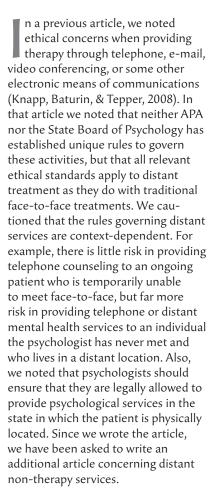
The Pennsylvania Psychologist

February 2010 ◆ UPDATE

Distant Services

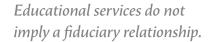
Legal Standards and Ethical Concerns in Educational, Coaching, and Other Services

Samuel Knapp, Ed.D., Director of Professional Affairs Rachael Baturin, MPH, J.D., Professional Affairs Associate



Educational Services

Psychologists may charge for providing educational services. However, care needs to be taken to ensure that the recipients understand that this is



an educational and not a professional service. Educational services do not imply a fiduciary relationship. That is, educational services provide general information, but professional or fiduciary services provide information uniquely selected to meet the needs or resolve the problems of a particular individual. So if an individual (student)





Dr. Sam Knapp

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contacts a psychologist and says, "my child has ADHD and I want information on it," the psychologist could gather information on ADHD and sell that to the student and charge for it as an educational service (assuming that charges are understood ahead of time). However, psychologists should include a disclaimer noting that this is general material and may or may not be directly relevant to the unique issues of the student requesting the

Continued on page 6

Commonwealth Proposes Electronic Health Information Exchange

Thomas H. DeWall, CAE, Executive Director



he Pennsylvania Governor's Office of Health Care Reform (GOHCR) in November issued a draft strategic plan for the Pennsylvania Health Information Exchange, or PHIX, for public review and comment. The plan outlines how to best transition to an electronic system of health records to improve efficiency, cut costs, and provide better quality care. It is available on the state's Web site, www.gohcr. state.pa.us.

The GOHCR notes that the creation of a health information exchange will mark a huge step in transforming Pennsylvania's health care industry from one using paper records to one using electronic data which, ultimately, reduces the costs of health care. PHIX will be the

Continued on page 8



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Cyberharassment and Cyberstalking

Bruce E. Mapes, Ph.D., and Samuel Knapp, Ed.D.

s the list of potential uses of technology to aid the practice of psychology grows, so does the list of potential misuses by disturbed or angry clients. For example, social network sites and public tax or utility records can provide personal information about a psychologist. A virus or worm may be embedded in or attached to an e-mail. An e-mail sent to a client may be modified. For example, in response to his client's e-mail, Dr. Smith wrote "I am concerned about your distress and would like you to come to my office this evening." The client edited the message to read "I am concerned about your wife's distress and would like her to come to my office this evening"; the e-mail was forwarded to his attorney who was representing him in a custody hearing the following day. More recently, computers have become a means to harass or stalk psychologists.

Cyberstalking (CS) and cyberharassment (CH) are relatively new problems. Although they share many characteristics, the primary difference is CS most likely involves the risk of offline contact and physical harm, while CH involves the intent to attack character or reputation. Both may be driven by revenge, mental illness, jealousy, or anger, but CH may also be driven by the desire to intimidate or embarrass the victim. The anonymity of the Internet often empowers the individual to send multiple e-mails or text messages to the victim or to the victim's significant others. Or the individual may hack into the victim's computer; sign up the victim for spam or porn sites; send offensive e-mails in the name of the victim; or post on Web sites and include fabricated, misrepresented, or embellished information about the victim.

Although Canada has passed laws for both CH and CS, the United States has been slower in passing legislation, especially for CH. Some of the reasons for the lack of legislation include: (1) issues of legal jurisdiction since the Internet is an international medium; (2) limited resources to collect and authenticate







Dr. Sam Knapp

evidence; and (3) the double-edged sword of free speech. Typically, CS is handled through the criminal courts and CH is handled through the civil courts. If CH is related to a custody matter, it may be possible to pursue criminal charges under laws related to intimidation or harassment of a court official or witness. Victims may try to file a complaint with the harasser's ISP to have the account canceled or the Web site shut down. This is rarely successful since the ISP is not a publisher, but rather a means to access the Internet and therefore can rarely be held accountable for the "free speech" of the harasser.

When stalkers attempt to meet the victim offline, immediate consultation should be sought from law enforcement.

When stalkers attempt to meet the victim offline, immediate consultation should be sought from law enforcement because this may pose a serious threat to the victim's safety and welfare. Pursuing civil action in the case of CH can be more difficult. Harassers typically represent themselves, which can result in a very lengthy process (years) and excessive attorney fees for victims. Even if victims are able to win damages and attorney fees, they may not actually collect any money, and it is unlikely the civil court will issue an order to shut the site down.

In the case of CH, the victim should keep a file of all offensive messages and posts, but should not provide intermittent reinforcers by responding. Typically, the harasser needs to be in control and wants to debate. Any response usually results in exchanges which escalate and can quickly get out of control (flaming wars). Harassers want to be recognized and will continue to make postings that are likely to become more outlandish and/or unbelievable, and ultimately discredit themselves. Most harassers discontinue when after a while they fail to elicit a response from the victim.

Harassment and stalking are stressful. Psychologists who are victims may experience a variety of symptoms, including but not limited to anger, demoralization, withdrawing, hypervigilance, avoidance of the computer, excessive self-consciousness, sleep disturbance, nightmares, impairment in concentration and memory, hypersensitivity to the comments or actions of colleagues and clients, and other symptoms common to prolonged stress. Psychologists who are victims should continue regular personal and professional routines, and remain active in recreational activities, family activities, and other activities that will help to reduce the preoccupation with and the harm from the CH. As in other situations, if the "symptoms" begin to impact one's daily functioning, the psychologist should consult with a colleague or contact PPA's colleague assistance resources.

For additional information on CS, CH, topics such as cyber-bullying, ways to protect yourself, and other resources, the reader is referred to the Stalking Resource Center, a program of the National Center for Victims of Crime (www.ncvc.org), and Cyber911 Emergency at www.wiredsafety. org. Occasionally google your own name to see in what contexts it may be used on the Internet. M

Role Definition and Confidentiality for Performance-Enhancement Psychologists

APA Code Permits Flexibility

sychology is a mental health, health care, and problemsolving profession. Some of the problem-solving activities of psychologists include assisting clients in a variety of areas to optimize their performance, such as by helping artists, athletes, or business executives achieve at a high level, or helping organizations function more effectively with less friction and more cohesiveness. Because performanceenhancement psychologists are not providing health care services, the standards and rules regarding boundaries, multiple relationships, confidentiality, patient testimonials, and other issues need to be interpreted in light of the different relationships that they have with their clients. In clinical practice, when psychologists are working with sensitive issues during psychotherapy, it is prudent to take a conservative approach to multiple relationships and to protect client privacy scrupulously. However, in performance-enhancement psychology, the rules regarding confidentiality and boundaries need to be modified to fit its unique circumstances.

A sport psychologist, for example, must determine if the failure of the client to achieve desired results is due to a psychological issue, physical limitations, or the lack of skill or technical proficiency. Usually such decisions can be made only by observing the client in action or interviewing coaches and others involved in the athlete's career. Consequently, the activities of a sport psychologist will be more public than the activities of a psychotherapist. Organizational psychologists, among other duties, may work with executives to help them generate plans to promote greater teamwork and less unproductive friction in their workplaces. In that role, organizational psychologists may attend company meetings

or other company events where their identity is public. They may also be asked to present their findings to larger groups, such as a Board of Directors or a management team within the organization.

The work of performanceenhancement psychologists is confidential in the sense that they do not contraindicated or exploitative. The participation of an organizational psychologist at a social event with a client is far less likely to be clinically contraindicated or exploitative than the participation of a psychotherapist at a similar event. In fact, it could be argued that the participation of organizational psychologists at a

In performance-enhancement psychology, the rules regarding confidentiality and boundaries need to be modified to fit its unique circumstances.

gratuitously give out the information they receive while providing services. However, their work is not confidential in the same sense as information generated while providing a health care service. For example, the HIPAA rules concerning confidential information do not apply because they are not dealing with protected health care information.

Boundaries also vary for performance-enhancement psychologists. For example, sport psychologists who attend practice events or competitions may be interacting frequently with clients in semi-public venues. In addition, the clients of organizational psychologists may expect them to participate in group activities, such as golf outings where observations of team interactions are important. Whereas going on a golf outing with a psychotherapy patient would likely be exploitative or at least clinically contraindicated, going on a golf outing for a sport or organizational psychologist might be expected as part of their interaction and potentially helpful.

The APA Ethics Code permits such flexibility. For example, Standard 3.05, Multiple Relationships, does not prohibit all multiple relationships, just those that are clinically

social event actually facilitates their relationships with their clients and improves the quality of their work.

The fact that the rules concerning confidentiality and boundaries differ for performance-enhancement psychologists does not mean that their rules are not important. Informed consent is very important in helping to avoid misunderstandings. Performance-enhancement psychologists have to explain the likely uses of the information they acquire, and they need to define their roles with clients and organizations. For example, they may have to explain that "I am here to help you generate ideas to improve the process, not to provide therapy" and to explain what is and is not appropriate, often countering the traditional role of the psychologist as therapist. At times performanceenhancing psychologists may note that traditional psychotherapy is indicated and, if so, a referral has to be made. Nonetheless, the unique roles of performance-enhancing psychology require flexibility in interpreting the APA Standards of Conduct. Psychologists working in these domains need to be aware of and highlight the uniqueness of the ethical issues involved in their roles. N

Doctor Ratings on the Web

Samuel Knapp, Ed.D., Director of Professional Affairs

everal consumer rating Web sites allow consumers to rate their health care professionals. By January 2009, Angie's List had estimated that 60,000 reviews had been made in its health care sections and more than 3 million searches for health care professionals had been reported, constituting 10% of its total number of searches (Berry, 2009). The ideal is that informed consumers will pick better professionals as determined by their reputation in the community and reported ratings. Although this seems like a good idea on the surface, the value of these ratings is often suspect as one discontented patient (or his or her friends) could negatively skew the results, or a few friends of the psychologist could positively skew the results. One list rated a particular psychologist as the best in his county, which was an urban county with several hundred other psychologists, even though only three patients had rated him. Another site listed 17 psychologists. Of those, 11 had one rating, 5 had two ratings, and 1 had three ratings. Most psychiatrists had 1, 2, or 3 ratings, although one had 13 ratings. Given the very favorable ratings she was given, I assume that this psychiatrist encouraged her satisfied patients

These ratings are unpopular with most physicians who complain that one disgruntled patient can attempt to ruin a practice by posting inaccurate information, and privacy laws prohibit them from responding. RateMDs reports that they delete blatantly libelous postings, which are about 5% of the total number of posts (Roan, 2008). Some physicians require their patients to sign agreements that they will not post anything on these rating sites without the permission of the physician, although the legality of these "contracts" is unclear.

The value of these ratings for psychologists remains to be seen. Although I use consumer ratings as one factor in deciding whether or not to buy books on Amazon or to stay in a particular hotel, I am less confident of the usefulness of these ratings in choosing a psychologist. In fact these ratings run the risk of misinforming consumers since a reader might give one negative evaluation more weight than would be warranted.

Nor am I certain about the optimal manner to respond to these advertising phenomena. On the one hand, I would not want my physician to make services contingent upon my signing an agreement that I could not post a rating. On the other hand, I am skeptical of the psychiatrist who had presumably encouraged her patients to rate her.

Segal and Sacopulos (2009) suggest that the value of physician ratings could be improved if ratings were published only if a critical number of respondents were reached, or if the ratings produced responses to objective facts, such as "did the physician wash her hands before she examined you?" or other topics that could provide feedback to the physician. Also, some psychologists suggest that their own surveys of patients might be more helpful in providing useful feedback.

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Bylaws Amendments Pass

n the November 2009 Pennsylvania Psychologist two amendments to the PPA bylaws were proposed. The first added to the criteria for membership in PPA with a provision that anyone designated by the Pennsylvania Department of Education as a certified school psychologist would be eligible to join, without necessarily having two years' experience in practice. The second added two positions to the Budget and Finance Committee, raising the total to seven. Both amendments were approved by the membership overwhelmingly.



ADVOCACY DAY

The PPA leadership has selected **Monday, April 19, 2010**, as our Advocacy Day this year. PPA members are urged to put it on their calendars. It will again be in room 60 East Wing of the Capitol Building in Harrisburg. The schedule will consist of registration at 9:30 a.m., an issue orientation session from 10:00 to 11:30, and meetings with legislators after that.

We will be providing more information about it by e-mail and on our Web site. We hope to have a good turnout of PPA members. No room for social loafers here!

DISTANT SERVICES...

Continued from page 1

information. If students make more detailed requests unique to their particular situations, then the responding psychologist risks crossing the line between an educational and professional service.

Consider these two scenarios in response to a student who requests more information on ADHD. The first psychologist responds, "I am enclosing information on strategies proven to help children with ADHD. I am sure they will be of benefit to you." The second psychologist responds, "I am enclosing information on strategies that can be used with children with ADHD. In order for you to help your child the most, I would recommend that you discuss these options with a qualified mental health professional who can develop a program specifically for your child." The second message does not assume that the strategies will be successful, and reiterates the need for a treatment plan made by a qualified professional.

Chat Services

Electronic communications sometimes occur in "chat rooms" or other venues where individuals with unique needs provide support or information to each other. They form the electronic equivalent of a support group. Psychologists can be part of those chat rooms, if permitted, but should clarify their role and note that they are not providing individualized services or professional opinions. Even referrals should be made carefully and include something like, "the issues you described to me are commonly found among persons who have what professionals call a generalized anxiety disorder. If these problems persist, I would suggest that you seek out a mental health professional or talk this over with your family physician." The referral does not assume that the patient has GAD, but indicates that the reported symptoms raise the possibility.

Coaching Services

Coaching is a general term for psychological services provided to individuals to enhance their functioning in a particular area of life, but it is not a health care service in that there is no presumption of a mental illness. Coaching can be done in discrete areas of performance enhancement, such as musical performance, sports performance, or executive functioning. When psychologists coach over the Internet or other electronic form of communications, they are providing a professional service and are governed by the other rules regulating the practice of psychology.

We have noted some of the problems that could occur when providing mental health services with persons never seen before without the benefit of a face-to-face interview. For example, treating a mental health patient from a distance raises the possibility that the patient may need a psychiatric referral or psychiatric hospitalization, but the psychologist is not from the area and does not know how to make a meaningful or appropriate referral for those services. These concerns are less salient when coaching or performance enhancement is being done, since

mental health treatment is explicitly excluded from the performance coaching relationship.

The general rule in distant coaching is that the nature of the media used should be appropriate to the goals of the relationship. For example, if an executive presents primarily with a problem of speech anxiety, then it would appear difficult to provide a meaningful intervention only over the phone. At the least, it would seem that video observation of the client speaking would be needed. However, it is possible that other clients would have needs that could be met solely through telephone contact.

Reference

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2009 PennPsyPAC Contributors

any PPA members went above and beyond the call of duty to help ensure the viability and effectiveness of the Pennsylvania Psychological Political Action Committee (PennPsyPAC). We are listing here those who contributed at least \$100 during the last calendar year. Many others contributed amounts less than \$100; they are not listed here but will be listed in the pamphlet distributed at the annual convention. Thanks to each and every one of you!

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Record-Copying Charges Changed for 2010

nder Pennsylvania's Act 26, known as 42 Pa.C.S.§6152 and 6155 (relating to subpoena of records and rights of patients), the Secretary of Health is directed to adjust annually the amounts that may be charged by a health care facility or health care provider upon receipt of a request or subpoena for production of medical charges or records. Because the law specifically references "health care providers," as opposed to just physicians, PPA believes that the law applies to psychologists. The amounts for 2010 vary only slightly from last year's amounts.

Effective January 1, 2010, the following payments may be charged in response to a subpoena:

	Not to Exceed
Search and Retrieval of Records	\$19.68
Amount charged per page for pages 1-20	\$1.32
Amount charged per page for pages 21-60	\$.98
Amount charged per page for pages 61-end	\$.33
Amount charged per page for microfilm copies	\$1.95

In addition to the amounts listed, charges may also be assessed for the actual cost of postage, shipping and delivery of the requested records.

In addition, a flat fee that can be charged by a psychologist for a claim or appeal under the Social Security Act or any federal or state financial needs-based benefit program is \$24.94 plus charges for the actual cost of postage, shipping and delivery of the requested records. The flat fee that can be charged for a request made by a district attorney is \$19.68 plus charges for the actual cost of postage, shipping and delivery of the requested records. Requests from independent or executive branch agencies of the government are exempt from the record-copying fee requirements. This law does not apply to copying required by insurance companies to monitor services under an insurance contract. The rate is increased annually according to the Consumer Price Index.

The law does not alter the requirement that psychologists must have a signed release from the patient before releasing the information to a third party. **I**

ELECTRONIC HEALTH INFORMATION EXCHANGE

Continued from page 1

"superhighway" that securely connects health care practitioners, patients, hospitals, labs and diagnostic facilities, and pharmacies, giving health care providers a complete and reliable record of a patient's medical history.

Implementing a health information exchange will allow health professionals across the state to see a patient's complete medical picture at the time and place of care, helping to improve the quality of care delivered. An important goal of the plan is to lead to a decrease in unnecessary and costly tests.

The intent of the governor's executive order creating PHIX is to share patient information electronically with authorized providers to improve care and safety. Individuals would also have access to their health care information. PHIX is intended to reduce costs by enabling health care providers to have access to patients' records, thus avoiding unnecessary tests or contraindicated prescriptions. The program should also reduce duplication of data entry and data processing. As with the federal Health Information Technology for Economic and Clinical Health Act of 2009 (the HITECH Act), PPA's concern going forward will be maintaining the security of confidential psychological records.

Up to \$17 million in federal stimulus funding is available to help pay for the necessary infrastructure. The proposed strategic plan outlines the state's strategy to increase health information sharing among health care providers, and support providers' efforts to qualify for federal funds that will help them purchase and implement electronic medical record systems.

In order to qualify for federal funding the GOHCR will soon be submitting comprehensive strategic and operational plans to the Department of Health and Human Services. The plans will need to address issues of governance and accountability, financing, technical infrastructure, business and technical operations, and legal issues including federal and state privacy laws. **N**



Dr. Dianne Salter, at her last meeting on the PPA Board of Directors in December, was presented with a certificate of appreciation by PPA President Dr. Steven R. Cohen. Dr. Salter just completed two 3-year terms as an APA Council Representative from Pennsylvania. She has served for most of the last 25 years in various capacities, including president, on the Board of Directors.

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Psychologist Collaboration with Medical Professionals Crucial for Optimal Care

Nancy Breen Ruddy, Ph.D., Dorothy Borresen, Ph.D., APN, and Bill Gunn, Ph.D.

s psychologists, we work collaboratively with patients, their social networks, and other helping professionals. However, many psychologists rarely collaborate with patients' primary care medical professionals. The lack of ongoing dialogue between mental health and medical professionals creates many missed opportunities to enhance patient care, build referral relationships, and reduce professional isolation. How can psychologists develop and maintain reciprocal, collaborative relationships with medical professionals? We recommend the following practice management and collaborative strategies.

Make a commitment to collaboration with medical professionals:

Creating and maintaining collaborative relationships takes time and effort. While we believe the benefits far outweigh the challenges, psychologists must be willing to step outside of their comfort zone into the medical world.

Make collaboration a routine part of your practice: Routinely assess patients' current and past health issues and familial medical problems. Encourage patients who have not had regular medical care to seek consultation from a medical professional, to rule out physical causes of symptoms they believe to be stress-related. Ask the patient for a release of information to their primary care medical professional, and initiate communication. At a bare minimum, inform the medical professional when the patient initiates and terminates therapy with a brief letter.

Reach out to medical professionals in your community: While there is a continuum of practice styles, most primary care physicians recognize the importance of psychological and relational wellness on overall health. Many psychologists are unaware that approximately 30 – 50% of primary care visits address psychological and relational issues, and that most of the mental health care in the United States occurs in

primary care (Lewis et al., 2004; Miranda et al., 1994; Kessler, Demler & Frank, 2005; Robins & Regier, 1991). The vast majority of people who need our services never darken the doorstep of a psychologist. Primary care medical pro-

The reality that mental health "specialists" don't communicate in this way is very frustrating to primary care professionals, and impedes optimal patient care.

fessionals struggle to meet the needs of these patients, given their training and time constraints. They want to establish referral relationships with psychologists who will communicate with them about shared patients, and provide them with pre-referral consultation. Primary care professionals often spend many visits convincing a patient to seek therapy. An established relationship between the primary care professional and the psychologist facilitates referral, because the medical professional can recommend a specific psychologist based on a history of prior successful outcomes. Yet, this type of referral relationship is rare. To facilitate such a referral relationship, psychologists can contact medical professionals of current patients to discuss their care. Collaboration begets collaboration. Psychologists can also market their practice to medical professionals, highlighting their willingness to work collaboratively. Of course, one must then follow through on these promises.

Cater communication and collaboration to the medical world: Collaborative referral relationships are the norm in medicine. Medical specialists such as cardiologists routinely communicate their findings, impressions, and treatment recommendations back to primary care professionals for implementation. The reality that mental health "specialists" don't communicate in this way is very

frustrating to primary care professionals, and impedes optimal patient care.

To facilitate communication, develop form letters that briefly describe the patient's presenting concern, treatment plan (including anticipated length of

care) and how these issues affect health. Ask primary care professionals the best way to establish contact, and provide them with the best means of contacting you. Recognize that

phone conversations may be very difficult, given time constraints and schedule demands. Also recognize that primary care professionals may not communicate in return, as this is not the norm in their other referral relationships. This does not reflect a devaluation of psychologists' input.

Respect the medical professional's relationship with the patient: Ideally,

primary care is ongoing comprehensive and preventative personal medical care which helps patients navigate the health care system and coordinates care among specialists and other health care providers. Many patients have a long-term, close relationship with a medical professional. It is important for psychologists to respect the relationship continuity in primary care for many reasons. This relationship preceded the psychotherapy referral, and will continue after the completion of the psychotherapy. It is almost disrespectful of the primary care professional when psychologists do not inform them about the initiation or discontinuation of psychotherapy.

Beyond the lack of professional courtesy, a lack of communication about the psychotherapy prevents the primary care professional from facilitating the psychotherapy process. Medical professionals can help psychologists gather contextual

Continued on page 10

PSYCHOLOGIST COLLABORATION

Continued from page 9

information. The medical professional's knowledge of the patient's "baseline" functioning can help assess treatment impact. Also, in many cases, the medical professional knows members of the extended family and knows the patient's social history. In short, a collaborative relationship allows the psychologist to use the primary care professional as a resource.

Primary care professionals can also serve a critical function when patients terminate psychotherapy prematurely. Patients who disengage from the therapeutic process don't cease to exist. If they are still in distress they are likely to return to a primary care medical professional for assistance. When the psychologist and medical professional have worked collaboratively, the medical professional can facilitate a return to therapy, when appropriate. When the premature termination reflected a poor patient/ psychologist match, the psychologist can help the medical professional determine if a referral to another psychologist would be beneficial. However, without prior knowledge of the psychologist or the psychotherapy progress, the primary care professional is unable to serve these functions.

Finally, medical professionals and psychologists often struggle with professional isolation. The sense of shared care that results from productive collaborative relationships can reduce this sense of isolation. Psychologists who have shifted their practice style to become

more collaborative often state they "wouldn't go back" to practicing without collaboration.

Collaboration can be a critical feature of psychotherapy for patients whose primary care professional prescribes psychotropic medications, and for patients struggling with their own or a family member's medical condition: Primary care professionals who are not informed about their patients' mental health care are "flying blind." In a similar vein, psychologists working with patients under the care of a medical professional who don't have access to information about their health are "flying blind" as well. Illness is a common stressor resulting in psychotherapy referral. Approximately 50% of people with chronic illnesses such as diabetes suffer from depression (Kessler, Ormel, & Demler, 2003; Polsky, Doshi & Marcus, 2005). Also, many chronic illnesses require patients to make difficult lifestyle changes. The more that psychologists understand these issues, the more they can help patients cope with the emotional consequences of illness. In the United States, primary care medical professionals write most of the prescriptions for psychotropic medications. Clearly, it is in the best interest of the patient if the person prescribing psychotropic medication and the treating psychologist communicate and collaborate. This is all too often not the case.

While there are many advantages to collaboration between psychologists and medical professionals, it is not the norm in many practice communities. Psychologists have an opportunity to lead

the mental health community towards greater collaboration. We believe that psychologists will find that collaboration can optimize patient care, strengthen and expand referral networks, and reduce professional isolation. It is more than worth the time and energy.

The interested reader is referred to our book, The Collaborative Psychotherapist: Creating Reciprocal Relationships with Medical Professionals for a more in-depth discussion of practice management and therapeutic strategies to facilitate collaborative relationships with medical professionals.

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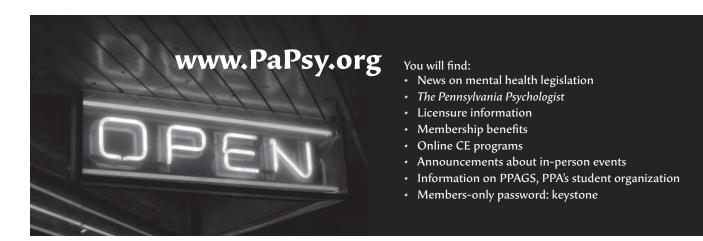
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