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Houston LPC Association News

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President's Column

By Sherry Malcomb Gill

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During the past year as President of the Association, I have been impressed over and over again about the dedication of some of you members. At this time, I would like to acknowledge many of these people today.

Patti Lawlor demonstrates tireless energy to this organization. Time and time again her commitment stands out through the organization of programs, the constant surveillance of the internet to find issues which effect our profession AND picking up the slack that serving presidents do no complete. She does this always with a positive, pleasant and caring attitude. Patti has done this through being a student, being a temporary and then "official" LPC and through countless surgeries. Patti does this in spite of a full time job. Patti does this in spite of serving in several other organizations. Ask Patti about gardening, butterflies and roses. This organization would be so sadly lacking if Ms. Lawlor decided to leave us.



And then we have, Kathy Kelley (alias in another lifetime Kathy Lockwood). Kathy has also brought a tremendous level of energy to this organization. She has served more years than probably anyone else in this organization. She has held every position we have to offer. More importantly she has been responsible for almost every piece of communication, newsletter, mailing, announcement, etc. that has been done by this organization. She, too, spends hours discovering issues which impact the LPC profession. She has been able to find outstanding speakers and subjects. Whenever there is a task to be done, Kathy steps forward. Kathy has also done this while holding a full-time job, being active in several organizations and dealing with personal issues.

President's Column continued

Another person to recognize is Edward Wilson. Edward, too, has held many positions and has served as long as Kathy. He currently is the one to handle our recordings, speaker recognition and CEUs. Edward's quiet diligence has been and is greatly appreciated by all on the Board. Other people have also served through the years and though some may feel left out when acknowledged her, they would have to agree that these three people stand out for not only a long line of service, but for a steady and positive commitment to making our organization continue.

Currently, we are attracting new people to the Board. We are grateful to have these people. New people bring a level of energy and different outlooks. The LPC needs this. I hope we continue to have new volunteers who will step forward and offer to serve. ALL BOARD MEMBERS WOULD WELCOME THIS. Please VOLUNTEER!!

The next time you see Patti, Kathy, Edward or any Board member, stop and thank them. They put a tremendous amount of time, energy, commitment and love into this organization. And while you are doing that volunteer to perform some tasks.

Thank you for the opportunity to serve you this year. I, only wish I had done it with the same commitment and care these people demonstrate every month.

Humbly,

Sherry Malcomb Gill, President

2007-2008 HLPCA Board Members

<i>President:</i>	Patti Lawlor
<i>President Elect:</i>	Anne Kirkpatrick
<i>Past President:</i>	Sherry Malcomb-Gill
<i>Secretary:</i>	Christian Zela
<i>Treasurer:</i>	Patricia Ugwu
<i>Communication Chair:</i>	Kathy Kelley
<i>Media / Video:</i>	Edward Wilson
<i>Membership Chair:</i>	Ronda Graham
<i>Program Chair:</i>	You ???
<i>Social Chair:</i>	Michael Farnell

It's Time to RENEW!

It's time to renew your membership and pay dues for the 2007-2008 membership period. **Pay now to save five dollars.** Click on the link to download an application.

<http://www.houstonlpcassociation.org/docs/HLPCA%20App.PDF>

Member prior to June 30	\$25 / yr
Member after June 30	\$30 / yr
Student or Intern	\$12 / yr

Responding to Subpoenas

Floyd L. Jennings, J.D., Ph.D.

Overview

Dealing with subpoenas is often anxiety provoking for mental health practitioners. The issue, put simply, is that release of information which is confidential and might be privileged, without the consent of the person or a court order can subject the practitioner to a potential Board complaint for breach of confidentiality or a lawsuit.

Anxiety about subpoenas is aroused with the very manner in which the instrument is served: The subpoena is frequently served by an officer of the court, (though in most settings may be served by a civil process server or even by mail). However, when a constable arrives in the provider's waiting room wearing a uniform and duty weapon, the secretary anxiously advises that "there is a policeman out here to see you" (not discriminating between types of law enforcement agencies). The provider, puzzled and a bit anxious (remembering that a decade ago while on Ghirardelli Square in San Francisco you received a parking ticket on your rent car that was never paid) says, "Yes?" The officer asks their name handing them a subpoena. As a provider you have now been "served."

Factors to consider in responding to a subpoena

How does a mental health provider respond to a subpoena? There are three categories of issues, (a) knowing what a subpoena is, (b) knowing the rules that apply to confidentiality, and (c) practical matters involving knowing how to deal with a court and court procedures.

The first principle to relax, and learn that subpoenas are but devices to get material before a court. Courts resolve disputes and subpoenas are a means of getting information before them.

The second principle to remember is that a subpoena is not a court order, though the language suggests such, e.g. "You are hereby ordered, required, demanded, to appear..." A subpoena is but writing issued under authority of a court to compel the appearance of a witness at a judicial proceeding, or the disclosure of information in the witness's possession to the court.

The third principle is to always respond to a subpoena: Disobeying a subpoena could subject the witness to a contempt citation, and sanctions ordered by a court (which might be financial). But (and this is a very important "but") releasing information – even in response to a subpoena, without the consent of the person or in the absence of a court order may subject you to penalties or a lawsuit.

Most subpoenas are routine. The fact is that many, if not most subpoenas are merely to obtain records. They are issued as a matter of routine in an attempt to discover information which might – or might not – be useful in resolution of a dispute. Frequently, a records service staff person may come to the provider's office to film or photocopy records. This is to say that a subpoena in and of itself is not to be feared – honored and respected, but not feared.

Response rules

1. Always respond
2. Give the information only with consent or a court order
3. Inform the court if you believe the information may be privileged

As noted, the first rule about dealing with subpoenas is this: Always respond to subpoenas, even if the response is to seek counsel (an attorney) and submit a motion to quash the subpoena. In fact the litany from the provider's mouth is: "I'm always happy to respond to a subpoena." For, as noted, failure to respond could place the recipient in some jeopardy of being held in contempt of court.

Note that "responding" does not necessarily mean supplying the requested information. The reasoning is as follows:

It is important conceptually to distinguish between discoverability of information (through the subpoena process) and admissibility in a court proceeding. Much information is ultimately discoverable; less is admissible. But important to remember when the provider is concerned to protect the confidentiality of his/her client is that the court decides what is admissible and officers of the court will argue this issue, the provider's role is merely to raise the issue if there is any unclear issue whatsoever. It is not the provider's role to virtuously attempt to be the arbiter of what is either discoverable or admissible, that is the court's function. It is the duty of the provider to inform the court that information may be privileged.

Finally, information will be released only in response to consent or a court order. Mental health providers in Texas are subject to the statutory requirements of Tex. Health & Safety Code §611.

The rules applicable to confidentiality and disclosure without the patient's consent are beyond the scope of a discussion viz. subpoenas but suffice it to say that this rule emphasizes the necessity for the patient's consent unless otherwise legally authorized. In the case of subpoenas, authorization means consent or a court order.

How to deal with a court or comport oneself in a judicial proceeding is a topic for another note. Providers are encouraged to develop a relationship with an attorney whom they can consult periodically regarding legal and ethical questions.

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