



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

Greg Michell

Former Member # 812852

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. Now, and at all times relevant to the allegations, Mr. Michell ("Member") was a registered social worker under the *Social Work and Social Service Work Act* (the "Act") with the Ontario College of Social Workers and Social Service Workers (the "College").

EVIDENCE REGARDING THE MEMBER'S EMPLOYMENT

2. The Member was employed as a social worker with [Agency A] (the "Agency") from in or about 2009 until November of 2014. As a social worker at the Agency, the Member provided services within the scope of the Act ("services") to clients of the Agency.
3. On November 4th, 2014, the Member was suspended with pay by the Agency pending its investigation of the Member's conduct with respect to a client ("Client A"). On November 6th, 2014, the Member resigned from the Agency after additional concerns were raised with respect to the Member's conduct with two other clients who are described hereinafter as:
 - (a) "Client B" (mother of Client C); and,
 - (b) "Client C" (daughter of Client B).
4. While employed at the Agency, and subsequent to his resignation, the Member carried on a private practice wherein he provided social work services to clients.

EVIDENCE REGARDING CLIENT A PRIOR TO RESIGNATION FROM THE AGENCY

5. Client A presented as a vulnerable client suffering from a complicated history and various medical disorders.
6. During his employment with the Agency, the Member provided counseling and/or psychotherapy services to Client A on approximately 47 occasions between March 2013 and November 2014.
7. While providing services during his period of employment with the Agency:
 - a) The Member did not adequately conduct an assessment or set treatment goals, evaluate those goals, and/or revise those goals during the course of providing social work services;
 - b) The Member provided his personal contact information to Client A, contrary to the policies of the Agency and contrary to relevant College Standards. The Member engaged in telephone, email, and in-person contact with Client A, contrary to the policies and directions of the Agency;
 - c) The Member attended to Client A at her home, and drove Client A in his vehicle from time to time;
 - d) The Member engaged in physical contact of a non-sexual nature with Client A, including embracing;
 - e) The Member assisted Client A in administering her medication;
 - f) The Member did not consistently document or bill for services to Client A that occurred outside of the Agency between October 27 and November 3, 2014; and,
 - g) The Member made only 10 entries into Client A's Agency electronic record, notwithstanding that he met with her on approximately 47 occasions at the Agency. The Member's entries were deficient in that they did not include an assessment or goal setting and could not be understood by a third party.
8. The Member self-reported to his Agency supervisor on October 30, 2014 regarding the above-noted conduct, and expressed his view that such conduct may have created liability implications for the Agency. Accordingly, the Agency supervisor directed the Member to cease contact with Client A outside of the Agency and to address boundary concerns with Client A within the scope of his practice at the Agency.
9. Despite these instructions, the Member was in contact with Client A outside of the Agency from November 1-3, 2014, at a time when Client A presented to the Member as

being in a state of crisis. The Member did not document or bill for his services to Client A for the services provided outside of the Agency during that time.

EVIDENCE REGARDING CLIENT A SUBSEQUENT TO THE MEMBER'S RESIGNATION FROM THE AGENCY

10. Subsequent to the Member's resignation from the Agency, he continued to provide social work services to Client A in his private practice.
11. In February of 2015, Client A was brought by ambulance to the emergency department of [Hospital X] after the Member called Emergency Medical Services ("EMS").
12. At that time, the Member spoke with [Hospital X] staff about the events leading up to Client A's attendance at [Hospital X]. The Member stated that Client A had spent the previous night at his home. He initially advised [Hospital X] staff that it was a court order for Client A to be out of her home, though he subsequently advised that it was a directive from the Crown Attorney. Both of those representations were false.
13. If the Member were to testify, he would state that it was his understanding at the time that Client A was required to not return to her home the previous evening which he subsequently discovered was incorrect. He would additionally testify that his wife was present throughout.
14. The Member admits the following facts which he reported to [Hospital X] staff:
 - a) during the preceding evening while at the Member's home, Client A presented to the Member as exhibiting symptoms of decreased consciousness, slurred speech, and possible diabetic shock. The Member attempted to administer or assist with the administration of Client A's medicines, however, he did not seek emergency medical assistance at that time; and,
 - b) in the morning, while the Member was driving Client A to her home, she expressed upset and appeared to attempt to exit the vehicle while it was moving.
15. In April of 2015, Client A was readmitted to [Hospital X] as a result of an attempted suicide. After Client A's admission to [Hospital X], the Member visited Client A. At the time of his attendance at [Hospital X], the Member:
 - a) Falsely advised [Hospital X] staff that he was Client A's "court appointed therapist." If the Member were to testify, he would state that he subsequently clarified that he was not Client A's "court appointed therapist", but rather her "therapist appointed by the court";

- b) physically assisted Client A from her wheelchair to the hospital bed in a manner that required of him to wrap his arms around Client A;
 - c) sat on the bed beside her and touched her head, hair and hand; and,
 - d) embraced Client A in a non-sexual manner, while remaining at her bedside, as Client A lay on the hospital bed.
16. A [Hospital X] staff member witnessed the interactions with Client A, interjected and offered the Member a chair, although he indicated that it was not necessary and departed shortly thereafter.
17. The Member subsequently visited Client A on a second occasion at [Hospital X], stood by the hospital bed and held her hand. A [Hospital X] staff member witnessed the Member holding Client A's hand, interjected and offered him a chair, although he indicated that it was not necessary.

EVIDENCE REGARDING THE MEMBER'S CONDUCT WITH RESPECT TO CLIENT B AND CLIENT C

18. The Member provided social work services to both Client B and Client C. Client B is the mother of Client C. Client C was a teenage client with a history of self-harm, drugs and suicide attempts. Social work services to Client C were provided through the Member's private practice while services to Client B were provided as an employee of the Agency.
19. The history of the counseling relationship is as follows:
- **January 2012 to November 2012 & April 2013 to May 2013:** The Member provided social work services to Client C at the Agency in group counseling focusing on violence in family and other relationships;
 - **January 2013 to October 2014:** The Member provided social work services to Client B at the Agency; and
 - **Fall of 2014:** The Member provided social work services to Client C as part of his private practice at Client C's home.
20. The Member did not disclose to the Agency that he provided independent counseling services to Client C in the Fall of 2014, contrary to Agency policy.
21. With respect to Client C:
- a) The Member did not adequately conduct an assessment or set treatment goals, evaluate those goals, and/or revise those goals during the course of providing social work services. As reported to the Agency by an outside party, the Member was also unclear as to whether he was providing social work services as part of his

private practice or whether he was acting in his capacity as an employee of the Agency in the Fall of 2014. The Member also required cash payment for his private services which, as reported to the agency by an outside party, presented financial hardship;

- b) The Member entered electronic records with respect to only 10 of 22 meetings, all of which were submitted in August 2014, notwithstanding that the counseling and/or psychotherapy relationship ended in November of 2012. The Member also entered electronic records with respect to group counseling in August 2014, notwithstanding that the group counseling occurred in April and May of 2013.

22. With respect to Client B:

- a) The Member did not adequately conduct an assessment or set treatment goals, evaluate those goals, and/or revise those goals during the course of providing social work services. The Member counseled Client B regarding personal matters affecting Client C, including issues of self-harm, drug use and suicidal gestures or attempts; and,
- b) The Member entered electronic records with respect to only 7 of approximately 41 counseling sessions which were all submitted between June and October 2014, notwithstanding that the counseling relationship ended in October of 2014.

EVIDENCE REGARDING THE MEMBER'S RECORDKEEPING

23. The Agency conducted a review of 33 of the Member's clinical files following his resignation from the Agency. According to the Agency's review:

- a) 20 of the Member's files had no electronic assessment report. Of the 13 files with an assessment report, many were recorded late (and some as late as 2 years after initiation of the counseling relationship); and,
- b) 8 of the Member's files had no electronic clinical records at all, notwithstanding that he had met with these clients between 1 and 22 times.

24. The Agency conducted a chart audit of the Member's files following his resignation from the Agency. According to the Agency's audit:

- a) of 17 "active" clients as of the date of resignation, 14 clients had no electronic documentation at all;

- b) of 9 clients last seen between 3 and 12 months prior to resignation, 6 clients had no electronic documentation at all, notwithstanding that the Member had seen some of these clients as many as 10 times; and,
- c) of 22 clients last seen between 1 and 2 years prior to resignation, 20 had no electronic documentation at all, notwithstanding that the Member had seen some of these clients as many as 22 times.

25. According to the Agency's audit, between September 22, 2009 and June 17, 2014, the Member did not complete 491 electronic documents relating to his client records.

Decision

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

- (a) Sections 2.2 of the Professional Misconduct Regulation and Principle I of the Handbook (commented on in Interpretations 1.1, 1.1.1, 1.3, 1.5, 1.6 and 1.7) by failing to set and evaluate goals with the clients including the enhancement of a client's functioning and the strengthening of the capacity of the client to adapt and make changes, by failing to respect and facilitate self-determination in a number of ways including acting as resources for clients and encouraging them to decide which problems they want to address as well as how to address them, by failing to maintain awareness of the Member's own values, attitudes and needs and how these affect the Member's professional relationship with the client, by failing to distinguish the Member's needs and interests from those of his client to ensure that his clients' needs and interests remain paramount and by failing to maintain an awareness and consideration of your employer's purpose, mandate and function as an organization and how these impact on and limit professional relationships with clients;
- (b) Sections 2.2 and 2.10 of the Professional Misconduct Regulation and Principle II of the Handbook (commented on in Interpretations 2.1.1, 2.1.5, 2.2, 2.2.1 and 2.2.8) by failing to be aware of the extent and parameters of his competence and professional scope of practice and limiting his practice accordingly, by failing to engage in the process of self-review and evaluation of his practice and seek consultation when appropriate, by engaging in boundary violations, by engaging in professional relationships that constitute a conflict of interest or in situations in which the Member ought reasonably to have known that the client would be at risk in any way and by failing to avoid conduct which could reasonably be perceived as reflecting negatively on the profession of social work;

- (c) Sections 2.2 and 2.10 of the Professional Misconduct Regulation and Principle III of the Handbook (commented on in Interpretations 3.1, 3.2, 3.3, 3.7 and 3.8) by failing to provide clients with accurate and complete information regarding the extent, nature and limitations of any services provided to them, by failing to deliver client services and respond to client queries, concerns and/or complaints in a timely and reasonable manner, by soliciting the Member's employers' clients for private practice, by failing to ensure no personal relationship occurs with the client and by providing services that are not relevant and do not conform to College standards or providing services the Member knew or ought reasonably to have known is not likely to benefit the client;
- (d) Sections 2.2, 2.20 and 2.28 of the Professional Misconduct Regulation and Principle IV of the Handbook (commented on in Interpretations 4.1.1, 4.1.3 and 4.1.6) by failing to record information to an accepted standard and in a format that facilitates the monitoring and evaluation of the effects of the service, by failing to keep systematic, dated and legible records for each client and by failing to record when the event occurs or as soon as possible thereafter; and,
- (e) 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 dishonourable and unprofessional.

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 is directed to suspend the Member's Certificate of Registration for a period of twelve (12) months, the first six (6) months of which shall be served commencing on the date of the Discipline Committee's Order herein. Upon completion of those first six (6) months of the suspension, the remaining six (6) months of the suspension shall be suspended for a period of three (3) years, commencing on the date of the Member's return to social work practice. Those remaining six (6) months of the suspension shall be remitted on the expiry of that three-year period if the Member provides evidence, satisfactory to the Registrar of the College, of compliance with the terms and conditions imposed under paragraph 3(a) and (b) below.

For greater clarity, the terms and conditions imposed under paragraph 3 below will be binding on the Member regardless of the length of suspension served and the Member may not elect to serve the full suspension in place of performing those terms and conditions. If the Member fails to comply with the terms and conditions, the Registrar may refer the matter to the Executive Committee of the College. The Executive Committee, pursuant to its authority, may take such action as is appropriate, which may include referring to the Discipline Committee allegations of professional misconduct arising from any failure to comply with the terms and conditions.

3. The Registrar is 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) Boundaries and Ethics Course: at his own expense, participate in and successfully complete a boundaries and ethics training course, as prescribed by and acceptable to the College, and provide proof of such completion to the Registrar within six (6) months from the date of the Discipline Committee's Order herein;

(b) Insight Oriented Psychotherapy: at his own expense, engage in insight oriented psychotherapy as directed by a therapist, approved by the Registrar of the College, for a period of two (2) years commencing on or before the date that the Member returns to social work practice, with semi-annual written reports as to the substance of the psychotherapy and the progress of the Member to be provided to the College by the therapist.

The Member must additionally provide to the approved therapist the Notice of Hearing as well as the final decision of the Discipline Committee and must provide written confirmation, signed by the therapist, of receipt of the documents to the Registrar within 15 business days of the beginning of the psychotherapy. The Registrar may, if satisfied that the purpose of the therapy has been accomplished, at any time before the expiry of the two-year period, direct that the psychotherapy be discontinued.

(c) Supervision: at his own expense, receive supervision of his social work practice with an approved member of a Regulated Health Profession for a period of two (2) years from the date that the Member returns to practice.

The Member must additionally provide to the approved supervisor (and any other approved supervisor pursuant to section (c) or (d) of this Joint Submission as to Penalty) the final decision of the Discipline Committee and must provide written

confirmation, signed by the supervisor, of receipt of the documents to the Registrar within 15 business days of returning to practice under supervision (and within 15 business days of the approval of any subsequent supervisor).

In the event that the Member operates a private practice, the Member must seek consent from prospective clients to share personal health information with his supervisor in order to allow the supervisor to review client files and engage in review.

(d) Notice to the College Regarding Employment: in the event that the Member obtains future employment engaging in activities that fall within the social work scope of practice during the two (2) years following the date that the Member is able to return to practice after his mandatory suspension:

- i. At least 72 hours prior to resuming practice, the Member shall advise the Registrar of the name and address of his employer, the position in which he will be working and the start date;
- ii. At least 72 hours prior to resuming practice, the Member shall advise the Registrar of the name of the person who will be providing supervision of his social work practice within his place of employment;
- iii. the Member shall receive supervision of his social work practice within his place of employment, from the supervisor identified to the Registrar, for a period of 2 years;
- iv. if the Member's employment ends, or the Member changes employers and/or supervisors, he shall forthwith advise the Registrar of the termination of or change in his employment and/or the name of his new supervisor;
- v. Forthwith upon completion of the supervision referred to above, in subparagraphs 3(d)(i)-(iv), the Member shall provide to the Registrar written confirmation from his supervisor(s) of such completion.

4. 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.

5. The Member shall pay costs to the College in the amount of \$5,000 to be paid in accordance with the following schedule:

- (a) \$1,667 to be paid within 60 days of the completion of the mandatory six (6) month period of suspension;
- (b) \$1,667 to be paid within 120 days of the completion of the mandatory six (6) month period of suspension; and,
- (c) \$1,666 to be paid within 180 days of the completion of the mandatory six (6) month period of suspension.

In the event that either of the first two payments are not made in accordance with this schedule, the entire amount outstanding becomes immediately due.

Reasons for Penalty Order

The Discipline Panel concluded that:

- Having regard to the aggravating and mitigating circumstances submitted by both counsel as well as the fact that the member has cooperated with the College, has admitted to the facts and has accepted responsibility for his actions, the joint penalty proposed was reasonable, maintains high professional standards, and serves to protect the public interest.
- The penalty provides both specific deterrence and general deterrence to deter members of the profession from engaging in similar misconduct and the publication of this decision will send a clear message to the membership that this conduct is unacceptable