



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

Sharon Cowan

(Former Social Work Member #805050)

Agreed Statement of Fact

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

1. As part of her employment with a community mental health agency Ms. Cowan acted as a front line social worker involved in the administration of the Diversion Program in the Ontario Court of Justice. The Diversion Program is typically offered to first offenders in the criminal justice system whose alleged crimes are on the minor end of the spectrum. Those who are referred to the Diversion Program are asked to satisfy certain terms or conditions. If those terms or conditions are satisfied within a prescribed period of time, the charges against them are withdrawn by the local Crown Attorney.
2. Ms. Cowan had the responsibility to ensure that those individuals who were referred to her through the Diversion Program completed the program. Her job involved meeting with the individuals involved in the program, ensuring that they were aware of the terms and conditions that were prescribed and that they had a plan in place to meet the requirements of the program within the prescribed period of time. Ms. Cowan then followed along with her referrals as they worked through the program and ultimately wrote a report for each candidate which was relied upon by the local Crown Attorney to confirm whether the terms and conditions had been satisfied.
3. A client was referred to Ms. Cowan who was charged with Theft Under \$5000, and with the agreement of the Crown Attorney and the Court, had been directed to participate in the Diversion Program. The client's Diversion Program consisted of four conditions: restitution, an apology letter, treatment/counselling for addictions and maintaining contact with the community mental health agency which employed Ms. Cowan. The client's participation in the Program was monitored by submission of progress reports. If the client satisfied the conditions of the Program, the client's charges would be withdrawn. However,

if the conditions were not satisfied, the client's charges would be pursued and, upon conviction, there was the potential that the client would be incarcerated.

4. The client was a vulnerable client whose mental health diagnoses included ADHD, bipolar disorder, substance abuse, illiteracy, symptoms of residual trauma and compromised cerebral activity due to substance abuse. The client relied on the Ontario Disability Support Program ("ODSP") for living expenses and lived in subsidized housing.
5. Ms. Cowan provided a progress report for the client. The report indicated that:
 - a) "There had been little contact with [the client] since [the] court date";
 - b) The client "has not been available for appointments; has not been home for scheduled appointments and has not contacted [her] to rebook; has not followed through with referrals to programs, counselling, assessments or literacy education; [Ms. Cowan] has no knowledge of [the client's] compliance with medications; [the client] has continued to misuse substances as evidenced by [the client's] report to her that [the client] had spent a few days in detox...";
 - c) That "there has been no compliance with the Court Diversion since [date] when [the client] stated to [her] that [the client's] lawyer had told [the client that the client] didn't have to do anything for a year, something she advised [the client] was not correct and that there would be a report in a few months";
 - d) That the client "has not availed [him/herself] of the opportunities that the Court Diversion Program presents and that at present it appears unlikely that [the client] will do so in the near future";
 - e) That it is Ms. Cowan's "firm hope" that the client will "reconnect with [the community mental health agency] and engage in the process of making significant changes in [the client's] life, [but she does] not believe that the Court Diversion Program is being appropriately utilized by [the client]";
6. Ms. Cowan subsequently approached the staff of the community mental health agency about recommending that the client be discontinued from the Diversion Program. Ms. Cowan was advised that the protocol was to have her manager review the report and recommendation prior to its submission to the Crown Attorney. Ms. Cowan was directed to whom she should provide the report for review. Ms. Cowan did not provide the report for review. Rather, she submitted the report to her supervisor and falsely advised her supervisor that the report had been reviewed.
7. The report was subsequently provided to the Crown Attorney's office. As a result, the Crown Attorney intended to withdraw the client from the Diversion Program and to proceed to prosecute the client's matter which may have resulted in the client's incarceration.
8. The report was ultimately investigated and was found to contain false, inaccurate and misleading information and information that conflicted with Ms. Cowan's clinical notes, including:
 - i. That there had been almost no contact with the client for 5 months, despite electronic records that indicated contact with the client in those 5 months;
 - ii. That there had been no opportunity for discussion, assessment, problem identification or problem solving for 5 months, despite electronic records that showed contact with the client in each of those 5 months;
 - iii. That there was contact with the client in one month, despite electronic records that indicated that no contact was made with the client in that month;

- iv. That the client had exhibited “no progress” when Ms. Cowan’s clinical notes indicated that the client had obtained “stable housing, income, and connection with [the client’s] children” which are all indicators of progress;
9. Upon further investigation, it was discovered, and Ms. Cowan admits that:
 - a) She imposed an obligation on the client to pursue literacy as a goal when literacy was not part of the diversion plan;
 - b) She failed to acknowledge that fluctuating motivation and participation are expected throughout the process of therapeutic relationship building and recovery;
 - c) She failed to set appropriate boundaries with the client and, as a result, she failed to facilitate self-determination;
 - d) She failed to ensure that her electronic records were appropriately documented by:
 - i. Failing to include the progress report with the clinical record;
 - ii. Failing to document various connections with the client;
 - e) She failed to complete and submit a progress report that was directed by the court by the mandated due date.
 10. Ms. Cowan sincerely regrets acting in an unprofessional manner.

Plea

Ms. Cowan was not present at the hearing. She did, however, submit a signed and witnessed Plea in which she admitted all of the allegations of professional misconduct in the Notice of Hearing. The Discipline Committee was satisfied with the signed and witnessed Plea Inquiry submitted by Ms. Cowan, in which she stated that her admissions were voluntary, informed and unequivocal.

Decision

The Discipline Committee found that the facts support a finding of professional misconduct, and in particular, that Ms. Cowan committed acts of professional misconduct in that she:

1. Violated Section 2.2 of the Professional Misconduct Regulation, and Principle I of the Handbook (as commented on in Interpretations 1.1, 1.2, 1.3, 1.4, 1.5, 1.6 and 1.7) by failing to set and evaluate goals, observe, clarify and inquire about information presented to her by clients, failing to demonstrate an acceptance of each client’s uniqueness, failing to maintain an awareness of her values, attitudes and needs as well as the purpose, mandate and function of her employer and how these impact on and limit her professional relationships with clients and failing to distinguish her own needs from the needs of her client and ensure that her client’s needs and interests remain paramount.
2. Violated Section 2.2 of the Professional Misconduct Regulation, and Principle II of the Handbook (as commented on in Interpretations 2.1.4, 2.1.5 and 2.2.8) by providing inappropriate professional recommendations, by failing to engage in the process of self-review and evaluation of her practice, failing to seek consultation when appropriate, and by engaging in conduct which could reasonably be perceived as reflecting negatively on the professions of social work or social service work.

3. Violated Section 2.2 of the Professional Misconduct Regulation, and Principle III of the Handbook (as commented on in Interpretation 3.2) by failing to deliver client services and respond to client queries, concerns or complaints in a timely and reasonable manner.

4. Violated Sections 2.2, 2.19, 2.20, 2.21 and 2.28 of the Professional Misconduct Regulation, and Principle IV of the Handbook (as commented on in Interpretations 4.1.1, 4.1.2 and 4.1.6) by failing to record information relevant to the services provided and in conformance with accepted service or intervention standards and protocols, failing to record information in a format that facilitates the monitoring and evaluation of the effects of the service/intervention, making a statement in the record, or in reports based on the record, or issuing or signing a certificate, report or other document in the course of practicing either profession that the member knows or ought reasonably to know is false, misleading, inaccurate or otherwise improper and by failing to record information when the event occurs or as soon as possible thereafter.

5. Violated Section 2.36 of the Professional Misconduct Regulation by engaging in conduct or performing an act relevant to the practice of the profession that having regard to all circumstances would reasonably be regarded by members as disgraceful, dishonourable and unprofessional.

Penalty

The Discipline Committee accepted the Joint Submission as to Penalty submitted by the College and by Ms. Cowan. The Discipline Committee ordered that,

1. Ms. Cowan be reprimanded by the Discipline Committee in writing and that the reprimand be recorded on the Register for an unlimited period of time, pursuant to section 26(5)(1) of the Act.
2. The finding and order of the Discipline Committee be published, in detail, with the name of Ms. Cowan (but without information which would identify the affected client), in the official publication of the College and in any other manner deemed appropriate by the College, pursuant to section 26(5)(3) of the Act.

In arriving at its Penalty Order, the Discipline Committee noted that Ms. Cowan:

- admitted that she engaged in acts of professional misconduct;
- entered into the Agreed Statement of Facts and the Joint Submission as to Penalty;
- elected to resign from the College indicating that she is no longer practicing and has moved out of province; and
- co-operated with the College and, by agreeing to the facts and a proposed penalty, has accepted responsibility for her actions and has indicated that she sincerely regrets acting in an unprofessional manner.

The Discipline Committee also noted that although its penalty options were limited because Ms. Cowan resigned from membership in the College prior to the Discipline Committee hearing, the penalty order is reasonable and protects the public interest. The Discipline Committee found that the penalty order sends a message to Ms. Cowan, the membership and

the public that the profession will not tolerate this type of conduct. The penalty order provides general deterrence and is appropriate in the public interest.