



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 Decision Summary

This summary of the Discipline Committee's Decision and Reason for Decision (dated August 24, 2009) 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

Breach of Undertaking; Disgraceful, Dishonourable or Unprofessional Conduct 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. The Member was employed by a hospital as a social worker on an acute inpatient ward of the hospital's general psychiatric program for more than 25 years, when the hospital terminated the Member's employment.
2. The hospital's Clinical Practice Leader, Social Work, filed a complaint with the College. The complaint related to the Member's alleged delay in assisting a client with an application for Ontario Disability Support Program benefits, and alleged steps taken by the Member to conceal the Member's unfulfilled commitments to the client. The Complaints Committee of the College decided to caution the Member with respect to certain undisputed aspects of the conduct complained of.
3. The Member attended to receive that caution.
4. The hospital's Clinical Practice Leader, Social Work, filed a second complaint with the College concerning the Member. The second complaint alleged, among other things, that the Member had failed to file a large number of client documents including original applications for Canada Pension Plan benefits. The complaint also alleged that the Member had misrepresented the Member's qualifications by using the designation "MSW".
5. At the invitation of the Complaints Committee, the Member signed a voluntary Undertaking and Acknowledgement to the College to address the issues raised in the second complaint. The Undertaking required the Member to attend before the

Complaints Committee to be cautioned and to receive supervision or consultation with respect to aspects of the Member's social work practice. It also required the Member to provide a copy of the Complaints Committee's Decision and Reasons regarding the second complaint to the Member's employer(s), consultants and supervisors and to supply the Registrar of the College with their signed confirmations of receipt.

6. The Undertaking stated that failure by the Member to fulfill the terms of the Undertaking could result in the referral of allegations of professional misconduct to the Discipline Committee.
7. The Complaints Committee disposed of the second complaint by issuing a Decision and Reasons dated August 28, 2007, identifying the Complaints Committee's concerns, accepting the Member's Undertaking to the College and requiring the Member to appear before the Complaints Committee to be cautioned.
8. The Member appeared before the Complaints Committee to be cautioned, however the Member did not provide the Registrar with confirmation that the Member had provided the Complaints Committee's Decision and Reasons to the Member's employer(s), consultants or supervisors, as required by the Undertaking.
9. The College wrote to the Member, reminding the Member of the Member's obligation to provide the College with confirmation of the Member's compliance with the terms and conditions of the undertaking to the College.
10. At the end of October 2007, the Member advised the College that the Member had not been able to speak with the Member's supervisor who, according to the Member, had been away from the office for several weeks and was expected to be off for another week. The Member was asked for a written explanation of the delay in complying with the terms of the Member's Undertaking.
11. The Member responded by stating that the Member had informed the supervisor of the Undertaking but that due to the "unforeseen circumstances" of the supervisor's absence from the workplace, "which are beyond [the Member's] control", the supervisor was unable to provide written confirmation of the Member's compliance with the Undertaking.
12. When no further communication was received from the Member regarding the Member's compliance with the Undertaking, the College wrote to the Member and to the Member's lawyer, reiterating the Member's obligations and requesting written confirmation of the Member's compliance with the terms of the Undertaking by November 30, 2007. The Member did not respond.
13. On December 6, 2007, the College wrote to the Member and to the Member's legal counsel, to notify them again, that the College required confirmation of the Member's compliance with the Undertaking no later than January 2, 2008, failing which the matter would be brought to the attention of the Executive Committee, which would then consider whether a referral to the Discipline Committee was warranted. The College also notified the Member of the Member's right to provide a response to the Executive Committee should the Member choose not to comply with the terms of the Undertaking. The Member did not reply.
14. By Notice of Hearing, allegations of the Member's failure to comply with the terms and conditions of the Undertaking were referred to the Discipline Committee for a hearing.

15. Subsequently, the Member's employer informed the College that, although the Member had informed the employer that the Member needed to be monitored in the workplace, the Member had not provided the employer with a copy of the Complaints Committee's Decision and Reasons, or with a copy of the Undertaking. The employer only learned of the Decision and Reasons and the Undertaking when it received copies from the Member on May 15, 2008.

Allegations and Plea

The Discipline Committee accepted the Member's plea, admitting the truth of the facts set out in the Agreed Statement of Fact and that the Member is guilty of professional misconduct within the meaning of subsections 26(2)(a), (b) and (c) of the *Social Work and Social Service Work Act* (the "Act"), in that the Member violated sections 2.31 and 2.36 of Ontario Regulation 384/00 (Professional Misconduct) by:

- a) failing to comply with a written undertaking given to the College, or to carry out an agreement entered into with the College by failing to comply with the terms of the written undertaking that had been given to the College; and
- b) 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 comply with the terms of the Member's written undertaking to the College.

The Panel considered the Agreed Statement of Facts and found that those facts supported a finding of professional misconduct against the member.

Penalty Order

The panel of the Discipline Committee accepted the Joint Submission as to Penalty submitted by the College and the Member, having concluded that the proposed penalty was reasonable and served to protect the public interest. The panel made an order in accordance with the terms of the Joint Submission as to Penalty. The panel noted that the Member co-operated with the College and that by agreeing to the facts and a proposed penalty, the Member has accepted responsibility for the Member's actions. Moreover, the Committee concluded that its order meets the objectives of:

- General deterrence (i.e. a message to the profession to deter members of the profession from engaging in similar misconduct) and specific deterrence to the Member; and,
- Remediation/rehabilitation of the Member and the Member's practice.

The panel ordered that:

1. The Member be reprimanded in person by the Discipline Committee and the reprimand be recorded on the Register indefinitely;
2. The Registrar impose a term, condition and limitation on the Member's Certificate of Registration, to be recorded on the Register,

- a) requiring the Member, forthwith after receipt of the Discipline Committee's Decision and Reasons in the matter, to provide the Member's current employer with a copy of the Discipline Committee's Decision and Reasons and the Decision and Reasons of the Complaints Committee in complaint C-2005:018 (collectively referred to as "**the Decisions and Reasons**"), and to forthwith thereafter deliver the Member's current employer's written confirmation of receipt of a copy of the Committee's Decisions and Reasons to the Registrar of the College;
 - b) requiring the Member, for a period of one year following the Member's receipt of the Discipline Committee's Decision and Reasons in this matter, should the Member obtain any future or other employment in which the Member's duties include the provision of social work services, to immediately after obtaining any such future or other employment, provide the Member's future or other employer(s) with a copy of the Decisions and Reasons, and to forthwith thereafter deliver any such future employer's written confirmation of receipt of a copy of the Decisions and Reasons to the Registrar of the College;
 - c) requiring the Member, for a period of one year following the Member's receipt of the Discipline Committee's Decision and Reasons in this matter, to receive monthly consultation or supervision from a social worker or a registered health care professional in the Member's workplace(s), satisfactory to the College Registrar, concerning, but not necessarily limited to the administrative and reflective aspects of the Member's social work practices, as identified in the Decisions and Reasons;
 - d) requiring the Member to provide all such consultants or supervisors with a copy of the Decisions and Reasons, and to take all steps necessary to ensure that the College Registrar is in receipt of written confirmation from all such consultants or supervisors confirming that they have been so notified, that they have agreed to provide the said consultation and supervision and that they will report to the College Registrar, in writing, following every third consultation or supervisory session.
3. The Discipline Committee's finding and Order (or a summary thereof) be published, with identifying information removed, in *Perspective* and on the College's website and the results of the hearing be recorded on the Register.