

President's Message

Life is made of cycles. In the Canadian public service, the kind of cycles we go through can try our patience. No matter who is in power on Parliament Hill, we have to provide services to Canadians. Most of these services are legislated and all of them are necessary to the public's health, safety or well-being; or to the Canadian economy; or to some of the under-privileged portions of our society.

Members of CAPE allow Parliament to function properly. They facilitate communications in both official languages or in more than 50 different language combinations. They see that Federal Departments, other levels of governments in

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Collective Bargaining

The TR collective agreement expired on April 18, 2011. The EC Collective agreement expires on June 21, 2011. The LoP collective agreement expires on June 15, 2011.

As you well know, in the fall of 2010 Treasury Board invited the Public Service Alliance of Canada to participate in "expedited bargaining". After two weeks of negotiation, tentative agreements were reached at three of PSAC's five bargaining tables. The tentative agreements involved wage increases of 1.75%, 1.5% and 2%, other adjustments addressing issues specific to sub-groups, as well as, after preliminary review, what CAPE would consider a major concession. The concession was an end to the accumulation of severance pay for situations where an employee retires or resigns from the public service.

Following this, the CAPE EC and TR bargaining units were likewise invited to return to the table early. In response to significant input from their respective memberships the EC and TR collective Bargaining Committees decided separately to decline participating in expedited negotiations with Treasury Board. Having taken this

decision, the Committees settled into the regular schedule for collective bargaining.

"Regardless of the outcomes, these rounds of Collective Bargaining promise to be difficult and contentious," said CAPE President Claude Poirier. *"The teams are equipped with the feedback from the bargaining unit members, and are familiar with the table set by the Federal Government. They are in for a bumpy ride."*

In March and April CAPE conducted electronic collective bargaining surveys in order to capture a picture of the concerns, wishes and issues that TR and EC members wish to see addressed at their respective bargaining tables. A survey of CAPE members at the Library of Parliament took place in June.

This was CAPE's first venture into electronic surveys, apart from a small pilot project undertaken in 2007 when the LoP Collective Bar-

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President's Message, cont'd from page 1

Canada, Universities and Colleges, as well as businesses have the necessary information to make informed decisions. They offer essential services to Canadians.

Unfortunately, the political leaders of Canada and some of the most influential groups and media don't understand the value of our work. Services to the public have no importance to them. They see life through the lens of "less government is better government", even though cycles of reducing government expenses and cutting the public service have been tried before, with very limited success and major negative consequences. Damages to our institutions can be difficult to repair in the future if ill advised decisions are made. Critical

knowledge can be lost. Corporate memory can be destroyed.

Communications have always been important but will have to play an increased role in order to deconstruct the numerous myths that are being perpetuated by people who don't understand what we do or the importance of our work. As you will read in this issue of Professional Dialogue, CAPE is gearing up its Communications function, moving to electronic communications, including for votes as well as adding a discussion platform to its capacity, and increasing cooperation and activities with other professional unions.

Informing our members, the general public and Parliamentarians is the only way we can address

the misinformation problem we currently see in Canada. We are facts, data and communications experts, we must put that expertise to work.

I hope you enjoy reading the following pages as much as we enjoyed preparing them for you. ●

Claude Poirier
President
Canadian Association
of Professional Employees

Collective Bargaining, cont'd from page 1

gaining Survey was done electronically. The LoP bargaining unit has approximately 90 members. The EC bargaining unit has approximately 13,000 members and the TR bargaining unit has approximately 1,000 members. *"The logistics of administering surveys of this size are, naturally, more complicated than those encountered during our pilot survey"*, said CAPE President Claude Poirier. *"We have learned a great deal from this experience, and will apply all that we have learned to the electronic voting scheduled for the fall of 2011 - when the member-*

ship will be asked to select its leadership and to vote on changes to the Association's Constitution and By-Laws."

Financial Incentives Plan - Translation Bureau

In May of this year CAPE, the Translation Bureau, and the Treasury Board came to an agreement to renew the Financial Incentives Plan for a two year period, until March 31, 2013. There are several minor amendments to the Plan that do

not change the Plan in any way, but serve to clarify certain articles within the Plan.

Please visit http://acep-cape.ca/pdfs/General/files/Protocole_e.pdf to review the plan. ●

CAPE Labour Relations - A Snapshot

The contributions that the Labour Relations Officers make to the wellbeing of the membership cannot be overstated. They provide advice, guidance, support and representation to members. They represent the membership at consultation tables. They protect the rights of employees at all levels of redress and consultation.

The past several years has seen a marked rise in the number of harassment cases brought to the Labour Relations Officers' attention - from approximately 20 per year four years ago, to over a hundred at the time of this writing. To a large extent it is believed that this is caused by the gradual downsizing of the public service, with the result that there are fewer federal government employees carrying ever increasing workloads. This impacts necessarily on work/life balance, on stress, and on mental wellbeing. It is possibly for these same reasons that CAPE has seen a small spike in grievances against disciplinary actions as well.

Discrimination is not, fortunately, a matter that CAPE is fre-

quently called to address. However, CAPE was recently successful in winning a case that attracted national media attention. In 2007 a CAPE member, Ms. Labranche, filed a grievance alleging that the employer failed to protect her from religious discrimination, and failed to recognize and acknowledge religious discrimination, and failed to accommodate her once the discrimination began to affect her physical and psychological health.

In May 2010 the Public Service Labour Relations Board (PSLRB) found that the member had in fact been discriminated against because of her religious beliefs and that the employer did little or nothing to help her. In rendering the decision, the adjudicator reserved her deci-

sion as to the appropriate remedy on the understanding that the parties would try to reach agreement among themselves. Such an agreement was reached in December 2010. Speaking to this matter at the time, CAPE Executive Director of Operations Jean Ouellette said "*The original May 2010 decision was a significant win on behalf of federal government employees. This case emphasises the fact that bargaining agents are relevant and effective entities that serve the greater good of their members. We abhor the treatment to which Mme. LaBranche was subjected, and congratulate her on her vindication.*" ●

The Charter Challenge

When public service employees won the right to collective bargaining in the late '60s, the matter of a framework for collective bargaining was discussed in great detail. The legislation of that time which resulted from the discussions, the Public Service Staff Relations Act (PSLRA) in its original version, excluded three matters from bargaining that are not excluded in many other labour statutes in Canada: pension, classification and staffing.

Public service bargaining agents have argued since the '60s that the exclusion of these three matters from the bargaining table is unreasonable and exists only because the

employer is also legislator. The matter has come up at various times and in various forums over the past forty years, but with no change to the bargaining regime.

Then, in June 2007, the Supreme Court of Canada came down with the so-called *Health Services* decision, which tied collec-

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Charter Challenge, cont'd from p. 3

tive bargaining to the right of association provisions of Section 2 of the *Canadian Charter of Rights and Freedoms*. As a result of the decision, a door opened that allowed public service bargaining agents to file court actions.

The importance of pensions is easy to argue. Tied with wages, there is no entitlement or benefit that compares to pensions for CAPE members. Pension is a form of deferred wages. Staffing processes determine the potential realization of career aspirations, while classification is the cornerstone on which salary is negotiated in the federal public service. All three of these matters are front and center when it comes to CAPE's membership.

Therefore, the exclusion of these matters from the bargaining table is unreasonable and the sections of the *Public Service Labour Relations Act*, the labour statute that currently covers bargaining in the federal public service, must be stricken from the legislation.

Considering the importance of the action and after discussions among bargaining agents, CAPE and the Professional Institute of the Public Service of Canada joined forces to file before the Superior Court of Ontario an action de-

manding that the *PSLRA* change to reflect the significance of the *Health Services* decision.

Recent decisions on matters closely or not so closely related to the matter of a *Charter* right to bargaining have been issued over the course of the past few years, while other related matters are still before the courts.

In April 2011, the Supreme Court issued yet another decision on the *Charter* rights to association on work place matters: the *Fraser* decision.

While the facts in the *Fraser* decision are only tangentially related to the facts of the *Health Services* decision, the Justices of the Supreme Court did review principles and tried to give a clearer picture of what the Court meant in the earlier decision.

In the *Fraser* decision, a majority of Justices focused on association rights almost to the exclusion of any regard to the significance of the statutory environment in which the rights were being expressed. The Court was asked to decide on the matter of legislation passed by the Ontario government that compensated for the exclusion of Ontario farm workers from the *Labour Relations Act* of Ontario with a *pro-*

forma mode of presenting concerns to employers. The Court found the Ontario government did not act in contravention of the right to association by imposing a separate and much weaker regime of labour management relations on farm workers. According to the decision, the responsibility of the government of Ontario was simply to define in legislation some form of relation to give meaning to the right of association.

It can be expected that cases now before the courts on similar matters will give ever greater clarity to the application of the *Fraser* decision to other cases including the *Charter* challenge filed by CAPE and the Institute.

As is always the case with the courts, what bargaining agents, employees and Canadians in general will need to work out with each decision is the extent to which facts are similar and the extent to which general principles must be interpreted and interpreted again with greater attention to what is specific in each case and to what is common.

We can be sure, however, that for the moment all parties are finding in *Fraser* reason to agree and reasons to disagree with various elements of the decision. ●

CAPE Communications

The Committee

The mandate of CAPE's Communications Committee is to provide advice and recommendations to the National Executive Committee on matters related to communications and public relations in general of the Association, as well to provide a forum for the creation, development and evaluation of communications and public relation initiatives to enhance the visibility and image of the Association. The Committee, through listening to the needs of the membership, is undertaking to expand and enhance CAPE's communications.

The Commitment

The Communications Committee first and foremost identified the need to update the CAPE Website, to enhance the information architecture and facilitate the location of information on the Website. They identified the need to switch from paper to electronic communications. They emphasized the need for greater consultation with the membership, and identified an online discussion platform as the solution.

The Website

As you may have noticed, the CAPE Website has undergone a significant transformation over the past few months. While CAPE staff is still reorganizing the content to bring it into accord with the new information architecture, there are many improvements that are immediately available. These include a new and powerful search engine that will allow novices and experienced website searchers to immediately locate information. Access to information directly from the homepage has been improved, with revised and additional horizontal

and vertical menus to facilitate members' access.

Information Architecture

The goal of the restructuring of the information on the CAPE website was to make the site more intuitive - to allow members more ways to access information. Information that was previously found on only one page of the website can now be found on several different pages, allowing members a broader opportunity to find what they are looking for.

The Online Discussion Platform

The most recent addition to CAPE's communications tools has been the Online Discussion Platform. Over the past several months, CAPE's National Executive Committee, Communications Committee, and other sub-committees have been test-driving this tool in order to assist the Committee in refining and perfecting it. In particular, the Constitution and By-Laws Committee has already made significant use of the online discussion plat-

form in discussing proposed amendments to both the Constitution and By-Laws of the Association.

Electronic Communications

As indicated in the flyer enclosed with this document, this will be the last hard copy communication issued from CAPE National Office. In response to members' wishes, **CAPE will be communicating with its members in electronic format only, from this point forward.** Effective immediately, CAPE will no longer be using hard copy mail to keep its members current.

It is imperative that you register to receive our electronic communications in the future. Please go to the CAPE website and register now - at www.acep-cape.ca

From this point forward, CAPE will be conducting all ratification votes, collective bargaining surveys, elections votes, changes to Constitution votes, votes on members' resolutions and changes to By-Laws votes electronically.

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CAPE Communications, cont'd from p. 5

All publications, including the **Professional Dialogue** and the **CAPE Annual Report** will be distributed electronically only. Other communications with members, including calls for volunteers, notices of Local and National Annual General Meetings, notices of Membership Budget Meetings, updates on collective bargaining, results of surveys, results of votes, **without exception***, will be electronic.

Advise your colleagues of these changes in CAPE's communications practices.

The Staff

Because of the increase in workload resulting from the above initiatives, CAPE created and staffed the position of Communications Officer Assistant. It is anticipated that further additional staff will be needed in order to manage the electronic

communications and online discussion platform. These matters will be presented to the membership in the budget information provided prior to the 2011 Annual General Meeting to be held in November. ●

*CAPE members who do require accommodation will be accommodated.



Professionals Serving Canadians

CAPE PIPSC and ACFO

In November of last year, Ottawa Life Magazine featured an extensive interview with CAPE President Claude Poirier, Gary Corbett, President of the Professional Institute of the Public Service (PIPSC) and Milt Isaacs the President of the Association of Canadian Financial Officers (ACFO). This article explored the issue of Evidence versus Ideology, and how the Canadian Government and the Canadian population view the roles of federal public service employees, and how the Canadian Government manipulates these views. Following this collaboration, CAPE, PIPSC and ACFO created a joint partnership called Professionals Serving Canadians. The goal of this alliance is to highlight and examine the different issues that are important to professionals working in the federal public service.

Our first public event was held on Parliament Hill in November, where we hosted an *Evidence versus Ideology in Public Policy Forum*, with a distinguished panel including Lawrence Martin, a public affairs columnist for the *Globe and Mail* and author of *Harperland*; Dan Gardner, an award winning columnist and Author of *Risk: the Science and Politics of Fear* and *Future Babble: Why Expert Predictions Fail - and Why We Believe Them Anyway* and Armine Yalnizyan, senior economist for the Canadian Center for Policy Alternatives.

In preparation for the next event, early in 2011 *Professionals Serving Canadians* undertook a pension survey of the memberships of each of the bargaining agents involved, "*The Public Service Pension Plan: Perspectives for its Professionals*". Over 11,000 members completed this survey, providing us with a sound snapshot of the issues most important to professionals in the public service relating to the matter of pensions.

In April of this year *Profession-*

als Serving Canadians hosted "*The Public Service Pension Plan: Perspectives for its Professionals*", this time at the Ottawa Convention Center. The panel included Bernard Dussault, Senior Research and Communications Officer at the National Association of Federal Retirees and former Chief Actuary of the Canada Pension Plan, Marilyn Lurz, Pension Consultant, and Prescilla Healy, Lawyer and Legal Pension Consultant. The goal of this event was to examine whether the federal public service pension plan addresses or fails to address the needs of professionals. For the first time, CAPE members were invited to participate in a Webcast of a union event, and indeed the event proved so popular that all 500 available places were filled within a matter of days. 500 on-site seats were also booked to capacity prior to the event. The Webcast of the event is still available on-line at <http://www2.webcastcanada.ca/professionalservingcanadians/>

"The overwhelming popularity of

this event indicated that Professionals Serving Canadians is on to something big," said CAPE President Claude Poirier. *"The level of engagement and interest from the CAPE membership tells us that we are moving in the right direction in identifying and addressing issues of key importance to our membership."* ●

CAPE Special General Meeting

January 5, 2011

The Special General Meeting (SGM) held on January 5 of this year was held as a result of a petition received from a total of 51 members in good standing. According to the CAPE Constitution, Article 30.1, an SGM shall be called upon the petition of not less than fifty Regular or Pending members.

Consequently, the meeting was held for the purpose of discussing the matters of the petition, specifically: a demand to refuse an early return to the bargaining table; a demand to issue a public statement that CAPE will not negotiate concessions, including concessions on severance pay; a demand to issue a public statement that CAPE would fully inform members and get a mandate from them on important matters.

The sponsors of the petition disagreed at the outset of the meeting with the requirement to have a meeting on the petition and proceeded with a proposal to attendees of the meeting that, in lieu of the issues raised in the petition the membership might be better served if the discussion revolved around the upcoming budget and its effect on bargaining. A majority of the approximately 80 members in attendance voted in agreement with this suggestion.

Despite this agreement, discussion revolved immediately back to the issue of **severance pay**. CAPE's chief negotiator explained that it is extremely unlikely that a special law will be used to take away severance. The courts have already decided that an employer cannot, through legislation, change entitlements and rights negotiated into a

collective agreement. The employer *can* freeze wages through legislation or set maximum wage adjustments in special circumstances. *But it cannot change entitlements like severance pay through special legislation.* To arrive at such a change, it must negotiate and make concessions to get the change. This does not mean that Treasury Board would never *try* to use legislation; however, it is unlikely as it would necessarily be unsuccessful.

The issue of **concessions** was discussed in the context of collective bargaining. The chief negotiator explained that concessions are inherent to the bargaining process. Often concessions are minor, but sometimes they are more significant - for example at the turn of the century public service unions gave up the right to accumulate annual leave without restrictions, i.e. without a cap for carry over from year to year. Signatories of the petition raised the issue of setting up a **strike fund**. A few members argue that this should be considered by the membership. As a result of this discussion CAPE committed to asking members, in the collective bargaining input surveys, not only their choice of impasse resolution process but also if they would be willing to increase dues for a temporary period of time in order to

establish a strike fund.

Further discussion addressed the collective bargaining process itself, and the decision making processes related thereto. The chief negotiator explained that only members make decisions. For example, staff including the negotiator do not have a vote in deciding what proposals go to the table, what proposals are priorities, what proposals are taken off the table in the course of bargaining, what to trade for proposals that are important to our members, etc.. Staff don't get to be part of the bargaining decisions... only members.

Members on the committees decide what goes into collective bargaining surveys, and members at large define priorities through their answers to the collective bargaining surveys. Then the members on the committee decide how to present the priorities at the table, what the overall proposals package will contain, etc..

Members make the decisions during the entire process, ending with the ratification vote which is the determining moment when members decide whether new provisions are added to the collective agreement.

CAPE committed to putting together a document which will provide the membership with infor-

mation on how members participate in the bargaining process.

One member demanded to know how CAPE President Claude Poirier would react to the 2011 federal budget. Claude Poirier explained that he would need to

wait and see what was in the budget before responding to it.

The meeting was positive because it gave attendees an opportunity to ask questions, get answers and leave feeling more comfortable with the manner in which their

organization approaches collective bargaining. Members provided interesting observations about how CAPE can demystify bargaining for members - observations that the national office is now turning into information tools. ●

IMPORTANT NOTICE TO CAPE MEMBERS



In response to members' wishes, CAPE will be communicating with its members in electronic format only, from this point forward.

Effective immediately, CAPE will no longer be using hard copy mail to keep its members current.

The present edition of Professional Dialogue will be the **last printed communiqué to members**.

It is **imperative** that you register to receive our electronic communications in the future. Please go to the CAPE website and register now - at www.acep-cape.ca

From this point forward, CAPE will be conducting all

RATIFICATION VOTES
COLLECTIVE BARGAINING SURVEYS
ELECTIONS VOTES
CHANGES TO CONSTITUTION VOTES
CHANGES TO BY-LAWS VOTES
MEMBERS' RESOLUTIONS VOTES

electronically.

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Please advise your colleagues of these changes in CAPE's communications practices.

*CAPE members who require accommodation because of limitations will be accommodated.



CAPE is an eco-friendly and environmentally conscious organization. In order to reduce cost, increase efficiency and in respect of the environment, CAPE is implementing environmentally friendly work practices.

New and Approved Changes to the CAPE Constitution and By-Laws

Late in 2010 the CAPE membership approved several changes to the CAPE Constitution and By-Laws, which had been recommended to them after the Constitution and By-Laws Committee conducted a careful review of same.

These changes were aimed at updating these documents to better reflect the realities of a bargaining agent in this day and age.

Changes to the By-Laws included allowing for the management of the voting process, new general voting provisions for Local elections and management of the mail-in ballot and electronic voting processes. These changes now allow CAPE to conduct votes electronically.

Further changes to the By-laws were made to improve accountability of Locals to the national office and to the membership. These included enhanced reporting require-

ments. Changes also included clarification regarding the need for members to not undertake any action that is prejudicial to the good order and welfare of CAPE or its members.

Several changes were made to the CAPE Constitution, including changes aimed at strengthening the accountability of CAPE to the members for By-Laws proposed by a Local, through the provision of a review mechanism at the National level. In addition, The Constitution now requires that officers of the Association at both the National and Local level agree to, sign and submit a solemn declaration to

the Association prior to taking office. This declaration is binding on the elected official, and to act contrary to the solemn declaration becomes an offence.

All of the changes, and a summary of their impacts on the respective documents, can be found at: http://acep-cape.ca/pdfs/General/files/Memo_Constitution_By-Laws_e.pdf

It is anticipated that further recommended changes will be put to the membership for a vote in the fall of this year, as the Constitution and By-Laws Committee continues its review of the documents through 2011. ●

Medical Evaluations Q and A

CAPE's Education Officer responds to members' initial questions regarding labour relations and employment matters. In response to concerns raised regarding the issue of Medical Evaluations, she has prepared an extensive Questions and Answers document regarding medical evaluations – the employer's obligations, the employee's rights and obligations, the role of the medical professionals, etc.. This document can be found on the CAPE website at CAPE's Frequently Asked Questions link on the CAPE homepage (<http://www.acep-cape.ca/EN/FAQs/>). ●

CAPE Annual General Meeting

On November 14 CAPE will be holding its Annual General Meeting (AGM), at a location to be determined. All registered members of CAPE are encouraged to attend. For members in our regional Locals, CAPE will assume the cost of transportation and accommodation for one member from each Local.

Call for Nominations and Resolutions

Elections

In early June, CAPE issued a call for nominations and resolutions. This year all positions on the NEC are up for election to fulfill three-year terms. The NEC is comprised of one President position; two Vice-President positions – one for the EC and Library of Parliament groups, and one for the TR group; one Director position for the LoP group; two Director positions for the TR group, and fourteen Director positions for the EC group.

Resolutions

Members may propose resolutions for the consideration of the membership.

Information regarding the Nominations and Resolutions process may be found on the CAPE website, including nomination forms:
http://acep-cape.ca/pdfs/General/files/candidatures_propositions_nominations_resolutions_2011_e.pdf

Constitutional and By-Law Amendments

Any Regular or Pending member or Local may petition for an amendment to the Constitution and By-

Laws. This year the Constitution and By-Laws Committee will be recommending further changes to the Constitution and By-Laws, to enhance the improvements made by last years' successful resolutions.

To review the CAPE Constitution and By-Laws visit our website at: <http://www.acep-cape.ca/EN/constitutionBylaws/>

Deadline for Submissions

The deadline for submission of Nominations, proposed Constitutional and By-Law Amendments and proposed resolutions is September 1, 2011. Members will be sent all elections materials, resolutions and Annual General Meeting materials electronically in October.

Membership Budget Meeting

Pursuant to the CAPE Constitution, members will be invited to the Membership Budget Meeting (MBM), scheduled this year for October 5, in order to discuss the CAPE budget prior to a general membership vote on this matter. Materials for the MBM will be sent electronically to members in mid-September. Again, all registered members of CAPE are encouraged to attend. For members in our re-

gional Locals, CAPE will assume the cost of transportation and accommodation for one member from each local.

Voting Period

The voting period for all votes will end on November 28. The vote count will take place on November 29, and the results will be announced on November 30.

Electronic Voting

It is important to note that all communications relating to the upcoming AGM and MGM, as well as the voting process, will be conducted electronically. It is crucial that you provide CAPE with your current e-mail address so that you may exercise your democratic right. Please ensure that CAPE has your correct coordinates by visiting the CAPE email Subscription page – a link to this page can be found on the CAPE homepage at www.acep-cape.ca/EN. ●

Canadian Association of Professional Employees National Executive Committee

Minutes of all CAPE committee meetings can be found on the CAPE website at www.acep-cape.ca

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Ray Zwicker	CAPE EC/LoP Vice President	Public Works and Government Services
André Picotte	CAPE TR Vice President	Public Works and Government Services, Translation Bureau
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Riley Brockington	EC Director	Statistics Canada
Sandra Chatterton	EC Director	Health Canada
Cindy Creran	EC Director	Justice Canada
Richard Duranceau	EC Director	Human Resources and Skills Development
Sean Maguire	EC Director	Aboriginal Affairs and Northern Development
Stephen Mullen	TR Director	Public Works and Government Services, Translation Bureau
Gregory Phillips	EC Director	Statistics Canada
Sharon Pichie	EC Director	Statistics Canada
Geneviève Thibault Gosselin	TR Director	Public Works and Government Services, Translation Bureau
Lee Whitmore	EC Director	Service Canada
Ambrose Wong	EC Director	Statistics Canada
Michael Zinck	EC Director	Veterans Affairs Canada
Claude Danik	Executive Director of Policy	CAPE
Jean Ouellette	Executive Director of Operations	CAPE
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Ce document est également disponible en français. Si vous désirez recevoir une version française d'*Entre professionnels*, veuillez communiquer avec le bureau national de l'ACEP.