

ASSOCIATION OF PSYCHOLOGISTS BRIEF

**BILL 89—PERSONAL HEALTH INFORMATION ACT
LAW AMENDMENTS COMMITTEE
NOVEMBER 24, 2010**

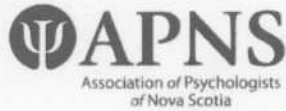
The Association of Psychologists of Nova Scotia is extremely concerned about the implications of releasing any mental health or information about a person's psychological functioning without engaging the client in a direct and informed consent process.

We believe mental health and psychological information requires further care and sensitivity in its handling than various other types of health information. As evidence of this is a long history in psychology and mental health fields of more involved standards of informed consent and confidentiality than have been practiced in other fields of health care.

This Bill contravenes our Code of Ethics at its most basic level. Our Code specifies 11 standards dealing with informed consent, 4 standards dealing with freedom of consent, as well as standards related to obtaining consent from vulnerable individuals and further standards related to confidentiality.

While we acknowledge there to be many benefits in the sharing of health information, we assert the following:

1. Inferring implied consent is especially dangerous to a person's privacy when a person's comprehension is limited by psychological issues.
2. Psychological information, unlike other pieces of health information, has been used in uniquely prejudicial ways given the stigma that mental health consumers continue to experience in society, in health care, in employment settings, and in obtaining insurance benefits.
3. This legislation increases the likelihood of privacy breaches. Given the potential damage to consumers of breaches of sensitive mental health information, the law may unduly harm many mental health consumers rather than assist them.
4. The prevalence of mental illness in Canada is 1 in 5 people. If we added to this people who have psychological concerns that don't meet criteria for mental illness but for whom psychological assistance can prevent more serious illness, this ratio would be much higher. These concerns therefore apply to a significant proportion of the Nova Scotian population.
5. Because of the sensitivity of mental health information, it is not uncommon for mental health clients to experience hesitancy about disclosing information related to mental health problems. A big thrust of Psychology's efforts over the past 50 years has been to increase the public's confidence in Psychology so that they will seek help when needed. Part of this has been our ability to offer the highest level of security and confidentiality with respect to this most personal information. We believe this law will increase clients' hesitancy to seek help and erode their confidence in mental health professionals.
6. We are aware that this minimum standard does not affect a custodian psychologist's ability (i.e. a psychologist in private practice) to maintain his/her higher ethical standards of informed consent and confidentiality. However, this law does make it difficult for private practice psychologists to share information with other health providers because of the risks to our clients. This will have the opposite effect of that desired in many cases and lead to less collaboration.



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7. Furthermore, we are concerned that psychologists in the public health systems who are not custodians of their records will have no control over the information that is shared with them being shared more broadly and needlessly than ever amongst a wide group of health professionals. Any harm that ensues then will also involve psychologists, thus eroding the public trust in our profession and in mental health professionals in general.

The Association of Psychologists of Nova Scotia is therefore seeking an amendment to Bill 89 that would require more explicit consumer involvement in the consent process around the sharing of sensitive mental health or psychological information.

We would like to thank-you for this opportunity to present our position at Law Amendments Committee today. We welcome any opportunities to assist the Department of Health with finding practical solutions to implementing such amendments in the future.

Respectfully,

Lesley Hartman, M.A., Psychologist
Executive Member, Association of Psychologists

On behalf of
Michael Ross, President,
Association of Psychologists of Nova Scotia