

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 to the College's discipline process.

PROFESSIONAL MISCONDUCT

Member, RSW

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. From January 2001 to April 2008, the Member was employed as a full time social worker by an Ontario-based business that provides health care services in the community and in hospitals and offers services in nursing, social work, physiotherapy, occupational therapy and speech language pathology.
2. The Member's caseload consisted primarily of clients who were receiving palliative care, suffered from a degenerative disorder or were elderly. The Member's responsibilities included providing social work services to these clients such as home visits, liaising with case managers regarding client care and maintaining records for the Member's employer and the Community Care Access Centre ("CCAC") according to the standards of the Member's employer, the CCAC and the College. The files of these clients were required to be maintained in the Member's home office, as the Member's employer does not provide an office for individual service providers for this purpose.
3. In December of 2006, the Member's employer informed the Member that according to its records, the Member had failed to return more than 250 of the Member's files to the employer's offices, as required by company policies. Upon the Member's review of the computerized report of missing files, the Member notified the employer that in the Member's opinion, the number of 250 files was incorrect and included a number of previously returned charts and files that were assigned to other service providers. The Member acknowledges that many files were not properly stored, and that many of the files were water damaged and illegible. The Member informed the employer that the water damage was due to a flood in the Member's apartment, caused by the apartment above.

4. The Member's employer audited 20 of the returned files and determined that 16 of them did not meet its minimum standards.
5. The Member's employer continued to ask the Member to return the remaining files still in the Member's possession, some of which dated back to 2003. Those files were returned, but only after repeated requests. When asked to return the files, the Member requested additional time to complete the file documentation.
6. Of the outstanding files, which were returned in 2007, seventy (70) related to matters which had been discharged in 2007 and failed to meet the employer's time requirement for returning discharged files. One hundred and seventy-five (175) returned files related to matters discharged before 2007, but only 21 of those files had the required completed cover page and 154 of the files did not contain discharge summaries. Further, the progress notes contained in many of the client files failed to record the focus of the intervention or to reflect the process or outcomes of the counselling provided.
7. The Member acknowledges and admits, based on the information in paragraphs 3 to 6, above, that the Member failed to ensure that those client interventions were appropriately documented and that their files were appropriately maintained.
8. In 2007, in response to concerns about the Member's professional performance, the Member's employer provided the Member with mentoring support from an external mentor. The external mentor met with the Member on multiple occasions, and accompanied the Member to four (4) home visits with clients from February to the end of June 2007. A fifth home visit with a client was made during the period July 16 to August 20, 2007. The external mentor authored a report, dated June 29, 2007, summarizing the meetings with the Member and identifying various concerns regarding the Member's conduct. The contents of this report and raised concerns were expressed by the external mentor to the Member in their meeting and discussion immediately before the issuance of the authored report.
9. In response to this report, the Member's employer referred the Member to the external mentor for additional mentoring. As a result, the external mentor met with the Member on five (5) more occasions from July 16 to August 20, 2007. On August 22, 2007. The external mentor prepared a further report summarizing the mentor's observations and conclusions concerning the Member's practice of social work.
10. In response to concerns about the Member's professional performance in 2007, the Member's employer also provided the Member with support from an internal Professional Practice Leader. The Professional Practice leader met with the Member on several occasions from July 13 to August 17, 2007 in order to

assist the Member to improve the Member's performance and to meet the standards expected of a social worker employed as the Member was.

11. During 2007, the Member's employer conducted further audits of a number of the Member's client files, (including current files and ones which were previously discharged) and weekly reports. Those audits noted concerns with respect to the Member's assessments, goal setting and file maintenance.

12. The reports and chart audits referred to above contained information indicating that the Member had:

(a) failed to appropriately recognize and respond to clients' verbal and non-verbal cues, indicating the clients' physical or emotional state (such as, for example, client fatigue or emotional distress) and failed to appropriately adjust the Member's interviewing style and affect to accommodate the client;

(b) failed to appropriately recognize and manage the Member's counter-transference reactions to clients, resulting in a tendency to do too much for certain vulnerable clients and to intervene and take on tasks that appeared to be within the clients' ability to perform independently;

(c) adopted an instrumental, action-oriented style of intervention with clients which was frequently overly directive and not appropriately focused on the clients' needs and interests (such as, for example, focusing on the issue of establishing a power of attorney for clients who had not expressed any interest in doing so, or pursuing long-term care arrangements for clients who were not interested in or ready for long-term care);

(d) formulated client treatment plans and problem lists which were not congruent with the Member's assessment findings or supported by any evidence obtained during the Member's assessment (such as, for example, establishing a treatment plan and goals which included a security system for falling with respect to a client for whom there was no evidence that safety around falls was an issue);

(e) failed to appropriately engage clients in setting goals for their treatment and to ensure that the goals established were client centered rather than dictated by the Member;

(f) failed to establish a treatment plan for clients which included sufficiently detailed and specific goals that were client-centered, congruent with the assessment findings and compliant with the SMART¹ criteria in use by the Member's employer;

¹ SMART is an acronym meant to guide practitioners in their goal setting. It stands for goals that are "Specific, Measurable, Attainable, Results-Oriented and Time-Limited, as well as client oriented and mutually established.

(g) failed to demonstrate appropriate insight into and a willingness or ability to appropriately address concerns raised by the Member's employer and certain clients relating to deficiencies in the Member's interviewing, assessment and treatment skills, notwithstanding extensive mentorship and supervision opportunities provided through the Member's employer.

13. The Member acknowledges and admits that the above information and concerns summarized in the reports and chart audits are substantially accurate in light of the Member's conduct in relation to the files reviewed and charts audited.

14. Eight client complaints were received by the Member's employer concerning the Member. The allegations contained in these complaints included, among other things, that the Member was late, did not stay for long, was rushed and treated those clients in a condescending manner.

15. On October 9, 2007, the Member's employer revised a complaint from the CCAC, alleging that the Member's Client Service Report ("CSR") was illegible. The CCAC subsequently confirmed that the Member had addressed the issue by supplying a legible copy of the CSR. The case manager at the CCAC left the Member a voice message, apologizing for being unable to read the CSR and expressing the case manager's interest in working with the Member.

16. The Member was on disability leave from November 29, 2007 to April 10, 2008. The Member's employment was terminated for cause on April 10, 2008, on the basis that the Member had not demonstrated an ability to meet the standards of the Ontario College of Social Workers and Social Service Workers. The Member's employer identified the following social work core competencies as being significantly below standard:

- Interviewing skills;
- Assessment and goal setting;
- Clinical documentation and file management;
- Administrative and organizational skills;
- Ethical decision-making; and
- Continuing education.

17. The Member has provided the College with a listing of courses, workshops and certificate programs in which the Member participated, to address the issue raised concerning the Member's continuing education.

18. The Member's employer filed a mandatory report with the College concerning the Member on May 14, 2008.

19. According to the Member, all employment issues involving the Member and the Member's employer have been satisfactorily resolved in a signed settlement.

Allegations and Plea

The Discipline Committee accepted the Member's plea, and found that the facts support a finding that the Member is guilty of professional misconduct within the meaning of subsections 26(2)(a) and (c) of the *Social Work and Social Service Work Act* (the "Act"), in that the Member violated sections 2.2, 2.9 and 2.20 of Ontario Regulation 384/00 (Professional Misconduct), section 1 of the Code of Ethics, and Principles I, II, III, and IV of the College's Standards of Practice, First Edition, (as commented on by Interpretations 1.1, 1.1.1, 1.2, 1.3, 1.5, 1.6, 1.7, 2.1.2, 2.1.5, 3.2, 3.9, 4.1.1, 4.1.2, 4.1.4, 4.1.5, 4.2.1 and 4.2.2) by:

- a) failing to regard the well-being of the Member's clients as the Member's primary professional obligation and failing to facilitate self-determination in the Member's clients. In particular, the Member failed to participate together with the Member's clients in setting and evaluating goals, failed to appropriately act as a resource for the Member's clients and failed to encourage them to decide which problems they wanted to address and how to address them.
- b) failing to regard the well-being of the Member's clients as the Member's primary professional obligation, failing to distinguish the Member's own needs from those of the Member's clients, failing to appreciate how the Member's needs might impact on the Member's professional relationships with the Member's clients and failing to maintain an awareness and consideration of the purpose, mandate and function of the Member's employer and how those might impact on and limit the Member's professional relationships with the Member's clients.
- c) failing to remain current with emerging social work or social service work knowledge and practice relevant to the Member's areas of professional practice and failing to engage in the process of self-review and evaluation and to seek consultation when appropriate as part of maintaining competence and acquiring skills in social work practice. In particular, the Member failed to appropriately engage in the process of self-review, evaluation, professional development and consultation in order to address issues of concern in the Member's social work practice, despite consultation and mentorship opportunities provided by the Member's employer.
- d) failing to deliver client services and respond to client queries, concerns or complaints in a timely and reasonable manner and failing to ensure that the Member did not provide a service that the Member knew or ought reasonably to have known was not likely to benefit the Member's clients. In particular, the Member failed to respond appropriately to client concerns and provided services that the Member ought reasonably to have known were not likely to benefit the Member's clients and that had not been sought or requested by the Member's clients.

- e) failing to keep systematic, dated and legible records for each client served which reflected the service provided, were recorded in a timely manner, conformed with accepted service or intervention standards and protocols, and were in a format that facilitated monitoring and evaluation of the effects of the services or interventions. The Member failed to maintain records in a manner that reflected a thorough understanding of the Member's employer's policies with regard to the retention, storage, preservation and security of records and appropriately protected the confidentiality and security of the clients' files.

Penalty Order

The panel of the Discipline Committee accepted the Joint Submission as to Penalty submitted by the College and the Member, and concluded that the proposed penalty is reasonable and in the public interest and addresses the circumstances surrounding the serious acts of professional misconduct engaged in by the Member. The panel made an order in accordance with the terms of the Joint Submission as to Penalty. The panel noted that the penalty sends a message to the Member, the membership and the public, that the profession will not tolerate this type of conduct. The panel also considered that the Member was very remorseful for the Member's conduct and that the Member co-operated with the College by:

- agreeing to the facts and proposed penalty and thereby accepting responsibility for the Member's actions;
- entering into and complying with the Undertaking outlined in the penalty; and
- personally accepting responsibility and expressing both regret for the Member's conduct and willingness to continue with counselling and continuing education.

The panel ordered that:

1. The Member is to be reprimanded and the fact of the reprimand shall be recorded on the Register.
2. The Registrar is directed to suspend the Member's Certificate of Registration for a period of 24 months, which suspension shall be suspended and shall not be imposed if the Member provides evidence, satisfactory to the Registrar of the College, of compliance with the terms and conditions imposed on the Member's Certificate of Registration, pursuant to paragraph 3 hereafter.
3. The Registrar is directed to impose a term, condition and limitation on the Member's Certificate of Registration, to be recorded on the Register,
 - (a) requiring the Member, at the Member's own expense, to participate in and successfully complete social work training and/or continuing education with respect to (1) ethical decision making, (2) interviewing, assessment and goal setting, and (3) clinical documentation and file management as prescribed by and acceptable to the College and provide proof of such completion to the Registrar within two (2) years from the date of the Order;

- (b) requiring the Member to receive supervision of the Member's social work practice (including the Member's practice as an employee, if any, and the Member's private practice, if any) for a period of 2 years from the date of the Discipline Committee's Order herein from such person or persons as may be approved, in advance, by the Registrar of the College (hereinafter referred to as "supervisor(s)"). The Member is not to practise social work until obtaining approval from the College of one or more named supervisor(s). The Member shall provide to the supervisor(s) complete access to all of the Member's files for review. 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
 - (c) requiring the Member, for a period of two years following the Member's receipt of the Discipline Committee's Decision and Reasons in this matter, should the Member currently be employed (or should the Member obtain any future or other employment) in a position in which the Member's duties include the provision of social work services, to immediately provide the Member's current, future and/or other employer(s) with a copy of the Decision and Reasons, and to forthwith thereafter deliver any such employer's written confirmation of receipt of a copy of the Decisions and Reasons to the Registrar of the College;
 - (d) requiring the Member for a period of two years following receipt of the Discipline Committee's Decision and Reasons in this matter to alert the Registrar of any change to employment status where the Member's duties include the provision of social work services. This notice requirement also applies should the Member become self-employed. The notice must be received by the Registrar prior to commencing any new employment;
 - (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 the Member's Certificate of Registration for a period of two (2) years from the date on which those terms, conditions and limitations are recorded on the Register.
4. The Discipline Committee's finding and Order (or a summary thereof) shall be published, with identifying information removed, in the College's official publication on the College's website, and the results of the hearing be recorded on the Register.