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Membership Advisory

Legislation Relevant to Privacy Issues for Psychologists: Saskatchewan

Psychologists are expected to know the legislation that is relevant to the practice of their profession. 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 is current to November 2012.

SASKATCHEWAN LEGISLATION		
	Name	Purpose of the Legislation and Relevance to Privacy Issues for Psychologists
1.	<p><i>The Psychologists Act</i> http://www.qp.gov.sk.ca/documents/English/Statutes/Statutes/P36-01.pdf</p>	Regulates psychologists and contains several provisions regarding the confidentiality and privacy of personal information collected, used and disclosed in the activities conducted by psychologists.
2.	<p><i>The Freedom of Information and Protection of Privacy Act</i> http://www.qp.gov.sk.ca/documents/English/Statutes/Statutes/F22-01.pdf</p> <p><i>Summary:</i> http://www.justice.gov.sk.ca/Freedom-of-Information-and-Protection-of-Privacy-Act</p> <p><i>The Freedom of Information and Protection of Privacy Regulations</i> http://www.qp.gov.sk.ca/documents/English/Regulations/Regulations/F22-01RI.pdf</p>	<p>Allows people to apply for access to information possessed or controlled by government, subject to certain exemptions. The Act also establishes privacy 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.</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> http://www.qp.gov.sk.ca/documents/English/Statutes/Statutes/L27-1.pdf</p> <p>Summary: http://www.justice.gov.sk.ca/Local-Authority-Freedom-of-Information-and-Protection-of-Privacy-Act</p> <p><i>The Local Authority Freedom of Information and Protection of Privacy Regulations</i> http://www.qp.gov.sk.ca/documents/English/Regulations/Regulations/L27-1R1.pdf</p>	<p>Allows people, subject to certain exemptions, to apply for access to information possessed 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 IV 23 (1.1) Exempts personal health information from this act. Instead it defers personal health information to the Health Information Protection Act, which in the case of those hospitalized under the Mental Health Act further defers to 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>
<p>4.</p>	<p><i>The Health Information Protection Act (HIPA)</i> http://www.qp.gov.sk.ca/documents/english/Statutes/Statutes/HO-021.pdf</p> <p><i>The Health Information Protection Regulations</i> http://www.oipc.sk.ca/Updated%20HIPA%20Regs%20-</p>	<p>Legislates the rights of individuals and obligations of “trustees” in the health system with respect to personal health information. Psychologists are “trustees”. Emphasizes the protection of privacy while ensuring that personal health information is available to provide efficient health services. Applies to personal health information in any form, including paper and electronic records.</p> <p>HIPA does not apply to all personal health information in all sites and circumstances. For example, HIPA Part II (Rights of the Individual), Part IV (Collection, Use and Disclosure) and Part V (Access of Individuals to Personal Health Information) do not apply to personal health information obtained under several acts including the Mental Health Services Act, Workers’ Compensation Act, and others. This is an example where psychologists need to understand the particular circumstances under which various legislation may apply.</p> <p>Provides additional legal regulations to be consulted in conjunction with <i>The Health Information Protection Act</i>. Provides conditions under which personal health information may be disclosed, without the consent of the</p>

	<p>%20May%2020101%20-%20H0-021r1.pdf</p>	<p>individual, e.g. to the Health Quality Council, to police officers, to the cancer agency, to the Department of Learning, and for fundraising purposes.</p> <p>Enforced by the Office of the Privacy Commissioner of Saskatchewan.</p>
<p>5.</p>	<p><i>The Privacy Act</i> http://www.qp.gov.sk.ca/documents/English/Statutes/Statutes/P24.pdf</p> <p><i>Summary:</i> http://www.justice.gov.sk.ca/Privacy-Act</p>	<p>Outlines the conditions which protect an individual's privacy with respect to personal information. Gives a right of action, without proof of damage, for wilful violation of a person's privacy without his or her consent.</p> <p>Violations of privacy may include the following: auditory or visual surveillance; listening to or recording a conversation; using diaries, letters or other documents.</p>
<p>6.</p>	<p><i>The Mental Health Services Act</i> http://www.qp.gov.sk.ca/documents/English/Statutes/Statutes/M13-1.pdf</p>	<p>Provides guidelines for the treatment of people with mental illnesses who are apprehended under a certificate of involuntary committal. 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>
<p>7.</p>	<p><i>Child and Family Services Act</i> http://www.qp.gov.sk.ca/documents/english/statutes/statutes/C7-2.PDF</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>Creates a 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> http://www.qp.gov.sk.ca/documents/english/Statutes/Statutes/Y2.pdf</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</i> http://www.qp.gov.sk.ca/documents/English/Statutes/Statutes/C8-2.pdf</p>	<p>Legislation governing the custody, access and guardianship of children and their property. Particular relevance for psychologists providing services regarding marital separation and/or divorce; and/or where a guardian may be appointed.</p>
10.	<p><i>The Traffic Safety Act</i> http://www.qp.gov.sk.ca/documents/english/Statutes/Statutes/T18-1.pdf</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 may be required to report on or provide information relevant to the suitability of someone to hold a driver’s license or have their license suspended.</p> <p>Psychologists shall report a patient who has a medical condition that makes it dangerous for the patient to drive, and continues to drive after being warned of the danger.</p>
11.	<p><i>The Health Care Directives and Substitute Health Care Decision Makers Act</i> http://www.qp.gov.sk.ca/documents/English/Statutes/Statutes/H0-001.pdf</p>	<p>Health care directives give directions about medical treatment to treatment providers. It comes into effect when you are no longer able to make and communicate your own health care decisions.</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</p>

	<p><i>Summary:</i></p> <p>http://www.justice.gov.sk.ca/Health-Care-Directives-and-Substitute-Health-Care-Decision-Makers-Act</p>	<p>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.</p>
<p>12.</p>	<p><i>Worker's Compensation Act</i></p> <p>http://www.qp.gov.sk.ca/documents/English/Statutes/Statutes/W17-1.pdf</p>	<p>Provides for the creation of the Workers Compensation Board to compensate injured workers and promote workplace safety.</p> <p>Psychologists must report an injury that has occurred at work to the Workers Compensation Board, if it has not yet been reported.</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; client consent is not required but is recommended.</p>
<p>13.</p>	<p><i>The Automobile Accident Insurance Act</i></p> <p>http://www.qp.gov.sk.ca/documents/English/Statutes/Statutes/A35.pdf</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 within six days of 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> http://laws-lois.justice.gc.ca/PDF/A-1.pdf</p> <p><i>Summary:</i> http://laws-lois.justice.gc.ca/eng/acts/A-1/</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.</p>
15.	<p><i>Personal Information Protection and Electronic Documents Act (PIPEDA)</i> http://laws-lois.justice.gc.ca/PDF/P-8.6.pdf</p> <p><i>Summary:</i> http://laws-lois.justice.gc.ca/eng/acts/P-8.6/</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>Enforced by the Office of the Privacy Commissioner of Canada.</p> <p>Regarding personal health information, PIPEDA is very 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> http://laws-lois.justice.gc.ca/PDF/P-21.pdf <i>Summary:</i> http://laws-lois.justice.gc.ca/eng/acts/P-21/index.html</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> http://laws-lois.justice.gc.ca/PDF/Y-1.5.pdf <i>Summary:</i> http://laws-lois.justice.gc.ca/eng/acts/Y-1.5/index.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>