.saskatchewan.ca/api/v1/products/460/formats/561/download</p>	<p>Provides for the delivery of services in consideration of the well-being of children in need of protection while attempting to maintain, support and preserve the family in the least disruptive manner.</p> <p>Identifies the duty to promptly report where a person has reason to believe a child needs protection “notwithstanding any claim of confidentiality or professional privilege...”.</p> <p>Contains specific provisions regarding the confidentiality and release of information about children and families receiving services under the Act.</p>
8.	<p><i>Youth Justice Administration Act</i></p> <p>https://publications.saskatchewan.ca/api/v1/products/102824/formats/113946/download</p>	<p>Provincial legislation enacted to implement the federal <i>Youth Criminal Justice Act</i>.</p> <p>See especially s. 15: (f) regarding services provided to incarcerated youth; (g) regarding the preparation and distribution of reports concerning incarcerated youth; (k) regarding records to be kept by those providing services to incarcerated youth; (i) regarding access to any records made or kept pursuant to the Youth Justice Administration Act; (m) regarding conditions governing confidentiality of records.</p>
9.	<p><i>The Children’s Law Act 1997</i></p> <p>https://publications.saskatchewan.ca/api/v1/products/462/formats/565/download</p>	<p>Legislation governing the custody, access and guardianship of children and their property. Particular relevance for psychologists providing services regarding custody and access, guardianship, and the use of parenting coordinators.</p>

<p>10.</p>	<p><i>The Traffic Safety Act</i></p> <p>https://publications.saskatchewan.ca/api/v1/products/12208/formats/18166/download</p>	<p>Concerns operation of motor vehicles and licensing to operate motor vehicles.</p> <p>Psychologists are defined, among others, as medical practitioners. As such, psychologists are required to report on or provide information relevant to the suitability of someone to hold a driver’s license. In regard to this the Act states: 283(1) Any duly qualified medical practitioner shall report to the administrator the name, address and clinical condition of every person who:</p> <p>(a) is 15 years of age or over attending on the medical practitioner for medical services; and</p> <p>(b) in the opinion of the medical practitioner, is suffering from a condition that will make it dangerous for that person to operate a vehicle. (See also Advisory – Duty to Report Under Traffic Safety Act)</p>
<p>11.</p>	<p><i>The Health Care Directives and Substitute Health Care Decision Makers Act</i></p> <p>https://publications.saskatchewan.ca/api/v1/products/84221/formats/97653/download</p>	<p>Health care directives allow those designated under the Act to provide directions about the medical treatment of an individual who they have legal responsibility for, to treatment providers. The individuals designated under the Act may be identified as a close relative, trustee, guardian, proxy. It comes into effect when one is no longer able to make and communicate their own health care decisions and another has been legally identified as having that responsibility and authority.</p> <p>Psychologists may be called upon to decide whether a person is capable of making a decision regarding proposed medical treatment and/or whether that capacity has been restored.</p> <p>See especially s. 5 (4) health care directives relating to treatment for a mental disorder or made by a person certified under The Mental Health Services Act.</p> <p>Psychologists may need to disclose personal health information to a proxy, nearest, relative or guardian to enable that person to make informed health care decisions, and it is crucial to establish the individual’s legal right to that information.</p>

12.	<p><i>Worker's Compensation Act 2013</i></p> <p>https://publications.saskatchewan.ca/api/v1/products/9483/formats/14358/download</p>	<p>Provides for the creation of the Workers Compensation Board (WCB) to compensate injured workers and promote workplace safety.</p> <p>Legal opinion obtained by the College identified that under the Act indicated that Psychologists do not have a duty to report a workplace injury if they become aware of it and it has not been reported already. Rather the obligation is to provide the WCB with any injury related health information in their possession if they were consulted about the injury and an injury claim has been made.</p> <p>Specifies duties of health care professionals who provide services to injured workers. Health care provided as part of the compensation scheme is at all times subject to the direction, supervision, and control of the Workers' Compensation Board. Report requirements and payment of services are set by the Board. For example, psychologists must provide reports at the request of the Workers Compensation Board; clients should be clearing informed of this during the informed consent process. Client consent to provide information to E\WCB regarding an injured worker where a claim has been made is not required but is strongly recommended.</p>
13.	<p><i>The Automobile Accident Insurance Act</i></p> <p>https://publications.saskatchewan.ca/api/v1/products/388/formats/417/download</p>	<p>Defines psychologists, among others, as practitioners. A practitioner who is treating or consulting on any case of injury to a person involved in a motor vehicle accident shall provide a report to the insurer in a timely manner after receiving a written request from the insurer. The report shall include information about the consultation or treatment, and any findings or recommendations. Additional reports may be requested at a frequency determined by the insurer.</p> <p>The insurer shall provide a copy of a report to any practitioner designated by the insured.</p> <p>Outlines conditions under which the insurer may refuse to pay, or may reduce, suspend or terminate benefits to a beneficiary on the basis of non-compliance in an examination, treatment or rehabilitation program.</p>

FEDERAL LEGISLATION

14.	<p><i>Access to Information Act</i></p> <p>https://laws-lois.justice.gc.ca/eng/acts/A-1/page-1.html</p> <p><i>Summary:</i></p>	<p>Extends the present laws of Canada to provide a right of access to information in records under the control of a government institution in accordance with the principles that government information should be available to the public, that necessary exceptions to the right of access should be limited and specific and that decisions on the disclosure of government information should be reviewed independently of government. The Act also provides for the proactive publication of certain information.</p>
15.	<p><i>Personal Information Protection and Electronic Documents Act (PIPEDA)</i></p> <p>https://laws-lois.justice.gc.ca/ENG/ACTS/P-8.6/index.html</p> <p><i>Summary:</i></p> <p>https://www.priv.gc.ca/en/privacy-topics/privacy-laws-in-canada/the-personal-information-protection-and-electronic-documents-act-pipeda/pipeda_brief/</p>	<p>Provides national laws which apply primarily to the collection, use or disclosure of personal information, including electronic information, in the course of commercial activities by private sector organizations. This law applies to federally regulated industries (e.g. airlines, banks); the private practice health sector; and any organization that collects personal information in the course of commercial activity.</p> <p>Gives individuals the right to: know why information is collected used or disclosed; expect an organization to treat their information reasonably and appropriately, and not to use the information for any purpose other than that to which they have consented; know who is responsible for protecting their personal information; expect an organization to take appropriate security measures regarding their information; expect information to be accurate, complete and up-to-date; obtain access to their information and ask for corrections if necessary; and to complain if they feel their privacy rights have not been respected.</p> <p>Requires organizations to: obtain consent when they collect, use or disclose personal information ; provide a product or service even if an individual refuses consent for the collection, use or disclosure of their personal information; collect information by fair and lawful means; have personal information policies that are clear, understandable and readily available.</p> <p>Regarding personal health information, PIPEDA is similar to Saskatchewan’s Health Information Protection Act (HIPA) but covers situations which cross provincial, territorial and international jurisdictions.</p>

16.	<p><i>Privacy Act</i></p> <p>https://laws-lois.justice.gc.ca/eng/acts/P-21/index.html</p> <p><i>Summary:</i></p> <p>https://www.priv.gc.ca/en/privacy-topics/privacy-laws-in-canada/the-privacy-act/pa_brief/</p>	<p>Extends the present laws of Canada that protect the privacy of individuals with respect to personal information about themselves held by a government institution and that provide individuals with a right of access to that information.</p>
17.	<p><i>Youth Criminal Justice Act</i></p> <p>https://www.laws-lois.justice.gc.ca/eng/acts/y-1.5/index.html</p> <p><i>Summary:</i></p> <p>https://www.justice.gc.ca/eng/cj-jp/yj-jj/tools-outils/back-hist.html</p>	<p>Legislation regarding criminal justice for youths. Sets out provisions for court-ordered medical, including psychological, assessment and reporting. Includes specific provisions regarding records and information: protection of privacy of young persons, records that may be kept, access to records, disclosure of information in a record, disposition or destruction of records and prohibition on use and disclosure.</p>