



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

Sara Rahmani-Azad

Member # 817631

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 all times relevant to this matter, Sara Rahmani-Azad ("S.R.A" or "the Member") was a registered social work member of the Ontario College of Social Workers and Social Service Workers (the "College").
2. From on or about February 1, 2010 until on or about June 6, 2012, S.R.A. was employed as a social worker with [Hospital] ("The Hospital") and worked, for some or all of that time, in the Child and Adolescent In-Patient unit ("CAIP") after it was created in the fall of 2011. CAIP is a secure mental health unit that provides multi-disciplinary assessment and treatment planning for patients up to their nineteenth birthday.
3. During that period, S.R.A. was part of a multi-disciplinary team that provided services to KI and his sister ("HI"), two adolescents who were admitted to the Hospital for in-patient treatment with respect to significant mental health issues.
4. According to KI and HI, prior to their admissions to the Hospital, they had lived at home with their parents and two foster children who had resided with the family for periods of between 1.5 and 6 years.
5. With respect to client KI, who was admitted to the Hospital following a suicide attempt, S.R.A. contacted and met with a [Children's Aid Society or "CAS"] worker between March 12 and March 20, 2012 to report child protection concerns relating to KI. In reporting concerns to the [CAS] worker, S.R.A. conveyed false and/or distorted and/or misleading information, including that:

- (i) KI's treating psychiatrist, Dr. M., had authorized and/or instructed S.R.A. to contact [CAS] to report protection concerns;
 - (ii) both KI and his sister HI have bipolar disorder and suffer from mental health issues including social anxieties, depression and obsessive compulsive disorder;
 - (iii) RI's parenting abilities (and, in particular, her control of the family's living environment in a manner that teaches children anxiety avoidance as opposed to resilient behaviors) are a concern;
 - (iv) KI's treating psychiatrist suspects that RI has a personality disorder and obsessive compulsive tendencies; and
 - (v) KI's mother had undiagnosed and/or untreated anxiety disorders and that an assessment of both parents is necessary in order to adequately diagnose the level of their depression and/or anxiety disorder [reference to document omitted].
6. S.R.A. had spoken with the "T" family by phone before making the report to [CAS]. S.R.A. indicated that the report was being made on behalf of Dr. M., S.R.A.'s disclosures to the [CAS] worker were made without appropriate consultation with the Hospital staff and presented opinions that were contrary to the views held by Dr. M. and the rest of KI's multidisciplinary team. The disclosures (which were purportedly based upon information in the clinical record) were, in several respects, inconsistent with or not supported by the information in KI's clinical record.
7. Members of the multidisciplinary team deny having had children protection concerns regarding KI or HI. Dr. M. denies having instructed S.R.A. to report such concerns on his behalf. Rather, Dr. M., and other team members had noted the stress that RI and the family were under and commented on the need for RI to obtain support and assistance with respect to the family's foster children from the CAS's responsible for those foster children. However, RI had confirmed to members of the multidisciplinary team that she was making those arrangements herself (and she in fact did so).
8. If she were to testify at a hearing in this case, S.R.A. would testify that when she made the report to the [CAS], she acted in good faith and was operating on the misunderstanding that Dr. M. wanted her to make the report on his behalf, given that he had asked her to do so in other cases. However, S.R.A. acknowledges that before making the report on behalf of Dr. M., she ought to have confirmed with Dr. M. that he wished her to do so and should have consulted with the members of the multidisciplinary team and carefully reviewed the clinical file to ensure that the information she was conveying about the views of team members and/or the information contained in the clinical file was an accurate reflection of those views and/or that information.

9. Neither KI nor HI signed consents for the release of their personal health information.
10. S.R.A.'s disclosures to [CAS] led to significant adverse effects for RI, her husband and children under their care. In particular, RI and her husband were stripped of their foster parent status by [CAS] and two other children living under their care were permanently moved to different foster homes.
11. A number of families to whom S.R.A. provided social work services while their children were in-patients of and/or receiving treatment at the Hospital, as well as a number of Hospital staff (including some who worked on multidisciplinary teams with S.R.A.), complained to the Hospital about their interactions with S.R.A. and, in particular, about her communication style. The common themes of those complaints included that S.R.A. spoke and/or dealt with them in a manner that was rude, abrasive, confrontational and/or condescending, and showed a lack of courtesy, empathy and/or respect.
12. The Hospital investigated and took a number of disciplinary and remedial measures in response to those complaints. However, those measures did not prove to be effective to resolve the difficulties with S.R.A.'s communication style.
13. 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 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 that the Member committed acts of professional misconduct, and in particular, that the Member's conduct violated:

1. Section 2.2 of the Professional Misconduct Regulation and Principle I of the Handbook (commented on in Interpretation 1.5) by failing to maintain an awareness of her values, attitudes and needs and how those impact on her professional relationships with clients;
2. Section 2.2 of the Professional Misconduct Regulation and Principle II of the Handbook (commented on in Interpretations 2.1.4, 2.1.5 and 2.2.8) by failing to ensure that professional opinions S.R.A. provided were appropriately substantiated by evidence and supported by a credible body of professional social work knowledge, 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. Section 2.2 of the Professional Misconduct Regulation and Principle III of the Handbook (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. Section 2.2 of the Professional Misconduct Regulation and Principle IV of the Handbook (commented on in Interpretations 4.1.2 and 4.4.1) by making a statement in the record, or in reports based on the record, or by issuing or signing a certificate, report or other document in the course of practice that S.R.A. knew or ought to have known was false, misleading, inaccurate or otherwise improper and by failing to inform clients early of any limits to client confidentiality with respect to client records and by failing to make reasonable efforts to inform her client(s) of the possible harm and/or consequence of making the disclosure and seeking to clarify the client's consent to such disclosure;
5. Section 2.2 of the Professional Misconduct Regulation and Principle V of the Handbook (commented on in Interpretations 5.1, 5.3, 5.3.3, 5.3.5, 5.3.6 and 5.3.8) by failing to comply with applicable privacy and other legislation, failing to obtain consent to disclosure of client information including personal information, disclosing information received from a client that is not required or allowed by law or by order of a court and without making reasonable efforts to inform her client of the parameters of information to be disclosed and to advise them of the possible outcomes of disclosure, disclosing information without consent and failing to make reasonable efforts to ensure that the information disclosed is accurate, complete and up-to-date as is necessary for the purpose of the disclosure or clearly set out the limitations, if any, on the accuracy, completeness or up-to-date character of the information; and
6. 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 unprofessional.

Evidence on Penalty

The Member testified to give additional evidence on the issue of penalty. The Member verified that her job at [Hospital] was her first employment as a RSW. The Member also testified about her insight and understanding of her reporting obligations. The Panel found that the Member's oral evidence on the reporting issue was brief, vague and general. Despite her admissions of guilt and statements of remorse, the Member could not articulate in detail the repercussions from her employer for her actions, causing the Panel concerns about whether the proposed penalty would be sufficient to ensure specific deterrence.

Joint Submission on Penalty

The parties jointly proposed that the Panel of the Discipline Committee make an order that:

1. The Member be reprimanded and the reprimand be recorded on the Register.
2. The Registrar be directed to impose a term, condition and limitation on the Member's Certificate of Registration, to be recorded on the Register,
 - (a) requiring the Member to immediately notify the College Registrar, in writing, of any termination of, or proposed change in, her current employment or professional practice and to advise the College Registrar, in advance, of the nature and particulars of any future professional employment or practice in which the

Member proposes to engage within the twelve (12) month period immediately following the date of the Order of the Discipline Committee herein (the "Order");

- (b) requiring the Member to, at her own expense, engage in intensive insight-oriented psychotherapy with a therapist who is a regulated professional approved by the Registrar of the College (and who has been provided with a copy of the Discipline Committee's Order) for a period of twelve (12) months from the date of the Order, with quarterly written reports as to the substance of that psychotherapy and the progress of the Member to be provided to the Registrar of the College by the therapist. The Member must attend for appointments at a frequency as directed by the therapist and must provide to the therapist the decision of the Discipline Committee, receipt of which must be confirmed in writing to the Registrar.
 - (c) requiring the Member to, at her own expense, participate in and successfully complete social work training and/or continuing education with respect to (1) ethical practice, including confidentiality and inter-professional practice and (2) clinical documentation and file management as prescribed by and acceptable to the College and provide proof of such completion to the Registrar within twelve (12) months from the date of the Order;
 - (d) requiring the Member to receive supervision of her social work practice in any capacity, whether as an employee or in private practice, for a period of twelve (12) months from the date of the Order from such person or persons as may be approved, in advance, by the Registrar of the College (hereinafter referred to as "supervisor(s)"). The supervisor(s) shall make quarterly written reports to the Registrar of the College (or reports at such lesser frequency as the Registrar may from time to time determine) as to the substance of that supervision and the progress of the Member. Any fees associated with the Member's supervision shall be paid at the expense of the Member; and
 - (e) prohibiting the Member from applying under Section 29 of the *Social Work and Social Service Work Act*, 1998, S.O. 1998, Ch. 31, as amended, for the removal or modification of the terms, conditions or limitations imposed on her Certificate of Registration for a period of twelve (12) months from the date on which those terms, conditions and limitations are recorded on the Register.
3. The Discipline Committee's finding and Order (or a summary thereof) be published in the College's official publication on the College's website, and the results of the hearing be recorded on the Register.

The parties did not agree on whether publication of this matter should include the Member's name or not. The College asked for publication with the Member's name, in order to ensure transparency and accountability. The Member asked publication be without her name, as she said it would be overly punitive and was not necessary to ensure the goals of penalty were achieved.

Penalty Concerns

The Panel had serious concerns about the joint submission and communicated those concerns to the parties. In summary, the Panel was concerned that:

- The Member admitted that she conveyed false and/or distorted and/or misleading information about a client and a client's family to the [CAS].
- The Member improperly represented that her report was being made on behalf of Dr. M., which was not correct.
- These disclosures were serious allegations about the mental health status of the client and the client's family and led to significant adverse effects for the family.
- The Member had previously worked as a Child Protection Worker for another CAS and must have known the importance of making accurate reports and about the serious consequences that can come from inaccurate reports.
- The disclosures were made without appropriate consultation with hospital staff and were contrary to the views of the interdisciplinary team.
- In her oral evidence during the penalty phase, the Member revealed that there was a two week window between her initial call to the CAS and her disclosures to the case worker which should have given her an opportunity to confirm her opinions and understandings and to pause and reflect before making a serious report.
- The Panel was not given any information as to how the Member came to engage in this serious misconduct, other than as set out in the Agreed Statement of Fact. Only after accepting the Agreed Statement of Fact did the Panel learn that the Member had previously worked as a child protection worker, and that there were two weeks between her initial call to the [CAS] and her eventual disclosures with the case worker. The Panel finds it hard to understand how the Member could have made such a significant, profound mistake in good faith, or how this could be a matter of a misunderstanding.
- There are no similar cases from which the Panel can assess the range of penalties generally applicable to cases where members make disclosures to a children's aid society that include opinions about mental health diagnoses that the member is not qualified to make; misrepresentations about who has formed those opinions; and information presented as facts that includes multiple pieces of false, distorted and/or misleading information.
- The Panel considered the cases submitted by counsel but did not believe the cases were of assistance, as they are too different in their facts.
- The Panel believes that the Member's oral evidence on the reporting issue (as opposed to the issue of the more general complaints from staff and clients about the Member's communication abilities) was brief, vague and general and while she gave evidence specifically to testify about her remorse, insight and remediation, the Member did not

give details or specifics about what she has learned and why the Panel should have confidence in her ability to practice safely.

- The Panel was also concerned that the penalty is insufficient to ensure general deterrence, and notes that the penalty must reflect the seriousness of this misconduct, deter other members of the profession, and send a message to the membership and the public that members of the College will not abuse their power and place of privilege.
- The penalty does not reflect that the Member has admitted two types of misconduct: the improper reporting to the [CAS], and a failure to communicate appropriately and professionally with staff and clients more generally.
- The penalty does not address the possibility that the remedial measures ordered will not have their desired effect of remediating this Member.

As a result of these concerns, the panel indicated that it was inclined to make an order that involved a term of suspension. The parties were invited to make further submissions to address the Panel's concerns before the Panel made its final decision. On November 22, 2016, the parties appeared before the Panel to give additional information.

Both parties presented additional case law and submissions in order to address the Panel's concerns pertaining to the joint submission on penalty. These included but are not limited to:

- The case of *R. v Anthony-Cook*, 2016 SCC 43, a recent case of the Supreme Court of Canada which spoke to the importance of accepting joint submissions on penalty. The Panel was asked to consider whether counsel for the parties met their obligation to amply justify their positions on the facts of the case. The Panel was also given information to provide a much more informed basis for understanding how the joint submission was coalesced.
- Various cases from the Discipline Committee of the College of Teachers of Ontario where the Discipline Committee accepted joint submissions on penalty where there was no suspension imposed even for matters of serious misconduct.
- The evidence of motive and/or lack thereof behind the Member's actions, and submissions about what inferences the Panel could draw from the Agreed Statement of Facts. The Panel was advised that nothing would indicate bad faith pertaining to the Member's actions.
- Importantly, the Panel was advised that the Member has continued to work as a social worker since these events, and that there have been no concerns raised regarding her conduct during those years.
- The parties addressed the abrupt cessation of the Member's oral testimony, and advised that the testimony was only intended to address the Member's actions since the misconduct occurred, and not the facts of the misconduct itself.
- The parties acknowledged the possible appearance of leniency in light of the seriousness and significant negative consequences of the Member's actions. The parties submitted that there was an important public interest in encouraging prompt reporting, especially by social workers,

of suspected abuse. A heavier penalty could have an unintended deterrent and possibility impede proper reporting.

Penalty Order

The Panel orders as follows.

1. The Member shall be reprimanded and the reprimand be recorded on the Register.
2. The Registrar is directed to impose a term, condition and limitation on the Member's Certificate of Registration, to be recorded on the Register,
 - (a) requiring the Member to immediately notify the College Registrar, in writing, of any termination of, or proposed change in, her current employment or professional practice and to advise the College Registrar, in advance, of the nature and particulars of any future professional employment or practice in which the Member proposes to engage within the twelve (12) month period immediately following the date of the Order of the Discipline Committee herein (the "Order");
 - (b) requiring the Member to, at her own expense, engage in intensive insight-oriented psychotherapy with a therapist who is a regulated professional approved by the Registrar of the College (and who has been provided with a copy of the Discipline Committee's Order) for a period of twelve (12) months from the date of the Order, with quarterly written reports as to the substance of that psychotherapy and the progress of the Member to be provided to the Registrar of the College by the therapist. The Member must attend for appointments at a frequency as directed by the therapist and must provide to the therapist the decision of the Discipline Committee, receipt of which must be confirmed in writing to the Registrar.
 - (c) requiring the Member to, at her own expense, participate in and successfully complete social work training and/or continuing education with respect to (1) ethical practice, including confidentiality and inter-professional practice and (2) clinical documentation and file management as prescribed by and acceptable to the College and provide proof of such completion to the Registrar within twelve (12) months from the date of the Order;
 - (d) requiring the Member to receive supervision of her social work practice in any capacity, whether as an employee or in private practice, for a period of twelve (12) months from the date of the Order from such person or persons as may be approved, in advance, by the Registrar of the College (hereinafter referred to as "supervisor(s)"). The supervisor(s) shall make quarterly written reports to the Registrar of the College (or reports at such lesser frequency as the Registrar may from time to time determine) as to the substance of that supervision and the progress of the Member. Any fees associated with the Member's supervision shall be paid at the expense of the Member; and

- (e) prohibiting the Member from applying under Section 29 of the *Social Work and Social Service Work Act*, 1998, S.O. 1998, Ch. 31, as amended, for the removal or modification of the terms, conditions or limitations imposed on her Certificate of Registration for a period of twelve (12) months from the date on which those terms, conditions and limitations are recorded on the Register.
3. The Discipline Committee's finding and Order (or a summary thereof), shall be published in the College's official publication on the College's website, and the results of the hearing be recorded on the Register. Publication shall be with the Member's name

The Discipline Committee Concluded that:

- The penalty should maintain high professional standards, preserve public confidence in the ability of the College to regulate its members, and, above all, protect the public.
- This is achieved through a penalty that considers the principles of general deterrence, specific deterrence and, where appropriate, rehabilitation and remediation of the Member's practice.
- For the portion of the penalty that was made by way of joint submission, the Panel considered the principle that joint submissions should not be interfered with lightly, and that the Panel should only depart from a joint submission if it was satisfied that the joint submission would bring the administration of justice into disrepute and was contrary to the public interest.

On the issue of publication where the parties did not agree, the Panel considered the submissions of the parties including the Member's submission that publication of her name could have a chilling effect on other members who are mandated child abuse reporters, and might prevent the reporting of child abuse concerns. The Panel did not think this was a reason to withhold the Member's name from publication given that publication is typically part of an appropriate penalty. The panel agreed with the College in that:

- Publishing the Member's name is consistent with the statutory mandate of the Discipline Committee and is a way to show the membership and public the panel's response to this misconduct.
- Membership in a profession is a privilege not a right and members who engage in professional misconduct should generally expect that a consequence of that is the publication of their names in the interest of fairness and transparency.
- Publication of the Member's name reflects openness and access to the public and ensures public protection and accountability.
- The findings and order of this Panel must be published in a manner that facilitates notification of the decision to other regulators

Despite its previous concerns that the penalty did not adequately reflect the seriousness of the Member's admitted misconduct, after clarification and deliberation the Panel decided to accept the joint submission. In summary, the panel concluded that:

- While the motive behind the Member's actions was unclear, given the facts, the panel was able to draw inferences and conclusions from what was presented.
- Given the fact that there had not been an example of previous cases with these unique circumstances for the panel to draw upon, the Panel relied heavily on the evidence, submissions, and testimony provided.
- The Panel agreed that in this case, the joint submission appeared lenient due to competing and important public concerns, including ensuring that mandated reporters were not discouraged from making proper reports. As a whole, the submission was not so far outside the range of appropriate penalties that it would be contrary to public interest and indicate a breakdown in the proper functioning of the discipline system at the College.

The Panel reiterated a strong message, delivered during the reprimand, that the Member should likely expect a much more severe penalty should she ever be found guilty of professional misconduct again.