



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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On January 27, 2021 allegations of the Member's professional misconduct were referred to the Discipline Committee for hearing, on a date yet to be fixed. Please see the Notice of Hearing below.

ONTARIO COLLEGE OF SOCIAL WORKERS AND SOCIAL SERVICE WORKERS

IN THE MATTER OF Sections 26 and 28 of the *Social Work and Social Service Work Act*, 1998, S.O. 1998, Chapter 31;

AND IN THE MATTER OF a hearing directed to be held by the Discipline Committee of the Ontario College of Social Workers and Social Service Workers under the *Social Work and Social Service Work Act*, 1998;

AND IN THE MATTER OF allegations respecting the professional conduct of Dorit Osher, a Social Worker and member of the said College;

NOTICE OF HEARING

TAKE NOTICE that a hearing will take place on a date to be fixed by the Registrar at the hour of 9:30 o'clock in the forenoon (or as soon after that time as a panel can be convened for the purpose of conducting the hearing) at the Board Room of the Ontario College of Social Workers and Social Service Workers, 250 Bloor Street East, Suite 1000, Toronto, Ontario before the Discipline Committee of the Ontario College of Social Workers and Social Service Workers. The hearing will be held pursuant to the provisions of sections 26 and 28 of the *Social Work and Social Service Work Act, 1998* (the "Act") and pursuant to the Regulations made thereunder, for the purpose of hearing and determining allegations of professional misconduct against you, Dorit Osher, which allegations were referred to the Discipline Committee pursuant to section 24(5)(a) of the Act.

AND TAKE NOTICE that you are alleged to be guilty of professional misconduct within the meaning of section 26(2) of the Act in that you are 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**")¹.

I. The following are particulars of the said allegations:

1. At all relevant times, you were registered as a social worker with the Ontario College of Social Workers and Social Service Workers (the "**College**") and were working as a social worker in private practice.
2. The social work services you provided included the provision of talk and somatic therapy services related to depression, anxiety, mood disorders, stress, trauma, eating disorders, addictions, couples, and parent-child relationships.
3. On or about April 11, 2020, you disposed of confidential client files in a publicly accessible dumpster belonging to a local business. The client files were not shredded, redacted, or anonymized before you disposed of them. As a result, client names, contact information, and personal health information appeared in many of these files. Many of the files contained information indicating that you were providing social work services to these clients.
4. Staff of the business in question observed your conduct, recovered the client files from the dumpster, and reported your conduct to the College.
5. Approximately 450 discrete client files (or portions thereof) were recovered from the dumpster. Some of these files contained intake forms, clinical notes and/or confidential information about the client's mental health or the nature of the issues for which the client was seeking social work services.
6. One or more of the client files had not yet been digitized or preserved in another format before you disposed of them, despite the fact that the applicable retention periods had not yet passed. You therefore

¹ By-law 24, as amended by By-law Nos. 32 and 48 and revoked effective July 1, 2008 by By-law 66, continues to apply to conduct which occurred prior to July 1, 2008.

failed to ensure these client records were retained, stored, and preserved in a secure location for the required retention period.

7. You had obligations to protect the confidentiality of clients' personal information, including their personal health information, pursuant to (among other things) the Code of Ethics, the Handbook, and the *Personal Health Information and Protection Act, 2004*. By virtue of the conduct outlined in paragraphs 3-6 above, you failed to abide by these obligations by:
 - (a) Dealing with clients' records and personal health information in a manner that resulted in an impermissible and unauthorized disclosure;
 - (b) Failing to ensure that that client records and personal health information were retained, transferred, and disposed of in a secure manner that did not compromise their confidentiality;
 - (c) Failing to take reasonable steps to ensure clients' records and personal health information were protected against theft, loss and unauthorized use or disclosure; and/or
 - (d) Failing to take reasonable steps to ensure that clients' records and personal health information were protected against unauthorized copying, modification, or disposal.

II. 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:

- (a) In that you violated **Section 2.2 of the Professional Misconduct Regulation and Principle IV of the Handbook (as commented on in Interpretation 4.2.1)** by failing to comply with the requirements regarding record retention, storage, preservation and security set out in any applicable privacy and other legislation;
- (b) In that you violated **Section 2.2 of the Professional Misconduct Regulation, Section 6 of the Code of Ethics, and Principle IV of the Handbook (as commented on in Interpretation 4.2.2)** by

failing to take necessary steps to protect the confidentiality of all professionally acquired information, including by failing to protect the confidentiality and security of paper records, faxes, electronic records, and other communications;

- (c) In that you violated **Section 2.2 of the Professional Misconduct Regulation and Principle IV of the Handbook (as commented on in Interpretation 4.2.3)** by failing to ensure that each client record is stored and preserved in a secure location for at least seven years from the date of the last entry or, if the client was less than eighteen years of age at the date of the last entry, at least seven years from the day the client became or would have become eighteen, or such other period of storage time that may be required by law;
- (d) In that you violated **Section 2.2 of the Professional Misconduct Regulation and Principle IV of the Handbook (as commented on in Interpretation 4.2.5)** by destroying client records in a manner that did not follow the time frames outlined in Interpretation 4.2.3 and/or by disposing of client record contents in a way that did not ensure that the confidentiality of the information was not compromised;
- (e) In that you violated **Section 2.2 of the Professional Misconduct Regulation, Section 6 of the Code of Ethics, and Principle V of the Handbook (as commented on in Interpretation 5.1)** by failing to comply with any applicable privacy and other legislation and/or by disclosing professionally acquired client information, including personal information, without first obtaining client consent and where such disclosure was not otherwise permitted or required by law;
- (f) In that you violated **Section 2.2 of the Professional Misconduct Regulation and Principle V of the Handbook (as commented on in Interpretation 5.3)** by disclosing information concerning or received from clients in circumstances where none of the enumerated exceptions in Interpretation 5.3 permitted such disclosure;
- (g) In that you violated **Sections 2.2 and 2.36 of the Professional Misconduct Regulation, Section 8 of the Code of Ethics, and Principle II of the Handbook (as commented on in Interpretation 2.2.8)** 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; by failing to avoid conduct in the

practice of social work that could reasonably be perceived as reflecting negatively on the profession of social work; and/or by providing social work services in a manner that discredits the profession of social work or diminishes the public's trust in the profession;

- (h) In that you violated **Section 2.3 of the Professional Misconduct Regulation** by doing anything to a client in the course of practicing the profession in a situation in which consent is required by law, without such consent;
- (i) In that you violated **Section 2.20 of the Professional Misconduct Regulation** by failing to keep records as required by the regulations and standards of the profession;
- (j) In that you violated **Section 2.28 of the Professional Misconduct Regulation** by contravening the Act or regulations or by-laws; and/or
- (k) In that you contravened **Section 2.29 of the Professional Misconduct Regulation** by contravening a federal, provincial or territorial law or a municipal by-law in circumstances where the purpose of the law or by-law is to protect public health and/or the contravention is relevant to your suitability to practice, and in particular by violating ss. 12, 13, and/or 29 of the *Personal Health Information Protection Act, 2004*, S.O. 2004, c. 3, Sched. A.

AND TAKE NOTICE that the Discipline Committee may make an order under Section 26(4), (5), (6), (7), (8) and (9) of the Act, or any of them, in respect of any or all of the above allegations.

AND FURTHER TAKE NOTICE that the parties (including the College and you) shall be given the opportunity to examine before the hearing any documents that will be given in evidence at the hearing.

AND FURTHER TAKE NOTICE that at the said hearing, you are entitled to be present and to be represented by counsel.

IF YOU DO NOT ATTEND AT THE HEARING IN ACCORDANCE WITH THIS NOTICE OF HEARING, THE DISCIPLINE COMMITTEE MAY PROCEED WITH THE HEARING, AND MAY DEAL WITH THE ABOVE ALLEGATIONS

AGAINST YOU, IN YOUR ABSENCE AND WITHOUT ANY FURTHER
NOTICE TO YOU.

Dated at Toronto, the _____ day of January, 2021

By: _____
Registrar and CEO
Ontario College of Social Workers and Social Service Workers