

**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 Mayer, 2023
ONCSWSSW 12

Decision date: 2023/12/22

BETWEEN:

THE ONTARIO COLLEGE OF SOCIAL WORKERS
AND SOCIAL SERVICE WORKERS

- and -

JEREMY MAYER

PANEL:	Sandie Sidsworth	Chair, Professional Member
	Candice Snake	Professional Member
	Chisanga Chekwe	Public Member

Appearances: Kelsey Ivory, counsel for the College
Gordan Gwynne-Timothy, counsel for the Registrant
Luisa Ritacca, Independent Legal Counsel to the Panel

Heard: December 6, 2023

DECISION AND REASONS FOR DECISION

1. This matter was heard by a panel of the Discipline Committee (the “**Panel**”) on December 6, 2023 at the Ontario College of Social Workers and Social Service Workers (the “**College**”).

Publication ban

2. The parties jointly sought an order prohibiting all persons from publishing the identity of or information that could disclose the identity of two individuals described in the hearing and the documents filed as exhibits. The panel ordered the publication ban as requested.

The allegations

3. In the Notice of Hearing dated September 7, 2022, Jeremy Mayer (the “**Registrant**”) is alleged to be guilty of professional misconduct pursuant to the *Social Work and Social Service Work Act*, 1998, SO 1998, c 31 (the “**Act**”) in that he 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**”)¹.
4. 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:

Background

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 2007, you became acquainted with [XX].
3. Over time, you and [XX] became friendly with one another. You and [XX] began socializing together and communicating by text and email. You began sharing details of your personal lives and problems and provided one another advice and support in dealing with those issues.

Misrepresenting Yourself as [XX’s] Social Worker

4. In or about late 2020 and/or early 2021, [XX] told you that she was considering filing a complaint with the College of Registered Psychotherapists of Ontario (“**CRPO**”) about an allegedly racist comment that had been made by the leader of a mood disorders group in which [XX] participated.
5. [XX] spoke to you about the possibility of filing a complaint with the CRPO and you offered to assist her in doing so. Among other things, you offered to review her draft complaint and provide feedback and to coach her about how to present herself during any interviews that would take place.
6. While [XX] was dealing with the CRPO complaint process, your relationship with her became intimate (from approximately May through September 2021).
7. In the course of providing [XX] with advice on the CRPO complaints process, you advised her to tell the CRPO that the situation had caused her much anxiety and to say

¹ By-law 24, as amended by By-law Nos. 32 and 48 and revoked effective July 1, 2008 by By-law 66, continues to apply to conduct which occurred prior to July 1, 2008

that she wanted her “social worker” (i.e. you) present for the interview.

8. On or about June 30, 2021, you told [XX] that you wanted her permission to contact the CRPO on her behalf.
9. On or about July 2, 2021, [XX] filled out a consent form authorizing the CRPO to disclose all information relevant to her complaint to you. You signed the form and after your name, you listed the credentials “M.S.W., R.S.W.” and your College registration number.
10. Also on or about July 2, 2021, you emailed the CRPO providing the consent form that [XX] had prepared. In that email:
 - (a) you stated that [XX] had asked you to inquire about the status of her complaint;
 - (b) you indicated that the situation had caused [XX] much distress and that she was seeking closure;
 - (c) you stated that a recent letter from the CRPO indicating that it required additional time to complete its investigation had “compounded her sense of confusion and anxiety”; and
 - (d) you signed the email using the credentials “MSW” and “RSW”.
11. Shortly thereafter, the CRPO contacted [XX] about the status of her complaint. She responded by informing the CRPO that she had authorized you, as her social worker, to contact them for clarification.
12. On or about July 5, 2021, the CRPO emailed you seeking to clarify your role in the process. You replied indicating that [XX] had asked you to help her understand the process and to provide supportive counselling. You further stated that all correspondence should be sent directly to you. Once again, you signed the email using the credentials “MSW” and “RSW”.
13. You used your professional credentials when communicating with the CRPO to attempt to lend credence to [XX’s] complaint and/or to attempt to influence the manner in which the CRPO viewed and/or dealt with [XX’s] complaint.
14. Your communications with the CRPO described above would have led a reasonable person to believe that you were communicating with the CRPO in your professional capacity as a social worker, that you were expressing a professional opinion about [XX’s] mental/emotional state, and/or that you were treating [XX] as her social worker.
15. In reality, you had not been retained as [XX’s] social worker and were simply assisting her as her friend and/or romantic partner. You were not expressing a professional opinion and had not performed the necessary assessments to express a professional opinion about her mental/emotional state.

Breaches of Client Confidentiality

16. In the course of your personal relationship with [XX], you disclosed confidential information to her about one of your clients, Client D.
17. Among other things, you disclosed to [XX] some or all of:
 - (a) Client D's first and last name;
 - (b) The nature of a group that Client D had founded and the type of work it did;
 - (c) Details about Client D's personal relationships;
 - (d) Details about various issues Client D was dealing with and/or issues for which she was seeking counselling; and
18. Where Client D lived (which you pointed out to [XX] when the two of you were out for a walk).The information you disclosed to [XX] was sufficiently specific that she was able to locate Client D on Facebook and send her a message, and was able to locate her precise residence.
19. [XX] went to Client D's house one evening and asked her if she was receiving counselling from you. [XX] then proceeded to tell Client D various personal details that you had disclosed to [XX] about Client D.
20. These events caused Client D to become upset.

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 I of the Handbook (as commented on in Interpretations 1.5 and 1.6)** by:
 - (i) failing to be aware of your values, attitudes and needs and how these impact on your professional relationships with clients; and/or
 - (ii) failing to distinguish your needs and interests from those of your clients to ensure that, within professional relationships, clients' needs and interests remain paramount;
- (b) In that you violated Section 2.2 of the Professional Misconduct Regulation and Principle II of the Handbook (as commented on in Interpretation 2.2.8) by engaging in conduct that could reasonably be seen as reflecting negatively on the profession of social work;
- (c) 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;

- (d) In that you violated Section 2.2 of the Professional Misconduct Regulation and Principle V of the Handbook (as commented on in Interpretations 5.1, 5.3, 5.3.6) by:
 - (i) Failing to comply with any applicable privacy and other legislation and/or failing to obtain consent to the disclosure of client information, including personal information, unless otherwise permitted or required by law;
 - (ii) Disclosing information concerning or received from clients, in situations where none of the enumerated exceptions in Interpretation 5.3 applied to permit disclosure; and/or
 - (iii) Disclosing the identity of and/or information about a person who has consulted or retained you, in circumstances where the person did not consent to that disclosure and such disclosure was not required or allowed by law;
- (e) In that you violated **Section 2.11 of the Professional Misconduct Regulation** by disclosing information about a client to a person other than the client or the client's authorized representative, in circumstances where none of the enumerated exceptions in Section 2.11 applied to permit disclosure;
- (f) In that you contravened **Section 2.29 of the Professional Misconduct Regulation** by contravening a federal, provincial or territorial law or a municipal by-law in circumstances where the purpose of the law or by-law is to protect public health and/or the contravention is relevant to your suitability to practice, and in particular by violating s. 29 of the *Personal Health Information Protection Act, 2004*, S.O. 2004, c. 3, Sched. A.
- (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.

Registrant's position

- 5. The Registrant admitted the allegations set out in the Notice of Hearing. The Panel conducted an oral plea inquiry and was satisfied that the Registrant's admission was voluntary, informed and unequivocal

The evidence

- 6. The evidence was tendered by way of an Agreed Statement of Facts, which provided in relevant part as follows.
 - 1. The Registrant obtained a Master's Degree in Social Work from McGill University in 2005. He has been a member of the Ontario College of Social Workers and Social Service Workers (the "**College**") since November 6, 2003. At all relevant times, the Member was registered as a social worker with the College.

2. At all relevant times, between approximately 2007 to present, the Registrant has worked as a Social Worker in private practice. At all relevant times, the Registrant was a “health information custodian” as defined by section 3 of the *Personal Health Information Protection Act, 2004*, SO 2004, c 3 Sched A (“*PHIPA*”), and was therefore required to comply with the obligations set out therein, including but not limited to those set out in sections 12 and 29.
3. In or about 2007, the Registrant became acquainted with [XX] (the “**Friend**”). Over time, the Registrant and the Friend became friendly with one another, and began socializing together and communicating via text and email. The Registrant and the Friend shared details of their personal lives and problems and provided one another with advice and support in dealing with those issues. As described below, the Registrant’s relationship with the Friend eventually became romantic in nature (including from approximately May through September 2021).
4. The Friend filed a complaint with the College on April 21, 2022.

C. The Registrant’s Misrepresentations to the College of Registered Psychotherapists of Ontario

5. In or about late 2020 and/or early 2021, the Friend told the Registrant that she was considering filing a complaint with the College of Registered Psychotherapists of Ontario (the “**CRPO**”) about an allegedly racist comment that had been made by the leader of a mood disorders group in which the Friend participated.
6. The CRPO is a health college that is governed by the *Regulated Health Professions Act, 1991*, SO 1991, c 18, and the *Psychotherapy Act, 2007*, SO 2007, c 10, Sched R. The CRPO investigates and addresses complaints and reports, and governs its registrants, Registered Psychotherapists, in the public interest.
7. The Friend spoke to the Registrant about the possibility of filing a complaint with the CRPO and the Registrant offered to assist the Friend in doing so.
8. Among other things, the Registrant offered to review the Friend’s draft complaint and provide feedback, and offered to coach the Friend about how to present herself during any interviews conducted by the CRPO.
9. The Registrant and the Friend’s relationship became intimate and romantic in nature from approximately May through September 2021, while the Friend was dealing with the CRPO complaint process.
10. The Registrant advised the Friend to tell the CRPO that the situation had caused her much anxiety and to say that she wanted her “social worker” (the Registrant) present for the Friend’s CRPO interview.
11. On or about June 30, 2021, the Registrant asked the Friend for permission to contact the CRPO on the Friend’s behalf.

12. On or about July 2, 2021, the Friend filled out a consent form authorizing the CRPO to disclose all information relevant to her complaint to the Registrant. The Registrant signed the form with his name and listed his credentials as “M.S.W., R.S.W.”, and listed his College registration number (the “**Consent Form**”).
13. Also on or about July 2, 2021, the Registrant emailed the CRPO providing the Consent Form. The Registrant signed the email using the credentials “MSW” and “RSW” and stated that,
 - (a) the Friend asked the Registrant to inquire about the status of her complaint;
 - (b) the situation caused the Friend much distress and that she was seeking closure; and,
 - (c) the Registrant had a recent letter from the CRPO indicating that it required additional time to complete its investigation and that this “compounded [the Friend’s] sense of confusion and anxiety”.
14. Shortly thereafter, the CRPO contacted the Friend about the status of her complaint. The Friend responded to the CRPO, informing the CRPO that she had authorized the Registrant, as her social worker, to contact the CRPO for clarification.
15. On or about July 5, 2021, the CRPO emailed the Registrant seeking to clarify the Registrant’s role in the process. The Registrant replied indicating that the Friend asked the Registrant to help her understand the process and to provide supportive counselling. The Registrant asked that all correspondence be directed to the Friend. The Registrant signed the email using the credentials “MSW” and “RSW”.
16. The Registrant used his professional credentials when communicating with the CRPO to attempt to lend credence to the Friend’s complaint and to attempt to influence the manner in which the CRPO viewed and dealt with the Friend’s complaint.
17. The Registrant’s communications with the CRPO would have led a reasonable person to believe that he was communicating with the CRPO in his professional capacity as a social worker, that he was expressing a professional opinion about the Friend’s mental/emotional state, and that the Registrant was treating the Friend as her social worker.
18. In reality, the Registrant had not been retained as the Friend’s social worker. The Registrant was simply assisting the Friend as her friend and romantic partner. The Registrant was not expressing a professional opinion and had not performed the necessary assessments to express a professional opinion about the Friend’s mental/emotional state.
19. The Registrant misrepresented himself as the Friend’s social worker to the CRPO. The Registrant knowingly provided false information to the CRPO in the course of practising the profession of social work.

D. Breach of Client Confidentiality

20. During the course of the Registrant’s relationship with the Friend, he disclosed confidential information to the Friend about one of his clients, Client D. In doing so, the

Registrant breached Client D's confidentiality.

21. The Registrant disclosed "personal health information" and "identifying information" as defined in section 4 of *PHIPA*, to the Friend, including, among other things, the following:
 - (a) Client D's first name;
 - (b) the nature of a group that Client D had founded and the type of work it did;
 - (c) details about Client D's personal relationships;
 - (d) details about various issues Client D was dealing with and issues for which she was receiving counselling; and,
 - (e) where Client D lived (which the Registrant pointed out to the Friend when the Registrant and the Friend were out for a walk).
22. In doing so, the Registrant failed to comply with applicable privacy and other legislation, including sections 12 and 29 of *PHIPA*, having disclosed Client D's personal health information without consent, and having failed to take reasonable steps to ensure that Client D's personal health information in the Registrant's custody or control was protected against unauthorized use or disclosure. The Registrant disclosed information that Client D provided to him and obtained in his professional capacity.
23. The information that the Registrant disclosed to the Friend was sufficiently specific that she was able to locate Client D on Facebook and send her a message, and was able to locate her precise residence.
24. The Friend went to Client D's house one evening and asked her if she was receiving counselling from the Registrant. The Friend proceeded to tell Client D various personal details that the Registrant had disclosed to the Friend about Client D.
25. It is reasonable to believe that these events caused Client D to become upset.
26. Client D approached the Registrant to discuss her conversation with the Friend. The Registrant admitted to speaking with the Friend about Client D and admitted to having breached Client D's confidentiality. The Registrant apologized to Client D. Client D accepted the Registrant's apology and indicated that she wanted to continue seeing the Registrant as her social worker.
27. The Registrant reached out to the College's Professional Practice team to discuss the breach of confidentiality and what steps he should take to remedy the issue before the Friend filed a complaint with the College.

E. Registrant's Personal Circumstances and Subsequent Conduct

28. If the Registrant were to testify, he would indicate that, during the time of his misconduct described herein, he was under significant personal stress, including as a result of difficulties in his family relationships. The Registrant leaned on the Friend for comfort and support during this time, putting his needs and interests ahead of those of Client D.

The Registrant has sought to address these stressors and has developed appropriate coping strategies. He is remorseful for his actions.

29. The Registrant has been engaged in ongoing therapy with a psychologist since June 22, 2022. The Registrant has sought to address his career-related stress, anxiety, and low mood causing psychological distress, issues that contributed to his admitted misconduct.
30. The Registrant also proactively completed the following webinars from Continued, a continuing education provider:
 - (a) Social Work Ethics: Setting and Maintaining Healthy Boundaries (May 10, 2023);
 - (b) Deontology: A Principled Approach to Ethical Decision Making with Clients (May 9, 2023);
 - (c) Therapeutic Relationship Ethics: Adapting in Our Modern World – Teletherapy and Self Disclosure (May 8, 2023);
 - (d) A Futurist Approach to Social Work Ethics: Proactive, Creative, and Aspirational Strategies (May 8, 2023);
 - (e) Teleology: An Outcome-based Approach to Ethical Decision-making with Clients (May 8, 2023);
 - (f) The Ethics of Self-Care in Social Work Practice (May 7, 2023);
 - (g) The Ethics of Social Work Practice with Videoconferencing and Other Technology (May 7, 2023);
 - (h) Professional Boundaries: An “I” Examination (May 7, 2023);
 - (i) Virtue Ethics in Social Work Practice: Nurturing and Employing Moral Qualities for a Flourishing Practice (May 6, 2023); and,
 - (j) Dual Relationships, Conflicts of Interest, and Professional Boundaries in Social Work Practice (May 6, 2023).
31. The Registrant completed a webinar entitled Ethics & Risk-Management Challenges in Social Work on May 12, 2023 by the University of Calgary.
32. The Registrant admits that his conduct was both unprofessional and dishonourable, as his conduct involved dishonesty as well as significant lapses in judgment that reflect negatively on the profession of social work.

F. Applicable Legislation and Standards of Practice

33. The Registrant had obligations to protect confidentiality of Client D’s personal information, including their personal health information, pursuant to (among other things) the Code of Ethics and Standards of Practice Handbook (the “**Handbook**”) and *PHIPA*.

34. The Registrant agrees that the Handbook represents the standards of the profession, including, in particular:

- (a) Principle I addresses relationships with clients;
- (b) Principle II addresses competence and integrity;
- (d) Principle IV addresses records obligations; and,
- (e) Principle V addresses confidentiality obligations.

35. The Handbook contained the applicable standards of the profession at the relevant time, and those standards applied to the manner in which the Registrant dealt with the CRPO and with Client D's personal health and identifying information.

36. The Registrant acknowledges that his conduct, described herein, did not comply with the applicable standards of practice. Under sections 12 and 29 of *PHIPA*, the Registrant's obligations as a health information custodian included (but were not limited to) the duty to:

- take steps that were reasonable in the circumstances to ensure that personal health information in his custody or control was protected against theft, loss and unauthorized use or disclosure and to ensure that the records containing that information are protected against unauthorized copying, modification, or disposal; and,
- refrain from collecting, using, or disclosing (whether deliberately or unintentionally) personal health information about an individual unless the individual had consented; or the collection, use, or disclosure was permitted or required by *Personal Health Information Protection Act, 2004*, SO 2004, c 3, Sched A.

37. The Registrant was a "health information custodian" in accordance with the definition contained in section 3 of *PHIPA*, and disclosed personal health and identifying information to the Friend, in accordance with the definitions of "disclose", "personal health information" and "identifying information" contained in sections 2 and 4 of *PHIPA*:

- "disclose", in relation to personal health information in the custody or under the control of a health information custodian or a person, means to make the information available or to release it to another health information custodian or to another person, but does not include to use the information, and "disclosure" has a corresponding meaning;
- "health information custodian", subject to subsections (3) to (11), means a person or organization described in one of the following paragraphs who has custody or control of personal health information as a result of or in connection with performing the person's or organization's powers or duties or the work described in the paragraph, if any:

- 1. A health care practitioner or a person who operates a group practice of health care practitioners. [...]
- “personal health information”, subject to subsections (3) and (4), means identifying information about an individual in oral or recorded form, if the information,
 - (a) relates to the physical or mental health of the individual, including information that consists of the health history of the individual’s family,
 - (b) relates to the providing of health care to the individual, including the identification of a person as a provider of health care to the individual, [...]
- “identifying information” means information that identifies an individual or for which it is reasonably foreseeable in the circumstances that it could be utilized, either alone or with other information, to identify an individual.

G. Admissions of Professional Misconduct

38. The Registrant admits that by reason of engaging in the conduct outlined above, he is guilty of professional misconduct as set out in section 26(2)(a) and (c) of the *Social Work and Social Service Work Act, 1998*, SO 1998, c 31 (the “*Act*”), in that he:

- (a) violated **Section 2.2 of the Professional Misconduct Regulation and Principle I of the Handbook (as commented on in Interpretations 1.5 and 1.6)** by:
 - (i) failing to be aware of your values, attitudes and needs and how these impact on your professional relationships with clients; and/or
 - (ii) failing to distinguish your needs and interests from those of your clients to ensure that, within professional relationships, clients’ needs and interests remain paramount;
- (b) violated **Section 2.2 of the Professional Misconduct Regulation and Principle II of the Handbook (as commented on in Interpretation 2.2.8)** by engaging in conduct that could reasonably be seen as reflecting negatively on the profession of social work;
- (c) 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;
- (d) In that you violated **Section 2.2 of the Professional Misconduct Regulation and Principle V of the Handbook (as commented on in Interpretations 5.1, 5.3, 5.3.6)** by:
 - (i) Failing to comply with any applicable privacy and other legislation and/or failing to obtain consent to the disclosure of client information, including

personal information, unless otherwise permitted or required by law;

- (ii) Disclosing information concerning or received from clients, in situations where none of the enumerated exceptions in Interpretation 5.3 applied to permit disclosure; and/or
 - (iii) Disclosing the identity of and/or information about a person who has consulted or retained you, in circumstances where the person did not consent to that disclosure and such disclosure was not required or allowed by law;
- (e) violated **Section 2.11 of the Professional Misconduct Regulation** by disclosing information about a client to a person other than the client or the client's authorized representative, in circumstances where none of the enumerated exceptions in Section 2.11 applied to permit disclosure;
- (f) contravened **Section 2.29 of the Professional Misconduct Regulation** by contravening a federal, provincial or territorial law or a municipal by-law in circumstances where the purpose of the law or by-law is to protect public health and/or the contravention is relevant to your suitability to practice, and in particular by violating s. 29 of the *Personal Health Information Protection Act, 2004*, S.O. 2004, c. 3, Sched. A.
- (g) 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.

39. With respect to the allegation in paragraph 38(g), the parties agree that the Registrant's conduct should be classified as unprofessional and dishonourable.

Decision of the panel

7. Having considered the admissions of the Registrant, the evidence contained in the Agreed Statement of Facts, and the submissions of counsel, the Panel finds that the Registrant committed the acts of professional misconduct alleged in the Notice of Hearing. With respect to the allegation set out at paragraph 38(g) of the Agreed Statement of Facts, the Panel finds, based on the parties' agreement, that the Registrant's conduct would reasonably be regarded by members as dishonourable and unprofessional.

Reasons for decision

8. The Panel found that the evidence in the Agreed Statement of Facts, together with the Registrant's admissions proved, on a balance of probabilities, each of the allegations made against the Registrant.
9. With respect to allegation (a) in the Notice of Hearing, the Panel found that the Registrant violated Section 2.2 of the Professional Misconduct Regulation, by contravening the standards set out in the Handbook in each of the two subparagraphs under allegation (a).

10. With respect to allegation (a)(i) in the Notice of Hearing, the Panel found that the Registrant violated Principle I of the Handbook (commented on in Interpretations 1.5 and 1.6) by failing to be aware of the Registrant's own values, attitudes and needs and how these have an impact on the Registrant's professional relationship with clients; by failing to distinguish the Registrant's needs and interests from those of the Registrant's client to ensure that, within the Registrant's professional relationship, the client's needs and interests remained paramount. The Registrant, in order to help the Friend, misrepresented to the College of Registered Psychotherapists of Ontario, that he was the Friend's social worker, when in fact he was not. The Registrant went further and provided the Friend "personal health information" and "identifying information" as defined in section 4 of PHIPA. This information included the client's first name; the nature of a group that client had founded and the type of work the client did; details about the client's personal relationships; details about various issues the client was dealing with and issues for which she was receiving counselling; and, where the client lived (which the Registrant pointed out to the Friend when the Registrant and the Friend were out for a walk). Indeed the Friend, using this information, subsequently visited the Registrant's client. The Panel accepts that the Registrant's behaviour leading to this visit upset the client as it would any reasonable client.
11. With respect to allegation (a)(ii) in the Notice of Hearing, the Panel found that the Registrant violated Principle II of the Handbook (commented on in Interpretations 2.2, 2.2.1, 2.2.3, 2.2.4, and 2.2.8) by: failing to ensure clients are protected from an abuse of power during and after the provision of professional services and/or failing to maintain clear and appropriate boundaries in a professional relationship. The Registrant disregarded Client D's right to privacy including her right to confidentiality. The Registrant's client had a right to expect that everything she told the Registrant in counselling sessions would remain confidential. Far from respecting this right, the Registrant revealed to the Friend details about issues the client was dealing with and for which she was receiving counselling. As the Registrant has freely admitted, this constitutes a violation of Section 2.2 of the Professional Misconduct Regulation and Principle I of the Handbook (as commented on in Interpretations 1.5 and 1.6). He failed to distinguish his needs and interests from those of his client to ensure that, within professional relationships, Client D's needs and interests remained paramount. Instead he prioritised the interests of the Friend over those of his client.
12. With respect to allegation (b) in the Notice of Hearing, the Panel found that the Registrant violated Section 2.2 of the Professional Misconduct Regulation and Principle II of the Handbook (as commented on in Interpretation 2.2.8) by engaging in conduct that could reasonably be seen as reflecting negatively on the profession of social work. The Panel found that the Registrant used his professional credentials when communicating with the CRPO to attempt to lend credence to the Friend's complaint and to attempt to influence the manner in which the CRPO viewed and dealt with the Friend's complaint. The Registrant's communications with the CRPO would have led a reasonable person to believe that he was communicating with the CRPO in his professional capacity as a social worker, that he was expressing a professional opinion about the Friend's mental/emotional state, and that the Registrant was treating the Friend as her social worker. In reality, however, the Registrant had not been retained as the Friend's social worker. He was simply assisting the Friend as her friend and romantic partner. The Registrant was not expressing a professional opinion

and had not performed the necessary assessments to express a professional opinion about the Friend's mental/emotional state. He misrepresented himself as the Friend's social worker to the CRPO and knowingly provided false information to the CRPO in the course of practising the profession of social work. This conduct could reasonably be seen as reflecting negatively on the profession of social work.

13. With respect to allegation (c) in the Notice of Hearing, the Panel found that the Registrant 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 he knew or ought reasonably to have known was false, misleading, inaccurate, or otherwise improper. The Registrant knew that he was not acting for the Friend as a social worker when he purported to represent her in her complaint to the CRPO. When the Friend filled out the Consent form authorizing the CRPO to disclose all information relevant to her complaint to the Registrant on or about July 2, 2021, the Registrant knew or ought to have known that when he signed the form with his name and listed his credentials as "M.S.W., R.S.W.", he was misleading the CRPO and acting inappropriately. He compounded the problem by adding his College registration number. Furthermore on or about the same day when the Registrant emailed the CRPO providing the Consent Form, he signed the email using the credentials "MSW" and "RSW".
14. With respect to allegation (d) in the Notice of Hearing, the Panel found that the Registrant violated Section 2.2 of the Professional Misconduct Regulation and Principle V of the Handbook (as commented on in Interpretations 5.1, 5.3, 5.3.6) by:
 - (i) Failing to comply with any applicable privacy and other legislation and/or failing to obtain consent to the disclosure of client information, including personal information, unless otherwise permitted or required by law. In this regard, the Registrant ignored his obligations to protect the confidentiality of Client D's personal information, including Client D's personal health information, pursuant to, among other things, the Code of Ethics and Standards of Practice Handbook and the *Personal Health Information Protection Act*. As a Social Worker in private practice, the Registrant was a "health information custodian" as defined by section 3 of PHIPA, and was therefore required to comply with the obligations set out in that statute. Far from complying with these obligations, the Registrant disclosed confidential information to the Friend about Client D. The Registrant also violated Section 2.2 of the Professional Misconduct Regulation and Principle V of the Handbook (as commented on in Interpretations 5.1, 5.3, 5.3.6) by:
 - (ii) Disclosing details about various issues Client D was dealing with and/or issues for which she was seeking counselling; and where Client D lived. The Registrant further violated Section 2.2 of the Professional Misconduct Regulation and Principle V of the Handbook (as commented on in Interpretations 5.1, 5.3, 5.3.6) by:

- (iii) Disclosing Client D's names and other details with such specificity that the Friend was able to locate Client D on Facebook and send her a message. The Friend in fact located Client D's precise residence as a result of this disclosure, and went to Client D's house one evening and asked her if she was receiving counselling from the Registrant.
- 15. With respect to allegation (e) in the Notice of Hearing, the Panel found that the Registrant violated Section 2.11 of the Professional Misconduct Regulation by disclosing information about Client D to the Friend who was not Client D's authorized representative, in circumstances where none of the enumerated exceptions in Section 2.11 applied to permit disclosure;
- 16. With respect to allegation (f) in the Notice of Hearing, the Panel found that the Registrant contravened Section 2.29 of the Professional Misconduct Regulation by contravening a federal, provincial or territorial law or a municipal by-law in circumstances where the purpose of the law or by-law is to protect public health and/or the contravention is relevant to your suitability to practice, and in particular by violating s. 29 of the Personal Health Information Protection Act, 2004, S.O. 2004, c. 3, Sched. A. PHIPA falls within the category of a "federal, provincial or territorial law or a municipal by-law". This contravention is relevant to the Registrant's suitability to practise social work. Confidentiality is key to the practice of social work as without this assurance of confidentiality, many would choose not to seek critical help, to the detriment of individuals and society.
- 17. With respect to allegation (g) in the Notice of Hearing, the Panel found that the Registrant 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.
- 18. The admitted facts were more than sufficient to substantiate that the Registrant 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.
- 19. In this case the Panel found that the conduct was both dishonourable and unprofessional. The Registrant engaged in conduct that unquestionably reflected negatively on his professionalism. Disclosing confidential information obtained in the course of providing therapy to a client, to a friend who was not the client's representative is extremely serious in the profession of social work. In this particular case the Registrant's unprofessional disclosure of information led to the client receiving an unwelcome visitor at her home, something that must have hugely distressed the client. The violations are further compounded by the Registrant pretending to represent a client he did not in fact represent before another professional body. This behaviour does not inspire confidence or trust in the Registrant's chosen profession. The Panel accepts that during the time of his misconduct, the Registrant was under significant personal stress, including as a result of difficulties in his family relationships. The Registrant leaned on the Friend for comfort and

support, putting his needs and interests ahead of those of his client. It is probable that the Registrant's health issues affected his ability to fully appreciate the wrongfulness of his conduct. It is for this reason that the Panel did not find that the Registrant's conduct in this specific case rose to the level of being disgraceful. This finding does not in any way diminish the seriousness of what occurred. Registrants who engage in this kind of behaviour should anticipate that it may very well rise to the level of disgraceful conduct in the absence of significant mitigating factors.

Penalty submissions

20. The parties were in agreement on the issue of penalty. They presented to the Panel a Joint Submissions as to Penalty ("**Joint Submission**") asking this Panel make an order as follows.
 1. The Registrant shall be reprimanded by the Discipline Committee, in person or via electronic hearing, and the decision (including the reprimand) shall be published on the College's website and recorded on the College Register for an unlimited period of time.
 2. The Registrar shall be directed to suspend the Registrant'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 Order herein and shall run continuously.² The remaining one (1) month of the suspension shall be remitted if, on or before the one (1) year anniversary of the Discipline Committee's Order herein, the Registrant 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. For clarity, the Registrant is required to comply with the requirements set out in paragraph 3 regardless of whether part of the suspension is remitted. If the Registrant fails to satisfy the requirements of paragraph 3 within the time-limits set out in paragraph 3, the Registrant agrees and it is a term of this Joint Submission on Penalty that his certificate of registration will be immediately suspended and remain suspended until such time as he complies with the terms, conditions, and limitations in paragraph 3 which, in any event, will be no less than a one (1) month suspension.³
 3. The Registrar shall be directed to impose the following terms, conditions and limitations on the Registrant's Certificate of Registration, to be recorded on the Register:

² During the period of suspension, the Registrant is not permitted to practise Social Work and must not engage in activities falling within the scope of practice of Social Work.

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

- a. Requiring the Registrant to, at his own expense, participate in and successfully complete a continuing education course, approved by the Registrar, on the topic of professional ethics, on or by December 31, 2023.⁴
 - b. Requiring the Registrant to, at his own expense, meet with the Registrar and/or a regulatory expert designated by the Registrar and/or the Registrar's designate within six (6) months from the date of the Order. Prior to the meeting, the Registrant shall review sections 1-3 of the College's Privacy Toolkit for Social Workers and Social Service Workers. The subject of the meeting with the Registrar and/or regulatory expert and/or the Registrar's designate will include a discussion on:
 - i. the acts or omissions for which the Registrant was found to have committed professional misconduct and how those acts or omissions fell short of the required Standards of Practice;
 - ii. the potential consequences of the misconduct to the Registrant's clients, colleagues, the profession, and himself;
 - iii. the factors that may have contributed to the professional misconduct;
 - iv. strategies for preventing the misconduct from recurring; and
 - v. discussion regarding the development of a learning plan and opportunities for further reflections through the Continuing Competence Program (CCP).⁵
4. The finding and the order of the Discipline Committee, including the fact and content of the reprimand, shall be published, in detail or in summary with the Registrant's name, online and/or in print, including, but not limited to, in the official publication of the College, on the College's website, on the College's public register, and on CanLII.
 5. The Registrant shall pay costs to the College in the amount of five thousand dollars (\$5,000.00), which amount will be paid within seven (7) days of the Discipline Committee's Order herein.
 6. The College and the Registrant agree that if the Discipline Committee accepts this Joint Submission on Penalty and Costs unconditionally and in full, the Order will be effective immediately and there will be no appeal or judicial review of the decision or order to any forum.

⁴ For greater clarity, the College acknowledges that the Registrant has completed the courses listed in the Agreed Statement of Facts, which have been approved by the Registrar and shall be deemed to be sufficient to meet the requirements of the terms, conditions and limitations set out in this subparagraph 3(a).

⁵ For greater clarity, a learning plan seeks to identify practice gaps and provides a description of how those practice gaps will be addressed.

Penalty decision

21. 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 Registrant shall be reprimanded by the Discipline Committee, in person or via electronic hearing, and the decision (including the reprimand) shall be published on the College's website and recorded on the College Register for an unlimited period of time.
 2. The Registrar shall be directed to suspend the Registrant'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 Order herein and shall run continuously.⁶ The remaining one (1) month of the suspension shall be remitted if, on or before the one (1) year anniversary of the Discipline Committee's Order herein, the Registrant 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. For clarity, the Registrant is required to comply with the requirements set out in paragraph 3 regardless of whether part of the suspension is remitted. If the Registrant fails to satisfy the requirements of paragraph 3 within the time-limits set out in paragraph 3, the Registrant agrees and it is a term of this Joint Submission on Penalty that his certificate of registration will be immediately suspended and remain suspended until such time as he complies with the terms, conditions, and limitations in paragraph 3 which, in any event, will be no less than a one (1) month suspension.⁷
 3. The Registrar shall be directed to impose the following terms, conditions and limitations on the Registrant's Certificate of Registration, to be recorded on the Register:
 - a. Requiring the Registrant to, at his own expense, participate in and successfully complete a continuing education course, approved by the Registrar, on the topic of professional ethics, on or by December 31, 2023.⁸
 - b. Requiring the Registrant to, at his own expense, meet with the Registrar and/or a regulatory expert designated by the Registrar and/or the Registrar's designate within six (6) months from the date of the Order. Prior to the

⁶ During the period of suspension, the Registrant is not permitted to practise Social Work and must not engage in activities falling within the scope of practice of Social Work.

⁷ For greater clarity, the terms, conditions, and limitations imposed under paragraph 3 hereof will be binding on the Registrant regardless of the length of suspension served and the Registrant may not elect to serve the suspension in place of performing those terms, conditions and limitations. If the Registrant 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.

⁸ For greater clarity, the College acknowledges that the Registrant has completed the courses listed in the Agreed Statement of Facts, which have been approved by the Registrar and shall be deemed to be sufficient to meet the requirements of the terms, conditions and limitations set out in this subparagraph 3(a).

meeting, the Registrant shall review sections 1-3 of the College's Privacy Toolkit for Social Workers and Social Service Workers. The subject of the meeting with the Registrar and/or regulatory expert and/or the Registrar's designate will include a discussion on:

- i. the acts or omissions for which the Registrant was found to have committed professional misconduct and how those acts or omissions fell short of the required Standards of Practice;
 - ii. the potential consequences of the misconduct to the Registrant's clients, colleagues, the profession, and himself;
 - iii. the factors that may have contributed to the professional misconduct;
 - iv. strategies for preventing the misconduct from recurring; and
 - v. discussion regarding the development of a learning plan and opportunities for further reflections through the Continuing Competence Program (CCP).
4. The finding and the order of the Discipline Committee, including the fact and content of the reprimand, shall be published, in detail or in summary with the Registrant's name, online and/or in print, including, but not limited to, in the official publication of the College, on the College's website, on the College's public register, and on CanLII.
 5. The Registrant shall pay costs to the College in the amount of five thousand dollars (\$5,000.00), which amount will be paid within seven (7) days of the Discipline Committee's Order herein.
 6. The College and the Registrant agree that if the Discipline Committee accepts this Joint Submission on Penalty and Costs unconditionally and in full, the Order will be effective immediately and there will be no appeal or judicial review of the decision or order to any forum.

Reasons for penalty decision

22. The Panel recognizes that an appropriate penalty should maintain high professional standards, preserve public confidence in the ability of the College to regulate its Registrants, 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 Registrant's practice. The Panel also acknowledges the well-established legal principle that a panel should accept a joint submission on penalty unless doing so would be contrary to the public interest and bring the administration of justice into disrepute.
23. With the benefit of the parties' submissions, the Panel had no reason to challenge the Joint Submission or to be concerned that it may be contrary to the public interest

or in any way bring the administration of justice into disrepute. There were health issues present on the facts of this matter. The Registrant continues to undergo counselling to address these issues. He is now in a much better place than he previously was. The Panel acknowledges the Registrant's willingness to take full responsibility for his actions, and to cooperate with the College to reach a resolution which prevented a contested and costly hearing.

24. The Panel also notes that the Registrant has no prior history of professional misconduct. The Panel further notes that even after his reprimand, the Registrant apologised and expressed remorse for his misconduct, increasing the Panel's confidence that in future the Registrant will conduct himself appropriately. An appropriate order on penalty must be tailored to the circumstances of each particular case. The Panel is satisfied that, for all of the facts noted above, the Joint Submission is appropriately tailored to the particulars of this case.

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

Date: _____

Signed: _____
Sandie Sidsworth, Chair
Candice Snake, Panel member
Chisanga Chekwe, Panel member