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Membership Advisory

USE OF WAIVER TO MITIGATE LIABILITY FOR COVID19 TRANSMISSION

The Saskatchewan College of Psychologists (College) was recently made aware of a document from the BMS insurance company entitled “Waivers of Liability-Considerations When Resuming Practice” that was sent to members of the profession who they insure. The College has concern about the guidance being offered in particular the following: “A best practice would be to consider having your client/patient sign a waiver acknowledging they will not hold you and/or your clinic, employees or agents responsible if they are exposed to and/or contract COVID-19 as a result of attending at your clinic/office/facility.” The document also provides model language for a waiver.

The document further states: “Asking a client/patient to sign away their legal right to compensation, while possibly offering some degree of protection to the provider, may end up disrupting efforts to establish good patient-practitioner rapport. You should consider your professional and ethical obligations prior to implementing a waiver into your practice, including whether your regulatory body (if applicable) or professional ethics allows you to condition the provision of healthcare services on a signed liability waiver and refuse treatment to a client/patient who chooses not to sign the waiver.”

Please be advised that the College does not endorse the approach being recommended by the insurance company as being “best practice”. Asking or requiring clients as a condition of service to set aside their right to act if they contract COVID19 from contact with a psychologist while receiving services, raises significant ethical concerns. Such action is viewed as conflicting with the profession’s ethical responsibilities, in particular the principle of Responsible Caring. Further, refusing treatment to clients who are unwilling to waive their right to take action while possibly in the interests of the insurer, is not in the best interest of clients. The College cannot and does not endorse such practice.

Members of the profession are called on by the Canadian Code of Ethics for Psychologists and the SCP Professional Practice Guidelines to be open and honest in their communications, and to seek full informed consent from clients. It is especially important at this time to ensure that clients fully appreciate the risks vs benefits of resuming in-person care, and that should in-person care be provided all applicable public health order requirements are observed. Members providing in- person services should clarify as part of the informed consent process that it is impossible to guarantee freedom from virus exposure in the context of in-person services.