

Discipline Decision Summary

This summary of the Discipline Committee's Decisions and Reasons for Decision is published pursuant to the Discipline Committee's penalty order dated April 3, 2012.

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 to the College's discipline process.

PROFESSIONAL MISCONDUCT

Thomas Gerald Caswell
(Member #812377)

Allegations

The College's allegations relate to the Former Member's conduct or actions, while employed as a Mental Health Worker by an agency providing mental health services, in regard to a client of the agency to whom he provided counselling services and/or psychotherapy services.

Plea

As the Former Member was neither present nor represented at the hearing, he was deemed to have denied the allegations.

Evidence

The Discipline Committee found that the evidence indicated that the Former Member,

- i) Admitted the client to the agency's counselling program ahead of others without following the agency's usual intake procedure or consulting with the Former Member's supervisor or the responsible Intake Worker.
- ii) Was aware that the client was a vulnerable client who had been diagnosed with Bipolar Disorder and had suffered childhood abuse, sexual assaults, loss issues, early maternal death, domestic violence and the then recent termination of a relationship with the client's partner.
- iii) During the period in which the Former Member provided counselling and/or psychotherapy services to the client, the Former Member,
 - (a) failed to maintain appropriate progress notes of his sessions with the client;
 - (b) contacted the client by telephone from outside the agency, after regular office hours;
 - (c) inappropriately disclosed personal information about himself to the client;
 - (d) provided the client with his personal e-mail address and asked the client to send him a "dirty picture";

- (e) told the client that he had been watching the client;
- (f) contacted the client by telephone and made graphic sexual comments to the client, including (but not limited to):
 - (i) telling the client that the client was “smoking hot” and that he was sexually attracted to the client;
 - (ii) telling the client that he could get in trouble or lose his job if anyone found out about his communications with the client and that the client should never tell anyone;
 - (iii) asking the client to share the client’s sexual fantasies with him;
 - (iv) sharing information about his sexual activities, preferences and desires with the client;
 - (v) using guided imagery techniques to portray to the client what he wanted to do to the client and what he wanted the client to do to him; and
 - (vi) ejaculating while on the telephone with the client and while describing the process to the client in graphic detail.
- iv) The Former Member’s employment was terminated by the agency for cause, based on the above-referred to conduct.

Findings

The Committee found that the evidence established that the Former Member had a professional relationship with the client, that he engaged in behaviour or remarks of a sexual nature towards the client and that, therefore, the Former Member engaged in sexual abuse of a client as per section 43(4) (c) of the *Social Work and Social Service Work Act* (the “Act”). The Committee determined that all of the allegations of the Former Member’s professional misconduct were proven by the College. The Committee found that the Former Member,

1. Violated Section 2.5 of Ontario Regulation 384/00 (Professional Misconduct) made under the Act, by abusing a client physically, sexually, verbally, psychologically or emotionally when he engaged in behaviour or remarks of a sexual nature towards a client to whom he provided counselling services and/or psychotherapy services and who, at all material times, remained a client of his former employer.
2. Violated Section 2.2 of Ontario Regulation 384/00 (Professional Misconduct) made under the Act, and Principle VIII of the Standards of Practice (as commented on in Interpretations 8.1, 8.2 and 8.6) by engaging in behaviour or remarks of a sexual nature towards a client to whom he provided counselling services and/or psychotherapy services and who, at all material times, remained a client of his former employer.
3. Violated Section 2.6 of Ontario Regulation 384/00 (Professional Misconduct) made under the Act by using information obtained during his professional relationship with the client, or using his professional position of authority to coerce, improperly influence, harass or exploit the client, when he engaged in behaviour and/or remarks of a sexual nature towards, and/or sought to establish a sexual relationship with the client, to whom he provided counselling services and/or psychotherapy services and who, at all material times, remained a client of his former employer.
4. Violated Section 2.36 of Ontario Regulation 384/00 (Professional Misconduct) made under the Act by engaging in conduct or performing an act relevant to the practice of

the profession that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional when the Former Member engaged in behaviour and/or remarks of a sexual nature towards, and/or sought to establish a sexual relationship with the client, to whom he provided counselling services and/or psychotherapy services and who, at all material times, remained a client of his former employer.

5. Violated Section 2.2 of Ontario Regulation 384/00 (Professional Misconduct) made under the Act, Section 1 of the Code of Ethics and Principle I of the Standards of Practice (commented on in Interpretations 1.5 and 1.6) by failing to regard the well-being of his client as his primary professional obligation when he initiated and pursued a sexual relationship with the client. In doing so, the Former Member failed to distinguish his own needs from those of the client, failed to appreciate how his needs might impact on his professional relationship with the client, placed his own needs before those of the client and failed to ensure that the client's interests were paramount.
6. Violated Principle II, Interpretation 2.2 of the Standards of Practice (commented on in Interpretations 2.2.1, 2.2.2, 2.2.3 and 2.2.8) by failing to maintain clear and appropriate boundaries in his relationship with the client when he engaged in behaviour or remarks of a personal and/or sexual nature towards, and/or sought to establish a sexual relationship with the client, to whom he provided counselling services and/or psychotherapy services. In doing so, the Former Member placed himself in a conflict of interest situation in which he ought reasonably to have known that the client would be at risk and used his professional position of authority to abuse or exploit the client.

Penalty

Prior to the hearing, the Former Member's certificate of registration as a social worker was cancelled, further to his resignation. As such, the Discipline Committee ordered that:

1. The Former Member be reprimanded by the Committee in writing and that the reprimand be recorded on the register for an unlimited period of time.
2. The findings and order of the Committee be published, in summary and/or in detail, with the name of the Former Member, but with identifying information concerning his client removed, in the College's newsletter, on the College's website, on the general newswire, and on any other media-related document that is provided to the public and/or other provincial regulators and is deemed appropriate by the College.
3. The Former Member shall pay costs in the amount of \$5,000.00 to the College.