



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 COMMITTEE OF THE
ONTARIO COLLEGE OF SOCIAL WORKERS AND SOCIAL SERVICE WORKERS**

Indexed as: Ontario College of Social Workers and Social Service Workers v Giri, 2020
ONCSWSSW 4

Decision date: 20200601

BETWEEN:

THE ONTARIO COLLEGE OF SOCIAL WORKERS
AND SOCIAL SERVICE WORKERS

- and -

PRAPTI GIRI

PANEL: Rita Silverthorn, RSW Chair, Professional Member
Frances Keogh, RSW Professional Member
Karen Fromm Public Member

Appearances: Jill Dougherty and Ada Keon for the College
Lisa Hamilton for the Member
Aaron Dantowitz, Independent Legal Counsel to the Panel

Heard: June 1, 2020

DECISION AND REASONS FOR DECISION

[1] This matter came on for hearing before a panel of the Discipline Committee (the “**Panel**”) of the Ontario College of Social Workers and Social Service Workers Ontario (the “**College**”), via videoconference, on June 1, 2020. Prapti Giri (the “**Member**”) was present at the hearing.

Publication Ban

[2] In the course of the hearing, the College sought an order prohibiting the publication of the identity or information that could disclose the identity of the Member's client who was the subject of the allegations. The Member did not oppose such an order.

[3] The Panel considered that, because the case involved intimate personal matters, it was appropriate to make such an order, and therefore made an order that the publication of the client's identity or of information that could serve to identify the client be prohibited.

Overview

[4] The case involved allegations of boundary violations and related misconduct that took place in 2018, in respect of a client who received therapy and counselling services from the Member. The hearing proceeded on an Agreed Statement of Facts, in conjunction with the withdrawal of certain allegations, and the withdrawals and admissions were accepted by the Panel. The parties made a joint submission on order which the parties also accepted.

The Allegations

[5] The parties indicated that they had reached an agreement whereby the College would seek the withdrawal of certain elements of the allegations and the Member would admit to the remaining allegations. The Panel accepted the withdrawals, as reflected in the following description of the allegations.

[6] In the Notice of Hearing dated January 31, 2019, the Member is alleged to be guilty of professional misconduct within the meaning of Section 26(2) pursuant to the *Social Work and Social Service Work Act*, 1998, S.O. 1998, c 31 (the "**Act**") in that she is alleged to have engaged in conduct that contravenes the Act, Ontario Regulation 384/00 (the "**Professional Misconduct Regulation**"), Schedule "A" to By-law No. 66 of the Ontario College of Social Workers and Social Service Workers, being the Ontario College of Social Workers and Social Service Workers Code of Ethics (the "**Code of Ethics**"), and Schedule "B" to By-law No. 66 of the Ontario College of Social Workers and Social Service Workers, being the Ontario College of Social Workers and Social Service Workers Standards of Practice Handbook (the "**Handbook**").

[7] The factual particulars of the allegations set out in the Notice of Hearing are as follows:

1. At all relevant times, you were registered as a social work member with the Ontario College of Social Workers and Social Service Workers (the "**College**");
2. You graduated from Wilfred Laurier University with a Master's degree in 2017 and you currently work in private practice.
3. Between on or about February 9, 2018 and July 10th, 2018 you provided therapy/counselling services to [*client initials*] (the "**Client**") for issues related to self-esteem, relationship breakdown, and her relationship with food.
4. While providing counselling services, you and the Client began to develop personal, romantic and/or sexual feelings for one another. You failed to promptly

recognize these feelings and/or to properly address them and failed to prevent the erosion of professional therapist/client boundaries within the therapeutic relationship.

5. Even after you and the Client recognized that the relationship had shifted from being a therapeutic relationship to a personal and/or romantic relationship, you continued to provide therapy/ counselling to the Client, in circumstances where you knew or ought reasonably to have known that it was not likely to benefit the Client and where the existence of a personal and professional relationship gave rise to a conflict of interest.
6. You engaged in a series of boundary crossings and/or boundary violations while providing counseling and/or psychotherapy to the Client (and, in particular, while the Client's counselling/ therapeutic relationship with you had not been clearly or formally terminated) and inappropriately disclosed personal information to the Client, including (but not limited to) information relating to your sexuality and your other personal and/or sexual relationship(s).
7. During a counselling session on or about July 4, 2018, you told the Client that you were "struck" by how much you "adore[d]" her, or words to that effect.
8. During a counselling session on or about July 10, 2018, the Client disclosed that she had romantic feelings for you. She told you that she had a "crush" on you and liked you a lot, or words to that effect. During that session you told the Client that you had "...deep and loving feelings for her", or words to that effect.
9. On and after July 10, 2018, you proceeded to have personal and/or romantic communications with the Client by phone and by email, including (but not limited to):
 - (a) sending emails to the Client from on or about July 10, 2018 to on or about July 12 or 13, 2018, containing personal, romantic and /or sexual remarks and comments, including (but not limited to) remarks or comments to the effect that:
 - (i) "my heart believes we can still work together and that working through these feelings is a path to healing";
 - (ii) "my heart also trusts you fully. Your wisdom is telling you to take a break and I respect and support that. I also hear you saying that this break is going to last forever and I can accept that if it is what you really need...but I don't believe in forever."
 - (iii) "you are beautiful [*client initial*]". That is why I adore you. I would love to work with you in growing your capacity to tolerate and accept the trust of your own beauty"
 - (iv) "you are not my first girl crush."

- (v) "I have oodles of love to give and many ways to give it."
 - (vi) "if we continued to work together, we would work on de-linking love and sex, while also working through being desired and not being able to 'have' exactly what we desire"
 - (vii) "you have said that you may be in a position of wanting many lovers/relationships. Could this relationship be one of those many relationships that is not about becoming lovers but about exploring love and desire none the less?"
 - (viii) "you know, the College of Social work does not allow me to have a relationship with my clients ever forever ever. I know, it is an old, white, colonial set-up."
 - (ix) "I am sad too, you know."
 - (x) "I do not believe that we met so that you could relive another rejection. Please give me time to think about this and communicate again"; and/or
- (b) Engaging in social, personal, romantic and/or sexual telephone discussions with the Client, commencing in or about July, 2018.
10. On or about July 26, 2018, a number of weeks after the Client's disclosure of personal, romantic and/ or sexual feelings toward you (and your disclosure of similar feelings toward the Client), you sought consultation with another registered social worker to discuss your feelings for the Client and the possibility of a continued personal and/or romantic relationship with the Client. You resisted the therapist's suggestion that there was a power imbalance between you and the Client which would make such a personal and/or relationship or contact of that nature inappropriate, even after the termination of the therapeutic relationship. Thereafter, you continued to engage in personal and/or romantic contact with the Client.
11. You failed to take timely, clear and appropriate steps to terminate the therapeutic/ counselling relationship with the Client, despite the Client's specific request that the therapeutic/ counselling relationship be terminated due to the Client's romantic and/or sexual feelings for you. In particular, you:
- (a) continued to communicate with the Client after the therapy session of July 10, 2018 and to suggest to the Client that a continued therapeutic relationship was possible and that they should revisit the matter in September, after taking a "break" for the summer;
 - (b) failed to clearly communicate to the Client regarding termination of the therapeutic/ counselling relationship and/or document in the clinical record any termination of the therapeutic/ counselling relationship; and/or

- (c) failed to take steps to refer the Client to another counsellor or therapist until on or after August 13, 2018.

[8] The allegations of professional misconduct set out in the Notice of Hearing, after the withdrawals, are as follows:

I. It is alleged that by reason of engaging in some or all of the conduct outlined above, you are guilty of professional misconduct as set out in section 26(2)(a) and (c) of the Act:

- (d) In that you violated **Section 2.2 of the Professional Misconduct Regulation** and:
 - (i) **Principle I of the Handbook (commented on in Interpretation 1.5 and 1.6)** by failing to be aware of your values, attitudes and needs and how those impact on your professional relationships with clients; and failing to distinguish your needs and interests from those of the client;
 - (ii) **Principle II of the Handbook (commented on in Interpretation 2.2.1, [withdrawn], 2.2.3 and 2.2.8)** by engaging in a professional relationship that constituted a conflict of interest, or that you ought reasonably to have known would put the client at risk; using your professional position of authority to improperly influence or exploit a client or former client, and, by engaging in conduct which could reasonably be perceived as reflecting negatively on the profession of social work;
 - (iii) **Principle III of the Handbook (commented on in Interpretations 3.7, 3.8, and [withdrawn])** by failing to assume full responsibility for demonstrating that the client had not been exploited, coerced or manipulated, intentionally or unintentionally where a personal relationship occurred between you and the client; by providing a service that you knew or ought reasonably to have known was not likely to benefit the client; and [withdrawn].
 - (iv) **Principle VIII of the Handbook (commented on in Interpretation [withdrawn] and 8.4.1 [withdrawn])** and by failing to clearly terminate the relationship with the client [when the overtures or provocative sexual behaviour by the client towards you became intrusive to the provision of professional services¹].

¹ This wording did not appear in the original Notice of Hearing but was added after the hearing at the request of the College, which was not opposed by the Member, to more fully reflect the language of Interpretation 8.4.1.

- (b) In that you violated **Section 2.9 of the Professional Misconduct Regulation** by providing a service that you knew or ought reasonably to have known was not likely to benefit the Client.
- (c) In that you violated **Section 2.10 of the Professional Misconduct Regulation** by providing a professional service while you were in a conflict of interest.
- (d) In that you 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 or unprofessional.

Member's Plea

[9] The parties indicated that they had reached an agreement whereby the College would seek the withdrawal of certain elements of the allegations and the Member would admit to the remaining allegations. The Panel accepted the withdrawals, and the Member pleaded guilty to the allegations of professional misconduct set out in the Notice of Hearing that were not withdrawn. Regarding allegation II.(d), the Member admitted that her conduct would reasonably be regarded by members as dishonourable and unprofessional.

[10] The Panel conducted an oral plea inquiry and was satisfied that the Member's admission was voluntary, informed and unequivocal.

The Evidence

[11] The evidence was tendered by way of an Agreed Statement of Facts. The substantive portion of the Agreed Statement of Facts read as follows:

1. Now and at all times relevant to the allegations, Prapti Giri (the "**Member**") was a registered social work member of the Ontario College of Social Workers and Social Service Workers (the "**College**").
2. The Member obtained a Master's degree from Wilfrid Laurier University in 2017 and registered with the College on December 1, 2017. The Member currently works in private practice.
3. Between on or about February 9, 2018 and July 10, 2018, the Member provided social work, therapy and counselling services to X. (the "**Client**") for issues related to self-esteem, relationship breakdown, and her relationship with food. The last counselling session occurred on July 10, 2018, although the counselling relationship was not terminated during that session.
4. While the Member was providing counselling services to the Client, the Member and the Client began to develop personal and/or romantic feelings for one another, and this was

documented in the clinical notes, copies of which are attached as **Exhibit “A”** to this Agreed Statement of Facts.

5. The Member arranged to obtain consultation to assist her in dealing with feelings of attraction she was having toward the Client. She met in this regard with her own therapist on July 3, 2018 and at that point identified her feelings as countertransference
6. The clinical notes of subsequent sessions with the Client contained the following comments, among others:
 - a. during a counselling session on or about July 4, 2018, the Member documented in her notes that she told the Client : “I am struck by how I adore her [the Client] in a way that she has mentioned others adoring her”, or words to that effect;
 - b. during a counselling session on or about July 10, 2018, the Member documented in her notes that the Client disclosed that she wanted to “take a ‘break” from working with the Member as she had a “crush” on her. During the same session, the Member told the Client “about the countertransference that I [the Member] am experiencing, which is also to have deep and loving feelings for her [the Client]. We talked about how it is for her to feel desired by another”.
7. If the Member were to testify, she would state that the words “adored”, “crush” and “deep and loving feelings” denote the countertransference that she was experiencing and that her choice of words in the clinical notes was a reflection of the Client’s language, including the Client’s use of the word “adorable”, to discuss the part of herself that presents as worthy of positive affirmation.
8. After the session on July 10, the Member continued to communicate with the Client by email and/or telephone until at least August 13, 2018. During this time, the Member failed to clearly communicate to the Client regarding termination of the therapeutic/counselling relationship and/or document in the clinical record any termination of the therapeutic/counselling relationship. The Member ultimately referred the Client to another counsellor or therapist, as confirmed by the Member’s e-mail dated August 13, 2018, a copy of which is attached as part of **Exhibit “B”** to this Agreed Statement of Facts.
9. Between July 10, 2018 and July 12, 2018 the Client and the Member corresponded by e-mail. Copies of those e-mails are attached as **Exhibit “B”** to this Agreed Statement of Facts.
10. In particular, at 6:11 p.m. on July 10, 2018 (the date of the final session), the Client e-mailed the Member, saying (among other things) that:
 - (a) “this appointment was kind of weird and a bit overwhelming for me”,
 - (b) “I can and will remind myself that someone I think is pretty great did find me desirable. I did get it - but the end of our appointment started to feel kind of overwhelming as all the things I wanted to say got stuck in my throat...”
 - (c) “I also wanted to thank you for taking this risk – and I do recognize that it is a risk

for you, to tell me some of what you were thinking/ feeling”

- (d) “I kind of stopped wanting to be ‘your client’ a few weeks ago – but didn’t want to give up spending time with you- but obviously this isn’t sustainable”
11. The Member responded to the Client by e-mail on July 10, 2018 at 9:28 p.m., saying (among other things) that:
 - (a) “my heart believes we can still work together and that working through these feelings is a path to healing”;
 - (b) “my heart also trusts you fully. Your wisdom is telling you to take a break and I respect and support that. I also hear you saying that this break is going to last forever and I can accept that if it is what you really need...but I don’t believe in forever.”
 - (c) “A couple of weeks ago is when things shifted for me too”
 - (d) “you are beautiful X.. That is why I adore you. I would love to work with you in growing your capacity to tolerate and accept the trust of your own beauty”
 - (e) “I will check with you in September as per our agreement”
12. If the Member were to testify, she would state that her comment (in the above e-mail) that “my heart believes we can still work together and that working through these feelings is a path to healing” was intended to articulate her belief at the time that therapy could be resumed at a future date.
13. On July 11, 2018 at 12:08 p.m. the Client sent a further email to the Member in which she mentioned “keeping the door open” (presumably referring to the possibility of continuing to work with the Member and receive therapy from her in the future) and said (among other things) that:
 - (a) “You [the Member] are having your first girl crush-which is lovely”;
 - (b) “I hope you will be excited and thrilled to discover that there are wonderful new possibilities for love and sex and family. Although I guess it is inconvenient and not helpful if you have a partner-especially if you practice monogamous life partner relationships.”
 - (c) “I want to date you ...not be counselled by you”.
14. At 5:57 p.m. that same day the Member sent an email to the Client in which she stated:
 - (a) “you are not my first girl crush! Ugh! Lol. I have lived a long time to! So why do I identify as ‘straight’? because of the convenience. yes.”
 - (b) “I am polyamorous and in a monogamous relationship. I have oodles of love to give and many ways to give it. Love and sex are not equal, I get that, but I am into navigating the complications of that as I am in a monogamous relationship. I am always into navigating loving someone I also desire in a healing relationship - and

yes, that would mean putting tight constraints on my desire. That is what 'working on my stuff' means - figuring out ways to feel and be honest while navigating constraints.”

- (c) “if we continued to work together, we would work on de-linking love and sex, while also working through being desired and not being able to ‘have’ exactly what we desire”
 - (d) “you have said that you may be in a position of wanting many lovers/relationships. Could this relationship be one of those many relationships that is not about becoming lovers but about exploring love and desire none the less?”
 - (e) “you know, the College of Social work does not allow me to have a relationship with my clients ever forever ever. I know, it is an old, white, colonial set-up.”
15. The Member sent a second email on July 11, 2018 at 8:58 p.m. stating “I am sad too, you know.”
 16. On July 12, 2018 at 4:10 p.m., the Member e-mailed the Client again, saying: “I will check in with you in September. Until then, please know I will always make time for you.”
 17. On July 12, 2018 at 4:24 p.m. the Client sent a responding email to the Member stating (among other things): “I feel like this will probably be our last communication-and I am really sad about it. I feel like it is not a good idea for us to work together in the future – I don’t think we have had a therapeutic relationship for some time and I don’t think I can ever achieve that with you...”. The Client also observed that “I don’t think looking at our feelings for each other while you are in the position of counsellor and I am in the position of client is reasonable either”. The Client referred to feeling “rejected” and “really down” and stated: “I don’t think you need to check in with in (sic) September but I appreciate that you were willing to do it.”
 18. The Member responded by e-mail on July 12, 2018, saying “I would like to respond to this e-mail and I need time to do it. You are important to me. And I do not believe that we met so that you could relive another rejection. Please give me time to think about this and communicate again.”
 19. The Member states that she did not see the Client again after the July 10, 2018 session. The only evidence of further e-mail contact with the Client after the above e-mails of July 10-12, 2018 is a brief email on August 13, 2018, confirming an August 7, 2018 telephone conversation in which the Member (at the recommendation of a lawyer she had consulted) suggested another counsellor that the Client could see. However, in the weeks following July 12, 2018, the Member and Client communicated by telephone. None of that telephone communication (other than the August 7 phone conversation) is documented in the clinical record.
 20. On or about July 26, 2018, the Member had a clinical consultation with a registered social worker, Y.Y., to discuss her feelings for the Client and the possibility of a personal and/or romantic relationship with the Client after the termination of the professional relationship. If the Member were to testify, she would state that she had initially contacted Y.Y. on July

13, 2018, but was unable to meet with her until July 26, 2018 due to scheduling conflicts.

21. During the July 26, 2018 meeting, the Member disclosed to Y.Y. that in addition to sending the emails of July 10 to July 12, 2018 to the Client, she had been having regular social and/or romantic-telephone contact with the Client during the previous two weeks (i.e. from in or about July 10, 2018 to July 26th, 2018). Y. Y.'s contemporaneous notes of the session (a copy of which is attached, along with her e-mails to and from the Member, as **Exhibit "C"**) read, in part, as follows:

P. is still feeling the attraction and a pull to be in ongoing non-therapeutic (social) contact with the client. Advised against this and we discussed the OCSWSSW guidelines that prohibit this contact and the consequences of doing so...We further processed the feelings by discussing attachment and her relationship with her partner. As the conversation continued, it became clear that P and the client are having social/romantic contact over the phone. She believes that no harm is being done because the client feels like a peer and they have discussed power imbalance issues together.

22. Were the Member to testify, she would state that the calls were only about the possibility of friendship and were not romantic in nature. While the College is not alleging that "phone sex" occurred, Y.Y. described the contact as "social/romantic contact" in her contemporaneous notes of her meeting with the Member, based upon the information provided by the Member herself. In addition, Y.Y. sent an e-mail to the Member on July 27, 2018 (the day after their session) which stated (in part):

I am uncomfortable about how you plan to proceed with your client. Also, while I agree with you about the lack of complexity in our social work ethical responses, I am feeling that it would be my duty to contact the College....

Here's why I believe it is my duty to contact the College: although you and your client may not feel that there is any harm being done by romantic contact, this is a context in which there is a high likelihood of risk of psychological harm because of the unequal power relationship between you.

I wonder (I'm not sure) whether the College's response to you might be more sympathetic if you did contact them yourself. You have done quite a bit of "due diligence" by setting up multiple consultation meetings regarding this client.

23. On July 27, 2018, the Member responded to Y.Y.'s e-mail, advising Y.Y. that she had spoken to the Client and several other people and had decided not to contact the Client for a period of time while she continued to do her own professional and personal work.
24. The Member also asked Y.Y. to let her know if Y.Y. still planned to make a report to the College. Accordingly, on July 30, 2018, Y.Y. spoke to the Member by phone and advised

her that Y.Y. needed to speak to the College given that there were two weeks of romantic telephone calls between the Member and the Client.

25. On July 30, 2018, Y.Y. reported the Member's conduct to the College, indicating that the Member, in the context of a clinical consultation with Y.Y. "disclosed having romantic contact, via telephone, with a client she'd just ended with. This phone contact took place over the previous two weeks."
26. Subsequently, on the advice of her lawyer, the Member contacted the Client on or about August 7, 2018 to terminate the professional relationship and to provide the Client with recommendations for other counsellors, even though the Client had previously stated that this information was not welcome.
27. On or about August 13, 2018, the Client confirmed to the Member that she had sought therapy elsewhere. If she were to testify, the Member would state that since that time, she has not pursued a personal relationship with the Client.
28. If the Member were to testify, she would state that there was no physical intimacy between her and the Client. The College acknowledges that there is no evidence of such physical intimacy, and has not alleged that the Member was intentionally grooming the Client for a sexual relationship. Nevertheless, the Member acknowledges that there is a power imbalance inherent in therapeutic relationships (including this one), in which the client shares highly personal information with the member. The Member is in a position of authority in relation to the Client, who is vulnerable. The Member's professional position of authority and knowledge gained in the therapeutic relationship enabled the Member (even if unintentionally) to improperly influence or exploit the Client. The Member acknowledges that by virtue of her professional position of authority with respect the Client, any personal/romantic relationship between the Member and the Client would have the effect of exploiting the vulnerabilities of the Client.
30. The Client did not make a complaint to the College in relation to the Member. When the Client was interviewed by the College investigator on September 28, 2019, the Client expressed the view that she was never at risk of harm from the Member and denied that there had been actions or commentary by the Member that she (the Client) perceived as a boundary violation. The Client indicated that she was not in support of the College's framework and policies, which she viewed as "paternalistic", "oppressive" and perpetuating colonialism. The Client acknowledged that she had consented to the Member releasing her name and records to the College, but said that she did so on the understanding that the Member would be compelled to provide the information. However, the Client was upset that her records would be reviewed by the College.
31. The College has agreed to withdraw the following Interpretations and Principles of Section 2.2 of the Professional Misconduct Regulation from the Notice of Hearing: Interpretation 2.2.2 of Principle II, Interpretation 3.10 of Principle III, Interpretations 8.3 and 8.4 of Principle VIII. The Member admits that she committed professional misconduct as alleged in the balance of allegations in the Notice of Hearing. The Member further admits (and the College agrees) that her conduct was unprofessional, and dishonourable (but not disgraceful).

Decision of the Panel

[12] The Panel accepted the admissions of professional misconduct set out in the Agreed Statement of Facts, and accordingly made findings of professional misconduct as alleged in the Notice of Hearing, after the withdrawals.

Reasons for Decision

[13] Allegation II.(a)(i) in the Notice of Hearing is supported by paragraphs 5, 6, 16 and 18 in the Agreed Statement of Facts. The Member violated Section 2.2 of the Professional Misconduct Regulation and Principle I of the Handbook (commented on in Interpretations 1.5 and 1.6) by failing to be aware of her values attitudes and needs and how those impact on her professional relationships with clients, and failing to distinguish her needs and interests from those of her client. During the fifth month of therapy, on July 3, 2018, the Member met with her own therapist to consult about the feelings of attraction that she was having towards her client and despite being able to identify this dynamic as not being in the best interests of the Client, the Member, during a subsequent therapy appointment on July 10, 2018 informed the Client that she had “ deep and loving feelings for her”. Furthermore, despite the Client reporting that she had a “crush” on the Member and wished to take a break from the therapy, the Member suggested that she would check in with the Client in September and continued to have correspondence with the Client thereafter. By prioritizing her own wish to continue to have contact with the Client, despite the Client’s request for a break, and by expressing her feelings of love for the Client, the Member failed to distinguish her needs from those of the Client and therefore is guilty of professional misconduct.

[14] Allegations II.(a)(ii) and (c) in the Notice of Hearing are supported by paragraphs 10, 11, 13, 14, 17, 21, 25 and 28 in the Agreed Statement of Facts. The Member violated Sections 2.2 and 2.10 of the Professional Misconduct Regulation and Principle II of the Handbook (as commented on in Interpretations 2.2.1, 2.2.3 and 2.2.8) by engaging in a professional relationship that constituted a conflict of interest or that she ought reasonably to have known would put the client at risk; using her professional position of authority to improperly influence or exploit a client or former client, and by engaging in conduct which could reasonably be perceived as reflecting negatively on the profession of social work.

[15] Following the therapy session of July 10, 2018 the Client and Member exchanged a series of e mails between July 10-July 12. In the first one on July 10, the Client described her experience during the therapy session earlier that day as being “weird and a bit overwhelming” and that she had “stopped wanting to be a client a few weeks ago” and then over the course of the next few days, wrote that she wanted” to date” the Member, “not be counselled by you” and that “I don’t think we have had a therapeutic relationship for some time and I don’t think I can ever achieve that with you”. Despite these clear messages about a conflict of interest existing in the therapeutic relationship the Member used her position of authority to improperly influence the Client, by informing the Client via e-mails that “a couple of weeks ago is when things shifted for me” and that she had “oodles of love to give and many ways to give it”. Furthermore, from July 12 to July 26, 2018 the Member continued to have social/romantic telephone contact with the Client despite the existence of a power imbalance where the Member was in a position of authority in relation to the Client who was vulnerable, and therefore she is guilty of professional misconduct.

[16] Allegations II.(a)(iii) and (iv) and (b) in the Notice of Hearing are supported by paragraphs 8, 19 and 22 in the ASF. The Member violated sections 2.2 and 2.9 of the Professional Misconduct

Regulation and Principle III of the Handbook (commented on in Interpretations 3.7 and 3.8) and Principle VIII (Interpretation 8.4.1) by failing to assume full responsibility for demonstrating that the Client had not been exploited coerced or manipulated, intentionally or unintentionally where a personal relationship occurred between her and the client; by providing a service that she knew or ought reasonably to have known was not likely to benefit the Client; and by failing to clearly terminate the relationship with the Client when the overtures or provocative sexual behaviour by the Client towards her became intrusive to the provision of professional services.

[17] After the therapy session on July 10, the Member continued to communicate with the Client by e mail and/or telephone until at least August 7, 2018. During this time the Member failed to clearly communicate to the Client regarding termination of the therapeutic relationship and/or document in the clinical notes any termination of the therapeutic relationship. Furthermore, despite engaging in clinical consultation with a Registered Social Worker about her feelings for the Client and the possibility of a personal or romantic relationship with the Client after the termination of the professional relationship and receiving advice that “this is a context in which there is a high likelihood of risk of psychological harm because of the unequal power relationship between you”, the Member failed to terminate in a timely and formal way and therefore she is guilty of professional misconduct.

[18] With regard to Allegation II.(d) in the Notice of Hearing that the Member violated Section 2.36 of the Professional Misconduct Regulation by engaging in conduct or performing an act relevant to the practice for the profession that having regard to all circumstances would reasonably be regarded by members as dishonourable and unprofessional, the Panel found that the Member’s behaviour did not reach the level of being disgraceful. However the Panel found that there was an element of moral failing in the Member’s behaviours, in particular, failing, even after seeking professional advice about her concerns, to properly address her romantic/personal feelings towards the Client and disclosing highly personal information to the Client thus allowing erosion of professional therapist/client boundaries. The Member engaged in conduct that would reasonably be regarded as dishonourable and unprofessional and therefore is guilty of professional misconduct.

Submissions on Order

[19] The parties were in agreement on the issue of what order the Panel should make in light of the findings of professional misconduct. They presented to the Panel a Joint Submission as to Order (“**Joint Submission**”) asking this Panel make an order as follows:

1. The Member shall be reprimanded in person by the Discipline Committee and the fact of the reprimand be recorded on the register for an unlimited period of time.
2. The Registrar shall be directed to suspend the Member's Certificate of Registration for a period of four (4) months, the first three (3) months of which shall be served commencing on June 30, 2020. The remaining one (1) month of the suspension shall be remitted if, within one year of the Order, the Member provides evidence, satisfactory to the Registrar of the College, of compliance with the terms and conditions imposed in paragraph 3(a) and (b) as set out below. If the Member fails to comply with those terms and conditions, the Member shall serve the remaining

one (1) month of the suspension, which shall be served immediately following the expiry of twelve months from the date of the Order.²

3. The Registrar shall be directed to impose the following specified terms, conditions or limitations on the Member's certificate of registration, to be recorded on the College's public register:
 - a) requiring that the Member, at her 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 twelve (12) months from the date of the Order of the Discipline Committee;
 - b) requiring that the Member, at her own expense, receive supervision of her social work practice with an approved member of a regulated profession for a period of one (1) year from the date at which the Member returns to practice from the mandatory suspension. The Member must additionally provide to the approved supervisor (and any other approved supervisor) 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 days of returning to practice under supervision (and within 15 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 her supervisor in order to allow the supervisor to review client files and engage in review.
 - c) in the event that the Member obtains future employment engaging in activities that fall within the social work scope of practice during the twelve (12) months following the date that the Member is able to return to practice after her mandatory suspension, the Member shall:
 - (i) notify any current or new employers of the Discipline Committee's decision; and
 - (ii) ensure the Registrar is notified of the name, address, and telephone number of all employer(s) within fifteen (15) days of commencing or resuming employment in any social work position;
 - (iii) provide her employer(s) with a copy of:

² For greater clarity, the terms, conditions or limitations imposed under paragraph 3 hereof 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 it deems appropriate, which may include referring allegations of professional misconduct to the Discipline Committee arising from any failure to comply with the terms, conditions or limitations.

- a. the Discipline Committee's Order;
- b. the Notice of Hearing;
- c. the Agreed Statement of Facts;
- d. the Joint Submission on Penalty; and
- e. a copy of the Discipline Committee's Decisions and Reasons, once available.

(iv) only practise social work for an employer who agrees to, and does, forward a report to the Registrar within fifteen (15) days of the commencement or resumption of the Member's employment in any social work position, confirming:

- a. that they received a copy of the required documents;
- b. that they agree to notify the Registrar immediately upon receipt of any information that the Member has breached the Code of Ethics and Standards of Practice of the profession.

4. The Discipline Committee's finding and order (or a summary thereof) shall be published, in detail or in summary with the name of the Member, online and/or in print, including, but not limited to, in the official publication of the College, on the College's website, and on the College's public register.
5. The Member shall pay costs in the amount of \$5,000.

[20] College Counsel cited case law, *R v Anthony-Cook*, 2016 SCC 43, as support for the proposition "that a joint submission should not be rejected lightly". In that case, both the Court of Appeal for Ontario and the Supreme Court of Canada held that unless a court (or in this case, the Panel of the Discipline Committee) is of the view that "the proposed sentence would bring the administration of justice into disrepute or is otherwise contrary to public interest" a joint submission should not be rejected. College Counsel referred to 3 analogous cases from this Discipline Committee to support the penalty (*Marangwanda*, 2019 ONCSWSSW 1; *Shaheen*, 2019 ONCSWSSW 9; and *McConnell* (2017)).

[21] The Member's Counsel concurred with the submissions on the issue of jurisdiction and authority and the rationale for making such an order in the circumstances of this case, but submitted that certain further mitigating factors should be taken into account when considering the suitability of the proposed order. Member's Counsel submitted that a careful reading of the clinical notes as opposed to only the chosen excerpts cited in the Agreed Statement of Facts would reveal the context and shed light on the interactions, to demonstrate that much of the exchange in both the in-person sessions and through e-mails, was therapeutically and professionally appropriate. Furthermore, Member's Counsel submitted that while in agreement with considering orders made

in previous similar cases, no two cases are exactly alike and that there are mitigating circumstances in this case that are not present in the cases cited by the College.

[22] College Counsel argued that the College and the Member had entered into an ASF which is not open to have facts reframed and that the Member had the option of entering into a contested hearing. Furthermore, the College re-iterated that the penalty was agreed upon and jointly submitted and that the 3 cases cited were comparable and this penalty is consistent with those precedents.

[23] The Panel received advice from ILC that the Discipline Committee has limited discretion to make changes in the Joint Submission on Order and that there is a high threshold to depart from it. ILC also advised that the Panel should disregard any new facts that are not in evidence, and not draw contentious inferences from the ASF and documents unless there is an agreement between both parties that they could make submissions as to what inferences could be drawn. Having considered the arguments, the Panel concluded that contentious inferences should not be considered in evaluating the Joint Submission.

Decision on Order

[24] Having considered the findings of professional misconduct, the evidence and the submissions of the parties, the Panel accepted the Joint Submission and made an order in the terms of the Joint Submission.

Reasons for Decision on Order

[25] The Panel recognised that the penalty should maintain high professional standards, preserve public confidence in the ability of the College to regulate its members and above all to 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. As noted above the College Counsel relied on the decision by *R v Anthony Cook* regarding the principle that the panel should not reject a joint submission on penalty unless it is contrary to the public interest and would bring the administration of justice into disrepute.

[26] The Panel concluded that the jointly proposed penalty was within the acceptable range of penalty for this type of professional misconduct as reflected in the comparable cases cited by College counsel. The Panel considered the aggravating and mitigating circumstances submitted by both counsel. The Panel noted that the Member co-operated with the College, has admitted to having committed acts of professional misconduct, has agreed to the proposed penalty and has no prior history with the Discipline Committee. Regarding aggravating factors, the Panel noted that the Client was a vulnerable person. The elements of the jointly proposed penalty achieve the goal of both general and specific deterrence, as they will deter members of the profession from engaging in similar misconduct and will specifically deter the Member from engaging in misconduct again. The suspension of the Member's certificate is a significant measure which has both a general and a specific deterrent due to the financial consequences of being unable to work as a social worker for the period of the suspension. Furthermore, the terms, conditions and limitations requiring the Member to engage in therapy, take a boundaries course and to set up supervision are not intended to be punitive but rather remedial and educational and they provide specific deterrence and an avenue for rehabilitation. The Panel considered that the elements of supervision and education were of particular importance for this Member who, in the past, demonstrated that she had been

willing to seek clinical supervision to review difficulties in her social work practice. The Panel considers that the proposed penalty is reasonable in the light of the goals of maintaining high professional standards, preserving public confidence in the College's ability to regulate its members and above all to protect the public. For these reasons the Panel found no reason to depart from the joint submission on penalty.

[27] Regarding item #5 in the Joint Submission, the Member must pay \$5,000 in costs. The panel recognized that the parties agreed on costs and considered this amount to be reasonable.

I, Rita Silverthorn sign this decision as chairperson of the Panel and on behalf of the Panel members listed below.

Date: ●, 2020 _____

Signed: _____
Rita Silverthorn, RSW and Chair
Frances Keogh, RSW
Karen Fromm