ETHICAL AND CLINICAL IMPLICATIONS OF THIRD-PARTY RECORD RELEASE

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DEDICATION

I would like to dedicate this project to my partner, Brayden. He has not only supported me during the development of this project, but also during my entire graduate school journey. He believed in me on the days when I struggled to believe in myself. My success would not have been possible without him.

ABSTRACT

This project includes a critical analysis of the current literature available on the ethical, clinical, and legal implications of third-party record release requests within the counselling context. Due to the limited available literature on the topic of third-party record release requests, this project also includes an application of an ethical decision-making model to a fictional case study to highlight ethical and clinical concerns related to third-party record release requests. The final contributions of this project include a comprehensive list of questions that psychologists should consider when responding to third-party record release requests to respond in an ethical manner as well as a draft manuscript that is based on the content in this project and will be submitted to a peer-reviewed journal.

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LIST OF ABBREVIATIONS

CAP College of Alberta Psychologists
CPA Canadian Psychological Association
EAP Employee Assistance Program

CHAPTER 1: INTRODUCTION AND OVERVIEW

The intent of this project is to provide readers with a comprehensive overview of the ethical, clinical, and legal implications associated with third-party record release. A fictional case study is presented to demonstrate the importance of understanding the ethical and clinical implications of third-party record release. The *Canadian Code of Ethics for Psychologists* (Canadian Psychological Association [CPA], 2017) and the College of Alberta Psychologists (CAP) *Standards of Practice* (2019) are discussed and connected to the fictional case study. Legal considerations, such as case law, that are relevant to the topic are also reviewed. Through the critical analysis of the available literature on third-party record release requests as well as the ethical and clinical implications presented in the fictional case study, this project contributes the following insights and knowledge to the field of psychology:

1) reveals the significant literature gaps concerning ethical and clinical implications of third-party record release, and the need for further research to address these gaps;

2) provides a checklist of questions for psychologists to consider when receiving a request for third-party record release; and

3) includes a final manuscript that has been prepared for publication in the *Journal of Ethics in Mental Health*.

The intent of this chapter is to provide an overview of the importance of appropriately responding to a client's third-party record release request. In this chapter, I include a rationale for the project as well as my statement of personal interest in this topic. This project is centered on the work of Hamberger (2000); therefore, I will provide an overview of Hamberger's (2000) study. I will conclude this chapter by outlining the fictional case study that I will draw upon in

chapter 4 when applying an ethical decision-making model to highlight the ethical and clinical implications of third-party record release.

Preamble

This project adheres to the ethical standards outlined in the CPA (2017) *Canadian Code of Ethics for Psychologists* and the CAP *Standards of Practice* (2019). I agree with the statement made by Kewley (2013), which encouraged professionals who read this project to incorporate the content and recommendations of the project as it fits within the standards of practice of their professional regulatory body.

Throughout this project, the title "psychologist" and "therapist" will be used interchangeably; however, it is recognized that psychologist is a protected title in the province of Alberta, whereas therapist is not. Additionally, the term mental health record, psychological record, and counselling record will also be used interchangeably to refer to a client's private mental health information.

Project Rationale

The importance of examining the ethical implications of third-party record release is evident in the existing practice standards and requirements as set out in the *Canadian Code of Ethics for Psychologists* (CPA, 2017). There are numerous ethical considerations related to third-party record release; however, confidentiality is one of the most imperative ethical values to be aware of. Clients' psychological records contain exceptionally sensitive information that can be damaging to the client's reputation and relationships if released to third parties (Borkosky & Smith, 2015). A psychologist's duty to protect the confidentiality of their clients is at the core of ethical practice as it is fundamental to maintaining a strong therapeutic alliance with clients as well as upholding society's trust in the profession of psychology (Robinson et al., 2015a).

Issues pertaining to confidentiality, such as releasing confidential information to a third-party, present the greatest amount of ethical and legal challenges for psychologists (Robinson et al., 2015a). The importance of properly responding to third-party record release requests for complete disclosure was addressed by Hamberger (2000). Hamberger (2000) created a three-step response protocol for therapists to follow when they receive a request for a complete record release. Hamberger's (2000) protocol recommended therapists to have an in-depth conversation with clients to: 1) educate the client of their rights, 2) explore the potential risks and benefits of releasing the complete record, and 3) review the client's record with them prior to releasing any record information. Hamberger (2000) conducted a multiple-case study where he used his three-step response protocol with 27 of his clients who had submitted requests for complete record release to a third-party. Applying the response protocol resulted in 16 clients (59.25%) rescinding their requests (Hamberger, 2000). Hamberger (2000) suggested that once the client is made aware of the contents of their record and of the potential risks and benefits of releasing said information to a third-party, they may choose not to release their record. These findings suggest that clients are unaware of the contents of their psychological record when making the record release request, which inhibits them from making an informed decision that weighs the risks and benefits of releasing said information. Additionally, these findings indicate that clients may not be aware of their right to refuse releasing their record.

The results of Hamberger's (2000) study highlight the importance of obtaining a client's informed consent prior to releasing their record. Informed consent cannot be obtained if the client lacks awareness of their right to confidentiality or if the client is not aware of the specific information contained in their record. Due to such lack of awareness, the client cannot consider the risks and benefits of releasing their record, and ultimately, the client is denied the ability to

make an informed decision regarding their record release request. When clients are denied the ability to make an informed decision regarding the release of their record to a third-party, the psychologist has violated the rights of the client and failed to uphold their ethical obligations (CPA, 2017).

Hamberger's (2000) protocol effectively upholds the ethical requirements as outlined in the *Canadian Code of Ethics for Psychologists* (CPA, 2017). These ethical requirements oblige therapists to engage the client in three core ethical practices:

1) offer the client enough information so that the client can make an informed decision to give consent,

2) engage the client in a risk/benefit analysis of releasing record information, and

3) ensure the client's consent is not given under conditions of coercion, undue pressure, or undue reward (CPA, 2017).

Following Hamberger's three-step response protocol allows psychologists to uphold their ethical obligation to protect client confidentiality. Given that 21 years has elapsed since Hamberger's (2000) study was completed, this project will expand on Hamberger's (2000) work by providing comprehensive, present-day considerations regarding the ethical and clinical implications of third-party record release. This project will examine these ethical and clinical implications in the context of current practice standards and will provide psychologists with up-to-date best practice recommendations on how to respond to a request for a third-party record release.

Statement of Interest in the Topic

This project was motivated by my desire to ensure that a client's psychological record is not inadvertently used to cause harm to the client either at the time of the release or into the future. My interest in this topic stems from both my professional and personal experiences. As a

front-line worker, I observed clients be apprehensive about receiving counselling out of fear that their psychological record would be used against them by an external party. On a personal level, I have also witnessed loved ones be forced to decide between receiving mental health support and protecting their privacy. Furthermore, from a professional perspective, the lack of literature available on this topic left me feeling ill prepared regarding how to respond to third-party release requests in a manner that upholds my ethical duties as a therapist. As such, I determined that it would be beneficial to provide a checklist of questions that therapists can consider prior to responding to a third-party record release request to ensure they are acting in an ethical manner.

My hope is that this project encourages therapists to critically evaluate how they respond to third-party record release requests and to empower therapists to better uphold the ethical values that protect clients and maintain public trust in the profession of psychology. It is my firm belief that everyone should have access to mental health support; therefore, my underlying goal for this project is to reduce a potential barrier for clients who avoid seeking counselling due to privacy concerns.

Fictional Case Study

The following fictional case study has been created to enhance the reader's understanding of the material discussed in the following chapters. The presented case study is fictional and loosely based on several lived experiences from my perspective. The situation has been designed to offer an example of what a psychologist may experience after receiving a third-party record release request from a client. This fictional case study will be further explored using the CPA's ethical decision-making model (Sinclair & Pettifor, 2017) in Chapter 4.

Lisa is a psychologist in Alberta, Canada, who is working for a community non-profit agency that provides free, drop-in counselling. Lisa has had six counselling sessions with a

30-year-old client, Sam, for self-disclosed extensive family of origin trauma, which has been the focus of the sessions to date. Lisa has recorded highly detailed session notes about Sam's reported trauma. The client revealed during the second session that he was harbouring thoughts of engaging in self-harm (cutting) and has a desire to injure his abusers; therefore, a risk assessment was conducted. Following a formal assessment, Lisa determined that Sam is not currently a risk to himself or others. An extensive safety plan was completed with the client, and it is reviewed by Sam and Lisa on a regular basis. Overall, Sam presents as a motivated client who reports benefiting from therapy. At the end of the seventh counselling session, Sam informed Lisa that he would like for his counselling record to be released to his probation officer. Sam provided Lisa with a signed third-party record release authorization form that he obtained from his probation officer. Sam shared with Lisa that he is proud of his progress in counselling thus far, and he believes his willingness to receive counselling will benefit him at his upcoming probation hearing. Lisa is aware that the agency policy is to release the record upon receiving a signed consent form; therefore, she informs Sam that she will have a copy of his counselling record available for him at their next counselling session.

After taking time to consider the ethical and clinical issues related to releasing Sam's record, Lisa begins feeling immensely uncomfortable with the request. Lisa does not believe Sam is aware of the contents of his counselling record or the potential risks associated with disclosing the information in his record. Lisa believes that if she releases the record and Sam is negatively affected, he will likely not return to therapy. However, Lisa is afraid that if she speaks to Sam about her concerns and shows him his record, he may be upset with her about what she has documented. Both options appear to threaten the strong therapeutic alliance Lisa has established with Sam. Furthermore, Lisa is aware that failing to immediately release the record is

a violation of agency policy, which could result in her being fired from the agency. Being fired would compromise Lisa's financial security as well as negatively affect her reputation as a psychologist. Lisa explains her concerns to her supervisor, who directs Lisa to engage in an ethical decision-making model to resolve the dilemma.

Chapter Summary

The intention of Chapter 1 was to provide a brief overview of the project topic as well as provide a rationale supporting why this topic is important to examine. Chapter 1 concluded with a fictional case study, which demonstrates a potential ethical dilemma that could occur because of a third-party record release request. In chapter 2, I will provide further context for the project. Chapter 2 outlines how the project topic was researched and how literature concerning the project topic was reviewed. Chapter 2 also includes a statement of ethical conduct. In chapter 3, I will provide an overview and analysis of the literature available on the project topic. Due to there being very limited literature available on this topic, the project was modified to apply the CPA's ethical decision-making model (Sinclair & Pettifor, 2017) to the fictional case study presented in this chapter. Chapter 4 includes the application of the ethical decision-making model to the fictional case study to highlight the ethical and clinical implications of third-party record release. In chapter 5, I will provide a checklist of questions to consider when responding to a third-party record release request that were generated from the ethical, clinical, and legal implications addressed in chapter 3 and chapter 4. The strengths, limitations, and potential future direction of the project's topic are also explored in chapter 5. Appendix A encompasses the applied component of this project, and presents the manuscript being submitted for publication in the *Journal of Ethics in Mental Health*.

CHAPTER 2: METHODOLOGY

The purpose of this chapter is to explain how the literature search was conducted. In this chapter, I will outline the search terms and databases used to conduct the literature search for this project. I conclude this chapter with a statement of ethical conduct followed by a summary of the chapter.

Research Process

The literature review for this project was based on available published scholarly articles regarding how mental health professionals should respond to a third-party record release request. Given the limited amount of available research, I broadened the search to include articles that considered ethical or clinical implications of disclosing client record information with a third-party. This helped to reveal new ethical concerns stemming from the relatively new movement to include electronic mental health records on integrated healthcare systems.

I selected articles that were peer reviewed and focused on the release of psychological records. As such, the following keywords were used separately and in combination to obtain resources: third-party release, psychotherapy, protected health information, record, file, health information exchange, counsel*, psychological, mental health, consent for release, authorization, Canada, employee assistance program, insurance. The following databases were used to search for articles: PsycInfo via OVID, CINAHL, ERIC, and Web of Science. The University of Lethbridge library and Google Scholar were also accessed using the same search terms. Articles were also located by reviewing the reference list of articles already located. The search was limited to articles published from the year of 2000 to 2021 as 2000 was the year Hamberger (2000) published his study. The literature search process evolved over 5 months.

Statement of Ethical Conduct

At all times during the completion of this project, I adhered to the standards of the *Canadian Code of Ethics for Psychologists* (CPA, 2017). Submission for ethics approval was not required as this project did not collect data from human participants.

Chapter Summary

This project was developed to be an important resource to assist psychologists in responding to third-party record release requests. The limited amount of literature on this topic highlights the importance of this project. The next chapter, chapter 3, includes a critical analysis of the available literature on third-party record releases for psychological records.

CHAPTER 3: LITERATURE REVIEW

It is my intention in this chapter to explore the ethical, clinical, and legal implications of third-party record release from the perspective of various stakeholders. The ethical, clinical, and legal implications of third-party record release are discussed through a critical examination of existing literature, including the integration of relevant ethical and legal materials. The purposeful structuring of chapter 3 is explained in the following paragraph.

I will begin with an overview explaining how third-party record release is defined in the field of counselling. I will then explore relevant ethical considerations, such as informed consent and record-keeping practices, to provide a foundation for the critical examination of available literature presented in this chapter. Next, I will explore the available literature concerning third-party record release requests. Considering the available literature primarily pertained to third-party record release requests for legal proceedings, I will provide a thorough explanation of the relationship between lack of therapeutic privilege and third-party record release requests to help readers understand the implications of Canadian legal proceedings. I will conclude this chapter with a summary and introduction of the remaining chapters that complete my project.

Third-Party Record Release

In the field of counselling, a third-party record release request, otherwise known as a release of information, refers to the release of information from a client's psychological record to an external source. A client's psychological record typically includes, but is not limited to, any of the following information as deemed relevant to providing psychological activities: consent for treatment; session notes that include, but are not limited to, interventions used to promote change, case conceptualizations, and the client's progress (or lack of); formal assessments (e.g., mental health diagnosis); general assessment (e.g., intake form, developmental history, and risk

assessments); information gleaned from seeking consultation or supervision to better assist the client; letters/reports from third parties (e.g., from the client's physician or social worker); and other types of information and communications, such as appointments, financial records, and test materials (CAP, 2019). A third-party record release can occur either at the request of the client or at the request of an outside person that is affiliated with a counselling agency, medical office, educational institution, legal representative, or a family member. Client records can be requested by third parties for a variety of reasons. In Canada, it is commonplace for psychologists and other mental health professionals to receive third-party record release requests for insurance claims and legal proceedings (Mills, 2014).

Ethical Considerations

Before delving into the available literature on third-party record release requests, I want to introduce the following two important ethical topics that are central to the chapter: informed consent and record-keeping practices. These two topics will be explored in detail to provide readers with a foundation to understand my critical analysis throughout the remainder of the project.

Consent versus Informed Consent

To begin, it is important to highlight the difference between consent and informed consent. In reference to third-party record release, a client's signature on a release of information authorization form may demonstrate a client giving consent; however, it does not imply that the client made an informed decision to consent to the release of their information. Informed consent requires a client's full and active participation in the decision-making process (CPA, 2017, standard I.16). Informed consent is a collaborative process that occurs between a client and a psychologist, not between a client and a consent form (CPA, 2017, standard I.17). In the

following section, I will explore how a client's informed consent can be obtained, which is necessary prior to releasing any information to a third-party (CAP, 2014).

Informed Consent

To uphold the ethical principle of respecting the dignity of the client (CPA, 2017), the client must be recognized as the expert of their life (McSherry, 2004). While it is necessary that psychologists uphold their duty to protect client confidentiality, it is also essential that psychologists respect their clients' right to self-determination by engaging them in the informed consent process to determine if the client wants the information discussed during their counselling sessions to be released to a third-party. Failure to engage the client in a proper informed consent process when responding to third-party record release request can result in harm to the client. For example, the client would be considered harmed if they regret giving their consent to release private information following the release because they were not made aware of the risks associated with their decision prior to giving their consent.

The relationship between client and psychologist can be described as a fiduciary relationship (Robinson et al., 2015b). This means psychologists have a duty to prioritize the client's best interest above their own (Robinson et al., 2015b). Informed consent is necessary to establish a fiduciary relationship (Robinson et al., 2015b). The Canadian Counselling and Psychotherapy Association (CCPA) *Standards of Practice* (2015) identified that informed consent requires clients to make their decision voluntarily, knowingly, and intelligently (2008). The three criteria of informed consent identified by the CCPA will be addressed next.

Voluntarily. In the context of informed consent for third-party record release, voluntarily refers to clients consenting to release their record without pressure, coercion, or powerful incentives to do so (Robinson et al., 2015b). Unfortunately, there are often incentives to consent

to the release of record information presented by third parties. Using Employee Assistance Program (EAP) as an example, a client can be required to consent to the release of their psychological record to EAP as a condition of receiving financial coverage for the cost of counselling (Caustagouy, 2013; Pope, 2015). It is suspected that many clients consent to the release of their psychological record to a third-party payer without realizing that they do not have to give their permission to release their record information if they do not feel it is in their best interest to do so (Borkosky & Smith, 2015; Hamberger, 2000; Koocher & Keith-Spiegal, 2008). It is the psychologist's ethical responsibility to ensure a client's consent "is not given under conditions of coercion, undue pressure, or undue reward" (CPA, 2017, standard I.27). However, as highlighted in this EAP example, clients face a dilemma when they need to choose between protecting their privacy and being able to afford the psychological support they require. In such a circumstance, it is highly unlikely that a client's consent to release record information to the third-party truly meets the condition of voluntarily.

Knowingly. The informed consent condition of knowingly refers to the psychologist explaining sufficient information to the client so that they understand what they are consenting to (Robinson et al., 2015b). In Canada, informed consent must meet the material risk standard, which requires the disclosure of potential risks of the proposed action, the alternatives to this action, and the likely results if no action is taken (Crowhurst & Dobson, 1993). To address the condition of knowingly and meet the material risk standard, the B.R.A.I.N consent model is helpful to use when discussing third-party record release requests (McBride, 2020b). This model not only meets the mandatory standards of informed consent, but also encourages the delivery of information in a therapeutic manner that respects the client's autonomy as the client is engaged

in a collaborative discussion to determine a course of action that is most congruent with their needs.

B.R.A.I.N Consent Model. The B.R.A.I.N consent model is often understood as standing for: benefits, risks, alternatives, intuition, and nothing (Hauck et al., 2016). In this section, I will use the EAP example introduced in the previous section to provide an example of how the B.R.A.I.N consent model can be applied when obtaining informed consent for third-party record release. Of note, the exact benefits, risks, and alternatives will vary for every third-party record release request.

One of the key benefits related to release of information to EAP is that a client will receive financial compensation for services (Pope, 2015). However, it is imperative that psychologists also identify likely risks associated with releasing a record to a third-party payer. Once a client's psychological record is released to the third-party, there is a risk that the client's information will be accessed by someone who the client did not grant access to at time of release (Pope, 2015). For example, when the client's record is released to EAP or another insurer, the information in the record is handled by multiple staff members who are each responsible for various tasks, such as logging information, filing, completing audits, and so forth (Pope, 2015). Each time a different employee has access to the client's confidential record, the likelihood that the client's record information will be unethically disclosed increases.

Koocher and Keith-Spiegal (2008) reiterated the importance of informing clients that the psychologist does not have control over how the third-party payer will use the client's record information once released. For example, employers may use insurance programs that require employee's (i.e., the client's) confidential personal information to be stored at their company headquarters where employers could access the client's private information (Koocher & Keith-

Spiegal, 2008). Clients need to be advised of potential risks related to releasing their record to a third-party; however, the exact risks will vary dependent on who the third-party is. Therefore, I agree with Koocher and Keith-Spiegal (2008) recommendation that clients be directed to speak to the third-party directly for further information of potential confidentiality risks before engaging in any disclosures in counselling.

It is important to explicitly discuss alternatives during the informed consent process as clients may authorize a third-party record release request because they are unaware that alternative options exist (Koocher & Keith-Spiegal, 2008; McSherry, 2004). The benefits and risks associated with each alternative should also be explored (McBride, 2020b). A common example of an alternative that should be discussed is the psychologist writing a letter or report that summarizes the pertinent information in the record rather than releasing the client's complete record to the third-party. In some instances, the third-party will only accept a complete record release. In such situations, psychologists should remind client's that they have the right to not discuss any topic in counselling that they do want the third-party to have knowledge of (McBride, 2020b). Additionally, the psychologist can adopt record-keeping practices that limit the amount of personal information documented in the record to protect the client's privacy. The topic of how record-keeping practices influence the risk associated with third-party record releases will be explored in further detail under the record-keeping section.

A key benefit of the B.R.A.I.N consent model is intuition, which encourages clients to pay attention to what their intuition is telling them in response to the information presented and to take responsibility for the care they receive (Hauck et al., 2016). To address the "I" variable, a psychologist needs to be prepared to slow the informed consent process down and create space for the client to process the information being presented to them (McBride, 2020b). The "I"

variable of the B.R.A.I.N consent model is what transforms the informed consent process from meeting mandatory standards to positioning the client as active, equal partner in the decision-making process. As such, utilizing the B.R.A.I.N consent model also creates opportunity for clients to practice decision-making skills that can positively serve them in other areas of their life outside of counselling (McBride, 2020b).

The B.R.A.I.N consent model has been modified by McBride (2020b) for obtaining informed consent in the counselling context by expanding the "N" variable to also include no/know. In addition to nothing, which encourages clients to consider what would happen if they did nothing (Hauck et al., 2016), no and know refers to clients being reminded that they have the right to say "no" to releasing their record and that they have the right to know what information has been recorded in their record (McBride, 2020b). The "N" variable upholds the requirements of Hamberger's (2000) three-step response protocol, which encouraged psychologists to: 1) review the client's record with them and offer interpretations of what is documented in the record, and 2) remind clients of their right to rescind their consent to releasing their record to a third-party.

Intelligently. The third and last condition of informed consent refers to the client's ability to comprehend the conditions of their consent (Robinson et al., 2015b). Obtaining informed consent in therapy is unique as clients can present as distressed and/or dysregulated at the onset of therapy, when informed consent is being obtained (McBride, 2020b). It is widely accepted in the literature that the prefrontal cortex, otherwise known as the decision-making region of the brain, is offline when dysregulated (Hill, 2015; Porges, 2018). As such, it is the psychologist's ethical duty to explain enough information that is pertinent for the client to make an informed decision in a manner that can be comprehended and retained by the client given

their current state (CPA, 2017; Robinson et al., 2015b). Information presented on a third-party record release consent form that contains complex jargon is unlikely to be retained by a distressed client; therefore, highlighting the importance of actively engaging the client in a relational conversation. During the informed consent process, it is important to check the client's recall and document such as this is an important indicator that the client comprehended the information presented to them (McBride, 2020b).

Specific Details to Include in Third-Party Record Release Consent Form. As previously highlighted, a signed consent form alone does not meet the condition of informed consent. However, psychologists are required to document the informed consent discussion held with the client (CAP, 2019), and obtaining the client's signature on a consent form is an effective way to document the informed consent process. Koocher and Keith-Spiegal (2008) identified the following information should be contained on any consent form authorizing the release of information to a third-party: full name of the person the client information is being released to, what client information is being released, the purpose of the intended use, how the information will be released (e.g., phone, email, fax), the date the form was signed, expiration date of the client giving consent for this information to be released (assuming it is not just a one-time release), risks and limitations of the information being released, the name and signature of the person authorizing the release, the signing person's relationship to the client (if the person authorizing is not the client), and the signature of a witness if the person is signing outside of psychologist's presence.

While Koocher and Keith-Spiegal (2008) recommendations offer a good starting place when creating a consent form for third-party record release requests, Borkosky and Smith (2015) noted that a one-size-fits-all approach to consent forms is inappropriate given that the risks of the

record-release are highly dependent on the purpose of the release and to whom the record is being released to. As such, psychologists should consider adopting a consent form that has room to document the specific risks, benefits, alternatives, as well as the client's reaction to this information on the consent form. Additionally, McBride (2020b) advocated that the consent form should include a statement that the client information is being released to only the named person on the form, that the client information should not be shared with anyone else, and that the released client information should be stored in a secure, confidential manner.

When creating the consent form, psychologists should be mindful of the typical clientele they work with and be prepared to create multiple versions of their consent form dependent on the comprehension level of clients. For a consent form to meet the conditions of intelligently, the client must be able to understand the information presented to them based on their ability to process information (McBride, 2020b). As such, some clients may require information to be presented in more concrete, simplified language than others.

Aspirational Values in the Informed Consent Process. Approaching informed consent from the lens of an ethical responsibility is necessary to uphold the aspirational values of the *Canadian Code of Ethics for Psychologists* (CPA, 2017). Although a signed consent form could potentially meet legal standards, to act on said consent form without ensuring the client truly understands the potential risks of their decision does not meet ethical standards, does not respect the client's moral rights, and has the potential of causing an irreparable rupture in the therapeutic alliance should the client experience harm resulting from the release of information (McBride, 2020b). Pope (2015) made the compelling statement regarding informed consent,

> Perhaps it would be useful to set aside the view of informed consent as simply the patient's legal right and therapist's legal responsibility, and consider it the therapist's

> ethical responsibility – one with potential clinical and therapeutic value – reflecting respect for the patient's freedom, autonomy, and dignity (p. 350).

Pope's (2015) statement reminds all psychologists that their primary responsibility is to empower clients to exercise their right to self-determination by engaging them in the informed consent process (CPA, 2017). The aspirational values of the *Canadian Code of Ethics for Psychologists* (CPA, 2017) encourage psychologists to strive to offer the highest degree of ethical care, rather than focusing solely on meeting mandatory minimum standards outlined in standards of practice.

Record-Keeping Practices

As previously identified, there are instances when a client is required to consent to a third-party record release, such as to receive financial coverage for services; or when a client's consent for disclosure to a third-party is not required, such as in response to a court order. A psychologist's documentation style can have significant implications on the client's privacy, especially when the record is required to be released to a third-party. Although the literature on record-keeping practices exceeds the purpose of this project, I will offer a brief overview of how record-keeping practices relate to third-party record release.

To begin, it is paramount that all psychologists refer to their specific province or territory regulations and legislation on what is required to be documented in client records. Given I am based in Alberta, I will refer to College of Alberta Psychologists (CAP) *Standards of Practice* (2019). CAP has clearly outlined what information is required to be recorded in a psychological record when rendering services to a client or billing a third-party for professional services (2013; 2019). Psychologists must maintain session notes that include the date and substance of each professional service they offer clients, which includes information such as client progress,

relevant interventions used, and any issues pertaining to informed consent or termination (CAP, 2019).

Mills (2014) noted there is a general trend that mental health professionals record intimate details disclosed during therapy in a client's session notes. This trend of keeping highly detailed session notes is not congruent with McBride's (2020c) recommendations, which are aligned with the *Canadian Code of Ethics for Psychologists* (CPA, 2017). The *Canadian Code of Ethics for Psychologists* (CPA, 2017) states psychologists will only collect and record private information germane to the goals of the service being provided (standard I.39). This standard provides psychologists with direction on what information should not be included in session notes.

The *Canadian Code of Ethics for Psychologists* (CPA, 2017) protects client's privacy by discouraging the recording of specific details of the client's life that are not related to the client's counselling goals. By keeping session notes brief, to the point, and focused on client change, it reduces the possibility of client information being misinterpreted or misused by a third-party (Bemister & Dobson, 2011; Bemister & Dobson, 2012; McBride, 2020c). Furthermore, given that all clients have the right to request access to their record at any point in time (CPA, 2017, standard III.14), psychologists should be cognizant of how their record-keeping could impact the therapeutic alliance if the client reads their record. For this reason, it is best practice to write session notes with the expectation that the client will read them (Bemister & Dobson, 2011; McBride, 2020c). Only recording information specific to counselling goals reduces the likelihood that the client will feel embarrassed and betrayed in response to learning what is documented in their counselling record (Bemister & Dobson, 2011).

Inclusion of Third-Party Information. In some instances, a psychologist will receive information about a client from a third-party, such as the client's physician or social worker, and include this information in the client's record. As per CAP (2018), psychologists should be careful when documenting third-party opinions in a client's record and should "clearly identify the source, basis, and limitations of such information" (p. 4). Information should not be collected from a third-party unless the information is directly related to the client's presenting concerns and is required for treatment (CAP, 2018). In the event of a third-party record release request, a psychologist will be required to determine if they need to obtain consent for the record release from the third-party whose information is documented in the client's record or if they are able to redact all third-party information (CAP, 2018); therefore, inclusion of third-party information can complicate the release process. Additionally, if the psychologist has reason to believe that sharing the record with the client can result in significant harm to the third-party whose information is included in the record, then the psychologist may be required to deny the client from reviewing the record (CAP, 2019). As Hamberger (2000) highlighted in his three-step response protocol, it is essential that the client be able to review their record to make an informed decision about the release of their information. As such, including third-party information that may be potentially harmful to the client or the third-party is strongly discouraged, unless necessary for treatment, as it can create considerable barriers to the informed consent process in the event a third-party record release request is submitted. To circumvent this issue, psychologists are encouraged to inform the third-party they are collecting information from that the client has access to their record and has the right to release their record to a different third-party; therefore, the information they are sharing cannot be kept confidential once entered into the client's record (McBride, 2020b).

Another instance when third-party information may be included in the client's record is for marital, family, and group therapy. Although the focus of this project is on individual client records, it should be noted that record release requests can be further complicated in instances when confidential information pertaining to multiple clients is noted in a single record (Knauss, 2006; Koocher, 2020). Psychologists are encouraged to keep separate records for each client versus a joint record that contains documentation regarding multiple clients in order to protect all clients' confidentiality in the event a third-party record release request is submitted (Knauss, 2006). Alternatively, psychologists can maintain a joint record for session notes that summarize the service provided to the couple, family, or group, while still having separate records for each client to record any sensitive information specific to the individual (Reamer, 2005). Both approaches to record-keeping protect client privacy, as no private information about individual clients is recorded in the joint record; therefore, private information regarding other clients will not be disclosed in the event the joint record is released to a third-party.

Open Notes. In addition to limiting the number of personal details and third-party information documented in a client record, adopting open record-keeping practices can further reduce the likelihood of harm caused to the client due to a third-party record release. Open notes refer to the process of inviting clients to read their session notes, and in some instances entails clients having access to a secure portal that contains their psychological record so that they can review their record as needed (Blease et al., 2020; Chimowitz et al., 2020). Those in support of open notes have suggested that open notes promote client autonomy and empowerment by positioning the client as an equal partner in the therapeutic relationship (Blease et al., 2020). Additionally, reviewing session notes can assist clients in remembering important processes and insights that occurred during counselling (Blease et al., 2020; Chimowitz et al., 2020).

Those against open notes typically cite concern that reading session notes may result in client confusion and could even harm the therapeutic alliance if the client does not agree with the information being documented, such as if the client disagrees with a diagnosis given by the psychologist (Blease et al., 2020; Chimowitz et al., 2020). Additional concerns related to open notes pertain to the belief that this practice is not feasible given time restraints and would increase the workload of mental health professionals (Blease et al., 2020; Chimowitz et al., 2020). However, Chimowitz et al. (2020) found that none of the participating therapists (n = 17) who adopted an open notes practice experienced these commonly cited concerns. In contrast, the open notes process was found to strengthen the therapeutic alliance, increased client's recall of what occurred in sessions, and had little impact on therapists' workload (Chimowitz et al., 2020).

Adopting an open note practice would likely save psychologists time and effort in the event a record is requested to be released to a third-party as the psychologist would not have to review the entire client record with the client prior to releasing it. Additionally, because record releases to third-party payers are typically continuous wherein insurance companies require updates following a certain number of sessions, an open notes approach would increase the client's ability to give informed consent to the ongoing release of their information as the client is continuously informed of the exact information being released.

In summary, I have identified two main points to minimize harm to clients when third parties request client's private information be released to them. First and foremost, the psychologist and client need to engage in an informed consent process that ensures clients are made aware of the risks and alternatives to third-party record release. Second, psychologists are encouraged to adopt record-keeping practices that respect the client's right to privacy and protect

the client's dignity in the event the record is released to a third-party. In the following section, I will introduce the available literature on third-party record release requests.

Available Literature on How to Respond to Third-Party Record Release Requests

By and large, literature on third-party record release requests is lacking. Even the very detailed and useful research by Hamberger (2000) that outlined his three-step response protocol for responding to third-party complete record release requests seems to have been largely neglected in the literature as evidenced by the fact that this informative article has only been cited four times, and only one of these articles directly pertained to the topic of third-party record release requests. When conducting the literature review for this project, I could only locate one article that offered a formal set of recommendations on how to respond to third-party record release requests, and the recommendations of this article were limited to responding to record release requests for legal proceedings in America (Borkosky & Smith, 2015).

It seemed most of the available literature on the release of psychological information to third parties pertained to the inclusion of psychological records on integrated healthcare systems. Specifically, there appears to be debate regarding the ethical, legal, and clinical implications of including psychological records on integrated healthcare systems wherein multiple external parties may have access to a client's confidential mental health information. The controversies surrounding the inclusion of psychological records on integrated healthcare systems is beyond the scope of this literature review. However, I will explore the topic of shared electronic mental health records in chapter 5 because I believe this is an important future area of study considering electronic mental health records have accelerated the ability to share client's information with third parties, particularly on integrated healthcare systems (Polychronis, 2020).

Record Release Requests for Legal Proceedings

When a client's psychological record is released for legal reasons, the client's right to privacy and the safeguarding of their information is weighted against the legal system's need to use this information to carryout legal proceedings (Borkosky & Smith, 2015). Therefore, psychologists should be prepared to advocate for the protection of the client's confidentiality when a client's record is requested for legal proceedings. While there are numerous risks associated with releasing a client record in the legal context, one of most prominent risks is that the client's mental health history could be used to undermine their credibility in court (Borkosky & Smith, 2015). Beyond the risks related to how the record release could hinder the outcome of the court process, additional risks pertain to court documents becoming public record. Once a record is released to the court, there is a strong risk that the client's confidential information will be accessible to the public, which can result in significant damage to the client's reputation and relationships (Borkosky & Smith, 2015; Jenkins, 2003).

An example of when a client's record may be requested for legal proceedings would be during a child custody hearing. Child custody evaluators often request a parent's psychological record when completing child custody assessments to offer recommendations to the court about parental access to, and custody of children after parental divorce (Ellis, 2010). Ellis (2010) wrote a compelling article urging custody evaluators not to request access to parental psychological records unless this information cannot be obtained in any other way. Although intended for custody evaluators, Ellis' (2010) recommendations also serve as an important reminder to all psychologists to uphold their duty to do no harm and to protect the client's privacy even when faced with external pressure to release record information. For example, rather than releasing the parent's psychological record, the psychologist of the parent could urge the custody evaluator to instead rely on the information obtained during their assessment, as it is the custody evaluator's

responsibility to obtain sufficient information during their assessment to formulate a recommendation (Ellis, 2010). Alternatively, the psychologist can offer to write a summary report of information that is relevant to the custody assessment. However, when writing a summary report, psychologists must ensure they only comment on the behaviour of their direct client and do not offer any opinions that are not grounded in general or formal assessment (CAP, 2019).

Litigation is likely one of the most stressful experiences a client and psychologist will have to endure; therefore, in such circumstances, a psychologist's primary duty should be to protect the therapeutic alliance and the client's privacy to the best of their ability to ensure the client continues to have access to mental health support during this difficult time (Ellis, 2010). Ellis' (2010) statement, "It is the rare patient who doesn't look worse on paper" (p. 142) highlights the very real risk that a client's record can be misinterpreted and subsequently used to cause harm to the client, particularly in the legal context. Protecting the confidentiality of the client's psychological record by appropriately responding to third-party record release requests protects clients from humiliation and other forms of harm related to having the contents of their psychological record discussed in open court (Ellis, 2010).

Hamberger's (2000) article has only been cited twice in the literature with respect to responding to third-party record release requests for legal proceedings. Unfortunately, when Zimmerman et al. (2009) referred readers to Hamberger's (2000) protocol for guidance on how to respond to a record release requests during custody litigation; the authors did not expand on Hamberger's (2000) protocol or provide any additional information related to the topic of third-party record release requests. Fortunately, in 2015, Borkosky and Smith published a practice note that expanded on Hamberger's (2000) work and offered recommendations for how to obtain

informed consent prior to releasing a client record for legal purposes. I will focus on exploring two key pieces of information included in Borkosky and Smith's (2015) article because they are directly related to my recommendations on how to enhance Hamberger's (2000)'s initial three-step response protocol. The relevant information presented by Borkosky and Smith (2015) has been categorized into the following two categories, which will be identified and expanded upon next:

1) Considerations when responding to a signed record release authorization form; and
2) The benefits of including the requesting third-party in the process of obtaining informed consent from the client.

Considerations when Responding to a Signed Record Release Authorization Form

Borkosky and Smith (2015) identified that it is common practice for attorneys to have clients sign blank authorization requests at the onset of their relationship. A client signing a blank authorization request allows the attorney to distribute signed record release requests to relevant service providers, such as mental health professionals. This practice of having client's sign blank authorization forms poses a serious ethical risk for therapists. A client signing a blank authorization form does not meet the standards of informed consent because the client is not aware of adequate information that any reasonable person would expect to know, such as who they are authorizing their lawyer to have contact with and risks associated with this authorization, at the time of their consent (Crowhurst & Dobson, 1993).

To mitigate risks associated with the client signing a blank authorization request, a psychologist can follow Hamberger's (2000) recommendations to:

1) Verify the client's signature is on an authorization form that meets legal standards, which means the form includes the name of the person the record is being released to, which

specific record information is being released, the date the form was signed, and expiration date of consent; and

2) initiate contact with the requesting third-party once the authorization form is confirmed to be valid, which entails the psychologist contacting the requesting third-party.

However, if the psychologist followed Hamberger's (2000) recommendations and did nothing else prior to releasing the record to the attorney, this would be problematic for two reasons: 1) consent does not travel (Crowhurst & Dobson, 1993) and 2) a signed authorization form does not meet the necessary conditions of informed consent, as previously outlined under the informed consent section. The explanation for why consent does not travel will be explored in the next section.

Consent Does Not Travel. Even if the attorney had specifically informed the client that their psychologist would be contacted to request the client's record be released, which Borkosky and Smith (2015) highlighted is often not the case, the client providing consent for their attorney to contact their psychologist does not equate to the client providing consent for their psychologist to speak to their attorney. The consent the client provides to the attorney does not travel to the psychologist. It is the psychologist's responsibility to obtain informed consent directly from the client before speaking to any third-party (CAP, 2014). Even confirming with the attorney that the individual is a client is considered a breach of confidentiality unless the client has provided consent for their psychologist to do so (Robinson et al., 2015b). In any circumstance, if the authorization form for third-party record release was not submitted directly by the client, it is best practice for the psychologist to always confirm the client is aware of the record release request and the related risks of this request before taking any action. By doing so, the psychologist upholds their ethical duties to protect client confidentiality through informed

consent, as well as avoids negative clinical implications that may result from breaches of confidentiality.

Including the Third-Party in the Informed Consent Process

The second important piece of information presented by Borkosky and Smith (2015) was their recommendation that clients be directed to speak with their attorney to explore the legal implications of their decision before consenting to the third-party record release request. While Borkosky and Smith (2015) focus on the legal context of record release, this practice may be appropriate in many other contexts. A key concern related to record release is that the professionals who are requesting the psychological record may not be held to the same ethical standards as psychologists and thereby may not have the same responsibility to protect the confidential information being released. During the informed consent process, it may be beneficial to assist the client in developing questions they have for the third-party regarding how the third-party will protect, store, and distribute the client's confidential information, as well as questions regarding the potential benefits and risks related to the release of information that the psychologist may not be aware of.

The practice of directing the client to the third-party with additional questions can improve the effectiveness of the informed consent process as the client is able to receive information pertinent to their decision-making process from multiple sources. This approach could also have therapeutic benefits, as the client is empowered to develop skills to advocate for their rights to be protected. The release of record information will ultimately have the largest impact on the client; therefore, it is important that the client take an active role in the record-release process.

Legal Considerations for Canadian Psychologists

Privilege

When considering third-party record release requests in the context of legal proceedings, it is important to note a key difference between Canadian psychologists and psychologists practicing in other countries. Psychologist-client relationships are not privileged in Canada (Robinson et al., 2015a); therefore, it should be noted that many recommendations on how to respond to third-party requests for legal proceedings that are written by authors from other countries, such as Borkosky and Smith (2015), are not relevant to the Canadian context. Although it is a psychologist's ethical duty to protect client confidentiality, this is not always possible under current Canadian law (Bemister & Dobson, 2012; Mills, 2014). It is imperative that psychologists be aware of the relevant laws in their jurisdiction and advise clients of existing limitations to confidentiality resulting from these laws.

Subpoena and Court Order. The two main requests to release records to the legal system include subpoena and court order (Robinson et al., 2015a). A subpoena is a document issued by an attorney that must outline the specific information being sought as well as its relevance to the legal proceeding (Robinson et al., 2015a). A subpoena may require the psychologist to go to court to testify, to release documents, or both (Robinson et al., 2015a). While subpoenas warrant a timely response, psychologists are not required to submit all requested information immediately, and they can negotiate with the requesting attorney to determine what information will be released (Robinson et al., 2015a). Additionally, psychologists must obtain consent from the client prior to releasing a record to a third-party in response to a subpoena (Koocher, 2020). Psychologists are urged to stand firm on their refusal to release a subpoenaed record without first receiving informed consent from the client.

In contrast, a court order is issued by the presiding judge and requires immediate response. Psychologists are not legally required to obtain informed consent from the client prior to releasing a record to a third-party in response to a court order; however, psychologists should still make every effort to protect client confidentiality, as per their ethical mandate (Mills, 2014). To fulfill their ethical duty of protecting client confidentiality, psychologists should be aware of Wigmore criteria and be prepared to advocate that the client's record meets these criteria when challenging a court order (Robinson et al., 2015a).

Wigmore Criteria. In this section I will provide an overview of Wigmore criteria along with a commentary of how Wigmore criteria can be used to protect client confidentiality. In Canada, judges can apply the Wigmore test to determine if confidential information should be disclosed during legal proceeding (Robinson et al., 2015a). If the confidential information is deemed to meet the four conditions of Wigmore criteria, then *ad hoc* privilege can be granted, and the record information is no longer required to be released to the court (*M.(A).* v. *Ryan*, 1997). The four conditions of Wigmore criteria are as follows:

1) ***The communication of information occurred within a confidential relationship***. Psychologists use consent forms that outline the many ways the client's privacy is protected to ensure the therapeutic relationship is confidential. The presiding judge needs to be made aware that the client was informed that the information they shared in counselling would remain private, except under certain circumstances that usually involve life and death or protection of a vulnerable person. For example, clients do not expect that their psychological record will be requested by their ex-partner's lawyer to determine if they are a fit parent. As such, the judge needs to know that the

client shared information in counselling under the pretense that it would remain private and not be taken out of context, such as to undermine the client in court.

2) ***The element of confidence is necessary to maintain the relationship***. When addressing this criterion, it is necessary to explain how the aspect of confidentiality is one of the key elements that differentiates a relationship with a psychologist from other types of support the client has access to. The aspect of confidentiality is necessary for clients to feel safe to freely communicate their most intimate, and often stigmatized, concerns (McSherry, 2004). As a result, when a court order demands a psychologist release a client's record to the court, it undermines the element of confidentiality and threatens the trust that is deemed necessary for therapeutic safety. For example, if confidentiality cannot be guaranteed, client's may engage in privacy-protective behaviour by filtering what they share with their psychologist, thereby hindering their ability to fully benefit from therapy (McSherry, 2004).

3) ***The relationship is one that the community believes should be protected and maintained***. When addressing this criterion, psychologists can cite available data that highlights community perspectives of counselling and mental health. For example, in the 2012 Canadian Health Survey, counselling was the most common type of mental health care need identified by respondents (Statistics Canada, 2013). This statistic highlights that Canadian's recognized the need for counselling services to address mental health concerns and thereby it can be assumed that Canadians would believe that the therapist-client relationship should be protected and maintained. Thus, it should be highlighted that when an attorney demands they have the right to see a client's psychological record it undermines the important role the therapist-client

relationship has in addressing the highly prevalent mental health concerns of Canadians (Statistics Canada, 2013).

4) ***The damage done to the relationship resulting from the disclosure will be greater than the benefit gained to the legal proceeding from the disclosure***. This criterion requires the psychologist to explore two different aspects of the disclosure. First, the psychologist should explain the potential harm that would be caused to the client if confidentiality is broken through disclosure. Potential examples of harm include: the client may experience high levels of psychological distress related to having their highly sensitive personal information shared in public (Ellis, 2010; Jenkins, 2003); the client may experience stigma and prejudice resulting from their mental health diagnosis (Borkosky & Smith, 2015); and the release of client record can be highly damaging to the therapeutic relationship and may result a rupture in the therapeutic alliance that cannot be repaired, thereby severing the client from mental health support (Jenkins, 2003). The anticipated damage done to the client because of the disclosure will be specific to the information documented in the record; however, in all instances, it is worth noting that there is a high potential that the client will not seek future mental health support out of fear that information disclosed in counselling will be used against them again in the future (Ellis, 2010). Second, the psychologist should explore if there is any potential benefit to disclosing the record information in court. The judge may be assuming that the record contains a wealth of information that is relevant to the legal case; however, in many instances this is not true (Ellis, 2010). If the psychologist has not recorded specific details related to the focus of the

legal proceeding, the psychologist can advocate that is unlikely that disclosure of the record information will benefit the legal proceeding more than it will harm the client.

Wigmore criteria empowers psychologists to not only protect client confidentiality in response to a court order, but also to protect themselves by reducing the damaging effects disclosure to legal proceedings can have on the psychologist. In Jenkin's (2003) qualitative study, 77 therapists in the United Kingdom, where therapists also do not have privilege, completed a questionnaire regarding their experience with disclosing client record information for legal proceedings. The surveyed therapists identified that both their clients as well as themselves experienced unanticipated adverse effects as result of the disclosure of record information to the court (Jenkins, 2003). Even though the clients had consented to their attorney requesting the release of their record information from their therapist in 75% (n = 58) of the discussed cases, the therapists noted that clients experienced a range of damaging effects because of the disclosure, such as high levels of anxiety due to their personal information being made public and the record information being used against them reduce the compensation they claimed (Jenkins, 2003). Regarding their personal experience, therapists described the experience of being required to disclose confidential information to the court as being highly distressing, reporting feeling violated and powerless due to being unable to control how their record information was used (Jenkins, 2003).

The main positive outcome associated with being required to disclose client information to the court identified by participating therapists was that it encouraged them to adopt more proactive approaches to responding to future court-orders and third-party record release requests (Jenkins, 2003). One of the main intentions of this chapter was to offer information that encourages therapists to modify their perspectives of, and their response to third-party record

release requests to prevent both clients and therapists from having to experience the damaging effects of third-party record release that were reported by therapists in Jenkin's (2003) study.

Conclusion

The intent of this chapter was to provide a critical review of literature on third-party record release requests. Given the lack of available literature on this topic, this chapter included additional literature that relates to the broader clinical and ethical implications of third-party record release requests. This chapter provides context for the next chapter, when I will explore the fictional case study introduced in chapter 1 through the lens of the CPA's ethical decision-making model (Sinclair & Pettifor, 2017). In the final chapter, chapter 5, I will include a checklist of questions that therapists should consider when responding to third-party record release records that is based on an integration of the information presented in this chapter with the information included in chapter 4.

CHAPTER 4: ANALYSIS OF FICTIONAL CASE STUDY

The purpose of this chapter is to explore the fictional case study that was introduced in chapter 1. Throughout this chapter, consideration is given to the ethical and clinical implications for the therapist, client, and society.

Canadian Code of Ethics for Psychologists

In this chapter, I will introduce the *Canadian Code of Ethics for Psychologists* (CPA, 2017), herein referred to as the *Code*, and the CPA's ethical decision-making model (Sinclair & Pettifor, 2017). The 10 steps of this ethical decision-making model are followed to explore the ethical considerations present in the fictional case study.

The *Code* is based on four core ethical principles that should be considered and balanced when engaging in ethical decision making: 1) Respect for the Dignity of Persons and Peoples, 2) Responsible Caring, 3) Integrity in Relationships, and 4) Responsibility to Society (CPA, 2017). It may not be possible to give each principle equal weighting when making an ethical decision, and circumstances may result in the ethical principles themselves conflicting. As such, the four principles have been ordered according to the weight each should be assigned when principles conflict. Respect for the Dignity of Persons and Peoples is given the highest weight of importance (Sinclair & Pettifor, 2017).

In Canada, psychologists are required to follow the professional standards of practice as outlined by their provincial or territory regulatory body. In Alberta, psychologists are regulated by the College of Alberta Psychologists (CAP) who determine *Standards of Practice* (2019) as well as provide practice guidelines to assist members in integrating the principles of the *Code* into their daily practice.

Principles and Standards of the Code

This section provides a brief overview of how the principles and standards in the *Code* (CPA, 2017) relate to the topic of third-party record release. The specific standards relevant to the ethical dilemma experienced by the psychologist in the fictional case study will be discussed in detail when applying the 10-steps of the CPA's ethical decision-making model in a later section.

Principle I: Respect for the Dignity of Persons and Peoples

Principle I includes the following values: general rights, non-discrimination, fair treatment/due process, informed consent, freedom of consent, protections for vulnerable individuals and groups, privacy, confidentiality, and extended responsibility (CPA, 2017). The values of Principle I urge psychologists to respect clients' moral right to privacy, confidentiality, and self-determination. Although psychologists have a responsibility to respect the dignity of all individuals that they come into contact with in their role, a psychologist's greatest responsibility is to the person in the most vulnerable position (Sinclair & Pettifor, 2017). Generally, the individual receiving the direct service from the psychologist is deemed to be in the most vulnerable person due to the power differential that is inherent to the therapist-client relationship. As such, regarding third-party record release, a psychologist's primary responsibility is to the client whose information is being requested for release. Developing procedures for informed consent is necessary to provide clients with the opportunity to make decisions that they deem are in their best interest, thereby respecting clients' moral right to self-determination (Sinclair & Pettifor, 2017).

Principle II: Responsible Caring

Principle II includes the following values: general caring; competence and self-knowledge; risk/benefit analysis; maximize benefit; minimize harm; offset/correct harm; care for

animals; and extended responsibility (CPA, 2017). Principle II relates to the expectation that psychologists will only engage in an activity if the potential benefits outweigh the potential harms (Sinclair & Pettifor, 2017). Obtaining informed consent is viewed as being one of the best methods to ensure a client's best interests are promoted (Sinclair & Pettifor, 2017). When considering third-party record release, a psychologist has a duty to consider the potential benefits and risks related to the release request and communicate this information in a manner that can be understood by the client. Principle II highlights important instances when a client's moral rights cannot be guaranteed. In instances when there is a possibility of serious detrimental consequences, such as serious bodily harm; diminished capacity to be autonomous; or a court order, a client's moral right to confidentiality may be disallowed (CPA, 2017). These instances refer to the limits of confidentiality when informed consent is not required prior to disclosing client information to a third-party. In such instances, a psychologist must balance their duty to protect their client's moral right to privacy with their duty to protect the well-being of all individuals, including those who are not directly receiving their services (Sinclair & Pettifor, 2017).

Principle III: Integrity in Relationships

Principle III includes the following values: accuracy/honesty; objectivity/lack of bias; straightforwardness/openness; avoidance of incomplete disclosure and deception; avoidance of conflict of interest; reliance on the discipline; and extended responsibility (CPA, 2017). Psychologists have a commitment to communicate with others in an honest, straightforward, and open manner in order to minimize bias and maximize objectivity (Sinclair & Pettifor, 2017). When discussing third-party record release, psychologists are required to communicate all potential risks and benefits in a straightforward, unbiased manner (CPA, 2017). Additionally,

psychologists are expected to recognize how their own opinions and values influence their actions when responding to a third-party record release request (Sinclair & Pettifor, 2017).

Principle IV: Responsibility to Society

Principle IV includes the following values: development of knowledge, respect for society, development of society, and extended responsibility. Psychologists must be willing to collaborate with individuals from other professions in the pursuit of contributing new information that benefits society; however, collaboration with other professionals to produce knowledge is not valued higher than the need to protect confidentiality (Sinclair & Pettifor, 2017). Obtaining informed consent from clients is necessary to determine what information can be released to other professionals in the pursuit of knowledge that will benefit society (Sinclair & Pettifor, 2017).

Definition of the Ethical Dilemma

The differential weighting of the four principles is a unique feature of the *Code* (CPA, 2017) that assists psychologists in responding to ethical dilemmas (Sinclair & Pettifor, 2017). An ethical dilemma occurs when a conflict exists between a situation and one or more of the following: a psychologist's moral principles, workplace expectations, code of ethics or professional standards of practice, need to adhere to the law, and/or clinical knowledge (McBride, 2020a). When an ethical dilemma occurs, psychologists are encouraged to engage in an ethical decision-making process to determine a resolution to the situation.

A range of ethical challenges can arise when a psychologist receives a request for third-party record release. Due to there being very limited literature on this topic, a psychologist who receives a third-party record release request may be uncertain of how to proceed. As such, the CPA's ethical decision-making model (Sinclair & Pettifor, 2017) will be applied to the fictional

case study that was first presented in chapter 1 to provide an overview of relevant considerations when determining how to respond to an ethical dilemma related to a third-party record release request.

The fictional case study first presented in chapter 1 poses an ethical dilemma because the situation conflicts with the *Code* as well as the psychologist's clinical knowledge, moral values, and workplace expectations. The psychologist is concerned that the client was not properly informed of how the release of his information could cause harm to him, thereby violating ethical standards related to informed consent and do no harm (CPA, 2017). However, to inform the client of the potential risks associated with the record release, the psychologist would need to explain to the client how her sessions notes depict the client in a way that may be negatively perceived by others, which subsequently could result in an irreparable rupture to the therapeutic alliance. The psychologist is aware she could deny the client's record release request; however, to do so would go against the psychologist's moral values as she would be infringing on the client's right to self-determination. Furthermore, to deny the record release request would violate agency policy to release the record upon receiving a signed authorization form; thereby compromising the psychologist's employment and potentially causing harm to the client due to a lack of continuation of care if the psychologist's employment is terminated. To determine the most ethical course of action, the CPA's ethical decision-making model (Sinclair & Pettifor, 2017) will be applied to the fictional case study in the following section.

Applying the CPA's Ethical Decision-Making Model

The following 10 steps are taken directly from the CPA Companion Manual (Sinclair & Pettifor, 2017).

Step 1

Step 1: Identification of the individuals and groups potentially affected by the decision (Sinclair & Pettifor, 2017).

- Primary: Sam (the client), Lisa (the psychologist).
- Secondary: Lisa's supervisor, the probation officer, the client's family (details about them are noted in the record), those present at the probation hearing (e.g., Sam's lawyer, victim of client's offense, client's support system).
- Tertiary: present and future clients of the agency, the discipline of psychology regarding public trust in the profession, and the legal system.

Step 2

Step 2: Identification of ethically relevant issues and practices, including moral rights, values, well-being, best interests, and any other relevant characteristics of the individuals and groups involved, as well as the cultural, social, historical, economic, institutional, legal, or political context or other circumstances in which the ethical problem arose (Sinclair & Pettifor, 2017).

Using the *Code* (CPA, 2017), I can identify 21 standards that are relevant to this dilemma: nine under Respect for the Dignity of Persons and Peoples, five under Responsible Caring, six under Integrity in Relationships, and one under Responsibility to Society (see Table 1). These value categories are used to provide a framework for exploring the ethically relevant issues. My reflections surrounding the relevant value categories and standards are outlined below (see Table 2).

Table 1
The Four Ethical Principles with their Respective Values and Standards

I. Respect for the Dignity of Persons and Peoples	**II. Responsible Caring**	**III. Integrity in Relationships**	**IV. Responsibility to Society**
General respect (1-4)	General caring (1-5)	Accuracy/honesty (1-8)	Development of knowledge (1-3)
General rights (5-8)	Competence and self-knowledge (6-12)	Objectivity/lack of bias (9-12)	Beneficial activities (4-14)
Non-discrimination (9-11)	Risk/benefit analysis (13-17)	Straightforwardness/ openness (13-22)	Respect for society (15-18)
Fair treatment/due process (12-15)	Maximize benefit (18-27)	Avoidance of incomplete disclosure and deception (23-27)	Development of society (19-28)
Informed consent (16-26)	Minimize harm (28-39)	Avoidance of conflict of interest (28-32)	
Freedom of consent (27-30)	Offset/correct harm (40-47)	Reliance on the discipline (33-35)	
Protections for vulnerable individuals and groups (31-36)	Care of animals (48-54)	Extended responsibility (36-37)	
Privacy (37-42)	Extended responsibility (55-56)		
Confidentiality (43-45)			
Extended responsibility (46-47)			

Table 2
Initial Reflections Surrounding the Ethical Issues for the Ethical Dilemma

Relevant Principle/Value/Standard	My Reflections
PRINCIPLE I. RESPECT FOR THE DIGNITY OF PERSONS AND PEOPLES	
Value: General respect	
I.1: Demonstrate appropriate respect for the knowledge, insight, experience, areas of expertise, and cultural perspectives and values of others, including those that are different from their own, limited only by those that seriously contravene the ethical principles of this *Code*.	Regardless of the therapist's opinion on the record release, the therapist needs to respect the client's right to self-determination.
Value: Informed consent	
I.16: Seek as full and active participation as possible from individuals and groups (e.g., couples, families, organizations, communities, peoples) in decisions that affect them, respecting and integrating as much as possible their opinions and wishes. This would include respect for written or clearly expressed unwritten advance directives. Also, when working in an organizational or community context, it would include seeking participation of relevant individuals and subgroups that may not be represented by or may not have a role in formal leadership	The value of informed consent appears to be one of the most relevant standards to consider. This standard suggests that another conversation with the client about their request is warranted so that the therapist can better understand the client's opinion and wishes related to releasing the record.
I.21: If signed consent forms are required by law or desired by the psychologist, the individuals or groups giving consent, or the organization for whom the psychologist works, establish and use signed consent forms that specify the dimensions of informed consent or that acknowledge that such dimensions have been explained and are understood.	This standard suggests that it may be useful for the therapist to create an agency third-party record release consent form that better outlines what specific topics must be discussed with the client prior to the record being released.

I.23: Provide, in obtaining consent, as much information as reasonable or prudent individuals and groups (e.g., couples, families, organizations, communities, peoples) would want to know before making a decision or consenting to the activity. Typically, and as appropriate to the situation and context, this would include: purpose and nature of the activity; mutual responsibilities; whether a team or other collaborators are involved; privacy and confidentiality limitations, risks, and protections; likely risks and benefits of the activity, including any particular risks or benefits of the methods or communication modalities used; alternatives available; likely consequences of non-action; the option to refuse or withdraw at any time, without prejudice; over what period of time the consent applies; and how to rescind consent if desired.	The therapist is aware that in order for the client to make an informed decision about the risks and benefits of record release, he will need to know what is written in his record. Additionally, the therapist did not explain to the client potential risks associated with misinterpretation of what the therapist has written. Again, this standard suggests that another conversation with the client is warranted to ensure all reasonable information is shared with the client. The B.R.A.I.N consent model provides a helpful framework for this conversation.
I.24: Relay the information given in obtaining informed consent in language that the individuals and groups involved understand (including providing translation into another language, if necessary), and take whatever reasonable steps are needed to ensure that the information is, in fact, understood.	This standard suggests that if the client experiences harm because of the record release, the therapist may be liable if the client can demonstrate that he did not understand what he was consenting to.
Value: Freedom of consent	
I.27: Take all reasonable steps to ensure that consent is not given under conditions of coercion, undue pressure, or undue reward.	It may be beneficial for the therapist to explore the reasoning for the client's request in further detail to ensure the client willingly gave consent. It is the therapist's duty to ensure the client is not experiencing conditions of coercion or pressure to release the record from the third-party.
Value: Privacy	
I.39: Collect and record only that private information necessary for the provision of continuous, coordinated or collaborative service, or for the goals of the particular	The therapist's documentation in the client's record does not uphold this standard as the therapist collected information that was not germane to counselling goals (e.g., recorded highly detailed events from the child's

research study being conducted, or that is required or justified by law.	upbringing). The therapist will need to acknowledge this error with the client. If the therapist continues to work with the client, it will be important for the therapist to clarify the purpose of counselling and to not collect or record information unrelated to the presenting concerns.
Value: Confidentiality	
I.45: Share confidential information with others only to the extent reasonably needed for the purpose of sharing, and only with the informed consent of those involved, or in a manner that the individuals and groups (e.g., couples, families, organizations, communities, peoples) involved cannot be identified, except as required or justified by law, or in circumstances of possible imminent serious bodily harm.	This standard suggests that it would be valuable to contact the recipient of the request to inquire about what information they are seeking to determine if a full record release is necessary or if there is specific information that they are looking for that can be provided via a written summary report. A similar conversation should also be had with the client to determine what information he would like to be shared and for what purpose.
Value: Extended responsibility	
I.46: Encourage others, in a manner consistent with this *Code*, to respect the dignity of persons and peoples, and to expect respect for their own dignity.	If the therapist decides to communicate with the requesting third-party, she will do so in a respectful manner and will encourage the individual to respect the client's inherent right to privacy.
PRINCIPLE II. RESPONSIBLE CARING	
Value: General caring	
II.1: Protect and promote the well-being and best interest of primary clients, contract examinees, research participants, employees, supervisees, students, trainees, colleagues, team members or other collaborators, and others.	The therapist has the greatest responsibility to protect the person in the most vulnerable position. Because Sam is the one directly involved in the psychological activity, he is defined as the most vulnerable person in this situation. This suggests that the decision needs to be guided by protecting what is in Sam's best interest, which means Sam's right to privacy and confidentiality is prioritized over the third-party's request for record information.

II.5: Make every reasonable effort to ensure that psychological knowledge is not misinterpreted or misused, intentionally or unintentionally, to harm others.	The therapist is concerned that the amount of content in the client record is extensive, thus it may cause harm if used out of context. It is the therapist's duty to ensure that the information in the record is not used to cause harm to the client at time of release or into the future.
Value: Minimize harm	
II.32: Be acutely aware of the need for discretion in the recording and communication of information, in order that the information not be misinterpreted or misused to the detriment of others. This includes, but is not limited to: not recording or communicating information that could lead to misinterpretation or misuse by those having access to or receiving the information; avoiding conjecture; clearly labeling opinion; and communicating information in language that can be understood clearly by the recipient of the information.	The therapist did not anticipate others would have access to the record when documenting session notes – this can be explained to the client and if it is agreed that the therapist will submit a written summary report instead of a complete record release, then it will be imperative that the therapist be very intentional in how she writes the summary report to limit the possibility of misinterpretation and to avoid conjecture.
II.33: Give reasonable assistance to secure needed psychological services or activities, if personally unable to meet requests for needed psychological services or activities.	If the client decides that he no longer wants to continue working with the therapist, the client should be provided with a referral to a new therapist.
II.42: Do everything reasonably possible to stop or offset the consequences of actions by others when these actions are likely to cause imminent serious bodily harm to themselves or others. This may include, but is not limited to, the possibility of disclosing some confidential information to appropriate authorities (e.g., the police), an intended victim, or a family member or other support person who can intervene.	The therapist would not be required to obtain the client's informed consent to release his confidential information to a third-party, such as his probation officer, if she had reason to believe the client was at risk of causing serious bodily harm to himself or others. However, the therapist completed a risk assessment that determined the client was not at serious risk of causing harm to himself or others; therefore, the client's informed consent must be obtained before disclosing any confidential information.
PRINCIPLE III: INTEGRITY IN RELATIONSHIPS	

Value: Objectivity/lack of bias	
III.10: Take care to communicate as completely and objectively as possible, and clearly differentiate facts, opinions, theories, hypotheses, and ideas, when communicating knowledge, findings, and views.	Regardless of if the client decides to request a complete record release or requests a written summary report from the therapist, the information must be communicated objectively and the therapist cannot change what is written to benefit the client (e.g., the therapist cannot speak about the client's future risk of criminal behaviour because this has never been evaluated and documented).
Value: Straightforwardness/openness	
III.13: Be clear and straightforward about all information needed to establish informed consent or any other valid written or unwritten agreement (e.g., fees, including any limitations imposed by third-party payers; relevant conflicts of interest; relevant business policies and practices; contract information of accountability bodies; mutual concerns; mutual responsibilities; ethical responsibilities of psychologists; likely experiences; possible conflicts; possible outcomes; and expectations for processing, using, and sharing any information generated).	This standard suggests that the therapist needs to be open with the client about her duty to obtain informed consent and clearly communicate all pertinent information to establish informed consent as outlined by the *Code* and her regulatory body. The *Code* encourages therapists to be proactive rather than reactive when obtaining informed consent; therefore, this standard highlights the need for the therapist to modify her approach to discuss her record release protocol with clients earlier on in the relationship.
III.14: Establish procedures for reasonably ready access by a primary client or contract examinee to confidential information about themselves in their psychological record, limited only by what may be required or justified by law (e.g., statutory law; court order; previous agreement; potential serious harm to the physical, emotional, or mental health of the individual or group; violation of the privacy or confidentiality of another individual or group).	This standard, in addition with standard I.40 and supporting case law (*McInerney* v. *MacDonald*, 1992), acknowledge that the therapist can withhold the client's record to prevent potential serious harm to the client. The therapist will need to assess the potential risk sharing this information may have for the client. If determined that sharing the record does not pose *serious* harm to the client, the therapist should have a plan for how she can grant the client access to their record for review should they want to see it.
III.15: Develop easy-to-follow procedures for primary clients and contract examinees to request corrections to any confidential	If the client decides to review his record, the therapist needs to be willing to make corrections to the record if requested by the

information about themselves in a psychological record (e.g., inaccuracies, incompleteness, outdated); be open to making such corrections where warranted; and be open to allowing them to file a note of disagreement with the confidential information in the record if the correction is not deemed warranted.	client. The therapist will be prepared to follow her regulatory body, CAP *Standards of Practice* (2019, standard 7.9).
III.16: Fully explain reasons for their actions to the individuals and groups (e.g., couples, families, organizations, communities, peoples) that have been affected by their actions, if appropriate and asked.	This standard emphasizes the need for the therapist to be transparent about her response to the client's request. The therapist will need to be prepared to explain the reason for her actions to the client, her supervisor, and potentially the probation officer.
Value: Reliance on the discipline	
III.35: Seek consultation from colleagues and/or appropriate others, including advisory groups, and give due regard to their advice in arriving at a responsible decision, if faced with a difficult situation.	The therapist should consult with available colleagues about their perceptions on the situation and possible courses of action to promote objectivity.
PRINCIPLE IV: RESPONSIBILITY TO SOCIETY	
Value: Development of knowledge	
IV.8: Engage in regular monitoring, assessment, and reporting (e.g., through peer review; in program reviews, case management reviews, and reports of one's own research) of their ethical practices and safeguards.	This dilemma has highlighted a need to assess the agency's policy regarding third-party record release requests. The therapist may want to share this dilemma at an agency meeting so that others can learn from the situation. Perhaps there is a need to amend agency policy and to create an agency record release consent form and protocol.

Step 3

Step 3: Consideration of how one's own biases, external pressures, personal needs, self-interest or cultural, social, historical, economic, institutional, legal, or political context and background, might influence the development of or choice between courses of action (Sinclair & Pettifor, 2017).

Lisa may benefit from exploring step 3 with her personal therapist. This practice can protect Lisa's own right to privacy as she will not be required to document intimate details about herself in the decision-making model which is then placed in the client's record that may be released. Instead, Lisa can simply note that step 3 of the decision-making model was explored in personal therapy (McBride, 2020a).

Personal Biases:

- The therapist's moral principles will influence her decision. To function at the highest ethical level, the following six moral principles are encouraged: autonomy, nonmaleficence, beneficence, justice, fidelity, and veracity (Corey et al., 2019; Kitchener, 1984). The moral principles could be applied to this ethical dilemma as follows:
    - Autonomy: a therapist who highly values autonomy may believe it is their duty to protect the client's right to self-determination above all else. From this lens, Lisa would likely recognize that the intent of informed consent is to promote the client's right to self-determination (Robinson et al., 2015b) and be motivated to engage the client in a meaningful conversation discussing information that is necessary for the client to make an informed decision.
    - Nonmaleficence: a therapist who highly values nonmaleficence may believe it is their moral duty to prevent actions that have the potential to cause harm. Lisa may feel obligated to speak up and educate the client and others about how the practice of third-party record release can cause harm to the client.
    - Beneficence: a therapist who highly values beneficence is likely driven by a desire to do good and promote well-being of clients and society. Lisa may recognize that protecting client confidentiality allows her to do good by creating an environment where client's feel safe to share their most intimate thoughts and feelings. From this lens, Lisa may be hesitant to do anything that could compromise the client's trust in her ability to protect his confidentiality. In contrast, in an effort to do good for society, Lisa may be motivated to share record information if she believes sharing the record information could contribute to the betterment of the community, perhaps by promoting compassion for those involved in the criminal justice system.
    - Justice: a therapist who highly values justice will be motivated to promote social change, particularly for those in vulnerable and oppressed social positions. Given Lisa's concerns with third-party record release, she would likely advocate for policy change at an agency level to ensure all members of society experience the same access to confidentiality.

    - Fidelity: a therapist who highly values fidelity will choose a course of action that places the needs of the client above others, even when experiencing external pressures. In this situation, Lisa would likely engage the client in a transparent conversation about her concerns and then explore potential solutions with the client. Once a decision is made, Lisa would uphold the decision made by the client.
    - Veracity: a therapist who highly values veracity will feel obligated to be honest with all those she interacts with, including the probation officer, the supervisor, and the client.

- Lisa's opinions of the justice system will influence her decision. For example, if she sees a gap in the amount of mental health support individuals with a criminal record receive, her decision may be biased by her desire to ensure the client continues to receive counselling from her.

- Lisa could be biased by her negative feelings about the reported trauma the client endured as a child. This response may result in the therapist experiencing a desire to release the record to have those in control of Sam's freedom understand how his trauma may have influenced his current life circumstances. Additionally, Lisa may want the people who caused harm to Sam, as documented in his record, to be outed as a form of justice for Sam.

- Lisa recognizes it is not her decision to determine who should or should not know about the client's traumatic upbringing.

- Because Lisa has conducted a formal assessment of risk, she is aware that the standards necessary for the therapist to disclose confidential information have not been met, as per her regulatory body standards and *Smith* v. *Jones* (1999). This knowledge likely increases her confidence to withhold the record, especially if she highly values confidentiality.

- Alternatively, Lisa may question the validity of her assessment of the client after he disclosed this new information about him having a criminal record. Perhaps Lisa does not feel comfortable interacting with people with a criminal record, and therefore may not want to continue the therapeutic relationship and could be looking for a way to terminate the relationship (referral, etc.).

- If Lisa adopts a power-sharing perspective, she will likely not feel comfortable making this decision on behalf of the client. This will bias the decision as she will likely be motivated to choose an option that involves Sam in the decision-making process.

External Pressures:

- Lisa's supervisor has directed her to release the record. If she does not obey, she will be going against the direction of her supervisor as well as the agency policy. This could compromise Lisa's employment status; therefore, she may be financially motivated to release the record.

- Because Lisa did not feel comfortable immediately releasing the record, she was directed to engage in an ethical decision-making model to justify her decision which is time-consuming additional work for her to engage in.

- One of the potential options Lisa could offer to the client is to prepare information that is specific to the request, instead of releasing the complete record. This will also be time-consuming, and the therapist will not be financially compensated for this. It would save Lisa time and money to release the entire record.

- It is assumed that the probation officer also wants the record released, since the release form came from the probation office. Lisa may feel pressured to release the record since the probation officer is viewed as an authority figure that is supposed to protect the safety of the public.

- Lisa is in a position of power over the client and will need to be mindful of her influence over Sam's decision making if she decides to discuss his request with him in more detail. However, Lisa recognizes that Sam also has power in this situation (Zur, 2014). Should the therapist decline his request, Sam could complain to the therapist's supervisor, her regulatory body, or pursue legal action.

Personal Needs:

- The therapist's countertransference reactions, which refers to her emotional response to the client (Corey et al., 2019), will influence her decision-making. The following is a list of potential countertransference reactions Lisa may experience:

    - Lisa does not want the client to be upset when he reads how much detail she recorded. Lisa wants her clients to like her.

    - Lisa tends to over record when she is worried that she is not doing enough to support her clients. Lisa is aware that if she never wrote so much, she may not be in this dilemma today.

    - Lisa is afraid of confrontation and is worried that the client or the probation officer will confront her about not immediately releasing the record.

    - Lisa derives her worth from her ability to help clients. She is afraid that this dilemma will result in a therapeutic rupture and potentially termination which would make her question her ability to help other clients in similar positions as Sam.

- To explore countertransference reactions, therapists can ask themselves, "What emotions and intuition am I aware of as I consider this ethical dilemma, and what are they telling me to do?" (Corey et al., 2019, p. 17).

Self-interest:

- Lisa does not want to lose a client that she already has a good rapport with and that she feels confident that she can help.
- Lisa is afraid that her response to this dilemma could compromise her employment with the agency, which would result in financial stress.

- Lisa is concerned that her professional reputation could be damaged if she goes against the direction of her supervisor. Lisa does not want to be labelled as a difficult or defiant employee.

Cultural, social, historical, economic, institutional, legal, or political context:

- Social:
    - As noted in chapter 3 in the Wigmore Criteria section, society views the counselling relationship as being confidential. Although technically not a breach of confidentiality, releasing the record to a third-party could jeopardize societies perceptions of the profession, especially if the release results in harm to the client.
    - Our society values individualism over collectivism; therefore, the client's right to self-determination aligns with the social context.
- Historical:
    - Lisa is aware that individuals in prisons have been participants in unethical psychological research studies in the past. Lisa does not want to allow the field of psychology to cause more harm to this vulnerable population.
- Political Context:
    - Lisa's agency receives government funding which could be compromised if the probation office makes a complaint to government officials about the agency not collaborating with the probation office.
- Legal Context:
    - Psychologists in Canada do not have privilege; therefore, there is a risk that the record will be court ordered if she does not release the record and she will be required to release it regardless of Sam's wishes.
    - If the record is court ordered, Lisa can apply Wigmore Criteria. When the client initially disclosed the information, he did so in confidence that the information would not be disclosed, confidentiality is necessary to maintain the therapeutic relationship, and society views the counselling relationship as deserving to be

protected. The final criteria of Wigmore criteria, the injury of disclosure must outweigh the benefit, would need to be determined by the judge.

- Seeing as the client is now an adult, there is no mandatory (or justified) reporting of the self-reported abuse Sam experienced as a child. Lisa is not required under Child, Youth, and Family Enhancement Act (2000) to report this information.

Step 4

Step 4: Development of alternative courses of action (Sinclair & Pettifor, 2017).

Based on the information presented thus far, four possible courses of actions will be offered below.

Alternative 1. After reviewing agency policy and reflecting on the risks and inconvenience of not following her supervisor's direction, Lisa decides to release the record to the client without further discussion.

Alternative 2. Lisa determines that the record release could cause serious psychological harm to Sam. As such, Lisa feels justified that it is her ethical duty to not release the record to protect the psychological wellbeing of the client.

Alternative 3. At Sam's next session, Lisa will explain to Sam that it is her ethical duty to ensure Sam understands what he is consenting to. Lisa will use the B.R.A.I.N consent model (McBride, 2020b) to ensure that she discusses the potential benefits and risks of releasing his record as well as not releasing his record. Sam will be informed of the alternative options available, such as only releasing specific parts of the record or Lisa writing a summary report on Sam's behalf. Lisa will also remind Sam that he has the right to rescind his record release request. After delivering this information, Lisa will prompt Sam to share what his intuition is telling him to do. Lisa will focus on having this conversation in a relational manner, taking time to process Sam's reactions to the information being discussed. In this option, Lisa will be

prepared to show Sam his record if he requests to see it; however, she will not offer to show Sam his record. Lisa will act in whichever way Sam decides following this conversation.

Alternative 4. Lisa will contact Sam and request that he come for a free session to discuss his third-party record release request. Lisa will prepare a consent form specific to third-party record release that meets legal standards, as outlined in chapter 3, prior to this appointment. At this free session, Lisa will engage Sam in the informed consent process following the B.R.A.I.N consent model (McBride, 2020b), as outlined in alternative 3. However, Lisa will begin the informed consent process by inviting Sam to review his psychological record with her, and she will offer possible ways the record information could be misinterpreted at Sam's probation hearing.

Lisa will suggest that Sam consult with his lawyer about the potential legal benefits and risks associated with the third-party record request prior to consenting to the release of information. When discussing the alternatives, Lisa will ask Sam for his consent to contact his probation officer so that Lisa can communicate the outcome of her discussion with Sam to the probation officer. Lisa will be prepared to advocate for Sam's right to confidentiality when communicating with the probation officer and will be firm about only releasing the information that Sam consented to during the informed consent discussion.

Step 5

Step 5: Analysis of likely short-term, ongoing, and long-term risks and benefits of each course of action on the individuals and groups involved or likely to be affected, taking into the account relevant individual and cultural, social, historical, economic, institutional, legal, and political contextual factors (Sinclair & Pettifor, 2017).

Table 3
Possible Positive and Negative Consequences of Alternative 1

Alternative 1: Possible Positive Consequences	**Alternative 1: Possible Negative Consequences**
Lisa will please her supervisor by following policy. Lisa will not have to engage in additional work. Lisa will avoid potential confrontation with the client's probation officer due not immediately releasing the requested information.	Sam may become very upset with Lisa for not informing him of the risks associated with the release of his record. This may be result in an irreparable rupture to the therapeutic alliance. Sam could make a complaint to Lisa's supervisor or her regulatory body. If Sam can prove that he was not properly informed of the risks of his release request and subsequently experienced harm, Lisa may face disciplinary action for not meeting the mandatory standards of informed consent.

Table 4
Possible Positive and Negative Consequences of Alternative 2

Alternative 2: Possible Positive Consequences	**Alternative 2: Possible Negative Consequences**
Lisa may feel satisfied because she believes she protected her client's confidentiality and minimized harm to him. Any possible risks associated with releasing the record will not occur: - Lisa will not be liable for possible harm to Sam related to confidential information being shared - Sam's experiences of trauma will not be shared and become permanent court record – his confidentiality is maintained - There is not a risk of the court misinterpreting Lisa's session notes or risk assessment - The privacy of Sam's entire family will be protected	Lisa has engaged in power-over and based the decision on her opinion and needs – this violates Sam's right to self-determination, which goes against Lisa's moral principles and violates Sam's moral rights. Sam may feel very angry that Lisa did not follow his direction. In the short term, he may terminate counselling with Lisa. In the long term, he may never seek mental health support again. Sam could make a complaint to Lisa's supervisor and/or the regulatory body. Lisa could lose her job, or if the regulatory body determines that Sam was not at risk of serious psychological harm, Lisa could face serious consequences for violating the clients right to access information in his record. Any possible benefits of releasing the record will not occur: - There will be no evidence that Sam is working hard to improve his mental health

	- The court will also not have access to documentation of the past negative experiences Sam endured, which could be viewed as a mitigating factor at the hearing

Table 5
Possible Positive and Negative Consequences of Alternative 3

Alternative 3: Possible Positive Consequences	**Alternative 3: Possible Negative Consequences**
So long as Sam does not request to see his record, Lisa avoids Sam becoming upset with her after seeing her extensive documentation. Even if Sam decides to release his complete record and does experiences negative consequences associated with this decision, the therapist has done her due diligence and would likely not be liable. The therapeutic relationship may be strengthened by Lisa demonstrating her commitment to protecting Sam's confidentiality and respected his right to make his own choice.	This course of action will be time-consuming and stressful, which could harm Lisa's mental health. If Sam decides not to release the record, the probation officer may complain about Lisa which could damage her reputation or compromise the agency's government funding. If Sam rescinds his consent after the discussion, the record may be subpoenaed or court ordered. Sam could be upset that the therapist did not immediately release his record as he requested, and that he had to return for an extra session to discuss his request. It is possible that the probation officer only needed specific questions answered. By not consulting with the probation officer, Lisa may end up releasing more information than is needed. If the record is released and reviewed at Sam's probation hearing, Sam may feel deceived by Lisa because she did not show him the exact contents of the record during the informed consent process. This could cause a serious rupture to the therapeutic alliance.

Table 6
Possible Positive and Negative Consequences of Alternative 4

Alternative 4: Possible Positive Consequences	**Alternative 4: Possible Negative Consequences**
Lisa prioritizing Sam's needs above those of the probation officer and her supervisor which will likely strengthen their therapeutic alliance. Through collaboration with probation officer and Sam, all parties can come to an agreement of what specific information will be released to highlight Sam's successes in therapy without violating his privacy. Sam will be able to make an informed choice about his request, which not only respects his moral right to self-determination but may also strengthen the therapeutic alliance. In the long-term, this course of action can be educational for the therapist, supervisor and probation officer as all parties can learn a different way to respond to record requests and to collaborate with one another. This course of action may protect future clients as the probation officer may only request specific information, rather than a complete record, from other therapists moving forward.	The probation officer may be confrontational and/or not open to Lisa's suggestions – this could be a highly stressful situation for the therapist. This alternative will be time-consuming for the therapist, as well as the client as he will be required to come in for an extra session. Sam could become upset with the therapist when reading the documentation, this could impair the therapeutic alliance in the short term. In the long term, Sam may not trust other mental health professionals. If Sam rescinds his consent after the discussion, the record could be subpoenaed or court ordered.

Step 6

Step 6: Choice of course of action after conscientious application of existing principles, values, and standards (which includes but would not be limited to relevant laws and regulations; Sinclair & Pettifor, 2017).

Although both the third and fourth alternative meet the standards of the *Code* (CPA, 2017), I believe the fourth alternative is the better option. The following two value categories appeared most relevant to this dilemma: informed consent and straightforwardness/openness. While both the third and fourth alternative uphold the standards within the informed consent value and empower the client to exercise his right to self-determination, the fourth alternative

more effectively upholds the standards within the integrity in relationships principle. In alternative four, the therapist demonstrates straightforwardness/openness in her willingness to show the client his record to assist him in making an informed decision, despite the possibility of the client becoming upset with her. The therapist is also transparent about her concerns with complete record release with all parties involved, thereby upholding standard III.16 (CPA, 2017). Additionally, this collaboration with the probation officer is fundamental to upholding other values within Principle I. For example, collaborating with the probation officer allows the therapist to determine what information is required by the third-party, thereby limiting the likelihood that information that does not pertain to the overall is shared (CPA, 2017, standard I.45). Furthermore, during this conversation, the therapist can encourage the probation officer to to act in a manner consistent with the *Code* both in this situation as well as with future clients (CPA, 2017, standard I.46). As such, alternative four is believed to uphold the principles of the *Code* (CPA, 2017) most effectively.

In addition to utilizing the differential weighting of the ethical principles, other ethical materials, such as the four virtues of ethical professionals (Meara et al., 1996) and the ethical tests (Stadler, 1986; McBride, 2020a), can also be applied to assist decision-making.

Meara et al. (1996) identified the following four virtues as being integral when making an ethical decision: prudence, integrity, respectfulness, and benevolence. The therapist has demonstrated prudence by identifying this scenario as being an ethical dilemma due to the risk that client did not fully understand potential risks of record release at time of his consent. Alternative four slows down the decision-making process and provides the client and therapist with time to exercise caution as they consider the best option for the client through the informed consent process. Alternative four also requires integrity on the part of the therapist, as she will be

required to demonstrate moral courage to use her position of power to advocate for her client's right to confidentiality to those in authority positions. Although difficult, this display of integrity is necessary to uphold the therapist's moral values and protect the client's rights. Throughout the entire decision-making process, the therapist will treat all individuals involved with respect and compassion. The therapist will need to recognize how her own biases influenced the decision-making process and recognize that others have a different, yet still valid, viewpoint. Finally, alternative four is guided by benevolence as the therapist is approaching the decision-making process from a desire to do good for the current client, as well as future clients who may be in this situation.

Stadler (1986) offered the following three tests that can be used to evaluate the appropriateness of the selected course of action: Justice, Publicity, and Universality. McBride (2020a) expanded on Stadler's original three tests to offer fives tests to consider when selecting a course of action. The five ethical tests refer to the public test, the reversibility test, the professional test, the universality test, and the test of gain (McBride, 2020a). Alternative four is believed to pass all five ethical tests.

To pass the public test, the therapist needs to be comfortable with her actions facing public scrutiny. Based on the premise that the therapist prioritizes the client's confidentiality and values fidelity, she would likely be confident in following alternative four as she would want the public to know that she took additional steps to protect the client's confidentiality. When considering the reversibility test, the therapist can ask, "How would I want to be treated if I were the client?" (McBride, 2020a). If the therapist were in this position, she would want to know that her therapist was carefully considering what was in the client's best interest. The professional test refers to how the course of action would be evaluated by a committee of the professional's

peers or a person of high moral character. Alternative four exceeds the mandatory ethical standards of obtaining informed consent and integrates aspirational standards through additional efforts to maintain client confidentiality through collaboration and willingness to write a summary report. In alternative four, the therapist is using her role power to protect the person in the most vulnerable position (i.e., the client), which is the heart of being ethical (Barstow, 2006). As such, alternative four is believed to pass the professional test. The universality test is a significant test for this case scenario. To pass the universality test, the therapist needs to ask herself if she is willing to do this extra work with every single client who submits a record release request or if she is doing it because she likes this client more than others. If the therapist selects alternative four as her course of action, she will need to ensure this approach becomes standard practice for her, and ideally for all staff of the agency, whenever she receives a third-party record release request. The final test of gain requires the therapist to consider if and how she is benefiting from her course of action. For example, the therapist may want to consider if she is attempting to refrain from the releasing the record to protect herself because she knows she recorded too much detail in her session notes. Considering alternative four will require the therapist to show the client her session notes, it is believed that the decision to follow this course of action is for the benefit of the client, not the therapist.

The *Code* (CPA, 2017) is unique to other ethical codes in that it includes the role of the professional's personal conscience to resolve difficult dilemmas (Sinclair, 1998). In order to be justified to base a decision on personal conscience, psychologists must be able to demonstrate that they engaged in an ethical decision-making process and were still unable to come to a resolution after making every reasonable effort to apply the ethical principles of the *Code* (Sinclair, 1998). One potential way a psychologist can reflect on their personal conscience is to

ask themselves, “How can my values best show caring for the client in this situation? … What decision would best define who I am as a person?” (Corey et al., 2019, p. 17). Although this ethical dilemma could be solved through the application of the ethical principles, a psychologist can never fully separate their personal conscience from the decision-making process; therefore, these reflective questions are offered as a guide to integrate personal conscience into the decision-making process.

Step 7

Step 7: Action, with commitment to assume responsibility for the consequences of the action (Sinclair & Pettifor, 2017).

First, Lisa will need share the action she took to resolve the ethical dilemma and be open to factoring in her supervisor’s feedback and concerns. This may result in Lisa being required to redo the ethical dilemma if the supervisor strongly disagrees with Lisa’s selected course of action.

In the event the supervisor supports Lisa’s selected course of action, Lisa will be prepared for a negative reaction from both the probation officer and the client. During the conversation with Sam, Lisa will emphasize that the intent of this conversation is to protect Sam’s wellbeing, not to tell him what he should do. Lisa will review the record with Sam. During this reading, Lisa will provide interpretations of her notes and offer how this information may be misinterpreted. If Sam becomes upset while reading his record, Lisa will take accountability for how her documentation style could negatively affect Sam if read by someone else. Following the reading, Lisa will return to obtaining informed consent, and inquire if Sam would like to maintain his initial request or rescind it.

If Sam identifies that he does not want to continue to work with Lisa at any point during this conversation, Lisa will attempt to process Sam’s reactions with him to rectify the issues. If

trust cannot be re-established, Lisa will be prepared to offer a referral to a different mental health support.

Step 8

Step 8: Evaluation of the results of the course of action (Sinclair & Pettifor, 2017).

Lisa will need to follow up with the Sam after he makes his informed decision to process the outcome of this decision him. Lisa will also need to follow up with her supervisor to determine if the outcome of her actions can be used as evidence for the need to modify the existing agency policy.

Step 9

Step 9: Assumption of responsibility for consequences of action, including correction of negative consequences, if any, or re-engaging in the decision-making process if the ethical issue is not resolved (Sinclair & Pettifor, 2017).

It is possible that the course of action will result in the very outcome Lisa was concerned about (i.e., Sam consents to the entire record being released to his probation officer). However, the purpose of alternative four is not to prevent the client from releasing his record, but rather to ensure that he makes an informed decision that is based on free will. If the client experiences negative consequences as a result on his informed choice, Lisa will offer to support Sam in coping with these consequences.

Step 10

Step 10: Appropriate action, as warranted and feasible, to prevent future occurrences of the dilemma (e.g., communication and problem solving with colleagues and team members or other collaborators; changes in procedures and practices; Sinclair & Pettifor, 2017).

This dilemma has revealed the need for Lisa to modify her documentation style. As per her regulatory body, the College of Alberta Psychologists, Lisa is only required to document enough information to allow continuation of care. Moving forward, Lisa will adopt more ethical

record-keeping practices. Additionally, Lisa will also discuss third-party record release requests when informing clients of limits of confidentiality. Lisa will also create a third-party record release consent form that can be modified to document exactly what information the client is consenting to release and to whom, as well as the specific benefits and risks that were discussed.

Lisa will discuss this ethical dilemma at the next agency staff meeting so other therapists can recognize potential ethical concerns related with third-party record release requests. Lisa will highlight how the agency's current procedure for responding to third-party record release requests is not in the best interest of primary clients, thereby not upholding standard II.1 (CPA, 2017) as the client's right to confidentiality is often overshadowed by an external parties need for information. The therapist will advocate for agency policy change regarding how to respond to record release requests to prevent this dilemma from reoccurring.

Conclusion

The purpose of applying the CPA's ethical decision-making model (Sinclair & Pettifor, 2017) to this fictional case study was to highlight the serious ethical and clinical implications of releasing a client's psychological record to a third-party. In the next chapter, I will offer a checklist of questions psychologists can consider when responding to a third-party record release request.

CHAPTER 5: SYNTHESIS

Throughout this project, I have focused on highlighting the ethical, clinical, and legal implications of third-party record release in hopes that psychologists will recognize the seriousness of this type of disclosure. In the following section, I will include a checklist of questions that have been created with the intention of assisting psychologists to respond to third-party record release requests in an ethical manner that places the client's well-being at the centre of focus. In addition to considering the questions outlined in Table 7, psychologists are required to demonstrate self-knowledge and be aware of how their personal biases influence their response (CPA, 2017). To limit the inevitable influence of personal bias, all psychologists are encouraged to engage in ongoing self-reflection as well as engage in consultation with colleagues (CPA, 2017).

Checklist of Questions to Consider

Table 7
Checklist of Questions to Consider when Responding to a Third-Party Record Release Request

Task	Questions to Consider
1. Receive the third-party record release request.	a) Was the third-party record release request submitted directly by the client? If not, did I contact the client to verify the client is aware of the third-party record release request? b) Does the form the client signed seem to accurately represent informed consent (e.g., the risks and alternatives are clearly outlined)? If not, I need to address these gaps.
2. Obtain informed consent from the client.	a) Have I reviewed with the client the benefits, risks, and alternatives associated with their decision? i. Did I offer to write a summary report or letter instead of releasing the entire record? b) Did I ask the client what else they need to know about releasing their private information before they offer their permission or decline the request? c) Did I check the client's recall as an indicator of if the client comprehended the information presented to them?

	d) Did I inform the client of their right to read the information I will share and/or what is recorded in their record prior to consenting to the release? i. If the client agreed to read their record, did I offer possible interpretations of how this information could be misinterpreted by the third-party?
3. Document the informed consent process.	a) Have I documented the informed consent process either in the client's record or obtained a signed consent form? b) If I used a consent form, did the form include the following information: i. name of person or agency the record is being released to ii. what specific record information is being released iii. the purpose of the intended use of the information iv. the date the form was signed v. the expiration date of consent (if it is an ongoing release request) vi. limitations of the information being released vii. the name and signature of the person authorizing the release (or the person's signing relationship to the client if the person authorizing is not the client) viii. signature of a witness if the person is signing outside of my presence ix. the specific benefits and risks to the release that we discussed during the informed consent process x. any questions the client asked and my response c) Is the information on my consent form presented in a manner that can be understood by the client based on their ability to process information?
4. Collaborate with the third-party	a) Did I receive the client's consent to speak to the requesting third-party? b) If so, have I consulted with the third-party to determine the purpose of their request and what specific information they require? i. Did I offer to write a summary report including the specific information they require instead of releasing the entire record? c) Have I encouraged the client to speak to the third-party themselves about any specific questions they might have?
5. Action	a) Am I prepared to take responsibility for the outcome of this release, particularly if the client experiences a negative outcome?

	b) Have I learned anything from this experience that can improve my future response to third-party record release requests?

In the next sections, I will provide an overview of the strengths and limitations of this project as well as offer recommendations of future areas of study for the topic of third-party record release.

Project Strengths

A primary strength of this project is that it fills a significant gap in the literature, by creating a needed resource for psychologists on the relevant ethical, clinical, and legal implications of third-party record release requests. Despite an extensive literature review, I could only locate one article that directly expanded on the work of Hamberger (2000) and offered recommendations on how psychologists should respond to third-party record release requests. Given the lack of available literature on the topic, this project can be integrated into course readings for ethics courses for psychologists-in-training so future psychologists can feel more prepared when responding to third-party record release requests. Additionally, the production of a checklist of questions to consider when responding to third-party record release requests provides readers with an applicable way to integrate the information presented in this project into their everyday practice.

Another strength of this project is its foundation of *Canadian Code of Ethics* (2017) and the integration of Canadian legal considerations. As such, this project is relevant and applicable for Canadian psychologists. To the writer's knowledge, this is the first piece of literature that specifically addresses third-party record release requests in Canada. In addition, the project includes additional relevant ethical sources to ensure the recommendations are grounded in ethical behaviour.

Finally, a strength of this project is the application of the CPA's ethical decision-making model (Sinclair & Pettifor, 2017) on the fictional case study. By integrating a fictional case study and providing an overview of a potential ethical decision-making process, I was able to highlight the real-life implications of third-party record release and the complex perspectives that should be considered when navigating this type of request.

Project Limitations

There are important limitations to the project that must be explored. These limitations include the following: the lack of available literature on the project topic, my lack of personal experience as a counsellor, limited generalizability of recommendations, lack of human data collection, and cultural implications.

Given that there was very limited literature on the project topic, I was required to integrate literature sources that did not directly pertain to the focus of the project. Additionally, because I did not have a high volume of information to generate ideas from, this may have resulted in me forming biased or unsupported conclusions. As a new counsellor, I recognize that I lack the experience of responding to third-party record release requests that other psychologists may have. It is possible that the checklist of questions offered in this chapter may change as I gain more experience in the field of counselling.

Another limitation pertains to the generalizability of the information presented in the project. Due to my reliance on the *Canadian Code of Ethics* (CPA, 2017), as well as the College of Alberta Psychologists' *Standards of Practice* (2019) and various practice guidelines, the information presented in this project may not be relevant to psychologists working in other countries, or even other provinces and territories. Furthermore, because there are so many unique situations when a record can be requested for third-party release, the project could not address

every situation. The checklist of questions was created to be relevant to all third-party record release requests; however, there may be unique situations when specific questions are not applicable.

A significant limitation of this project is related to the lack of empirical testing of the efficacy of the checklist of questions. Until data is collected on the outcome of therapists utilizing the checklist when responding to a third-party record release request, the efficacy is unknown. However, considering all questions have been generated in accordance with ethical standards, it is highly unlikely that utilizing this checklist would result in adverse outcomes for clients or therapists.

A final limitation is regarding this project not exploring the potential impact of client culture on third-party record release requests. This project is largely based on the principles of the *Canadian Code of Ethics* (CPA, 2017) which is written from the lens of North American values. For example, the *Code* emphasizes moral rights such as self-determination (CPA, 2017), which may not be as highly valued for clients from collectivist cultures (Arthur & Collins, 2010). As such, therapists are encouraged to modify the recommendations presented in this project to fit the cultural needs of their clients.

Areas of Future Research

It is recommended that future research be done to test the effect of implementing the checklist of questions offered in this chapter when responding to third-party record release requests. Similar to what was done by Hamberger (2000), future research could be done to determine if clients rescind their request after receiving proper informed consent. Additionally, measurements such as the Working Alliance Inventory Short Revised (WAI-SR; Hatcher & Gillaspy, 2006) could be administered to clients after the client has made their decision to release

their record or not to explore the impact the checklist of questions had on the therapeutic alliance. Drawing from the common factors model, the therapeutic alliance is recognized as having a stronger influence on therapeutic outcomes than any specific technique or model used (Messer & Wampold, 2002). Therefore, empirical evidence supporting that the considerations offered by this project strengthen the therapeutic alliance would support the notion that implementing the checklist of questions can improve overall therapeutic outcomes for client, in addition to allowing therapists to uphold their ethical duties.

As identified in chapter 3, most of the available literature on third-party record release was related to the ethical, legal, and clinical implications of sharing electronic health records on integrated healthcare systems. Although the topic of shared electronic health systems exceeded the scope of the literature review for this project, I believe the topic of shared electronic psychological records is another important area of future research. In particular, I believe that the same questions that I have encouraged therapists to consider when responding to a third-party record release requests should be asked when sharing electronic psychological records on integrated healthcare systems. In the following section, I will provide a brief overview of literature on shared electronic health records to highlight how this topic relates to third-party record release and that this is an area that could benefit from additional future study.

Shared Electronic Health Records

The purpose of shared electronic health records is to improve patient care by allowing service providers to have access to a comprehensive set of information through computer access (McSherry, 2004; Shen et al, 2019). Shared electronic health records are believed to promote collaboration among service providers (McSherry, 2004; Shen et al., 2019); however, they also pose potential risks to clients' privacy and dignity. For example, since integrated healthcare

systems allow for universal sharing of electronic psychological records between numerous service providers, there is a significant increased risk that a client's confidentiality will be breeched through an unethical disclosure of psychological information (McSherry, 2004). Given that psychological records contain highly sensitive information that can result in increased risk of stigma and discrimination for clients if disclosed, sharing electronic psychological records on integrated healthcare systems has been cautioned against (Clemens, 2012; McSherry, 2004). Additional concerns related to sharing electronic psychological records on integrated healthcare systems pertains to the concern that significant ethical issues are likely to arise when sharing records amongst professionals who abide by different ethical codes and subsequently have different expectations regarding their duty to protect confidentiality (Polychronis, 2020).

Benefits and Risks of Shared Electronic Psychological Records. Ethical principles, such as beneficence and nonmaleficence, have been used to argue for and against third-party access to shared electronic psychological records (McSherry, 2004). For example, when considering the principle of nonmaleficence, a psychologist upholds their duty to do no harm by taking steps to prevent breaches of client confidentiality that may result due to multiples parties having access to a client's shared psychological record (McSherry, 2004). Conversely, others argue that third-party access to electronic psychological records promotes well-being for the community at large since access to client information creates opportunities for professionals to develop treatments for illness and to improve healthcare access (McSherry, 2004; Shen et al., 2019). However, arguments supporting third-party access for the benefit of the community at large should not supersede a psychologist's responsibility to minimize harm to clients.

The *Canadian Code of Ethics* (CPA, 2017) asserts that psychologists have the greatest responsibility to minimize harm to, and protect, individuals who are in the most vulnerable

position. In most cases, the individual receiving psychological service is considered the most vulnerable person due to the power differential created by the therapeutic relationship between the psychologist and the individual receiving their services. Moreover, the *Canadian Code of Ethics* (CPA, 2017) weights the value of confidentiality higher than development of knowledge. Although allowing third-party access to electronic psychological records has the potential to benefit society, a psychologist's priority should be given to minimizing harm for the client whose confidential information is being shared (CPA, 2017).

Informed Consent for the Release of Shared Electronic Psychological Records. The importance of obtaining a client's informed consent prior to releasing any personal information to a third-party has been repeatedly emphasized throughout this project. Unfortunately, whether it is necessary to obtain a client's informed consent prior to storing their private information on an integrated healthcare system has been debated in the literature on shared electronic health records.

Shen et al. (2019) interviewed Canadian individuals with mental health conditions (n = 14) on their opinions of their personal health information, including psychological records, being shared among service providers for healthcare purposes. Shen et al. (2019) reported that participants rarely mentioned the topic of consent during their interviews. The authors interpreted participants "passive acceptance" of privacy concerns inherent to sharing personal health information on integrated healthcare systems as indication that there may be better alternatives available than obtaining consent before sharing personal health information (p. 11). This was a highly concerning statement as engaging clients in the informed consent process is necessary to respect clients right to self-determination, particularly if clients are not properly

educated on what an electronic psychological record entails and the subsequent risks associated with this information being accessible on integrated healthcare systems.

The increased use of electronic health records has highlighted the need for psychologists to stand up against pressure from other professionals to share electronic psychological records on integrated healthcare systems without the client's explicit informed consent to do so (Polychronis, 2020). An important question for future research will be whether psychologists take an active stance on obtaining a client's informed consent prior to sharing electronic psychological records or if they abide by policies that prioritize information-sharing over clients' rights to privacy. Additionally, it will be important to research the subsequent impact a psychologist's decision to release a client's psychological information with third parties on integrated care systems has on the psychologist-client relationship as well as society's trust in the field of psychology.

Project Summary

The purpose of this project was to provide a comprehensive overview of the ethical and clinical implications of third-party record release and to contribute to the psychology community through the provision of questions that psychologists should consider when they receive a request for a third-party record release. In chapter 1, I provided a brief overview of the topic as well as my rationale for the project and my statement of personal interest in this topic. In chapter 2, I outlined the research process I used as well as included my ethical position regarding the development of this project. Chapter 3 entailed a literature review of available literature on the topic, as well as the inclusion of other relevant sources, such as ethical materials related to the topic of third-party record release requests. In chapter 4, I applied CPA's ethical decision-making model (Sinclair & Pettifor, 2017) to a fictional case study. Finally, in chapter 5, I

provided a list of questions for psychologists to consider prior to responding to a third-party record release request based on the information presented in earlier chapters. Additionally, chapter 5 included an overview of the strengths and limitations of this project, as well as future areas of research on the topic of third-party record release.

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APPENDIX 1: ETHICAL IMPLICATIONS OF THIRD-PARTY RECORD RELEASE

PREAMBLE

Purpose

The following is the applied element of the Master of Counselling project. It is a manuscript for the Journal of Ethics in Mental Health (https://jemh.ca/), which will be submitted to the editor of the journal by June 30, 2022, after the University of Lethbridge has approved of the project. The author of the article will be Jessica Hodson, and the second author will be my project supervisor, Dawn McBride[1].

The purpose of this manuscript is to contribute a valuable resource to an area of psychology that lacks literature and research. This manuscript will explore the ethical implications of third-party record release.

Journal's Instructions to All Authors

Appendix C contains the guidelines for preparing and submitting a manuscript to the Journal of Ethics in Mental Health. The journal requires manuscripts be no more than 3000 words.

Format Style Requirement

The manuscript is prepared based on the Publication Manual of the American Psychological Association, 5th Edition (2002), as per the Journal of Ethics in Mental Health's specifications.

Copyright Statement

The material included in this draft manuscript is subject to copyright and permission of the author or the author's supervisor (Professor Dawn McBride) should be

sought prior to use. For permission, please email the author's supervisor at dawn.mcbride@uleth.ca. The reader may use ideas from this project and draft manuscript providing they are referenced as follows:

Reference list entry:

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[1] This preamble closely followed the format and structure of *The dual role of psychologist-researcher: Using psychological assessments for research purposes* [Unpublished master's project], by E. Kewley, 2013: University of Lethbridge. Copyright 2013 by E. Kewley.

TITLE PAGE

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Abstract

In this article, the authors present a critical analysis of the ethical implications related to third-party record release, when a therapist is asked to release a client's counselling record information to an external party. Drawing from the values of the Canadian Psychological Association's (2017) code of ethics, the authors emphasize the need for therapists to balance their duty to protect client confidentiality with their responsibility to promote client self-determination through the informed consent process. Several recommendations are offered to enhance the informed consent process and to reduce the risk of harm to the client in the event the record is released to a third-party. An ethical checklist is provided for therapists to use when responding to a third-party record release request. This article may be of interest to lawyers who seek to understand why releasing counselling record information is a complex process for therapists.

KEY WORDS: release of information, ethics, consent, confidentiality

Ethical Implications of Third-Party Record Release

It is our intention to explore the ethical implications of third-party record release, otherwise known as release of information, when a therapist releases a client's counselling record information to an external source. A third-party record release can occur either at the request of the client or at the request of an outside person or agency that is affiliated with the client, such as a family member, legal representative, medical office, or educational institution. Client counselling records can be requested by third parties for a variety of reasons. In Canada, it is commonplace for therapists to receive third-party record release requests for insurance claims and legal proceedings (Mills, 2014).

Ethical Issues Related to Third-Party Record Release

Numerous ethical considerations exist related to third-party record release; however, confidentiality and informed consent are arguably the two most imperative ethical values to be aware of. A therapist's duty to protect the confidentiality of their clients is at the core of ethical practice as it is fundamental to maintaining a strong therapeutic alliance with clients as well as upholding societies trust in the profession of counselling (Robinson, Lehr, & Severi, 2015a). While it is imperative that therapists uphold their duty to protect client confidentiality, it is also essential that therapists respect their clients' right to self-determination by engaging the client in the informed consent process to determine if the client wants their counselling record to be released to a third-party or not.

Fortunately, Hamberger (2000) developed and tested a three-step response protocol to assist therapists in responding to complete record release requests in an ethical manner. Hamberger's (2000) study revealed that clients were often unaware of the contents of their counselling record and of their right to refuse authorizing the release of their record at the time of

making the request, which then inhibited them from making an informed decision that weighed the benefits and risks of releasing their information. Given that 21 years has elapsed since Hamberger's (2000) study was completed, updated information concerning the ethical implications of third party-record release is greatly needed. The information presented below references the *Canadian Code of Ethics for Psychologists* (Canadian Psychological Association [CPA], 2017); however, the information is still highly relevant to therapists who abide by other ethical codes.

Informed Consent

Foremost, it is important to highlight the difference between consent and informed consent. A client's signature on a release of information consent form may demonstrate that a client has given consent; however, it does not imply that the client made an informed decision to consent to the release of their information. Informed consent requires a client's full and active participation in the decision-making process (CPA, 2017, standard I.16). Informed consent is a collaborative process that occurs between a client and a therapist, not between a client and a consent form.

When obtaining a client's informed consent for third-party record release, it is ethically responsible for therapists to inform their clients of three critical concepts: 1) the risks of releasing their information, 2) alternatives available to the client, and 3) the right to refuse to consent to the release their information. Each of these topics will be addressed next.

Risks of Third-Party Record Release

One major concern with releasing a client's record is the person receiving the record may not be held to the same ethical standards as the therapist and therefore may not have the same responsibility to protect the confidential information being released. For example, when a

client's record is released to an insurance company, the information in the record may be accessed by multiple staff members who are each responsible for various tasks, such as logging information, filing, completing audits, and so forth (Pope, 2015). Each time a different employee has access to the client's confidential information, the likelihood that this information will be unethically disclosed increases. Therefore, when engaging clients in the informed consent process, it is important for therapists to highlight that they do not have control over what the third-party does with the client's record information once it is released to them (Koocher & Keith-Spiegal, 2008).

The specific risks associated with the release of information is dependent on who the information is being released to. To assist clients in understanding the risks specific to their situation, therapists can assist clients in developing questions they have for the third-party regarding how their confidential information will be protected, stored, and distributed, as well as questions regarding other potential benefits and risks related to the release of information that the therapist may not be aware of. The practice of guiding the client to question the third-party likely improves the effectiveness of the informed consent process as the client can receive information pertinent to their decision-making process from multiple sources. This approach could also have therapeutic benefits, as the client is empowered to develop skills to advocate for their right to confidentiality to be upheld.

Alternatives to Complete Record Release

It is important to explicitly discuss alternatives to complete record release during the informed consent process. Clients may authorize a third-party record release request because they are unaware that alternative options exist (Koocher & Keith-Spiegal, 2008). The benefits and risks associated with each alternative should be explored with the client (McBride, 2020).

An example of a common alternative to offer to a client is releasing a letter or report summarizing the client's record instead of releasing the complete record (Hamberger, 2000). If the third-party will only accept a complete record release, therapists should remind clients of their right to refuse to discuss any topic that they do not want the third-party to have knowledge of (McBride, 2020).

Client Rights

A client's consent must be given voluntarily (Robinson, Lehr, & Severi, 2015b), meaning the client's consent to release their record "is not given under conditions of coercion, undue pressure, or undue reward" (CPA, 2017, standard I.27). It is essential during the informed consent process that clients are made aware that they do not have to give their permission to release their record information if they do not believe it is in their best interest to do so (Borkosky & Smith, 2015; Hamberger, 2000; Koocher & Keith-Spiegal, 2008). Unfortunately, there is often incentives to consent to the release of information presented by third parties, such as record release being a condition of receiving financial coverage for the cost of counselling (Caustagouy, 2013). Under such circumstances where a client must choose between protecting their privacy and being able to afford mental health support, it is unlikely that a client's consent to release their record information to the third-party truly meets the condition of voluntarily. In such circumstances, the therapist can implement any of the below listed global recommendations to reduce the risk associated with the release of the client's counselling record.

Global Recommendations to Reduce Risk of Releasing Records

Documentation

Brief and Focused Session Notes. To minimize the risk of client harm caused by the release of their counselling record, therapists should be vigilant about limiting personal details

documented in the counselling record. The *Canadian Code of Ethics for Psychologist* states that therapists should only record information that is germane to the goals of the service being provided (CPA, 2017, standard I.39). Therefore, maintaining brief session notes that are focused on change (i.e., only documenting stated counselling goals and intervention used to facilitate these goals), reduces the possibility of a client's personal information being misinterpreted or misused by a third-party. Omitting personal details unrelated to counselling goals from the client's record honours a therapist's duty to document in a manner that protects the client's dignity and respect (CPA, 2017), and ensures sensitive information will not released to a third-party in the event of a record release request (Bemister & Dobson, 2011; 2012; McBride, 2020).

Separate Records. When counselling couples, families, or working in a group setting, therapists are encouraged to keep separate records for each client instead of using a joint record (Knauss, 2006). Alternatively, therapists can use a joint record to document session notes that summarize the service provided to the couple, family, or group, while still having separate records for each client to record any sensitive information specific to the individual (Reamer, 2005). These documentation practices will preserve the privacy of the other clients in the event one client's record is requested to be released to a third-party. Additionally, these practices reduce the workload associated with having to redact other client's information from a joint record prior to the record being released.

Open Notes. In addition to limiting the number of personal details in the client record, adopting transparent record-keeping practices can further reduce the likelihood of harm caused to the client due to a third-party record release. Open notes refer to the process of inviting clients to read their session notes with the therapist, and in some instances entails clients having access to a secure portal that contains their mental health record so that they can review their record as

needed (Blease, Walker, & Torous 2020; Chimowitz, O'Neill, Leveille, Welch, & Walker, 2020). Critics of open notes state that reading session notes with the client may cause client confusion and harm the therapeutic relationship (Blease et al., 2020; Chimowitz et al., 2020). However, adopting an open notes approach has been found to increase client's recall of what occurred in sessions, strengthen the therapeutic alliance, and had little impact on therapists' workload (Chimowitz et al., 2020).

If a therapist receives a third-party record release request, adopting an open notes approach could save the therapist time and effort since the therapist will not have to review the entire counselling record with the client prior to releasing it. Additionally, because record release to third-party payers is typically continuous wherein insurance companies require updates following a certain number of sessions, an open notes approach increases the client's ability to give informed consent to the ongoing release of their information as the client is continuously informed of the exact information that is being released in their record.

Detailed Release of Information Consent Form

One method to ensure clients are fully informed before releasing their record information is to present them with a release of information consent form that clearly outlines the following information: the full name of the person the client information is being released to, what client information is being released, the purpose of the intended use, how the information will be released (e.g., phone, email, fax), the date the form was signed, expiration date of the client giving consent for this information to be released (assuming it is not just a one-time release), risks and limitations of the information being released, the name and signature of the person authorizing the release, the signing person's relationship to the client (if the person authorizing is not the client), signature of witness if the person is signing outside of practitioners presence

(Koocher & Keith-Spiegal, 2008). These recommendations offered by Koocher and Keith-Spiegal (2008) provide a good starting point when drafting a consent form for third-party record release requests; however, a one-size-fits-all approach to consent forms is inappropriate given that the risks of the record release are highly dependent on the purpose of the release and to whom the record is being released to (Borkosky & Smith, 2015). As such, therapists should consider adopting a consent form that provides space to document the specific risks, benefits, and alternatives pertaining to the request, as well as the client's reaction to this information, on the consent form.

Legal Considerations when Releasing Client Information

Receiving a request to release a client's counselling record for legal proceedings can be a highly distressing experience for therapists as it not only challenges a therapist's duty to protect their client's privacy but can also threaten the therapist's sense of competence as a professional (Jenkins, 2003). Therapists have an ethical duty to prioritize their client's right to privacy and minimize potential harm to the client when responding to said requests (CPA, 2017). Releasing a client's counselling record in the legal context requires therapists to consider the potential for significant risks, such as the client's mental health history being used to undermine the client's credibility in court (Borkosky & Smith, 2015; Jenkins, 2003). Beyond immediate concerns related to the outcome of the court process, therapists also need to consider if releasing the information poses a more general risk of harm to the client, such as increasing the likelihood of the client engaging in negative coping strategies to manage the stress of having their personal information being shared in court or causing an irreparable damage to the therapeutic alliance due to breaches in trust.

Given the seriousness of potential risks, therapists have an ethical duty to ensure proper informed consent is obtained from the client prior to any information being released. Time constraints have been identified as a key barrier to obtaining informed consent as therapists may feel they lack the time necessary to obtain proper informed when faced with external pressure to respond to the release of information request in a timely manner (Borkosky & Smith, 2015). An example of when therapists may experience pressure to respond without first obtaining informed consent from the client is when the client's lawyer submits a release of information request already signed by the client to the therapist to expediate the release process (Borkosky & Smith, 2015). However, irrespective of the client signing the release of information request form, the therapist is under an ethical obligation to obtain informed consent directly from the client before releasing any verbal or written information to the lawyer. After obtaining informed consent from the client, therapists are encouraged to negotiate with the requesting lawyer to determine what information will be released that maximizes benefit and minimizes harm to the client (CPA, 2017).

In the event the release of the client's record is court ordered, therapists should be aware of Wigmore criteria and be prepared to advocate that the client's record meets these criteria to fulfill their ethical duty of protecting client confidentiality (Robinson et al., 2015a). Essentially, Wigmore criteria enables a therapist to make a case that the counselling record contains highly sensitive information that deserves to be protected through *ad hoc* privilege (Robinson et al., 2015a).

Conclusion

Based on the information presented in this article, a checklist of questions for therapists to consider when responding to a third-party record release request has been created and is listed

below (Table 1). The purpose of the checklist is to ensure that the client is empowered to make an informed decision regarding the release of their private information. The checklist aligns with the aspirational values of the *Canadian Code of Ethics for Psychologists* (CPA, 2017), which encourages therapists to go beyond meeting the mandatory minimum standards outlined in standards of practice and strive to offer the highest degree of ethical care when responding to third-party record release requests.

Table 1:
Checklist of Questions to Consider when Responding to a Third-Party Record Release Request

Task	**Questions to Consider**
2. Receive the third-party record release request.	c) Was the third-party record release request submitted directly by the client? If not, did I contact the client to verify the client is aware of the third-party record release request? d) Does the form the client signed seem to accurately represent informed consent (e.g., the risks and alternatives are clearly outlined)? If not, I need to address these gaps.
6. Obtain informed consent from the client.	e) Have I reviewed with the client the benefits, risks, and alternatives associated with their decision? i. Did I offer to write a summary report or letter instead of releasing the entire record? f) Did I ask the client what else they need to know about releasing their private information before they offer their permission or decline the request? g) Did I check the client's recall as an indicator of if the client comprehended the information presented to them? h) Did I inform the client of their right to read the information I will share and/or what is recorded in their record prior to consenting to the release? i. If the client agreed to read their record, did I offer possible interpretations of how this information could be misinterpreted by the third-party?
7. Document the informed consent process.	d) Have I documented the informed consent process either in the client's record or obtained a signed consent form? e) If I used a consent form, did the form include the following information: i. name of person or agency the record is being released to

	ii. what specific record information is being released iii. the purpose of the intended use of the information iv. the date the form was signed v. the expiration date of consent (if it is an ongoing release request) vi. limitations of the information being released vii. the name and signature of the person authorizing the release (or the person's signing relationship to the client if the person authorizing is not the client) viii. signature of a witness if the person is signing outside of my presence ix. the specific benefits and risks to the release that we discussed during the informed consent process x. any questions the client asked and my response f) Is the information on my consent form presented in a manner that can be understood by the client based on their ability to process information?
8. Collaborate with the third-party	d) Did I receive the client's consent to speak to the requesting third-party? e) If so, have I consulted with the third-party to determine the purpose of their request and what specific information they require? i. Did I offer to write a summary report including the specific information they require instead of releasing the entire record? f) Have I encouraged the client to speak to the third-party themselves about any specific questions they might have?
9. Action	c) Am I prepared to take responsibility for the outcome of this release, particularly if the client experiences a negative outcome? d) Have I learned anything from this experience that can improve my future response to third-party record release requests?

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APPENDIX 2: INSTRUCTIONS FOR AUTHORS FROM JOURNAL OF ETHICS IN MENTAL HEALTH

The journal where the proposed manuscript (see Appendix 1) will be sent to for review has specific instructions that authors must follow. The following is a direct copy of the relevant sections taken from the source below:

Journal of Ethics in Mental Health. (2012, February 22). *Guidelines for authors*. https://jemh.ca/submission_guidelines.html

Aims and Scope:

Journal of Ethics in Mental Health is intended to serve academics, health practitioners, students, family members, caregivers, consumers, and policy makers. The intent of the journal is to be a forum for healthy academic and policy debate, as well as by design and editorial policy to produce a tool that is both practical and helpful for frontline workers. The journal encourages a diversity of perspective and international stance on mental health practice and policy. The potential topic list is extensive and is open to new and innovative issue exploration. Articles must be brief and concise. Case studies, reflection pieces, legal discussions, and questions that challenge us to reflect on how we may better serve the most vulnerable among us are welcome.

Submission Options:

The Journal of Ethics in Mental Health is an international, peer reviewed, web-based journal that publishes one volume per year. Submissions may be published at any time during the year, if accepted, following our review process.

The editors welcome unsolicited submissions that explore ethical issues related to mental health. Provocative articles, case studies, personal narratives, or commentaries related to previously published journal material are all welcome.

Queries to the senior editors are welcome from anyone wishing to sound out ideas for contributions. From time to time an issue may be devoted to a particular theme; when this is planned, the themes will be announced well in advance. (For some topic ideas please see the "Topic Ideas" list on this website.)

The Journal of Ethics in Mental Health encourages the submission of articles by academics, health practitioners, students, family members, caregivers, consumers, policy makers, frontline workers, and other interested persons.

Journal of Ethics in Mental Health has several sections which include the following:

I. The following submissions are subject to double blind, peer review. They may be brief, or up to 3000 words (references are excluded in the word count):

1. **"Articles" (referenced as appropriate)…**

- Unsolicited, on any mental health ethics topic
- Editor solicited, related to a specific journal theme or topic
- Editor solicited articles from 2 authors to discuss both sides of a controversial issue

2. **Case studies for the "Front Line Perspectives" section…**

- Actual or prototypical clinical cases (hospital, clinic, office, psychotherapy, community) submitted with commentary that sheds light on the ethical elements of the case and stimulates further ethical reflection by the reader
- A description of a mental health ethics dilemma encountered in any domain (e.g. government, non-government organization, social, workplace, interpersonal) submitted with commentary that sheds light on the ethical elements of the case and stimulates further ethical reflection by the reader

3. **Legal discussions for the "Benchmark" Section…**

- Unsolicited, or editor solicited, brief legal updates on mental health case law or legislation with commentary that sheds light on the ethical elements of the pertinent legal issues and stimulates further ethical reflection by the reader

4. **"Hindsight"**

This section of the journal aims to provide context for, and analysis of:

- key leaders in the history of mental health care and their thought and activity;
- key historical leaders in ethics and the impact of their work on mental health ethics;
- key advocate and persons living with mental illness who have been leaders in mental health system and social reform and the ethical impact of their work;
- significant mental health care treatment trends and devolution;
- landmark social, system, and moral reforms;
- and paradigmatic conceptual shifts that have occurred through the history of mental health care.

By understanding our history we better understand the fluid ethical milieu that emerges in the

wake of exceptional or distinctive transition points.

II. All other submissions are subject to Editorial Committee review:

1. **"Editorial"**: commentary prepared by a JEMH editor or by an invited "Guest Editor".

2. **"Insights"**: flashes of insight, personal narrative, or reflections on any relevant topic (up to 500 words)

3. **Personal accounts for the "In my Life" section** (up to 3000 words)

- Reports on ethical challenges encountered by consumers, family members, or caregivers, submitted with commentary that sheds light on the ethical elements in the flow of events reported and stimulates further ethical reflection by the reader
- The JEMH will not accept anonymous submissions, but it is willing to consider publishing a piece (in the "In My Life" section only) without the author's name, with the following attached: "Author's name withheld by request". We recognize that there may be circumstances in which a person is more comfortable not being identified, and these will be reviewed case by case.

4. **"Commentaries in Response"** to a published piece (up to 300 words)…

- should be received within 8 weeks of an article's appearance
- authors whose work is discussed are given an opportunity to respond (up to 150 words)

5. **“Letters to the Editors”** on any topic (up to 300 words)

6. **“JEMH Conferences: Selected Proceedings”**: some papers presented at the JEMH hosted conferences on ethics in mental health may be selected for publication

7. **“Book & Media Reviews”**: unsolicited, or editor solicited (up to 500 words)

8. **“Research Reflections”**: The Editorial Committee may publish submissions that highlight ethical challenges related to particular research in progress, or that offer ethical reflections on planned research directions. These pieces should raise interesting questions or ideas about the research project itself, rather than represent a discussion on research outcomes. (note: completed research reports should be submitted to the regular “Articles” section.) (up to 3000 words)

9. **"Select Invited Submissions"**: The Editorial Committee may from time to time publish select invited submissions on topics of particular significance or interest to the Committee without subjecting them to blind peer review.

10. **"Bernard Dickens Student Award Articles"**: The JEMH will be providing a cash award ($500 Canadian) once a year to a student in an undergraduate, graduate, residency, post-doctoral or fellowship program who submits an article that is selected by the Editorial Committee for publication. Our goal is to encourage academic interest and writing in the area of mental health ethics.

Exclusive Submission:

By submitting work for possible publication in the JEMH, authors understand that they are declaring that their submission, a close variant or substantial parts thereof, has not been published previously and is not simultaneously under consideration elsewhere.

Submission Preparation:

All submissions should be in English. Font size should be 12 and text should be double-spaced. Word, Wordperfect, rich-text or text file formatting are preferred.

Approval Process:

Submissions requiring only editorial review will be evaluated within one month of receipt with a response then sent promptly to the lead author. Other submission types (“Articles”, “Front Line Perspectives”, “In my Life”, “Benchmark”) will be screened by the editors, and if deemed

suitable for possible publication, the submission will be forwarded for double blind, peer review by 2 or more referees. The lead author will be notified within one month of receipt at the JEMH office whether the submission has been forwarded for review.

The peer review process will generally take one to three months, after which the lead author will receive a reply indicating:

• "acceptance as is", or

• "acceptance with minor revisions required", or

• "non-acceptance with encouragement to make major revisions and resubmit for further review", or

• "not accepted for publication".

Submissions not accepted for publication will be destroyed.

Copy-editing:

The editors retain the right to make minor copyediting changes to the text. More substantive changes (e.g. editing for length or clarity) will only be made in collaboration with authors. Authors are responsible for reviewing proofs and promptly answering editors' queries.

Licensing for Publication:

Upon acceptance for publication, authors are required to sign a licensing agreement granting worldwide publishing rights in all media to the JEMH. Copyright ownership remains with the individual authors.

Permissions:

Authors are responsible for all statements made in their submissions, and for obtaining permission from copyright owners when reprinting or adapting a table/figure, or using a quotation of 500 words or more.

Ethics Regulations and Guidelines Compliance:

Any experimental research that is reported in a submission must have been performed with the approval of an appropriate ethics committee, an institutional review board or human experimentation committee, and informed consent. Research carried out on humans must be in compliance with the Helsinki Declaration (JAMA 1997; 277: 925-926), and any experimental research on animals should follow internationally recognized guidelines. A statement to this effect must appear in the manuscript, including the name of the body which gave approval, with a reference number where appropriate. Manuscripts may be rejected if the editorial office considers that the research has not been carried out within an ethical framework.

Language:

It is the policy of the Journal that all language therein be gender-inclusive, in accord with the guidelines set by the American Psychological Association (5th Edition, 2001).