



## **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**

### **Carl Lyons, RSW #325971**

#### **Agreed Statement of Fact**

The College and the Member submitted a written statement in which the following facts were agreed:

1. For a period of approximately one month, Mr. Lyons provided independent counselling services to a client who Mr. Lyons knew to be vulnerable as the client had recently separated from a partner of 11 years and had subsequently moved to Ontario from another province.
2. The client's life at the time the counselling commenced was characterized by a refusal to socialize, staying in every night and drinking wine regularly.
3. During the course of sessions, Mr. Lyons gained the client's trust and encouraged the client to get out, meet people and attend events in order to make new friends. Mr. Lyons also invited the client to various events that he was attending including a wine tasting and an art show. Mr. Lyons offered, and the client accepted, a ride of at least part of the distance to each event and drove the client home after each event, as they happened to live close to each other. At each event, Mr. Lyons introduced the client to several people to assist the client in making friends.
4. On the date of the one-year anniversary of the client's separation from the client's partner, the client sent an email to Mr. Lyons as the client wished to share the client's feelings with Mr. Lyons.
5. Two days later, the client and Mr. Lyons went for a walk together. Mr. Lyons subsequently texted the client and invited the client to his home to watch a movie that evening. When the client arrived at Mr. Lyons' home, the two proceeded to watch a movie and drink at least 3 bottles of wine, which Mr. Lyons provided.
6. The client and Mr. Lyons subsequently moved upstairs to the computer room on the second floor to finish the movie. They then decided to watch a second movie. While watching the second movie, Mr. Lyons and the client kissed, touched each other and performed additional sexual acts including mouth to genital sexual acts on each other. They did not engage in genital penetration. During the course of the evening, Mr. Lyons told the client that the



client was beautiful and felt wonderful. Mr. Lyons admitted to the client several times that what he was doing was wrong.

7. The client stayed overnight with Mr. Lyons at his home. In the morning, Mr. Lyons again told the client that the client was beautiful. Mr. Lyons subsequently drove the client home to drop off the client's belongings and then dropped the client at a transit stop.
8. That same day, the client spoke with a friend who had previously been a client of Mr. Lyons. Subsequent to that conversation, the former client contacted Mr. Lyons and advised Mr. Lyons not to contact the client anymore.
9. Mr. Lyons complied with this request and there was no further contact.
10. Both the client and former client filed complaints with the College.
11. In his response to the complaints, Mr. Lyons admitted the allegations.
12. Prior to the Discipline Committee Hearing, Mr. Lyons wrote to the College stating he was in the process of terminating all of his clients and that he had informed all of his sources of referrals not to make any new referrals as he intended to retire. Mr. Lyons requested that the College accept his resignation.
13. The College Registrar wrote to Mr. Lyons advising him that pursuant to subsection 13(2) of the *Social Work and Social Service Work Act* (the "**Act**"), she would not accept his request to resign from membership in the College, in the face of the ongoing disciplinary proceedings.

### **Decision**

The Discipline Committee found that the facts support a finding of professional misconduct, and in particular, that the Member:

1. Violated Section 2.5 of Ontario Regulation 384/00 (Professional Misconduct) made under the Act, and Principle VIII of the Handbook (as commented on in Interpretations 8.1, 8.2, 8.2.1, 8.2.2, 8.2.3, 8.3 and 8.6) by abusing a client physically, sexually, verbally, psychologically or emotionally, including sexually abusing a client within the meaning of subsection 43(4) of the Act, failing to ensure that sexual misconduct did not occur, engaging in physical relations, engaging in touching, of a sexual nature, of the client, engaging in behaviour or remarks of a sexual nature other than behaviour or remarks of a clinical nature appropriate to the service provided and by engaging in sexual relations with a client during counselling or while providing other professional services where the nature of the professional relationship has created a conflict of interest.
2. Violated Sections 2.2 and 2.28 of Ontario Regulation 384/00 (Professional Misconduct) made under the Act, and Principle I of the Handbook (commented on in Interpretation 1.5 and 1.6) by failing to maintain awareness of his own values, attitudes and needs and how these impact on their professional relationship with the client and by failing to distinguish his needs and interests from those of his client to ensure that his client's needs and interests remain paramount.
3. Violated Sections 2.2 and 2.28 of Ontario Regulation 384/00 (Professional Misconduct) made under the Act, and Principle II, 2.1 of the Handbook (commented on in Interpretation 2.1.5) by



failing to engage in the process of self-review and evaluation and seek consultation when appropriate as part of maintaining competence and acquiring skill in social work practice.

4. Violated Sections 2.2, 2.10 and 2.28 of Ontario Regulation 384/00 (Professional Misconduct) made under the Act, and Principle II, 2.2 of the Handbook (commented on in Interpretations 2.1.1(i) and (ii) and 2.2.8) by engaging in a professional relationship that constituted a conflict of interest and in a situation in which he ought reasonably to have known that the client would be at risk, by failing to evaluate the conflict of interest or seek consultation to assist in identifying and dealing with the conflict of interest, by engaging in a dual relationship that increased the risk of exploitation or harm to his client and by failing to avoid conduct which could reasonably be perceived as reflecting negatively on the profession of social work.

5. Violated Sections 2.2 of Ontario Regulation 384/00 (Professional Misconduct) made under the Act, and Principle III of the Handbook (as commented on in Interpretation 3.7) by failing to assume responsibility for demonstrating that the client or former client has not been exploited, coerced or manipulated, intentionally or unintentionally.

6. Violated Section 2.36 of Ontario Regulation 384/00 (Professional Misconduct) made under the Act, by engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all circumstances, would reasonably be regarded by members as disgraceful, dishonourable or 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 Registrar is directed to revoke Mr. Lyons certificate of registration with the College;
2. Mr. Lyons be reprimanded in person and that the reprimand be recorded on the Register for an unlimited period of time;
3. The findings and order of the Discipline Committee be published, in detail, with the name of Mr. Lyons (but without information which would identify the affected client), in the official publication of the College, on the College's website and on any other media-related document that is provided to the public and is deemed appropriate by the College, pursuant to section 26(5)(3) of the Act.

### **Reasons for Penalty Order**

The Discipline Committee panel concluded that:

- Mr. Lyons co-operated with the College, and by agreeing to the facts and a proposed penalty, has accepted responsibility for his actions;



Ontario College of  
Social Workers and  
Social Service Workers

Ordre des travailleurs  
sociaux et des techniciens  
en travail social de l'Ontario

250 Bloor Street E.  
Suite 1000  
Toronto, ON M4W 1E6

Phone: 416-972-9882  
Fax: 416-972-1512  
www.ocswssw.org

- There was no reason to depart from the Joint Submission as to Penalty as it achieves both “specific and general deterrence to deter members of the profession from engaging in similar misconduct”, and is “reasonable and in the public interest in light of the severity of the professional misconduct in which [Mr. Lyons] engaged.”
- The penalty is consistent with the approach taken by another panel of the Discipline Committee in a similar case.

At the conclusion of the hearing Mr. Lyons waived his right of appeal and the Discipline Committee administered an oral reprimand to Mr. Lyons.

Reprimand administered in person – February 11, 2013.