



Ontario College of
Social Workers and
Social Service Workers

Ordre des travailleurs
sociaux et des techniciens
en travail social de l'Ontario

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Discipline Decision Summary

This summary of the Discipline Committee's Decision and Reason for Decision is published pursuant to the Discipline Committee's penalty order.

By publishing this summary, the College endeavours to:

- illustrate for social workers, social service workers and members of the public, what does or does not constitute professional misconduct;
- provide social workers and social service workers with direction about the College's standards of practice and professional behaviour, to be applied in future, should they find themselves in similar circumstances;
- implement the Discipline Committee's decision; and
- provide social workers, social service workers and members of the public with an understanding of the College's discipline process.

PROFESSIONAL MISCONDUCT

Paayal Burman, RSW

Agreed Statement of Fact

The College and the Member submitted a written statement to the Discipline Committee in which the following facts were agreed:

1. At all times relevant to these allegations the Member was employed initially as a family services worker ("FSW") and, later as a children's services worker ("CSW").
2. From in or about October 2006 until in or about July of 2007, the Member was the FSW for a client receiving service from the Children's Aid Society (the "CAS") in relation to the parenting of that client's child, a child with high-needs and mental health and behavioural issues.
3. In her role as FSW for the client and the client's family, the Member investigated, assessed and mitigated a child protection risk for the client's children, provided support around parenting and advocacy in accessing community services and was ultimately responsible for bringing the client's child into foster care at the request of the child's parents (i.e. the client and the client's then spouse). The child was brought into care in or around February of 2007 and subsequently became a Crown ward. Thereafter, the child remained in the care of the CAS, with access to the child's parents.

4. In or about the fall of 2008 until in or about April of 2010, the Member was the child's CSW. In that capacity, she acted as a legal guardian/parent for the child and also worked closely with the parents of the child (including the client) to ensure that the child received good care and that necessary services were accessed.
5. The Member's role as the child's CSW included providing counseling to both the client and the client's child, to assist them in making decisions regarding the child's care, exploring a variety of options for service and identifying strengths and needs. If she testified at a contested hearing in this matter, the Member would state that neither she nor the client had understood her to be providing counseling services to the client in her role as the child's CSW.
6. In or about April or May of 2011, the Member became involved in a personal and intimate relationship with the client.
7. Prior to entering into that personal and intimate relationship with the client, the Member sought guidance from agency, provincial and College policies (although she was not at that time a Member of the College), but she failed to properly appreciate the requirements imposed by agency, provincial and College policies, guidelines and legislation and failed to seek guidance from her supervisor, the College or anyone else within her workplace.
8. In or about early November 2011, the Member's employer became aware of the relationship between the Member and the client and conducted an internal investigation into the matter, the results of which were discussed with the Member. The Member was permitted to resign from her employment.
9. The member's employer reported the results of its internal investigation to the College. No client complained to the College about the Member's actions.
10. In her response to the employer's report, the Member admitted to a personal and romantic relationship with the client and enclosed a letter from the client stating that the client had been the one to initiate the relationship and the client did not feel harmed by it. If the member testified at a contested hearing in this matter, she would state that she had not sought advice on the situation from her workplace supervisor because she felt she had experienced oppression at her workplace.
11. The Member admits that by reason of engaging in some or all of the conduct outlined above, she is guilty of professional misconduct as set out in section 26(2)(a) and (c) of the *Social Work and Social Service Work Act* (the "Act").

Decision

The Discipline Committee accepted the Member's Plea and the Agreed Statement of Fact and found that the agreed facts support a finding of professional misconduct, and in particular, that the Member's conduct:

1. Violated section 2.2 of the Professional Misconduct Regulation and Principle I of the Handbook (commented on in Interpretations 1.5, 1.6 and 1.7) by failing to be aware of her values, attitudes and needs and how those impacted on her professional

relationships with clients; failing to distinguish her needs and interests for those of her clients; failing to ensure that her clients' needs and interests remain paramount and failing to maintain an awareness and consideration of the purpose, mandate and function of her employer when she established a personal and/or intimate relationship with her former client; to whom (and to whose child) she had provided counseling services;

2. Violated section 2.2 of the Professional Misconduct Regulation and Principle II of the Handbook (commented on in Interpretation 2.1.3 and 2.1.5) by failing to maintain current knowledge of policies, legislation, programs and issues related to the community, its institutions and services in her areas of practice; failing to engage in self-review and evaluation of her practice; and failing to seek consultation where appropriate when the Member established a personal and/or intimate relationship with her former client; to whom (and to whose child) she had provided counseling services, without properly reviewing or appreciating the requirements imposed by relevant provincial and College policies, guidelines and legislation and without seeking guidance from her supervisor at her workplace, the College or anyone else within her workplace;
3. Violated section 2.2 of the Professional Misconduct Regulation and Principle II (2.2) of the Handbook (commented on in Interpretations 2.2.1, 2.2.2, and 2.2.8) by entering into a conflict of interest situation and/or dual relationship with her former client and or/the client's child, to whom she had provided counseling services, and failing to declare that conflict of interest situation or take appropriate steps to address it when she established a personal and/or intimate relationship with the said former client. It is alleged that in doing so, the Member placed herself in a conflict of interest situation that could increase the risk of harm to the former client and/or the client's child, and engaged in conduct which could reasonably be perceived as reflecting negatively on the profession of social work.
4. Violated Section 2.2 of the Professional Misconduct Regulation and Principle VIII of the Handbook (as commented on in Interpretations 8.1, 8.2, 8.2.2, 8.2.3, 8.3, 8.4, 8.6, 8.7 and 8.9) by engaging in an intimate relationship with a former client to whom (and to whose child) the Member had provided counseling services (and who continued to receive services from the Member's workplace), failing to seek consultation/ supervision and develop an appropriate plan when she developed sexual feelings toward her former client, failing to state clearly to her former client that sexual behaviour with the former client was inappropriate due to the Member's previous professional relationship with the former client and the former client's child, and engaging in an intimate relationship with the former client where that, combined with the professional relationship with the former client and/or the former client's child, would create a conflict of interest;
5. In the alternative to paragraph II(e), violated Section 2.2 of the Professional Misconduct Regulation and Principle VIII of the Handbook (as commented on in Interpretation 8.8) by engaging in an intimate relationship with her former client to whom (and to whose child) the Member had provided social work services other than

psychotherapy or counselling services, within a period of one year following termination of the professional relationship with the former client and the former client's child, giving rise to a dual relationship and creating the potential for a conflict of interest.

Penalty Order

The panel of the Discipline Committee accepted the Joint Submission as to Penalty submitted by the College and the Member and made an order in accordance with the terms of the Joint Submission as to Penalty. The Discipline Committee ordered that,

1. The Member shall be reprimanded in person by the Discipline Committee and the fact and nature of the reprimand shall be recorded on the College's Register.
2. The Registrar shall be directed to impose a term, condition and limitation on the Member's Certificate of Registration, to be recorded on the Register, requiring the Member to:
 - (a) at her own expense, participate in and successfully complete boundaries and ethics training, as prescribed by and acceptable to the College, and provide proof of such completion to the Registrar within two (2) years from the date of the Order; and
 - (b) receive supervision of her social work practice within her place(s) of employment, from a regulated professional (or regulated professionals) approved in advance by the Registrar for a total of two (2) years from the date that the Member secures employment engaging in activities that fall within the social work scope of practice, as follows:
 - (i) the Member shall advise the Registrar, forthwith, when she secures employment engaging in activities that fall within the social work scope of practice (including the name and address of her employer and the position in which she will be working);
 - (ii) the Member shall advise the Registrar, forthwith, of the name and professional qualifications of her proposed social work supervisor within her place of employment and obtain the Registrar's prior approval of such supervisor. The Registrar shall provide the approved supervisor with a copy of the decision of the Discipline Committee in respect of this matter;
 - (iii) the Member shall receive supervision of her social work practice within her place of employment, from the approved supervisor, for a period of 2 years from the date of commencing such employment;
 - (iv) if the Member's employment ends, or the Member changes employers and/or supervisors, she shall forthwith advise the Registrar of the termination of or change in her employment and/or the name of her new supervisor, pending which the Member's 2-year supervision period shall be suspended. The procedure set out in subparagraphs 2(b)(i) and (ii)

shall be followed in respect of any new employer(s) and/or supervisor(s), at which point the 2 year supervision period shall resume;¹

- (v) the Member shall provide to the Registrar written confirmation from her supervisor(s), acceptable to the Registrar, of the satisfactory completion of a total of two (2) years supervision of her social work practice within her place(s) of employment.

3. The Discipline Committee's finding and Order (or a summary thereof) shall be published, with identifying information concerning the Member included, in the College's official publication and on the College's website, and the results of the hearing shall be recorded on the Register.

The Discipline Committee concluded that:

- the Penalty Order is reasonable, serves and protects the public interest, and is appropriate having regard to the gravity of the professional misconduct in which the Member engaged;
- the Member cooperated with the College, and by agreeing to the facts and proposed penalty, accepted responsibility for her actions;
- the reprimand administered by the Member's peers serves as a deterrent to the Member and the fact that the reprimand will be recorded on the Register sends a clear message to the membership that this conduct is inappropriate;
- successful completion of a course of instruction regarding professional boundaries and ethics in the profession will serve to remediate the Member and is an important step in assisting her to define and maintain proper boundaries, as well as making appropriate professional judgments;
- publication of the Discipline Committee's findings with identifying information concerning the Member serves as a general deterrent to the profession as well as to reassure the public that the profession does act decisively when matters of this nature are brought to its attention.

¹ For greater clarity, the Member must receive a total of two years of workplace supervision, in compliance with the provisions of subparagraph 2(b). If the Member changes employers and/or supervisors, the supervision period will stop running when her previous employment/ supervision terminates and resume when her new employment/ supervision commences and after the member has supplied the required information to the Registrar concerning her new employer/ supervisor. The member cannot fulfill the supervision requirement by refraining from engaging in the practice of social work for a 2-year period.