

**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 Essa Rageh  
Egal, 2022 ONCSWSSW 8

Decision date:  
12/16/2022

**BETWEEN:**

THE ONTARIO COLLEGE OF SOCIAL WORKERS  
AND SOCIAL SERVICE WORKERS

- and -

ESSA RAGEH EGAL

|        |                  |                            |
|--------|------------------|----------------------------|
| PANEL: | Charlene Crews   | Chair, Professional Member |
|        | Judy Gardner     | Professional Member        |
|        | Carrie McEachran | Public Member              |

Appearances: Lara Kinkartz and Alyssa Armstrong, counsel for the College  
Essa Rageh Egal, not appearing  
Edward Marrocco, Independent Legal Counsel to the Panel

Heard: January 5, 6, 7, 12 and 13, 2022

**DECISION AND REASONS FOR DECISION**

[1] This matter came on for hearing by video conference on January 5, 6, 7, 12 and 13, 2022, before a panel of the Discipline Committee (the “**Panel**”) of the Ontario College of Social Workers and Social Service Workers (the “**College**”).

[2] Prior to the commencement of the hearing it was established that there were no conflicts of interest for any member of the Discipline Panel hearing this matter.

## Notice of Publication Ban

[3] At the request of the College the Panel ordered a publication ban in this proceeding prohibiting the publication of any details or information that may directly or indirectly cause the individuals referred to in this matter as the “client(s)” to be publicly identifiable.

### The Allegations

[4] This hearing arises from two Notices of Hearing.

[5] In the first Notice of Hearing dated March 3, 2020, which was marked as Exhibit 1 (the “**First Notice of Hearing**”), the Member is alleged to be guilty of professional misconduct pursuant to the *Social Work and Social Service Work Act*, 1998, S.O. 1998, c 31 (the “**Act**”) in that he is alleged to have engaged in conduct that contravened 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**”). The allegations in the First Notice of Hearing relate to dealings with three clients who are identified with two letters each. Throughout these reasons, the Panel will refer to these individuals as **Client 1**, **Client 2**, and **Client 3** and the allegations below have been edited accordingly.

[6] The allegations set out in the **First Notice of Hearing** and the particulars of those allegations are as follows:

#### I. The following are particulars of the said allegations:

1. Now and at all times relevant to the allegations, you were a registered social worker with the Ontario College of Social Workers and Social Service Workers (the "College").
2. Between January 1, 2017 and August 2019, you provided social work services at Family Services Durham (the "Facility") and in your private practice.
3. Between in or about July 2017 and February 2018, you provided social work services to [Client 3] at the Facility. Those services included counselling.
4. During one or more sessions with [Client 3] you violated professional boundaries, engaged in sexual touching of [Client 3], and/or engaged in behaviour or remarks of a sexual nature towards [Client 3] that were not of a clinical nature appropriate to the service provided. In particular, you:
  - (a) indicated that you were a "hugging" or "huggy" person, or words indicating that you liked hugging and wished to hug [Client 3];
  - (b) gave [Client 3] a prolonged hug;
  - (c) prevented [Client 3] from pulling away from the hug and/or told her not to run away when she attempted to extricate herself from the hug;
  - (d) made inappropriate comments to [Client 3] including, but not limited to:

- (i) calling her beautiful;
  - (ii) saying she had beautiful hair;
  - (iii) saying she had a beautiful smile; and/or
  - (iv) asking or implying that [Client 3] should compliment you.
5. [Client 3] had a history of sexual trauma and found your conduct traumatizing and triggering.
  6. [Client 3]'s mental health case manager ultimately made a complaint to the Facility on [Client 3]'s behalf.
  7. Between in or about September 2018 and February 2019, you provided social work services to [Client 1] in your private practice. Those services included counselling.
  8. During one or more sessions with [Client 1] you violated professional boundaries, engaged in sexual touching and/or a form of physical sexual relations with [Client 1]; and/or engaged in behaviour or remarks of a sexual nature towards [Client 1] that were not of a clinical nature appropriate to the service provided. In particular, you:
    - (a) commented about her relationship with her ex-husband by stating that you were amazed she gave the relationship so many chances and/or praising her for not walking away from the relationship sooner;
    - (b) told her you did not see her as a client because she did not have issues like other clients did;
    - (c) patted her on the arm or shoulder;
    - (d) complimented her attributes as a person;
    - (e) asked her to go out for dinner with you;
    - (f) discussed your personal relationship with your wife, including the fact that you were not sexually fulfilled;
    - (g) told her she was the one for you, that you really liked her, that you wanted to have a relationship with her, that you loved her, that you wanted to marry her, and/or that you would leave your wife for her;
    - (h) put your hand on her thigh;
    - (i) hugged her tightly for a prolonged period in a manner that prevented [Client 1] from getting away;
    - (j) telling [Client 1] "not yet" when she attempted to pull away from a hug;
    - (k) taking [Client 1]'s hand and putting it on your groin area;
    - (l) pulling your pants down in front of her;
    - (m) putting [Client 1]'s hand on your penis and made her "masturbate" you; and/or
    - (n) forcing [Client 1] to perform oral sex on you.

9. [Client 1] had a history of sexual abuse and found your conduct traumatizing.
10. [Client 1] disclosed your conduct to another counsellor, who reported your conduct to the College.
11. In or about August 2019, you provided social work services to [Client 2] at the Facility. Those services included counselling.
12. During one or more sessions with [Client 2] you violated professional boundaries, engaged in sexual touching of [Client 2], and/or engaged in behaviour or remarks of a sexual nature towards [Client 2] that were not of a clinical nature appropriate to the service provided. In particular, you:
  - (a) engaged in breathing exercises with [Client 2] for prolonged periods of time, during which you would touch her stomach and/or her pelvic area;
  - (b) touched her chest, under and/or over her clothing, during the breathing exercises;
  - (c) refused to stop the breathing exercises when [Client 2] indicated that they were not helpful and/or made her uncomfortable;
  - (d) asked [Client 2] if she didn't find the breathing exercises helpful because her brassier was preventing her from breathing in deeply;
  - (e) told [Client 2] that she was good-looking and/or
  - (f) when pushing [Client 2] to discuss a traumatic incident that she did not wish to discuss, asked her if her boyfriend raped her and/or whether her boyfriend shared her with other men;
13. [Client 2] had a history of sexual trauma and was upset by your conduct.
14. At the recommendation of her mental health community worker, [Client 2] contacted the Facility and asked to be transferred to another counsellor.

**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
  - (i) **Principle I of the Handbook (commented on in Interpretations 1.5 and 1.6)** by failing to be aware of your values, attitudes and needs and how those impact on your professional relationship with clients; and by failing to distinguish your needs and interests from those of your clients to ensure that, within your professional relationship, clients' needs and interests remained paramount;
  - (ii) **Principle II of the Handbook (commented on in Interpretations 2.2, 2.2.1, 2.2.2, 2.2.3, and 2.2.8)** by:
    - (A) failing to ensure clients are protected from an abuse of power during the provision of professional services and/or failing to maintain clear and appropriate boundaries in a professional relationship;
    - (B) engaging in a professional relationship that constitutes a conflict of interest and/or in a situation in which you ought reasonably to have known that the client would be at risk;

- (C) engaging in sexual relations with one or more clients;
  - (D) using information obtained in the course of a professional relationship and/or your professional position of authority to coerce, improperly influence, harass, abuse or exploit a client;
  - (E) engaging in conduct that could reasonably be perceived as reflecting negatively on the profession of social work;
- (iii) **Principle III of the Handbook (commented on in Interpretation 3. 7)** by failing to assume full responsibility for demonstrating that a client and/or former client was not exploited, coerced or manipulated, intentionally or unintentionally;
- (iv) **Principle VIII of the Handbook (commented on in Interpretations 8.1, 8.2, and 8.6)** by:
- (A) failing to be solely responsible for ensuring that sexual misconduct did not occur;
  - (B) engaging in sexual intercourse or another form of physical sexual relations with a client; engaging in touching of a sexual nature of a client; and/or engaging in behaviour or remarks of a sexual nature towards a client, other than behaviour or remarks of a clinical nature appropriate to the service provided;
  - (C) engaging in sexual relations with a client at the time of referral, assessment, counselling, psychotherapy, or other professional services;
- (b) In that you violated **Section 2.5 of the Professional Misconduct Regulation** in that you abused a client physically, sexually, verbally, psychologically or emotionally, including by sexually abusing a client within the meaning of subsection 43(4) of the Act;
- (c) In that you violated **Section 2.6 of the Professional Misconduct Regulation** in that you used information obtained during a professional relationship with a client or used your professional position of authority to coerce, improperly influence, harass, or exploit a client;
- (d) In that you violated **Section 2.28 of the Professional Misconduct Regulation** by contravening the Act, regulations or by-laws; and/or
- (e) 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.

[7] In the second Notice of Hearing, dated June 22, 2020, which was marked as Exhibit 2 (the “**Second Notice of Hearing**”), the Member is again alleged to be guilty of professional misconduct pursuant to the Act for engaging in conduct that contravened the Professional Misconduct Regulation/Code of Ethics and the Handbook.

[8] The allegations set out in the **Second Notice of Hearing** and the particulars of those allegations are as follows:

**I. The following are particulars of the said allegations:**

1. Now and at all times relevant to the allegations, you were a registered social worker with the Ontario College of Social Workers and Social Service Workers (the “College”).
2. Between in or about August 2018 and February 2019 (the “**Relevant Period**”), you provided social work services to [REDACTED] and his estranged wife [Client 1] in your private practice. Those services included individual counselling for both clients.
3. During the Relevant Period, you failed to keep appropriate records with respect to [Client 1] in that:
  - (a) you failed to document all therapeutic sessions with her;
  - (b) you failed to document one or more phone calls with her, including phone calls that were of a significant length; and/or
  - (c) you failed to keep accurate and truthful financial records of the services you provided to her.
4. During the Relevant Period, you also failed to keep appropriate records with respect to [REDACTED], in that you failed to keep accurate and truthful financial records of the services you provided to him.
5. During the Relevant Period, you issued several invoices for services you purported to have provided to [REDACTED] (the daughter of [Client 1] and [REDACTED]).
6. You did not provide services to [REDACTED] during the Relevant Period. The invoices issued in [REDACTED]’s name were in fact for services you provided to [Client 1] or [REDACTED].
7. You knew, or ought to have known, that those invoices would be used to obtain payment from [REDACTED]’s insurance company for those services.
8. As a result of the false and misleading invoices you issued in [REDACTED]’s name, insurance payments were made for services that would not otherwise have been covered.

**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** by failing to meet the standards of the profession and, in particular, by:
  - (i) **Principle I of the Handbook (commented on in Interpretation 1.5)** by failing to be aware of your values, attitudes and needs and how these impact on your professional relationship with clients;
  - (ii) **Principle II of the Handbook (commented on in Interpretation 2.2.8)** by engaging in conduct that could reasonably be perceived as reflecting negatively on the profession of social work;
  - (iii) **Principle IV of the Handbook (commented on in Interpretations 4.1.1, 4.1.2, 4.1.3, and/or 4.1.6)** by failing to ensure that records are current, accurate, contain relevant information about clients and are managed in a manner that protects client privacy and in accordance with any applicable privacy and other legislation, including by:
    - (A) failing to keep recorded information in a manner that conforms with accepted service or intervention standard sand protocols within the profession of social work, relevant to the services provided, and/or in a format that facilitates the monitoring and evaluation of the effects of the service/intervention;

- (B) making a statement in the record, or in reports based on the record, or issuing or signing a certificate, report or other document in the course of practising the profession that you knew or ought reasonably to have known was false, misleading, inaccurate, or otherwise improper;
  - (C) failing to keep systematic, dated, and legible records for each client or client system served;
  - (D) failing to record information when the event occurs or as soon as possible thereafter;
- (iv) **Principle VI of the Handbook (commented on in Interpretations 6.1 and 6.1.5)** by:
- (A) charging or accepting any fee which is not fully disclosed;
  - (B) charging a fee on the basis of material or financial benefits accruing to clients as a result of services rendered or fees which are excessive in relation to the service provided;
- (b) In that you violated **Section 2.19 of the Professional Misconduct Regulation** by falsifying a record relating to your practice;
  - (c) 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;
  - (d) In that you violated **Section 2.21 of the Professional Misconduct Regulation** by making a record, or issuing or signing a certificate, report or other document in the course of practising the profession that you knew or ought reasonably to have known was false, misleading or otherwise improper;
  - (e) In that you violated **Section 2.24 of the Professional Misconduct Regulation** by submitting an account or charge for services that you knew to be false or misleading;
  - (f) In that you violated **Section 2.28 of the Professional Misconduct Regulation** by contravening the *Act*, regulations or by-laws; and/or
  - (g) 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 Position**

[9] The Member did not attend or participate at the hearing and was not represented by counsel.

[10] The College submitted that the Member had been unresponsive to communications since Spring 2021, after informing the College that he was out of country.

[11] The Panel was satisfied that the Member had received adequate notice of the proceedings, including the nature of the allegations, and the date, time and place of the hearing. In particular, College counsel presented evidence, including four affidavits of service, showing that in March 2020 the Member was served with the Notices of Hearing via both express post mail and email, as well as through the Member's counsel at the time. Efforts were also made to contact the Member by telephone, and College representatives left voice messages advising of the hearing dates.

[12] The Panel was satisfied on the evidence presented that the notice requirements in the *Statutory Powers Procedure Act*, as well as the requirements regarding the manner of service in the College Discipline Committee's *Rules of Procedure*, were complied with. The Panel therefore decided to proceed with the hearing in the Member's absence. The Panel entered a plea on the Member's behalf denying all allegations contained in both the First and Second Notice of Hearing.

### **The Evidence**

[13] There are, broadly speaking, two sets of allegations in this matter. There are a number of allegations in the nature of sexual misconduct and boundary violations contained in the First Notice of Hearing and allegations relating to billing and record keeping issues contained in the Second Notice of Hearing.

[14] The College called six (6) witnesses. Three were the Member's former clients (Client 1, Client 2 and Client 3). All three former clients testified that the Member engaged in various acts of sexual misconduct and/or boundary violations in his dealings with them. Two further witnesses were investigators appointed by the College and a sixth witness was qualified as an expert to provide opinion evidence on professional boundaries and documentation practices applicable to social workers.

### *Background*

[15] At all material times, the Member was a registered social work member with the College. He was first registered on March 9, 2016 and has no prior discipline or complaints history with the College.

[16] The Member worked both in private practice and as an employee at a municipal health services provider. He provided counselling services in both locations. He encountered Client 1 in his private practice and Client 2 and Client 3 by way of his employment at the municipal services provider.

[17] **Client 1:** The Member provided counselling services to Client 1 between September 2018 and February 2019. As above, this occurred in the Member's private practice setting.

[18] **Client 2:** The Member provided counselling services to Client 2 in August 2019 in his capacity as an employee at the municipal health services provider.

[19] **Client 3:** The Member provided counselling services to Client 3 at the municipal provider between September 2017 and January 2018.

### *Witnesses Testimony*

#### Client 1

[20] Client 1 is the primary caregiver of two young children and was estranged from her spouse at the time of her interactions with the Member. The children lived with her at all times except for approximately 10 hours every second weekend, which they would spend with their father (the estranged spouse). Client 1 was a postsecondary student in [REDACTED].

[21] Client 1 testified that she saw the Member in his private practice between approximately November and December 2018, at the encouragement of her estranged partner. Client 1's partner was an active client of the Member at the time and hoped to eventually engage in shared counselling sessions to address joint parenting issues. Client 1 testified that the Member initiated the first contact via a telephone call. He invited her to attend in-person sessions to discuss her estranged spouse's treatment plan, explore her role in that treatment, verify the accuracy of information provided to the Member by the estranged partner and provide Client 1 with updates on the spouse's progress. The Member suggested that he would work with both spouses individually with the goal of eventually having joint sessions to address co-parenting issues and with the possibility of later counseling one of their children. Client 1's daughter had been a witness to domestic turmoil in the marital relationship and was exhibiting externalizing behaviors. Client 1 testified that all counselling sessions were covered under her estranged partner's benefit package.

[22] Although an intake form was completed for her daughter, Client 1 testified that the Member never met nor provided any counselling services to either of her children.

[23] Client 1 testified that she exchanged several telephone calls with the Member and attended weekly individual in-person sessions with the Member between early November and mid-December 2018. That testimony is supported by cell phone records confirming a number of telephone calls between the witness and the Member, including a 31-minute call in late November 2018, which the Member did not record in his clinical records.

[24] Client 1 testified that she considered herself to be a client of the Member. She attended regularly scheduled counselling appointments, answered questions, and shared private details of her life pertaining to her feelings, her emotional wellbeing, her children, how her marital relationship was affecting her, life stressors, coping strategies, her education and career goals, her history of childhood sexual abuse, and the plan for integrating marital and family sessions. The Member also provided Client 1 with updates on her estranged partner's progress in counselling, sharing details of their sessions and the projected treatment plan.

[25] Client 1 met with the Member at an office building in Scarborough. As the member was a fulltime mother with no access to daycare, sessions were generally held in the evenings, after 5pm, when she left the children with their father. She recalled that the office buzzer did not work and therefore she would call, text or send a Waze notification to the Member to advise of her arrival, at which time he would grant her access to the building. Client 1 recalled on one occasion she arrived at the building at the same time as the Member, providing a description of his personal vehicle, and that they walked together to his office space.

[26] Client 1 met with the Member approximately eight times, including multiple and sometimes lengthy telephone conversations, during the course of service. The Member's clinical records, which were entered into evidence, show that the Member recorded two sessions that he had with Client 1. However, Client 1 testified to her recollection of at least three other sessions for which there appears to be no clinical documentation.

[27] Client 1 testified that the Member made repeated comments to her of a personal and sexual nature. He stated that she is not like his other clients, asked her to dinner, disclosed that he was not sexually fulfilled in his own marriage, blatantly stated that he wanted a personal relationship with Client 1, and invited her to consult and collaborate on writing a book with him. Client 1 also testified that the Member disclosed to her that her estranged spouse would discuss the marital

sexual relationship in his sessions with the Member. The witness testified that this made her uncomfortable and that she did not respond to that comment from the Member.

[28] Client 1 testified that on one occasion the Member made a comment that “the average person would not have stayed so long” in a marriage prior to separating, highlighting her efforts and complimenting her patience in the relationship with her estranged spouse, referring to her as “resilient, brave and strong”. Client 1 alleged that the Member told her he found her to be non-judgemental and that she was “not like his regular clients”. He allegedly said Client 1 was someone to whom he could relate and that he felt comfortable having conversations with her. While sharing these compliments and comments, Client 1 explained that she and the Member would be sitting in unusually close proximity to one another in an office space that the witness described as “small”.

[29] As noted above, the Member asked Client 1 to go to dinner with him to discuss collaborating on a book he planned to write. He made this request on two different occasions. Client 1 brushed the advances off and avoided answering due to her level of discomfort with the suggestion. Client 1 testified that she perceived the Member’s suggestion as inappropriate.

[30] During their second last in-person session, the Member commented on wanting to make the witness his “second wife”, making reference to his sexual needs not being met in his marriage, and that his wife was not physically capable of doing things for him. Client 1 suggested to the Member that he engage his wife in conversation about their relationship. The Member allegedly responded to this by saying that was “good advice”. Client 1 stated that 75% of this particular session was focused on the Member and his personal issues.

[31] Client 1 testified that during her last counselling session with the Member, he locked the office door - something he had not previously done. He advised her that there was no one else in the building. They began talking about how the client was doing, but the conversation turned when the Member again stated that he was not sexually satisfied in his marriage. The Member moved his chair closer to Client 1, placed his hand on her thigh, and asked if that was “ok”. Client 1 testified that she was in shock and expressed her discomfort through non-verbal cues, shifting her body to remove his hand. The Member stated that he wanted to have a personal relationship with her, to which the witness uncomfortably replied “I don’t know about that”. Client 1 testified that the Member again moved his chair closer to hers, at which point she stood up, at the same time remembering that the door was locked. The Member stood and praised the witness for being so strong in her relationship, eventually embracing her in a hug. Client 1 recalled that the Member is much larger in stature than she is. She resisted the hug but the Member refused to let go and stated “just a while longer”. He pulled her tighter as she tried to pull away. Client 1 recalled feeling scared and being in “fight or flight mode”. She wanted to escape the locked room but did not want to provoke the Member’s anger. She was too afraid to resist further or even say “no”.

[32] Client 1 recalled, with exceptional detail, the Member unbuckling his belt, opening and dropping his pants and directing her to perform oral sex on him while pulling her head from behind with both hands, putting his fingers in her mouth to force it open and forcing himself onto her while she gagged and tried to pull away. Client 1 testified that she felt terrified and trapped and initially complied with the Member’s direction before trying to negotiate with the Member, even using his own words by agreeing to meet for dinner and having a relationship, just so she could get out of the room. Client 1 stated that she had someone waiting for her who would be worried if she was late. She grabbed her bag and ran to the door. The Member followed her but she was able

to unlock the door while the Member stopped to pull up his pants. Client 1 entered the elevator (which was already waiting on the same floor as the Member's office) and she fled the building without looking back. She stated that she drove away crying in her car.

[33] Client 1 testified that she had no contact with the Member following that final session. She deleted her text thread with the Member and blocked his number on her phone. This testimony is supported by Client 1's cellular phone records [Exhibit 8] showing telephone calls between the Member and the witness. The records are consistent with Client 1's testimony that she had no further contact with the Member after December 12, 2018. The witness testified that she had later contacted her mobile phone service provider to retrieve the deleted text messages and was advised that deleted text message records are not maintained by the service provider.

[34] Client 1 testified that she felt angry, scared, frustrated and ashamed, and did not initially disclose the assault to anyone. While attending a [REDACTED] class at a Community College she broke down and attended student services in visible distress. She was offered a safe space with a female counsellor. The witness met with this counsellor on three occasions before feeling safe enough to disclose the assault. The counsellor made a non-victim identifying report [Exhibit 7] to the College alleging the sexual assault.

[35] The Panel found Client 1 to be credible. She was forthcoming under examination, consistent in her reporting of these events and had a strong recall of details and timelines. Her recollections were independently supported by documentary evidence including telephone records and billing and insurance payment records. Client 1 had no ulterior motives for reporting the incident, and in fact was reluctant to do so due to shame and embarrassment that she felt in connection with the assault.

[36] The Panel accepted Client 1's evidence in its entirety.

#### Ziggy Bardel (Investigator)

[37] Ziggy Bardel is the manager of the investigations team at Bernard Associates. He has been in this role since 2008. He was appointed by the College to investigate the Member by letters dated August 15, 2019 and April 27, 2020.

[38] Mr. Bardel attended at the office where Client 1 was treated by the Member to collect the client file. Mr. Bardel also had some interactions with the Member.

[39] According to Mr. Bardel, the Member took the position that Client 1 was not a client and that he accordingly had no records to provide. Mr. Bardel understood that the Member purported to have had only one exploratory session with Client 1 to determine if he could provide services to both her and her spouse.

[40] Mr. Bardel requested and ultimately obtained a copy of files from the Member relevant to Client 1. In those files, Mr. Bardel identified intake forms for Client 1's daughter and payment receipts from Client 1 to the Member which aligned with those invoices. There were no clinical records in respect of Client 1.

[41] The Panel found Mr. Bardel to be a credible witness. His testimony was direct, thorough, and unbiased. Mr. Bardel is an experienced investigator and his testimony was shown to be both accurate and consistent with the contemporaneous documents submitted by the College.

### Client 2

[42] Client 2 has been unemployed since 2018 due to mental health symptoms which prevent her from working. She is receiving social assistance financial support. Client 2 testified that she has a history of suicidal ideation, for which has been previously hospitalized, and has been diagnosed with borderline personality disorder, depression and anxiety.

[43] Prior to the events at issue in this hearing, when Client 2 was in her early 20s, Client 2 met with a counsellor at the municipal services provider where the Member worked. In July 2019, at the age of 31, she was referred back to that agency for individual sessions by her community support worker. Client 2 was looking to address issues relating to depression and anxiety ongoing from her teenage years as well as isolation and family conflict issues.

[44] There was a waiting list for service at the municipal services provider that summer. However, Client 2 was offered the option of an immediate appointment with a counsellor at an offsite location (retirement home in the community) or to remain on the waitlist for an appointment at the main centre. She elected the offsite appointment as she felt that she required the support promptly. She was provided an appointment within one week but was not given the choice of a female or male counsellor. Client 2 testified that had she had insight into her history of being triggered by men stemming from past experiences in the workplace and in relationships which provoked significant anxiety. Had she been given a choice, she said she would have elected to have a woman counsellor. However, after consulting with her community support worker, she accepted the referral as an opportunity to work on her trust issues with men in a controlled setting with a qualified therapist. The municipal provider intake form (Exhibit 18) was completed by the witness and identifies her counselling goals.

[45] Client 2 testified that she met with the Member for individual counselling sessions on three occasions. During the sessions, they discussed her recent diagnosis of borderline personality disorder and related symptomology in the context of unhealthy relationships, history of past relationship trauma, her self-identification of being a “people pleaser” who tends to engage with people and activities with which she was not comfortable, and her pattern of abruptly disengaging from romantic relationships and friendships. The Member’s clinical records were consistent with the witness testimony.

[46] The first session occurred on August 7, 2019. Client 2 stated that after briefly discussing her background and reasons for seeking counselling, the Member suggested engaging in breathing exercises to connect Client 2 with her body and self-sooth. The witness testified that she had past experience with mindfulness, meditation and box breathing techniques which she found helpful and she agreed to try the exercise. Upon commencing, the Member suggested that he assist her to improve her technique and rolled his chair up to her. He placed his hand on top of her clothing, low on her stomach area, across the pubic bone region, and continued to verbally guide her breathing while holding his hand in that position. The witness stated that she was uncomfortable with the touch but complied with the Member’s direction. She trusted that the Member was a professional and had justification for directing the exercise. She reported that the breathing went on for a long time, approximately 15 to 20 minutes of the 1-hour session. The Member repeatedly

stated “20 more seconds” and kept the process going. Client 2 told the Member that she was used to doing breathing exercises but that this was different than what she had previously been taught. Client 2 said she was unsure what she was supposed to be feeling. The Member encouraged her to practise the breathing technique at night before going to sleep. Client 2 stated that she left the session feeling uncomfortable but doubting her gut instinct that something was wrong.

[47] The second session took place less than a week later. The Member inquired about the client’s breathing practice. Client 2 reported to him that she did not find the exercise to be helpful. The Member allegedly responded by saying “let’s practise again”. He moved towards her and again placed his hand very low on her pubic bone without asking for permission to touch her. He repeated “breathe, breathe, what does it feel like”. Client 2 testified that she felt the Member’s tone to be an aggressive one at this point. The Member placed his other hand under the strap of her dress, on her bare breastbone, between her breasts, asking her if her bra was impeding her ability to freely breathe. Client 2 testified that she was very uncomfortable at this point and internally questioning why he was touching her chest. Client 2 noted how close the Member was to her and recalled wanting the exercise to end. This second breathing session lasted for approximately 15 minutes. Client 2 testified that she told the Member that she was not finding benefit in the exercise to which he suggested that perhaps her bra was inhibiting her ability to breathe deeply. She confirmed that she did not overtly tell the Member to stop but noted that her body was stiff and tense and she did not move throughout the exercise. The Member’s clinical notes confirm that breathing exercises were undertaken with Client 2 in both sessions.

[48] In addition to the uncomfortable breathing exercises, Client 2 testified that the Member made inappropriate comments to her about her physical appearance and personality traits in all three of their sessions. In particular, the Member called her “a good looking woman” which Client 2 did not find necessary or appropriate.

[49] Client 2 testified that following the second session she was feeling confused and anxious. Nonetheless, she convinced herself that she was overreacting and decided that upon the commencement of the next session, she would set a boundary not to engage in breathing techniques or touching. She also decided that she would clearly state she wanted only to discuss the issues that had brought her to counselling.

[50] At the third and final session, Client 2 testified that she was more assertive. She advised the Member that the breathing exercises were not working and that she wanted to move on. The Member protested in response, asking why and inquiring if she did not feel “good” enough. Client 2 held firm that she did not wish to engage in those exercises. She found the Member appeared to be disappointed. The session proceeded with conversation relating to patterns in relationships, anxiety and Client 2 alluding to a traumatic experience in a romantic relationship. The Member pushed Client 2 to elaborate on this past trauma but she opted not to fully disclose it to the Member. Client 2 explained that the Member pushed back on her refusal and began guessing at what may have occurred suggesting she was raped by her boyfriend or shared with other men in an effort to provoke a discussion. Client 2 testified that she left the third session crying and upset after repeatedly advising the Member that she did not wish to discuss the event.

[51] In describing the final moments of that third session, Client 2 described that the Member wheeled his chair closer to her and, without permission, placed his hand on her knee while she covered her face and turned away. Eventually the Member retreated and stated that he was sorry

for what she had gone through and ended the session. Client 2 recalled making an appointment for the fourth session knowing that she was not going to go attend but not wanting to tell the Member that she was not coming back.

[52] The Member's case notes record a different narrative. The notes state that the client began to feel comfortable sharing details about inappropriate and violent sex and agreed to journal and discuss this topic at the next session. Client 2 unreservedly denied this, clarifying that the Member had 'guessed' her traumatic experience was violent sex, which she denied. Client 2 was unequivocal that she has still never discussed the details of her past trauma with any counsellors or therapists.

[53] Client 2 testified that during a session with her community support worker she disclosed her discomfort with the breathing exercises and physical touching in which the Member engaged. The case worker validated that these interactions were not inappropriate and supported the client in reporting the matter to the Member's employer. Client 2 called the employer to report that the Member was not a good fit for her and requested a new counsellor. The intake worker who took the report suggested that the witness speak to a manager regarding her concerns.

[54] The witness later received a call from the municipal provider advising that the Member's case files were being reassigned. Client 2 testified that she provided details of her interactions with the Member to both a man and woman over the phone. Client 2 was advised that she could make a report to the College. She declined, stating that she did not want anyone to get into trouble and that she did not want to cost someone their job over her feelings.

[55] Clinical notes from Client 2's subsequent therapist at the municipal employer noted that the client presented with ongoing effects of the boundary violation with the Member. Client 2's subsequent therapist reported Client 2 being triggered when engaging in mindfulness and breathing exercises and noted a clear setback in Client 2's progress towards addressing trust issues with men in general and specifically with male professionals.

[56] Client 2 received a letter from the municipal agency, dated October 1, 2022, advising that it had initiated a mandatory report to the College and provided her with the investigator's contact information.

[57] The municipal agency hired an external investigator to investigate the allegations. Documentation shows that the Member denied the allegations, stating that he did not touch or have any physical contact with Client 2 and that when he teaches breathing exercises he uses only himself to demonstrate the techniques. Client 2 disagreed with that response before the Panel and testified unequivocally: "he definitely touched me".

[58] The Panel found Client 2 to be credible. She provided an accurate and consistent recall of details and information. She showed personal insight and vulnerability throughout the hearing process. The Panel found no motivation on the part of Client 2 to mislead and accepts Client 2's version events over the Member's contradictory notes.

### Client 3

[59] Client 3 testified with a support person present. She testified that she was engaged in family counselling at the Member's municipal agency employer. She was referred to the Member for

individual sessions to address issues relating to anxiety, depression, maladaptive coping strategies and post-traumatic stress symptoms following a sexual assault that occurred while she was in college. Client 3 attended seven counselling sessions with the Member in 2017.

[60] Client 3 testified that during the course of the counselling sessions, the Member provided her with resources related to breathing and mindfulness exercises and discussed the issues that brought her into counselling. The Member complimented Client 3 on her hair, smile and personality at least once on every session. Client 3 stated that she did not give the compliments much weight and thought the Member was making these statements in an attempt to boost her self-esteem.

[61] The witness testified that in her final session with the Member, after she had completed a feedback form, the Member stated he was “a huggy type of person” and asked if he could hug her. The witness testified that she initially agreed to the hug; however, the Member held the hug for an extended period of time and began complimenting Client 3, stating her hair and smile were “pretty” and that she had a “beautiful personality”, at which point she began to feel panicked and pulled away. The Member hugged her tighter, stating “don’t run away” and then said “now you”, indicating he was seeking return compliments.

[62] Client 3 recalled being in a heightened state of anxiety, which she described as “fight or flight mode”. She lacked further recall until after the hug ended, at which time she testified that she “ran out as fast as [she] could”. Client 3 testified that “it would not be an exaggeration” to state that the hug lasted at least 5 minutes.

[63] Client 3 stated that the Member was bigger and stronger than her. She felt unsafe and realized she could not fight or push away. Following this last session, she began questioning if something more insidious was behind the frequent compliments. Client 3 discussed the incident with both of her parents and later disclosed the interactions to her caseworker, who initiated a report to the College.

[64] The Panel found Client 3 to be a credible witness. She was forthcoming and articulate, with a strong recall of the events. Her evidence was also consistent with the documentary evidence tendered by the College.

#### Melanie Farber (Investigator)

[65] Melanie Farber testified that she was the lead investigator appointed in respect the College’s initial investigation into the Member further to his dealings with Client 1 and the allegations which went on to be included in the First Notice of Hearing. Although Ms. Farber was not the lead investigator in the second investigation pertaining to billing practices in relation to the Member’s dealings with Client 1 (allegations which went on to comprise the Second Notice of Hearing), many of the documents she had obtained were used to support the allegations contained in the Second Notice of Hearing.

[66] Ms. Farber stated that the investigation into the Member’s billing practices with Client 1 began after the records gathered during Ms. Farber’s initial investigation suggested that the Member had not properly documented his contact with Client 1 and had issued false invoices, which were then paid by Sunlife insurance, suggesting he had provided services to Client 1’s daughter when he had not done so.

[67] Ms. Farber testified that in the course of her investigation, she reviewed clinical notes from the municipal agency and the Member's private practice where she uncovered inconsistencies in the billing records relating to Client 1. Ms. Farber requested further clarity from Sunlife insurance in relation to the billing records, which led to the allegations relating to fraudulent billing practices contained in the Second Notice of Hearing.

[68] Ms. Farber testified that she understood the Member had not had any contact with, nor provided counselling sessions to, Client 1's daughter. However, in comparing the Member's clinical records to Sunlife insurance records, Ms. Farber found that ten invoices from the Member and ten corresponding Sunlife payments were processed in respect of service allegedly provided to Client 1's daughter.

[69] The insurance records, as confirmed through the affidavit of a Sunlife representative filed in this proceeding, reveal that seven of the sessions Sunlife paid for coincided with sessions that were provided to Client 1 and/or her estranged spouse. Additionally, testimony from Client 1 about the highly limited access and custody rights her estranged husband had to their daughter directly contradicts the possibility that the Member could have treated Client 1's daughter on 10 occasions in the 11 week period covered by the invoices. The Panel accepts this evidence.

[70] Ms. Farber also provided evidence about steps taken by the Member's municipal service agency employer to investigate matters pertaining to Client 2. The Panel understands that the municipal agency engaged an external investigation firm to review allegations pertaining to the Member to determine whether the Member breached that agency's own internal policies. The Panel understands that that external investigation did not ultimately substantiate allegations against the Member. The Panel appreciates Ms. Farber's candour in bringing this other investigation to its attention but the Panel ultimately places minimal weight on it. The external investigator did not testify and it is not clear how or why the investigator reached their conclusions or what specific evidence was considered. Indeed, the Panel understands that Client 3 was not interviewed in respect of that external investigation. In any event, the Panel does not rely on that external investigation in any regard in making findings in this proceeding. The external investigation related to the Member's employer's policies. That investigation did not, and could not, make a determination of whether the College's standards had been violated.

[71] The Panel's findings are based on the evidence presented in the hearing before us, which we have scrutinized carefully according to the standard of a balance of probabilities.

[72] The Panel found Ms. Farber to be a credible witness who presented testimony in a professional and impartial manner. Ms. Farber had no prior association with Member and had no interest in the outcome of the investigation. Ms. Farber demonstrated good recall of the events and her documentation aligned with her testimony.

Angela Hovey, PhD

[73] The Panel accepted Professor Angela Hovey as an expert witness in the practice and theory of social work counselling including ethics, boundaries, proper documentation and case management practice, and working with clients who are survivors of trauma and who have complex mental health needs.

[74] Professor Hovey has been a registered member of the College for 21 years and is currently a tenured associate professor at the School of Social Work at Lakehead University. She has been teaching at Lakehead since 2014. Professor Hovey holds concurrent Bachelor degrees in Psychology and Education from Lakehead University, as well as a Masters degree in social work. She also has a PhD in Philosophy and Social Work from Wilfred Laurier University. Professor Hovey has practised social work for over 30 years, specializing in areas relating to forensic mental health, sexual offending, addictions, trauma and clinical counselling. She has extensive experience in the areas of program development, documentation, audits, and supervision and training of clinicians. She has conducted research, published and taught in the areas of advanced clinical practice, crisis intervention, working with sexual abuse issues, documentation and boundaries.

[75] Professor Hovey was retained by the College to author an expert report (Exhibit 43). She was provided with a hypothetical scenario of a situation closely related the allegations of professional misconduct against the Member and asked to provide an expert opinion.

[76] Professor Hovey testified that she had not met, nor interacted in any manner, with the Member in the course of preparing or testifying to the expert report.

[77] Professor Hovey testified to clinical standards relating to therapeutic alliance and working relationships between a therapist and client, power imbalances, psychoanalytic theory of transference / counter transference, goal setting, boundaries and integrity and the parallels of these clinical skills to the College's Standards of Practice.

[78] Professor Hovey set out considerations appropriate for assessing professional boundaries, including the need to engage in self-reflective practice, use of supervision, transparency in the use of clinical approaches and collaborative goal-setting that respects client independence and consent.

[79] Professor Hovey testified to a clinician's responsibility to establish and maintain clear and appropriate boundaries in professional relationships for the protection of clients.

[80] Professor Hovey opined that therapeutic touch should never be used with clients who present with a history of sexual abuse, noting that even a handshake can be triggering without consent, and that social work theory and practice dictates that informed consent must be present prior to any physical contact with a client.

### **Decision of the Panel**

[81] After considering the submissions from the College and the witness testimony, and reviewing the documents filed in evidence, the Panel is satisfied, on a balance of probabilities, that the Member committed the acts of professional misconduct alleged in both the First and Second Notice of Hearing.

[82] With respect to the allegations in both the First and Second Notice of Hearing relating to s. 2.36 of the Professional Misconduct Regulation, the Panel finds the Member engaged in conduct that would reasonably be regarded by members of the profession as disgraceful, dishonourable, and unprofessional.

### **Reasons for Decision**

#### First Notice of Hearing

*Allegations re: Client 1*

[83] The Panel is satisfied that the allegations particularized in paragraph 8 of the First Notice of Hearing in respect of the Member's dealings with Client 1 have been proven on a balance of probabilities.

[84] As particularized in paragraph 8(a), during one or more sessions with Client 1, the Member violated professional boundaries by improperly commenting about Client 1's attributes and her relationship with her former spouse as described in paragraph [28] of these reasons.

[85] As particularized in paragraph 8(b), and also as discussed in paragraph [28] above, the Member violated professional boundaries by improperly describing to Client 1 how she was different from other clients, was non-judgmental in his opinion, and was someone to whom he could personally relate.

[86] As particularized in paragraph 8(c), the Member engaged in sexual touching that was not of a clinical nature by forcing an embrace on Client 1 as set out in paragraph [30] of these reasons.

[87] As particularized in paragraphs 8(d) and 8(g), the Member engaged in remarks of sexual nature by complimenting Client 1's attributes as a person and by telling her he wanted her as a "second wife" as described in paragraphs [28]-[30] of these reasons.

[88] As particularized in paragraph 8(e), the Member violated professional boundaries by asking Client 1 to go out for dinner with him as described in paragraph [29] of these reasons.

[89] As particularized in paragraph 8(f), the Member violated professional boundaries and engaged in remarks of a sexual nature when he discussed his personal life with his wife with Client 1. Specifically, the Member's revelation that he was not sexually satisfied in his marriage as described in paragraph [30] constitutes both a violation of professional boundaries and an inappropriate remark of a sexual nature.

[90] As particularized in paragraphs 8(h)-(j), the Member engaged in inappropriate touching of a sexual nature when he placed his hand on Client 1's thigh and subsequently forced Client 1 to engage in a long hug with him and refused to let her pull away as described in paragraph [31] of these reasons.

[91] As particularized in paragraph 8(k)-(n), the Member engaged in sexual abuse of Client 1 when he forced her to have contact with his groin area, pulled down his pants in front of her, caused Client 1 to have contact with his penis and forced her to perform oral sex on him as described in paragraph [32] of these reasons.

[92] The evidence of Client 1 in respect of these events is accepted entirely and substantiates all of the very serious misconduct that is set out in the First Notice of Hearing regarding Client 1.

*Allegations re: Client 2*

[93] The Panel is satisfied that all of the allegations made against the Member in respect of his dealings with Client 2 have been proven on a balance of probabilities. During one or more sessions with Client 2, the Member violated professional boundaries and engaged in inappropriate touching

and remarks of a sexual nature towards Client 2 which were not clinical in nature nor appropriate to the service being provided.

[94] As particularized in paragraph 12(a) and (b), the Member violated professional boundaries and engaged in inappropriate touching of a sexual nature by improperly engaging in breathing exercises with Client 2 for prolonged periods of time, during which he touched her stomach, pelvis area and chest and in some instances touched Client 2 under her clothing as described in paragraphs [46] and [47] of these reasons.

[95] As particularized in paragraph 12(c), the Member violated professional boundaries when he made Client 2 feel uncomfortable when she indicated that the breathing exercises were not helpful as set out in paragraph [47] of these reasons.

[96] As particularized in paragraph 12(d), the Member violated professional boundaries and engaged in remarks of a sexual nature when he suggested to Client 2 that the breathing exercises were potentially unhelpful because Client 2's brassier was preventing her from breathing in deeply as described in paragraph [47] of these reasons.

[97] As particularized in paragraph 12(e), the Member engaged in inappropriate remarks of a sexual nature when he told Client 2 she was a "good looking woman" as described in paragraph [48] of these reasons.

[98] As particularized in paragraph 12(f), the Member violated professional boundaries when he pushed Client 2 to discuss a traumatic incident that she did not wish to discuss and asked if a former partner had raped her or shared her with other men as described in paragraph [50] of these reasons.

[99] All of the particulars set out in paragraph 12(a)-(f) of the First Notice of Hearing have been proven by Client 2's unequivocal and detailed testimony. The Panel accepts that testimony and finds accordingly.

*Allegations re: Client 3*

[100] The evidence the Panel received also confirms that the Member violated professional boundaries and engaged in remarks and touching of a sexual nature towards Client 3.

[101] As particularized in paragraph 4(a) of the First Notice of Hearing, the Member told Client 3 he was a "huggy person" and indicated he wished to hug as described in paragraph [61] of these reasons. This constituted a violation of professional boundaries.

[102] As particularized in paragraphs 4(b) and (c), the Member then coerced Client 3 into a prolonged hug and prevented Client 3 from pulling away from him in the course of that hug, telling her not to "run away" when she tried to extricate herself as described in paragraph [61] of these reasons. This constituted inappropriate touching and remarks of a sexual nature as well as a violation of professional boundaries.

[103] As particularized in paragraph 4(d), the Member made inappropriate comments to Client 3 calling her beautiful, complimenting her hair, saying she had a beautiful smile and asking for

compliments in return as described paragraph [61] of these reasons. The remarks were sexual in nature and constituted violations of professional boundaries.

[104] The Panel is satisfied that the Member engaged in all of the professional misconduct particularized in paragraph 4 of the First Notice of Hearing and, more broadly, the Panel is satisfied that all allegations concerning Client 3 have been proven on a balance of probabilities. The Panel accepts Client 3's evidence and finds accordingly.

*Breaches of Professional Misconduct Regulation and Handbook Principles*

[105] With the benefit of Professor Hovey's testimony, the Panel is satisfied on a balance of probabilities that the Member's conduct in relation to Client 1, Client 2 and Client 3 constitutes contraventions section 2.2 of the Professional Misconduct Regulation and the Principles of the Handbook discussed below.

[106] **Principle I** (failing to be aware of your values, attitudes and needs and how those impact on your professional relationship with clients; and by failing to distinguish your needs and interests from those of your clients to ensure that, within your professional relationship, clients' needs and interests remained paramount). The Member, on more than one occasion as described in the evidentiary summaries above, discussed his own personal issues with the clients and failed to distinguish his own needs and interests from those of the clients'. He failed to keep the clients' needs and interest paramount. Specifically, in respect of Client 1, the Member as discussed in paragraphs [27]-[30] above, made repeated comments to her of a personal and sexual nature. He stated that she is not like his other clients, asked her to dinner, disclosed that he was not sexually fulfilled in his own marriage, blatantly stated that he wanted a personal relationship with Client 1, and invited her to consult and collaborate on writing a book with him. With respect to Client 2, as discussed in paragraph [50] above, the Member pursued an area of past sexual trauma for his own interest despite that it was not an issue Client 2 wished to discuss and was not relevant to her broader treatment goals. With respect to Client 3, the Member, as above, gave and sought personal compliments and engaged in a physical embrace for his own benefit, demonstrating no appreciation for Client 3's past sexual trauma. These events represent repeated failures to keep client interests paramount.

[107] **Principle II** (abuse of power, conflict of interest, sexual relations with clients, using information obtained in the professional relationship to abuse or coerce or exploit a client, and engaging in conduct could be reasonably perceived as reflecting negatively on the profession of social work). In dealing with Client 1, the Member purported to discuss with her details about her sexual relationship with her estranged spouse. This is something that Client 1 was uncomfortable with and which was not relevant to any legitimate treatment goals. More critically, the Member ultimately engaged in sexual contact with Client 1 leveraging both his physical dominance and abusing his position of power to coerce Client 1 and ultimately exploit her by forcing her to perform sex acts on him. Regarding Client 2, the Member abused his position of trust and power to physically touch Client 2 in a coercive and exploitative way as discussed in paragraphs [46] and [47]. Client 2 was clear that the only reason this contact was able to take place was because of the position of power and trust that the Member held by way of their counseling relationship. Lastly, in dealing with Client 3, the Member again abused his position of power to coerce Client 3 into an extended hug which was not clinically appropriate and which Client 3 was in no position to consent to.

[108] **Principle III** (by failing to assume full responsibility for demonstrating that a client and/or former client was not exploited, coerced or manipulated, intentionally or unintentionally). As discussed in the preceding paragraphs dealing with Principle II, coercion and exploitation took place in respect of the Member's dealings with Client 1, Client 2 and Client 3. The Panel has received no evidence which suggests that the Member acknowledges such misconduct took place or took any steps to assume responsibility for what transpired.

[109] **Principle VIII** (failing to prevent sexual misconduct, engaging in sexual relations with a client and touching of sexual nature for no clinical purpose). In forcing Client 1 to perform a sex act, the Member has clearly engaged in sexual relations with a client and failed to prevent sexual misconduct. Similarly, the unnecessary touching of Client 2 in and around her pelvic and breast area during the course of unwanted breathing exercises and imposing a long "hug" on Client 3 are both repeat instances of touching of a sexual nature for no clinical purpose. The Member's conduct in respect of all three Clients is accordingly contrary to Principle VIII.

[110] The Member also violated section 2.5 of the Professional Misconduct Regulation in that he abused Client 1 physically, sexually, verbally, psychologically or emotionally, including by sexually abusing her within the meaning of subsection 43(4) of the Act when he forced her to perform a sex act on him in his office.

[111] The Member also violated Section 2.6 of the Professional Misconduct Regulation in that he used information obtained during a professional relationship with a client or used his professional position of authority to coerce, improperly influence, harass, or exploit a client. This is evident in the Member's above-noted dealings with Client 1, Client 2, and Client 3.

[112] As a result of the contraventions detailed above, all of which are contraventions of the regulations and the Handbook, which is a by-law of the College, the Member violated Section 2.28 of the Professional Misconduct Regulation by contravening the Act, regulations or by-laws.

[113] The Panel is satisfied that all of the evidence establishes that the Member 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.

[114] The College established that the Member repeatedly engaged in a pattern of unacceptable behaviors with young, vulnerable, female clients, that the Member knew had histories of sexual trauma. As a social worker, the Member knew, or ought to have known, that his behaviour was completely inappropriate.

[115] The misconduct proven in this regard is very serious. The Member gave and requested verbal compliments about physical appearance and personality traits and made inappropriate inquiries into clients' sexual experiences and sexual preferences. The Member's progressive pattern of uninvited physical touching, isolation in an office space, and ignoring of client requests for him to cease physical touch behaviors is very troubling. The Member's decision to engage with two clients in a forced 'hug and hold' is unacceptable. It is particularly egregious given that the Member used his position of authority, his physical size, and physique to essentially overpower the clients both physically and psychologically.

[116] Lastly, the fact that the Member forced a sex act upon Client 1 unquestionably meets the threshold of sexual abuse.

[117] In making all of the above findings, the Panel has no doubt that Client 1, Client 2, and Client 3 were telling the truth. The striking similarities in their three narratives painted a clear, convincing and cogent picture of professional misconduct by the Member. The evidence showed that despite recounting remarkably similar experiences, these clients were not known to one another and had met with the Member in entirely different settings, from different referral sources, and at different times.

[118] As above, that the three clients were all young women with histories of sexual trauma paints a concerning pattern of behaviour on the part of the Member. The Panel notes the evidence of Professor Hovey that physical touching should rarely be utilized in a therapeutic relationship and extended physical touching should never occur. Member knew, or ought to have known, that such touching was not invited, appropriate, or welcomed by the clients.

[119] The Member's conduct showed no awareness of the power dynamic and power imbalance inherent in a counselling relationship. The Member apparently had no concept of boundaries. He did not use the professional tools or structure of clinical work to ensure the safety of the clients and he egregiously abused his position of power while engaging in clinical work that he clearly had no ability or reason to perform.

### Second Notice of Hearing

[120] The testimony of Client 1, the clinical records of the Member, and the mobile phone records and other documentary evidence in combination with the oral evidence of the College investigators demonstrated that the Member failed to document all of his therapeutic sessions with Client 1, failed to document phone calls (including calls of significant length) with Client 1, and failed to keep accurate and truthful financial records of the services he provided to Client 1. The allegations in paragraph 3 of the Second Notice of Hearing were accordingly proven on a balance of probabilities.

[121] The evidence is also clear and convincing in demonstrating that the Member failed to keep appropriate, accurate and truthful records with respect to the services the Member provided to Client 1's spouse in accordance with paragraph 4 of the Second Notice of Hearing.

[122] The Panel is satisfied that inaccurate and untruthful records were rendered by the Member in respect of his services to both Client 1 and Client 1's spouse.

[123] With respect to paragraphs 5-8 of the Second Notice of Hearing, the Panel is satisfied that the Member issued false invoices for services purportedly provided to Client 1's daughter which were in fact provided to Client 1 or Client 1's spouse. Indeed, the Panel is satisfied that the Member did not provide any services to Client 1's daughter. Documentary evidence from Sunlife insurance showed that billing records and payments were issued under Client 1's daughter's name. Client 1's testimony confirmed that it would have been impossible for the Member to have seen Client 1's daughter on these occasions. The Panel is satisfied that the evidence presented at the hearing confirmed that the Member was fraudulently billing sessions with Client 1 and/or Client 1's spouse under Client 1's daughter's name. The Member knew or ought to have known that the false invoices he rendered would be used to obtain payment from the insurance company providing

coverage to Client 1's spouse. Based on the above, it is also clear that the Member issued false and misleading invoices which resulted in insurance payments for services that would not otherwise have been covered.

[124] All of the allegations contained at paragraphs 1-8 in the Second Notice of Hearing are accordingly proven on a balance of probabilities.

[125] With respect to the alleged violations of College Standards of Practice contained in the Second Notice of Hearing, again, with the benefit of Professor Hovey's evidence, the Panel is satisfied that the violations have been proven.

[126] The above conduct constitutes professional misconduct as set out in section 26(2)(a) and (c) of the Act.

[127] Professor Hovey was clear that all client interactions must be documented if they feature a discussion of client issues. The Member's failure to accurately document his sessions with Client 1 violated section 2.2 of the Professional Misconduct Regulation by failing to be aware of the impact his own needs had on his professional relationship with Client 1 in contravention of Principle I of the Handbook. It is also conduct which could reasonably be perceived as reflecting negatively on the profession of social work in contravention of Principle II of the Handbook.

[128] This broader failure to record information and, specifically, the Member's issuance of false statements represent clear contraventions of Principle IV of the Handbook. Lastly, the inappropriate charging of fees without full disclosure or for the purpose of accruing a financial benefit to Client 1's spouse for services rendered or fees which are excessive in relation to the service provided violates Principle VI of the Handbook.

[129] The Member also violated Section 2.19 of the Professional Misconduct Regulation by falsifying a record, specifically the above noted invoices, relating to his with Client 1 and Client 1's spouse.

[130] The Member violated Section 2.20 of the Professional Misconduct Regulation by failing to keep records as required by the regulations and standards of the profession. Specifically, as the Panel found with respect to paragraph 3 of the Second Notice of Hearing, the Member failed to keep appropriate records, failed to document therapeutic sessions, failed to document phone calls and failed to keep accurate and truthful financial records in respect of dealings with Client 1.

[131] The Member violated Section 2.21 of the Professional Misconduct Regulation by making a record, or issuing or signing a certificate, report or other document in the course of practising the profession that he knew or ought reasonably to have known was false, misleading or otherwise improper. This occurred when the Member issued invoices in the name of Client 1's daughter as confirmed by the documentary evidence filed in this proceeding both by the College and by Sunlife.

[132] The Member also violated Section 2.24 of the Professional Misconduct Regulation by submitting an account or charge for services that he knew to be false or misleading as noted above.

[133] Once again, as a result of the contraventions detailed above, all of which are contraventions of the regulations and/or the Handbook, which is a by-law of the College, the Member violated

Section 2.28 of the Professional Misconduct Regulation by contravening the Act, regulations or by-laws.

[134] Lastly, the Panel is again satisfied that the Member violated Section 2.36 of the Professional Misconduct Regulation by engaging in the conduct found above which, having regard to all circumstances, would reasonably be regarded by members as disgraceful, dishonourable and unprofessional.

### **Concluding Remarks**

[135] The Member's actions in this matter are egregious and clearly demonstrate a deep moral failing on his part. The ability to practice the profession of social work is a privilege and the profession will unquestionably look negatively upon the Member's actions. The misconduct proven in this matter is, in every sense of the words, unprofessional, dishonourable and disgraceful.

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

Date: December 16, 2022

Signed:



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Charlene Crews, Chair