

Psychologists providing neuropsychological assessment are often placed in an ethical and practice dilemma of responding to requests that a third party observer be present during the course of formal testing. The fundamental issue for psychologists to consider is to minimize all compromising influences on measurement accuracy that may distort the validity of their assessment and potential testimony. The following policy was developed by the Canadian Psychological Association, at the request of members of the Clinical Neuropsychology Section, to apply to neuropsychological assessment and is based on policies developed by the American Academy of Clinical Neuropsychology (*The Clinical Neuropsychologist*, 2001, Vol. 15, No. 4, pp. 433-439) and the National Academy of Neuropsychology (*Archives of Clinical Neuropsychology*, 2000, Vol. 15, No. 5, pp. 379–380); however, its applicability can extend to various forensic and similar assessment situations.

The presence of a third party observer presents various threats to the accuracy of the assessment. The introduction of potential distractions and a social facilitation/inhibition effect may alter the performance such as to invalidate the normative comparisons for psychological tests that were standardized in the absence of observers. The presence of third party observers during a neuropsychological assessment should be understood in the context of the Standards for Educational and Psychological Testing (1999) approved by the American Psychological Association, and endorsed by the Canadian Psychological Association. Specifically, the following Standards are applicable:

5.1. Test administrators should follow carefully the standardized procedures for administration and scoring specified by the test developer... In general, the same procedures should be followed as were used when obtaining the data for scaling and norming the test scores.

5.2 Modifications or disruptions of standardized test administration procedures or scoring should be documented.

5.4 The testing environment should furnish reasonable comfort with minimal distractions... In general, the testing conditions should be equivalent to those that prevailed when norms and other interpretative data were obtained.

5.7 Test users have the responsibility of protecting the security of test materials at all times.

Accuracy of assessment is further complicated by the presence of an involved third party. The following definition of an involved third party by the American Academy of Clinical Neuropsychology is adopted in the present policy:

Involved third parties are those who, directly or indirectly, have some stake in the outcome of an examination of a particular plaintiff in civil litigation. This stake may derive from a legal, financial, family, social, or other relationship or benefit. Involved parties may or may not be known or familiar to the plaintiff patient. For example, an unfamiliar agent of the plaintiff's attorney would be deemed an involved party for the purposes of this policy.

The presence of an involved third party may distort results through alterations in the patient's motivation, behavioral self-selection, and rapport with and attention to the examiner (American Academy of Clinical Neuropsychology, 2001). The data from an evaluation conducted with an involved third party observer present might not be a reliable or valid indication of the examinee's neuropsychological status, thereby

compromising opinion testimony based on those data. Thus, the presence of an involved third party observer during a forensic neuropsychological evaluation creates a number of potential conflicts for the assessing psychologist (Canadian Code of Ethics for Psychologists, Third Edition; 2000), specifically:

Principle I - Respect for the Dignity of Persons

I.7 Make every reasonable effort to ensure that psychological knowledge is not misused, intentionally or unintentionally, to infringe on human rights.

I.24 Ensure, in the process of obtaining informed consent, that at least the following points are understood: purpose and nature of the activity; mutual responsibilities; confidentiality protections and limitations; likely benefits and risks; alternatives; the 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.

I.26 Clarify the nature of multiple relationships to all concerned parties before obtaining consent, if providing services to or conducting research at the request or for the use of third parties... Third parties may include schools, courts, government agencies, insurance companies, police, and special funding bodies.

Principle II - Responsible Caring

II.2 Avoid doing harm to clients, research participants, employees, supervisees, students, trainees, colleagues, and others.

II.21 Strive to provide and/or obtain the best possible service for those needing and seeking psychological service.

III.36 Familiarize themselves with their discipline's rules and regulations, and abide by them

Principle III: Integrity in Relationships

III.37 Familiarize themselves with and demonstrate a commitment to maintaining the standards of their discipline

Principle IV - Responsibility to Society

IV.10 Uphold the discipline's responsibility to society by promoting and maintaining the highest standards of the discipline.

IV.11 Protect the skills, knowledge, and interpretations of psychology from being misused, used incompetently, or made useless (e.g., loss of security of assessment techniques) by others.

IV.17 Familiarize themselves with the laws and regulations of the societies in which they work, especially those that are related to their activities as psychologists, and abide by them. If those laws or regulations seriously conflict with the ethical principles contained herein, psychologists would do whatever they could to uphold the ethical principles.

In addition, the presence of an involved third party observer is in potential conflict with the Canadian Psychological Association's Practice Guidelines for Providers of Psychological Services, specifically:

I.1 Psychologists design the content and form of psychological services to meet the needs of users.

c. The psychologist practitioners recognize that when there is conflict between employer or third party user need and that of the direct recipient client need, that the latter takes priority.

II.2. Psychologists develop clearly defined policies and procedures to structure the delivery of services.

c. Psychologists develop procedures and policies that are consistent with codes of ethics and with standards established by professional regulatory bodies.

IV.2. Psychologists who provide services maintain current knowledge of scientific and professional developments that are directly related to the services they render.

V.3. All levels of providers establish unequivocal procedures for releasing records only with the fully informed consent of users.

c. Psychologists avoid releasing information that requires professional training for interpretation or analysis to persons who lack that training. When this information must or should be released, providers advise recipients about the limits to the usefulness or meaningfulness of the information.

This policy concerning involved third party observers does not pertain to uninvolved third parties who have no stake in the outcome of a plaintiff patient's examination, directly or indirectly. An uninvolved third party does not have an interest in the particular individual, but may be present for the purpose of training in test administration. Typical uninvolved parties include health-care professionals, student professionals or technical personnel. Nevertheless, the potential for distraction in these situations should be noted and minimized