

**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 Sharleen Cainer, 2022 ONCSWSSW 4

Decision date: 20220509
Corrected date: 20230720

BETWEEN:

THE ONTARIO COLLEGE OF SOCIAL WORKERS
AND SOCIAL SERVICE WORKERS

- and -

SHARLEEN CAINER

PANEL:	Frances Keogh	Chair, Professional Member
	Carrie McEachran	Public Member
	Christopher McIntosh	Professional Member

Appearances: Lara Kinkartz, counsel for the College
Charles Freed and Rebecca Field Jager (paralegal), counsel for the Member
Andrea Gonsalves, Independent Legal Counsel to the Panel

Heard: April 21, 2022

CORRECTED DECISION AND REASONS FOR DECISION

[1] This matter came on for hearing by video conference on April 21, 2022, before a panel of the Discipline Committee (the “**Panel**”) of the Ontario College of Social Workers and Social Service Workers (the “**College**”).

The Allegations

[2] In the Notice of Hearing dated January 28, 2021, 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 she is alleged to have engaged in conduct that contravenes the Act, Ontario Regulation 384/00 (the “**Professional Misconduct Regulation**”), Schedule “A” to By-

law No. 66 of the Ontario College of Social Workers and Social Service Workers, being the Ontario College of Social Workers and Social Service Workers Code of Ethics (the “**Code of Ethics**”), and Schedule “B” to By-law No. 66 of the Ontario College of Social Workers and Social Service Workers, being the Ontario College of Social Workers and Social Service Workers Standards of Practice Handbook (the “**Handbook**”).

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

I. The following are particulars of the said allegations:

1. At all relevant times, you were registered as a social worker with the Ontario College of Social Workers and Social Service Workers (the “**College**”).
2. In or about 2019, you were working as a sub-contractor for Injury Management and Medical Assessments (“**IMMA**”), providing social work services to individuals who had been involved in motor vehicle accidents.
3. In order to obtain payment from insurers, IMMA required you to provide a copy of a “sign-in sheet.” The sign-in sheet was required to include the date the service was provided, the start and end time of the session, the signatures of both the client and you, and an invoice.
4. One of the clients to whom you provided services was D.F. Your records with respect to D.F. contained inaccurate, false, and/or misleading information in that:
 - (a) For three clinical notes, the session date at the top of the note and the date of your signature at the bottom of the note differ. In each case, the date beside your signature pre-dated the listed session date.
 - (b) Your invoices, sign-in sheets, and email correspondence with IMMA presented different, incomplete, and/or conflicting information about the dates of D.F.’s sessions.
 - (c) Another client to whom you provided services was J.T. In reviewing your records, the Director of Injury Management at IMMA noted that clinical notes for J.T.’s session on March 28, 2019 were missing. He contacted you to request this note, but inadvertently requested the clinical note for March 13, 2019, which you had already provided. In response to his request, you provided a clinical note for March 13, 2019 that differed from the one you had already provided.

II. It is alleged that by reason of engaging in some or all of the conduct outlined above, you are guilty of professional misconduct as set out in section 26(2)(a) and (c) of the Act:

- (a) In that you violated **Section 2.2 of the Professional Misconduct Regulation and Principle IV of the Handbook (as commented on in Interpretation 4.1.1)** by failing to ensure that recorded information conforms with accepted service or intervention standards and protocols within the profession of social work, relevant to the services provided, and is in a format that facilitates the monitoring and evaluation of the effects of the service/intervention;
- (b) In that you violated **Section 2.2 and 2.21 of the Professional Misconduct Regulation, and Principle IV of the Handbook (as commented on in Interpretation 4.1.2)** by making a statement in the record or in reports based on the record; 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 know was false, misleading, inaccurate, or otherwise improper;
- (c) In that you violated **Section 2.2 of the Professional Misconduct Regulation and Principle IV of the Handbook (as commented on in Interpretation 4.1.3)** by failing to keep systematic, dated, and legible records for each client or client system served;
- (d) In that you violated **Section 2.19 of the Professional Misconduct Regulation** by falsifying a record relating to your professional practice;
- (e) 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; and/or
- (f) In that you violated **Sections 2.2 and 2.36 of the Professional Misconduct Regulation and Principle II of the Handbook (as commented on in Interpretation 2.2.8)** by engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all circumstances, would reasonably be regarded by members as disgraceful, dishonourable, or unprofessional and/or by failing to avoid conduct in the practice of social work that could reasonably be perceived as reflecting negatively on the profession of social work.

Member's Position

[4] The Member admitted to all the allegations set out in the Notice of Hearing. The Panel conducted an oral plea inquiry at the hearing and was satisfied that the Member's admission was voluntary, informed and unequivocal.

The Evidence

[5] The evidence was tendered by way of an Agreed Statement of Facts, which provided in relevant part as follows.

BACKGROUND

1. At all relevant times, [Sharleen] Beth Cainer (the “**Member**”) was registered as a social worker with the Ontario College of Social Workers and Social Service Workers (the “**College**”).
2. In or about 2019, the Member was working as a sub-contractor for Injury Management and Medical Assessments (“**IMMA**”), providing social work services to individuals who had been involved in motor vehicle accidents.
3. In order to obtain payment from insurers, IMMA required the Member to provide a copy of a “sign-in sheet.” The sign-in sheet was required to include the date the service was provided, the start and end time of the session, the signatures of both the client and the Member, and an invoice.
4. As a result of the conduct described in paragraphs 6-15 below, IMMA asked the Member to stop seeing IMMA clients.
5. The Member was the subject of a prior complaint in 2008-2009, in which it was alleged that the Member submitted a report and invoice to an insurer for a client assessment that she did not complete. Among other things, the form she completed indicated that she had spent 3 hours assessing the client, when this had not occurred. The Member admitted that she did not meet with the client and characterized the incident as an administrative error. The Complaints Committee issued a caution but noted that the Member’s explanation for her conduct was unsatisfactory, vague, and misleading. The Complaints Committee noted that if a similar complaint or report arose in the future, serious consideration would be given as to whether a referral to the Discipline Committee was warranted.

RECORDS WITH RESPECT TO D.F.

6. One of the clients to whom the Member provided services was D.F. The Member’s records with respect to D.F. contained several discrepancies and inaccuracies.
7. For three clinical notes with respect to D.F., the session date at the top of the note and the date of the Member’s signature at the bottom of the note differed. In each case, the date beside the Member’s signature pre-dated the listed session date, as follows:
 - (a) For one session, the top of the form indicates the session date was March 22, 2019, but the Member’s signature at the bottom of the page is dated February 16, 2016 (3 years and 1 month before the session took place);

- (b) For a second session, the date at the top of the form indicates the session date was April 22, 2019, but the Member's signature at the bottom of the form is dated March 22, 2019 (1 month before the session took place); and
 - (c) For a third session, the date at the top of the form indicates the session date was April 29, 2019, but the Member's signature at the bottom of the form is dated April 22, 2019 (1 week before the session took place).
8. As a result of the discrepancies and inaccuracies described in paragraph 7 above, someone reviewing D.F.'s clinical notes would not be able to determine the dates on which services were provided.
9. The Member's invoices, sign-in sheets, and email correspondence with IMMA presented different, incomplete, and/or conflicting information about the dates of D.F.'s sessions. In particular:
- (a) The Member's invoices indicate that she saw D.F. on February 16, February 23, March 22, April 22, and April 29, 2019.
 - (b) One sign-in sheet indicates that the Member provided sessions on February 16, March 22, April 22, and April 29, 2019 (but not February 23, 2019).
 - (c) A second sign-in sheet indicated that the Member provided sessions in February 2019 on both February 16 and 23.
 - (d) An email from the Member to IMMA's Director of Injury Management (the "**Director**") indicated that she provided sessions to D.F. on February 16, February 23, April 22, and April 29, 2019 (i.e. not March 22, 2019).
10. The Member acknowledges that by virtue of the discrepancies described in paragraphs 7-9 above, her records with respect to D.F. contained inaccurate, false, and misleading information.

RECORDS WITH RESPECT TO J.T.

11. Another client to whom the Member provided services was J.T. The Member provided her records regarding J.T. to the Director in mid-November 2019.
12. In reviewing the Member's records, the Director noted that clinical notes for J.T.'s session on March 28, 2019 were missing. The Director contacted the Member to request the March 28, 2019 clinical note. However, he inadvertently requested the clinical note for March 13, 2019, which the Member had already provided to him. A copy of the March 13, 2019 clinical note the Member had provided in mid-November 2019 is attached as **Appendix "A"** to this Agreed Statement of Facts. [*Appendix "A" is omitted from these Reasons for Decision*]

13. The Member responded to the Director's request on December 9, 2019. In her response, she provided a clinical note for March 13, 2019 that differed from the clinical note she had already provided for that date. A copy of the March 13, 2019 clinical note the Member provided on December 9, 2019 is attached as **Appendix "B"** to this Agreed Statement of Facts. [*Appendix "B" is omitted from these Reasons for Decision*]
14. The two clinical notes contain materially different narratives. The portions of the clinical notes setting out the Member's observations, issues discussed, interventions carried out, progress, and homework all differ.
15. The Member acknowledges that she prepared a second clinical note for March 13, 2019 months after the session took place, and after receiving the request from the Director for the missing clinical note. She further acknowledges that it did not accurately reflect what occurred in that session.

APPLICABLE LEGISLATION AND STANDARDS OF PRACTICE

16. The College's *Code of Ethics and Standards of Practice Handbook* set out the standards that apply to members' record-keeping, as detailed in Principle IV. Among other things, the standards of practice require that:
 - (a) Records are prepared at the time the event occurs or as soon as possible thereafter;
 - (b) Records be accurately dated and signed by the member who provided the services;
 - (c) Records be kept in a systematic and legible format, and in a format that facilitates the monitoring and evaluation of the effects of the service/intervention;
 - (d) Records accurately reflect the events and services at issue;
 - (e) Records contain information that conforms with accepted service or intervention standards and protocols within the profession of social work; and
 - (f) Records do not contain false, misleading, inaccurate, or otherwise improper statements or information.
17. The Member acknowledges that the conduct described in paragraphs 6-15 above did not comply with these standards.

ADMISSIONS OF PROFESSIONAL MISCONDUCT

18. The Member admits that, by reason of engaging in the conduct outlined above, she is guilty of professional misconduct as set out in section 26(2)(a) and (c) of the *Social Work and Social Service Work Act*:

- (a) In that she violated **Section 2.2 of the Professional Misconduct Regulation and Principle IV of the Handbook (as commented on in Interpretation 4.1.1)** by failing to ensure that recorded information conforms with accepted service or intervention standards and protocols within the profession of social work, relevant to the services provided, and is in a format that facilitates the monitoring and evaluation of the effects of the service/intervention;
 - (b) In that she violated **Section 2.2 and 2.21 of the Professional Misconduct Regulation, and Principle IV of the Handbook (as commented on in Interpretation 4.1.2)** by making a statement in the record or in reports based on the record; making a record; or issuing or signing a certificate, report, or other document in the course of practising the profession that she knew or ought reasonably to know was false, misleading, inaccurate, or otherwise improper;
 - (c) In that she violated **Section 2.2 of the Professional Misconduct Regulation and Principle IV of the Handbook (as commented on in Interpretation 4.1.3)** by failing to keep systematic, dated, and legible records for each client or client system served;
 - (d) In that she violated **Section 2.19 of the Professional Misconduct Regulation** by falsifying a record relating to her professional practice;
 - (e) In that she violated **Section 2.20 of the Professional Misconduct Regulation** by failing to keep records as required by the regulations and standards of the profession; and/or
 - (f) In that she violated **Sections 2.2 and 2.36 of the Professional Misconduct Regulation and Principle II of the Handbook (as commented on in Interpretation 2.2.8)** by engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all circumstances, would reasonably be regarded by members as disgraceful, dishonourable, or unprofessional and/or by failing to avoid conduct in the practice of social work that could reasonably be perceived as reflecting negatively on the profession of social work.
19. With respect to the allegation in paragraph 18(f) above, the parties agree that the Member's conduct should be classified as dishonourable and unprofessional.

Decision of the Panel

[6] Having considered the admissions of the Member, the evidence contained in the Agreed Statement of Facts, and the submissions of counsel, the Panel finds that the Member committed the acts of professional misconduct alleged in the Notice of Hearing. With respect to allegation (f) the Panel finds that the Member's conduct would reasonably be regarded by members as dishonourable and unprofessional.

Reasons for Decision

[7] The Panel found that the evidence in the Agreed Statement of Facts, together with the Member's admissions, proved on a balance of probabilities each of the allegations against the Member.

[8] With respect to allegation (a) in the Notice of Hearing, the Panel found that the Member violated s. 2.2 of the Professional Misconduct Regulation and Principle IV of the Handbook (as commented on in Interpretation 4.1.1). Section 2.2 of the Professional Misconduct Regulation provides that it is an act of professional misconduct for a member to fail to meet the standards of the profession. The Handbook sets out the standards of the social work profession. Principle IV deals with members' obligations relating to the creation and maintenance of records. It provides (among other things) that the purpose of the social work record is to document services in a recognizable form in order to establish accountability for and evidence of the services rendered. Interpretation 4.1.1 provides that recorded information must conform with accepted service or intervention standards and protocols within the social work profession, relevant to the services provided, and must be in a format that facilitates the monitoring and evaluation of the effects of the service or intervention.

[9] On three occasions the session dates the Member recorded at the top of the clinical notes for client D.F. differed from the date appearing with the Member's signature at the bottom of the notes. In particular:

- a. The notes for one session had a session date of March 22, 2019, at the top, while the Member's signature at the bottom of the page is dated February 16, 2016 (3 years and 1 month before the session took place);
- b. Records for a second session had a date at the top of the form of April 22, 2019, but the Member's signature at the bottom of the form is dated March 22, 2019 (1 month before the session took place);
- c. A third record had a session date at the top of the form of April 29, 2019, but the Member's signature at the bottom of the form is dated April 22, 2019 (1 week before the session took place).

[10] As a result of these discrepancies and inaccuracies someone reviewing D.F.'s clinical notes would not be able to determine the accurate dates upon which social work services were provided.

[11] With respect to client J.T., Injury Management and Medical Assessments' ("IMMA") Director of Injury Management ("Director") intended to request from the Member a clinical note for the March 28, 2019, session as it was missing. Instead, the Director mistakenly requested the note for March 13, 2019, which the Member had previously provided. In response to the request the Member provided a new clinical note for March 13, 2019. The Member prepared the second note for March 13, 2019, in mid-November 2019, some eight months after the session took place and after receiving the request from IMMA. The clinical note did not accurately reflect what occurred in the March 13, 2019 session with J.T. and someone reviewing the note would not be able to understand, monitor and evaluate the services and interventions provided.

[12] The Member's records for clients D.F. and J.T. do not meet the accepted standards of the profession as they do not allow for the chronological monitoring of activities engaged in during the sessions or an evaluation of the client's progress towards meeting their goals during the course of the sessions. Accordingly, the Panel found that the Member failed to ensure that the recorded information relating to the services she provided to D.F. and J.T.: (i) conformed with accepted service or intervention standards and protocols within the profession of social work, (ii) was relevant to the services provided, and (iii) was in a format that facilitates the monitoring and evaluation of the effects of the service/intervention. The College proved the Member engaged in professional misconduct as alleged in allegation (a).

[13] With respect to allegation (b), the Panel found that the Member violated ss. 2.2 and 2.21 of the Professional Misconduct Regulation, and Principle IV of the Handbook (as commented on in Interpretation 4.1.2) by making a statement in the record or in reports based on the record; making a record; or issuing or signing a certificate, report, or other document in the course of practising the profession that she knew or ought reasonably to know was false, misleading, inaccurate, or otherwise improper. Section 2.21 of the Professional Misconduct Regulation Similarly, Interpretation 4.1.2 of the Handbook recognizes it is a standard of the profession that members do not make statements in the client record, or issue or sign a document in the course of practising the profession, that the member knows or ought reasonably to know is false, misleading, inaccurate or otherwise improper.

[14] The Member's invoices, sign-in sheets, and email correspondence submitted to IMMA (where she was working as a subcontractor) presented different, incomplete, and conflicting information about the dates of D.F.'s sessions. While the Member's invoices record that she met with D.F. on February 16, February 23, March 22, April 22, and April 29, 2019, her sign-in sheet did not record the February 23 date. A subsequent sign-in sheet indicated that the Member provided sessions on both February 16 and 23, 2019. An email from the Member to IMMA indicated that she provided sessions to D.F. on February 16 and 23, and April 22 and 29, but excluded the March 22 date. The inconsistencies in these records for client D.F. are such that some or all of them contained inaccurate, false, and misleading information. This constitutes professional misconduct as alleged in allegation (b).

[15] For client J.T., as noted, the Member prepared a clinical note for the March 13, 2019, session in mid-November, 2019, eight months after the session took place and after receiving a request from IMMA's Director of Injury Management who mistakenly stated that the March 13 clinical note was missing. The Member had previously prepared a clinical note for March 13, 2019 and the two records contained differing observations, issues discussed, interventions carried out, client progress, and the client's homework between sessions. The Member admitted that the note she prepared in November 2019 did not accurately reflect what happened in the March 13, 2019, session. The Member prepared and submitted to IMMA a clinical note for March 13, 2019 that contained false and inaccurate information.

[16] Accordingly, the Panel found that the Member failed to ensure that the recorded information relating to the services she provided to D.F. and J.T. were truthful, accurate, timely and conformed with accepted service or intervention standards and protocols within the profession of social work. The Member's records did not allow for the chronological monitoring of sessions, any interventions employed, or the description of client progress. The College proved the Member engaged in professional misconduct as alleged in allegation (b).

[17] Regarding allegation (c), the Panel found that the Member violated s. 2.2 of the Professional Misconduct Regulation and Principle IV of the Handbook (as commented on in Interpretation 4.1.3) by failing to keep systematic, dated, and legible records for each client served. Three clinical notes in March and April 2019 for client D.F. contained different session dates at the top of the note as compared to the date of the Member's signature at the bottom of the note. With respect to client J.T., IMMA's Director of Injury Management intended to request from the Member a clinical note for the March 28, 2019, session as it was missing. He inadvertently requested the note for March 13, 2019, which the Member had previously provided. In response the Member provided a new clinical note for March 13, 2019. The Member prepared the second note for March 13, 2019, in mid-November 2019, eight months after the session took place and after receiving the request from IMMA. The note did not reflect what occurred in the session. The Panel therefore concluded that the Member failed to keep systematic, dated records for each of D.F. and J.F. Allegation (c) was established on the evidence.

[18] With respect to allegation (d), the Panel found that the Member violated s. 2.19 of the Professional Misconduct Regulation, which provides that it is an act of professional misconduct for a member to falsify a record relating to her professional practice. The Member prepared and submitted to her employer a clinical note for the March 13, 2019, session with J.T. months after the session took place. As noted, the content of the record did not reflect what occurred in the session. The Member falsified the record after receiving the request from IMMA to provide the missing clinic record. The professional misconduct alleged in allegation (d) has been established.

[19] For allegation (e), the Panel found that 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. The relevant standards of the profession for client records set out in Principle IV of the Handbook and Interpretations 4.1.1, 4.1.2 and 4.1.3 are discussed above. For the reasons stated in paragraphs 9 to 14 of these Reasons, the Member did not keep records for clients D.F. and J.T. as required by those standards. Accordingly, allegation (e) has been established.

[20] With respect to allegation (f), the Panel found that the Member violated s. 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. The Member failed to live up to the standards expected of a social worker, which constitutes unprofessional behaviour. Further, her conduct was dishonourable in that she engaged in misleading, dishonest, and inaccurate record keeping in her work with two clients, undermining her own credibility as a social work professional and negatively affecting the public's trust and confidence in the profession. The College proved the s. 2.36 aspect of allegation (f).

[21] Allegation (f) also states that the Member violated s. 2.2 of the Professional Misconduct Regulation and, specifically, failed to meet the standards of the profession set out in Principle II of the Handbook (as commented on in Interpretation 2.2.8), which require members to maintain confidence and integrity in their practice and to avoid conduct in the practice of social work that could reasonably be perceived as reflecting negatively on the profession of social work. The public expects social work professionals to document dates, session notes, reports, timesheets, and other records in an accurate, honest, and principled manner. The Member's conduct and judgement reflects negatively on the profession and damages the confidence of current and potential clients

that their records will be responsibly maintained. The s. 2.2 aspect of the professional misconduct alleged in allegation (f) has been established.

Penalty Submissions

[22] The parties were in agreement on the issue of penalty. At the hearing the presented to the Panel a Joint Submission on Penalty and Costs (“**Joint Submission**”) and asked the Panel make an order in accordance with its terms. After deliberating the Panel announced orally at the hearing that it had decided to accept the Joint Submission and made an order accordingly. Following the hearing, the parties advised the Panel that they had discovered errors in the Joint Submission and that, due to those errors, certain terms of the Joint Submission did not in fact reflect the parties’ intentions. One error related to the timing of when the supervision term of the order would commence. As drafted, the mandatory supervision period would have commenced while the Member was still serving her suspension, which plainly could not have been the intent.

[23] The parties submitted to the Panel a revised Joint Submission in which the errors were corrected, and advised that it reflects the parties’ intentions as they were before the hearing. In light of the parties’ agreement, the Panel agreed to accept the revised Joint Submission in place of the version that had been presented at the hearing, and to amend its oral order, *nunc pro tunc*, to reflect the terms of the revised Joint Submission.

[24] The terms of the revised Joint Submission are as follows.

1. The Member shall be reprimanded in person or electronically by the Discipline Committee, and the fact and nature of the reprimand shall be recorded on the College’s Register.
2. The Registrar shall be directed to suspend the Member’s Certificate of Registration for a period of three (3) months, the first two (2) of which shall be served beginning on the date of the Panel’s Order herein. The remaining one (1) month of the suspension shall be remitted if, on or before the fourteen (14)^[1] month anniversary of the Discipline Committee’s Order herein, the Member provides evidence, satisfactory to the Registrar of the College, of compliance with the terms, conditions, and limitations imposed under paragraph 3 as set out below. If the Member fails to comply with those terms, conditions, and limitations, the Member shall serve the remaining one (1) month of the suspension, which shall be served immediately following the fourteen (14) month anniversary of the Discipline Committee’s Order herein.²

¹ The original version of the Joint Submission provided that the remaining one month of the suspension shall be remitted if the Member provides evidence of compliance with the terms, conditions and limitations imposed under paragraph 3 on or before the one year anniversary of the Discipline Committee’s order. However, because the one year mandatory supervision period cannot in fact start until the Member serves the suspension—that is, beginning two months after the date of the Discipline Committee’s order—the references to “one (1) year anniversary” in paragraph 2 of the order were corrected to “fourteen (14) month anniversary”.

² For greater clarity, the terms, conditions, and limitations imposed under paragraph 3 hereof will be binding on the Member regardless of the length of suspension served and the Member may not elect to serve the suspension in place of performing those terms, conditions and limitations. If the Member fails to comply with the terms, conditions, and limitations, the Registrar may refer the matter to the Executive Committee of the College. The Executive Committee, pursuant to its authority, may take such action as it deems appropriate, which may include referring to the Discipline

3. The Registrar shall be 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 to, at her own expense, participate in and successfully complete a continuing education course, approved by the Registrar, on the topic of professional ethics.

~~(a)~~(b) Requiring the Member to, at her own expense,³ receive supervision of her social work practice by a regulated professional (the "Supervisor") who has been pre-approved by the Registrar for a period of one (1) year. The period of supervision shall begin on the two (2) month anniversary of the date of this Order (i.e. after the Member has served the initial two (2) months of her suspension), in accordance with the following terms:

(i) The Supervision shall include:

- discussions with the Member that focus on the Member's record-keeping obligations and the applicable provisions of the *Social Work and Social Service Work Act, 1998*, its regulations, and the standards of practice,
- discussion and assessment of the Member's client records and record-keeping process; and
- the creation of a plan to correct the deficiencies in the Member's record-keeping practices;

(ii) The Supervisor must provide two written reports to the Registrar, at months 6 and 12, providing details of the supervision and the Member's progress;

(iii) Within 14 days of the Discipline Committee's written decision being rendered in this matter, the Member must provide to the Supervisor the final written decision of the Discipline Committee. The Member must obtain written confirmation, signed by the Supervisor, of receipt of the Discipline Committee's decision, and provide this signed confirmation to the Registrar within 14 days of the Discipline Committee's written decision being rendered.

Committee allegations of professional misconduct arising from any failure to comply with the terms, conditions, and limitations.

³ For greater clarity, all expenses relating to supervision, including the obligation to review College materials and to communicate with the College where necessary, are at the expense of the Member.

- (iv) The Member must seek consent from all clients to share their personal health information with the Supervisor in order to allow the Supervisor to review client files and engage in review.⁴
4. The finding and the order of the Discipline Committee shall be published, in detail or in summary with the name of the Member, online and/or in print, including, but not limited to, in the official publication of the College, on the College's website, and on the College's public register.
5. The Member shall pay costs to the College in the amount of five thousand dollars (\$5,000), in accordance with the following payment schedule:
 - (a) \$1,000 to be paid on or before the date of the hearing in this matter;
 - (b) A further payment of \$166.82 to be paid on or before the two (2) month anniversary of the Discipline Committee's Order herein;
 - (c) Twenty-three (23) further payments of \$166.66 to be paid on or before the first (1st) day of each of the following twenty-three (23) months.
6. Should the Member fail to make any payment in accordance with this payment schedule, the entire outstanding balance of the \$5,000 costs award shall immediately become payable.

[25] At the hearing the parties made submissions in support of their request that the Panel accept the Joint Submission. The corrections to the Joint Submission do not affect those submissions. In summary, the submissions were as follows.

[26] College counsel began by reminding the Panel of the proper legal approach to its consideration of a joint submission on penalty. Following the law set out by the Supreme Court of Canada in *R v Anthony-Cook*, 2016 SCC 43, the Panel may reject the Joint Submission only if it would bring the administration of the discipline process into disrepute or would be otherwise contrary to the public interest. This is a very high bar.

[27] In considering the Joint Submission, College counsel argued that the Panel must consider the objectives of public protection, general and specific deterrence, and the Member's potential for rehabilitation. The Panel must also consider whether the penalty is proportionate to the circumstances of the Member and the misconduct. The reprimand and suspension provides for both specific and general deterrence. The terms, conditions and limitations in paragraph 3 of the Joint Submission will assist with the Member's rehabilitation. College counsel highlighted in particular that the supervision requirement has a significant educational function. It is not simply a matter of the supervisor revising the Member's records, but also discussing with the Member her record-keeping obligations, discussing and assessing the Member's records and record-keeping processes, and creating a plan to address record-keeping deficiencies. This will allow the supervisor and the Member to identify and correct deficient practices so the misconduct that

⁴ For greater clarity, while a client may refuse to sign a consent for the release of personal health information, the Member must maintain documentation, signed by the client, indicating that the request for consent was made and refused, for review by the Supervisor.

happened in this case does not recur. Publication as required by paragraph 4 of the Joint Submission has become standard practice for the Discipline Committee.

[28] College counsel submitted that the Panel must consider the aggravating factors in this case: that the misconduct related to the Member's notes and records for more than one client; for D.F. there were multiple documents with inaccurate entries; the Member was previously cautioned for record-keeping issues; and she is not a junior member of the profession. In terms of mitigating factors, the Panel should take into account the Member's cooperation with the College and that this is her first time before the Discipline Committee.

[29] College counsel referred the Panel to a number of prior cases from this Discipline Committee that involved record-keeping issues. Those cases also involved misconduct going beyond record-keeping and they all resulted in suspensions ranging from three months to twelve months, as well as requirements for ethics courses. In some cases, the Discipline Committee requirement supervision for a period of time.

[30] The Member's counsel did not offer submissions on the issue of penalty but in submissions to the Panel prior to its deliberation on the misconduct allegations, the Member's counsel argued that the date discrepancies in the client records were the result of problems with the Member's record-keeping processes, rather than any intention on her part to record incorrect dates. In the one instance where the Member fabricated a clinical note (for J.T.), she recognizes that she should not have done that. The Member's counsel emphasized that the Member knows her practices need to improve and she is working to improve them. She admits that she made bad mistakes and acknowledges that this was wrong. She wishes to take educational and remedial programs to correct her errors.

Penalty Decision

[31] Having considered the findings of professional misconduct, the evidence and the submissions of the parties, the Panel accepts the Joint Submission and makes an order as follows.

1. The Member shall be reprimanded in person or electronically by the Discipline Committee, and the fact and nature of the reprimand shall be recorded on the College's Register.
2. The Registrar is directed to suspend the Member's Certificate of Registration for a period of three (3) months, the first two (2) of which shall be served beginning on the date of the Panel's Order herein. The remaining one (1) month of the suspension shall be remitted if, on or before the fourteen (14) month anniversary of the Discipline Committee's Order herein, the Member provides evidence, satisfactory to the Registrar of the College, of compliance with the terms, conditions, and limitations imposed under paragraph 3 as set out below. If the Member fails to comply with those terms, conditions, and limitations, the Member shall serve the remaining one (1) month of the suspension, which shall be served immediately following the fourteen (14) month anniversary of the Discipline Committee's Order herein.⁵

⁵ For greater clarity, the terms, conditions, and limitations imposed under paragraph 3 hereof will be binding on the Member regardless of the length of suspension served and the Member may not elect to serve the suspension in place

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 to, at her own expense, participate in and successfully complete a continuing education course, approved by the Registrar, on the topic of professional ethics.

~~(a)~~(b) Requiring the Member to, at her own expense,⁶ receive supervision of her social work practice by a regulated professional (the "**Supervisor**") who has been pre-approved by the Registrar for a period of one (1) year. The period of supervision shall begin on the two (2) month anniversary of the date of this Order (i.e. after the Member has served the initial two (2) months of her suspension), in accordance with the following terms:

(i) The Supervision shall include:

- discussions with the Member that focus on the Member's record-keeping obligations and the applicable provisions of the *Social Work and Social Service Work Act, 1998*, its regulations, and the standards of practice,
- discussion and assessment of the Member's client records and record-keeping process; and
- the creation of a plan to correct the deficiencies in the Member's record-keeping practices;

(ii) The Supervisor must provide two written reports to the Registrar, at months 6 and 12, providing details of the supervision and the Member's progress;

(iii) Within 14 days of the Discipline Committee's written decision being rendered in this matter, the Member must provide to the Supervisor the final written decision of the Discipline Committee. The Member must obtain written confirmation, signed by the Supervisor, of receipt of the Discipline Committee's decision, and provide this signed confirmation to the Registrar within 14 days of the Discipline Committee's written decision being rendered.

of performing those terms, conditions and limitations. If the Member fails to comply with the terms, conditions, and limitations, the Registrar may refer the matter to the Executive Committee of the College. The Executive Committee, pursuant to its authority, may take such action as it deems appropriate, which may include referring to the Discipline Committee allegations of professional misconduct arising from any failure to comply with the terms, conditions, and limitations.

⁶ For greater clarity, all expenses relating to supervision, including the obligation to review College materials and to communicate with the College where necessary, are at the expense of the Member.

- (iv) The Member must seek consent from all clients to share their personal health information with the Supervisor in order to allow the Supervisor to review client files and engage in review.⁷
4. The finding and the order of the Discipline Committee shall be published, in detail or in summary with the name of the Member, online and/or in print, including, but not limited to, in the official publication of the College, on the College's website, and on the College's public register.
5. The Member shall pay costs to the College in the amount of five thousand dollars (\$5,000), in accordance with the following payment schedule:
 - (a) \$1,000 to be paid on or before the date of the hearing in this matter;
 - (b) A further payment of \$166.82 to be paid on or before the two (2) month anniversary of the Discipline Committee's Order herein;
 - (c) Twenty-three (23) further payments of \$166.66 to be paid on or before the first (1st) day of each of the following twenty-three (23) months.
6. Should the Member fail to make any payment in accordance with this payment schedule, the entire outstanding balance of the \$5,000 costs award shall immediately become payable.

Reasons for Penalty Decision

[32] The Panel recognized that the penalty should maintain high professional standards, preserve public confidence in the ability of the College to regulate its members, and, above all, protect the public. This is achieved through a penalty that considers the principles of general deterrence, specific deterrence and, where appropriate, rehabilitation and remediation of the Member's practice. The Panel also considered the principle that the Panel should accept a joint submission on penalty unless it is contrary to the public interest and would bring the administration of justice into disrepute.

[33] The Panel was satisfied that the penalty proposed in the Joint Submission supports the College's mandate to protect the public interest, maintains high standards of practice, meets the objectives of specific and general deterrence, and is appropriate having regard to all the circumstances of the case. The Panel was satisfied that the Joint Submission addressed the seriousness of the professional misconduct while reflecting the possibility of rehabilitation for the Member.

[34] The Panel was satisfied that the three-month suspension of the Member's certificate of registration and publication of the Panel's findings achieve the goal of general deterrence for members of the profession. The reprimand, suspension and publication will also serve as specific deterrents. In terms of rehabilitation measures, both the requirement of supervision dedicated to addressing record-keeping practices (client notes, invoicing) and the requirement for supervisory

⁷ For greater clarity, while a client may refuse to sign a consent for the release of personal health information, the Member must maintain documentation, signed by the client, indicating that the request for consent was made and refused, for review by the Supervisor.

reports to monitor the Member's progress (which will be provided regularly to the College) are appropriate. The requirement that the Member complete an ethics course will also protect against further unprofessional behaviour that may erode public confidence.

[35] The Panel recognized that there are mitigating and aggravating circumstances that should be considered in determining the appropriate penalty in this case. The mitigating factors are that the Member acknowledged her misconduct and cooperated with the College, entering into the Agreed Statement of Facts and the Joint Submission. Her willingness to work with the College suggests that the remedial measures in the Panel's order are likely to be successful.

[36] The aggravating factors are that the member was previously cautioned by the College's Complaints Committee with respect to record keeping issues, after she was the subject of a complaint alleging she submitted a report and invoice to an insurer for a client assessment that she did not complete. The form she completed indicated that she spent three hours assessing the client. The Member admitted she did not meet with the client.

[37] The Panel was also satisfied that the penalty falls within an appropriate range of penalties based on the cases the parties presented to the Panel.

[38] Accordingly, the penalty proposed in the Joint Submission achieves the goals of penalty, reflects the circumstances of this Member and the misconduct, and falls within an appropriate range. The Panel identified no proper basis on which to reject the Joint Submission and therefore made an order in accordance with its terms.

[39] The panel recognized that the parties had agreed on costs and considered the amount and the payment schedule to be reasonable.

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

Date: May 9th 2022

Signed: 
Frances Keogh, Chair
Carrie McEachran
Christopher McIntosh

Corrected reasons:

Date: July 19, 2023

Signed: 
Frances Keogh, Chair
Carrie McEachran
Christopher McIntosh