

CAPL

**Canadian Academy of
Psychiatry and the Law**



ACPD

**Académie canadienne
de psychiatrie et droit**

NEWSLETTER

Winter 2016

Message from the President

Johann Brink, MB, ChB, FCPsych (SA)



Dear colleagues – it has been a while since the last newsletter, so I want to update you on the activities of CAPL. First, I want to thank the Board of Directors and Office bearers of CAPL for their commitment and outstanding work on your behalf over the past year. At the last Annual General Meeting you elected the following Directors: Johann Brink (President), Joel Watts (Vice President), Paul Fedoroff (Past President), Brad Booth (Secretary), Vicky Roth (Treasurer), and Phil Klassen and Sandy Simpson (Directors-at-Large).

They all have been engaged energetically in various projects and initiatives to advance the interests of CAPL, and I am grateful for their commitment and hard work on your behalf. I want to thank also Katie Hardy from CPA who has provided stellar support and advice regarding various administrative and legal requirements as we evolve into a mature non-for-profit organisation under the Society Act.

As always, Chantal Goddard deserves applause for organising a most enjoyable and successful conference in Vancouver March, 2015, with registrations totalling 97, the second-highest ever!

In keeping with an evolving tradition, the conference was opened with an engaging talk by the President of the CPA, Dr. Sonu Gaiind. Dr. Gaiind provided an overview of the legal and clinical developments regarding Physician Assisted Death (PAD), also known as Medical Assistance in Dying (MAiD). Sonu's talk stimulated rich discussion on this important issue. As we know, Bill C-14 received Royal Assent with access to MAiD protected in statute for persons with capacity to consent who are afflicted with irremediable medical conditions resulting in intolerable suffering. Mature youth and persons with mental illness as the primary illness are excluded from access to MAiD.

MAiD stimulated further lively debate following the dinner presentation on physician assisted death by Dr. Derryck Smith, co-chair of Dying with Dignity. Derryck's passion regarding this issue was evident, stemming from personal experience in his family and that led to him becoming an active and vocal proponent of MAiD.

We were delighted to honour the contributions to our profession of Hy Bloom and Richard Schneider with the Bruno Cormier Award. As you know, the Cormier is the highest honour that CAPL bestows to persons who have made significant contributions to forensic psychiatry. Hy and Richard are the well-deserved honorees, not only for their seminal text on forensic psychiatry, but for their lifelong commitment to advancing the scope and quality of forensic psychiatry.

It was a great pleasure to award the 2016 CAPL Fellowship award to Dr. Emilie Allaire from the Institut Philippe Pinel de Montreal and the University of Montreal. It is encouraging to see our younger colleagues producing work of academic excellence, and CAPL remains committed to fostering

colleagues producing work of academic excellence, and CAPL remains committed to fostering scholarship through our Fellowship award. Program Directors are encouraged to nominate their trainees by submitting names to Michelle Mathias of the Scientific Committee who would be able to provide details regarding the nomination process.

We introduced a series of pre-conference workshops for the 2016 conference, which were well subscribed and well received. Feedback from attendees indicated that you would like to see pre-conference workshops to be offered in the future, and we are hard at work finalising the range and scope of specific workshops for the 2017 conference.

We have reorganised the planning for the annual conference; specifically, we have struck a Conference Planning Committee chaired by Phil Klassen, and a Scientific Committee led by Michelle Mathias for the 2017 Annual Conference to be held in Mont-Tremblant March 12-15, 2017. You all will have received the invitation for conference presentations and as of this writing, the Scientific Committee has reviewed the submissions and it is likely that our conference will again be fully subscribed. The submissions ranges across the full scope of forensic psychiatry and I am confident that you will find much to enjoy and learn in Mont-Tremblant. The brochure for the 2017 conference, to be held March 12-15 in Mont Tremblant is available on our website. Please have a look and I hope to see you all in Quebec for our next conference!

I also am pleased to announce that online registration and payment is available, a much anticipated improvement and one that many of you advocated for!

Having heard the preference of members, future CAPL Annual Meetings will be held in various major centres, or smaller centres with specific points of interest, with continued rotation between eastern and western locations. Phil Klassen and his colleagues on the Conference Planning Committee and Chantal Goddard are hard at work arranging the 2018 conference venue, and Phil will be able to announce details soon.

The CAPL Board continues to develop and upgrade the CAPL website and new notices will be available shortly. A review of the Committee structure of CAPL also is underway and I will keep you informed of developments.

The Board has reviewed and revised the CAPL Ethics Guideline developed by Graham Glancy and Padraig Darby. A final version will be sent to you in early January for your review and feedback before submission at the AGM for discussion and approval. The Guide has undergone several iterations and I can assure you that the Board has taken care to consider the complex evolving nature of our ethical obligations. We look forward to providing you soon with a final draft and receiving your feedback.

As CAPL President I am the current Chair of the CPA Council of Academies, bringing together the three Royal College psychiatric subspecialties (CAPL, CAPAC, and CAGP) as well as the Canadian Academy of Psychosomatic Medicine. This has been venue for sharing ideas regarding initiatives to bolster membership, make recommendations for enhanced CPD, and maximising opportunities for collaboration with external stakeholders such as the CPA and the Royal College. The CPA provides dedicated space in *Canadian Psychiatry Aujourd'hui* for each Academy and CAPL was featured in the latest edition.

In terms of advocacy:

- The CAPL Board has endorsed a statement on Child Immigration Detention.
- CAPL has endorsed a CPA statement on the legalisation of marijuana.
- CAPL agreed to be one of the amici in the case of Bobby James Moore, who is currently on death row in the US. By today's medical standards in relation to intellectual disability, Bobby James Moore would not be considered eligible for the death penalty. However, a lower state court in the US applied a superseded medical standard to hold that the defendant in a criminal

proceeding was not intellectually disabled and could therefore be eligible for the death penalty. CAPL joined a long list of amici in support of the position that the legal standard for cognitive impairment adhere to current medical practice. Mr. Moore's fate will be known in the Spring of 2017.

CAPL has taken advantage of several opportunities to advance the interests of psychiatry generally, and forensic psychiatry specifically. In my capacity as President of CAPL and Chair of the Council of Academies, I sit on the Board of CPA and whereas CPA Board members have to prioritise the interests of the CPA, I have contributed on your behalf the forensic psychiatric perspective in various forms:

- The Ministry of Justice has committed to a judicial review of several pieces of legislation tabled by the previous government and passed by Parliament. CAPL and the CPA have been identified as contributors to this review and I have indicated our availability to participate. CAPL will have an important opportunity for comment and recommendations regarding certain statutes and inform future legislative direction. The CAPL Board will discuss these issues in detail and will be well prepared to participate in a thoughtful and meaningful manner.
- As a member of the CPA Task force on MAiD, CAPL has been able to engage and contribute to the formulation of a guide for psychiatrists when dealing with requests for medical assistance in dying. The CPA President appeared before the senate select committee and advocated strongly that mental illness be excluded as a qualifying affliction for MAiD. Parliament has acknowledged the need for further study on this issue and granted a three year moratorium so as to enable a review and formulation of recommendations regarding mental illness and MAiD.

As a member of the CPA Board and the Governance Implementation Working Group, I have advocated strongly and successfully for retaining CAPL (and the other subspecialties) as voting members of the CPA Board. As a result, there will now be a more collaborative working relationship between the CPA Board and the Board of CAPL, with joint meetings to explore and develop opportunities of mutual benefit. This improved collaboration has already seen CAPL being recognised for our unique role in mental health advocacy across the lifespan. CAPL submitted the following strategic initiatives to the CPA Board:

- **MAiD:** Participate in the CPA PAD task force and co-present a workshop on PAD at the 2017 CPA conference
- **Strategic Plan:** Develop a "Members first" strategic plan and align with that of the Council of Academies (COA)
- **Advocacy:** Address, respond, and seize opportunities for education as appropriate in all matters related to stigma, access, quality, and safety of care for persons in conflict with the criminal justice system.
- **Members first:** In collaboration with the COA and the CPA, explore, develop and implement a suite of initiatives to bolster engagement with, and attendance at, CAPL and CPA conferences.
- **Excellence always:** In collaboration with the CPA Education and Royal College specialist committees, develop and implement strategies to ensure the highest standards in Competence By Design in forensic psychiatry.

I wish you a happy festive season and hope to see you all in Mont-Tremblant in March!

Update from the CAPL BC Regional Section

Todd Tomita, MD, FRCPC

The CAPL BC Regional Section continues its focus on organizing local educational events with the goals of providing practice-relevant information and providing a forum for fostering collegiality amongst local forensic psychiatrists. These events are accredited for Royal College MOC Section 1 and Law Society of BC CME credits.

Since the inception of the CAPL BC Chapter in April 2014, we have co-sponsored five Forensic Psychiatry Education Days with the UBC Forensic Psychiatry Division. The events continue to be held at the UBC Robson Square Campus in Vancouver.

At our 4th Forensic Psychiatry Education day held on November 6, 2015, the focus was on Dangerous and Long-Term Offenders:

- *Dangerous Offender and Long Term Offenders in Canada: A National Picture*, Professor Simon Verdun-Jones
- *Dangerous Offender/Long-Term Offender Criminal Proceedings*, Nicole J. Gregoire, Crown Counsel
- *The Science & Practice of Treatment and Management Recommendations*, Dr. Hugues Herve & Dr. Anton Schweighofer
- *Constitutional, risk management and treatability Issues: The impact of R v. Boutilier on Dangerous Offender Proceedings*, Dr. Gary Botting, Defence Counsel
- *Cross-Examination of the Forensic Expert in Dangerous Offender Hearings*, Deanne Gaffar, Defence Counsel
- *Optimal Practices and Pitfalls: Risk Assessment and Communication of Risk*, Dr. Rakesh Lamba
- *Panel Presentation - The Helpful Expert: Communicating Opinions of Risk, Treatability, and Manageability*, Janet Winteringham, QC, Defence Counsel, Nicole J. Gregoire, Crown Counsel, & Dr. Rakesh Lamba.

Our 5th Forensic Psychiatry Education day on June 3, 2016 focused on criminal and civil topics and a half day focus on Intoxication and Homicide:

- *Ethics of Sex Offender Risk Assessment and Treatment*, Dr. Roy O'Shaughnessy
- *Internet Sex Offending*, Dr. Michael Seto
- *Mental Illness and Perceptions of Plaintiff Credibility*, Faith Hayman, LLB

Half-day symposium on *INTOXICATION & HOMICIDE* moderated by Lyle Hillaby, Crown Counsel:

- *Legal Overview of Intoxication Defences in Murder Cases*, Crichton Pike, Crown Counsel
- *Forensic Murder Evaluations: Case Presentations*, Dr. Kulwant Riar
- *Defence Tactical Issues in Murder Cases*, Richard Fowler, QC
- *Panel Presentation on Intoxication and Homicide*, Honourable Mr. Justice Terrance Schultes, Dr. Shabehram Lohrasbe, Crichton Pike, Crown Counsel, Richard Fowler, QC

We have about 40 to 50 people attend the Forensic Psychiatry Days with a mix of forensic psychiatrists and psychologists, Crown Counsel, Defence Counsel, BC Review Board members, and psychiatry and psychology trainees.

Our next Forensic Psychiatry Education Day will be at UBC Robson Square on Friday, May 12, 2017. The theme for the day will be on *Odd, Erratic, and Eccentric Participants in the Criminal Justice System*.

Update from the Quebec Regional Section

Joel Watts, MD, FRCPC, DABPN (Forensics), President, CAPL-Quebec, Vice-President, CAPL

The Quebec chapter continues its tradition of holding bi-annual meeting with its members in the spring and in the fall. These meetings continue to be attended by members representing all corners of the province, particularly the larger centres with dedicated forensic psychiatry services such as Quebec City, Shawinigan, Sherbrooke and Montreal. They serve as an opportunity to exchange, network and share common ground, experiences and concerns about our field and explore advocacy opportunities. Our executive continues to hold regular meetings to discuss ongoing issues of the day in the province.

The issue of equitable remuneration for forensic psychiatrists continues to be a hot topic in our meetings. We continue to bring this forward in our work on the medico-legal committee of the *Association des médecins psychiatres du Québec* (AMPQ - our provincial psychiatric association). We have drafted several suggested changes to billing codes specific to forensic psychiatry practice with the hope to convince the AMPQ to negotiate with the government to accept them. For many years, there has been a consensus amongst members that forensic practitioners in Quebec are making considerably less than our general psychiatry colleagues. We have estimated this to be as much as a 30% difference. We have been concerned about the impact of this on forensic practitioner retention and recruitment in the future. As is the case elsewhere in the country, many centres across Quebec are understaffed by qualified forensic psychiatrists. This will only get worse as the average age of forensic psychiatrists increases.

Another issue that is currently having an impact on recruitment is forensic training. Quebec universities are currently requiring any psychiatrist wishing to practice in a university setting (most forensic psychiatry positions are with university affiliated programs) to complete 2 full years of post-residency training somewhere outside of the university where they wish to practice. This means that after having completed 5 years of residency and a full year of accredited forensic training in a PGY-6 program, a prospective forensic psychiatrist would also have to do a second subspecialty training year elsewhere in another field before being able to obtain a billing number and university credentials where they wish to practice. We are staying on top of the evolution of this file and have considered many ways that we might advocate for a more reasonable approach. It appears that the Ministry of Health in Quebec has recently become aware of this issue and is sending signals that they are not in agreement with the position of the universities on this issue. We have already seen the deleterious effects of such a policy in Quebec City, for example, where good and interested candidates for forensic PGY-6 positions have decided to not pursue training due to this uncertainty, the excessive duration of post-residency training and loss of income related to postponing beginning their practice as a staff psychiatrist. The lower income of forensic psychiatrists in general is also not likely to help entice candidates to make such sacrifices to seek a career in our field.

We continue to wait on the *Collège des médecins du Québec* (CMQ) with regards to the publication of their practice guidelines regarding medico-legal work by physicians. We have been repeatedly reassured by the CMQ that CAPL-QC will be consulted prior to the adoption of the final draft of this document. We have learned too that a long-awaited policy regarding the organization of Forensic Mental Health services in the most populous area of the province (Montreal and surrounding regions) will finally be ready in early 2017. This has been the culmination of many years of hard work and consultation with the government by mental health professionals, in particular our esteemed member, Dr. Renée Fugère (who is currently the CEO of the Institut Philippe-Pinel de Montréal).

We are looking forward to the upcoming CAPL conference in our neck of the woods (Mt. Tremblant, March 12-15, 2017) and there promises to be a dynamic and engaging francophone program. Dr Fabien Gagnon has once again agreed to organize the francophone program this year, to be held for a half day during the conference. This year, the conference dates have been altered based on feedback from members who could not attend in the past due to conflict with the Quebec March Break. We look forward to seeing you all in March!

Board of Directors

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CAPL / ACPD

701 – 141 Laurier Avenue West
Ottawa ON K1P 5J3
(613) 234-2815, ext. 223
Fax: (613) 234-9857
capl@cpa-apc.org
www.capl-acpd.org

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