



Ontario College of
Social Workers and
Social Service Workers

Ordre des travailleurs
sociaux et des techniciens
en travail social de l'Ontario

250 Bloor Street E.
Suite 1000
Toronto, ON M4W 1E6

Phone: 416-972-9882
Fax: 416-972-1512
www.ocswssw.org

**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 Goulard, 2020
ONCSWSSW 6

20200731

BETWEEN:

THE ONTARIO COLLEGE OF SOCIAL WORKERS
AND SOCIAL SERVICE WORKERS

- and -

ROBERT GOULARD

PANEL: Andy Kusi-Appiah Chair, Public Member
Angèle Desormeau, RSSW Professional Member
Sanjay Govindaraj, RSW Professional Member

Appearances: Lara Kinkartz and Alyssa Armstrong for the College
Michael Lacy and Bryan Badali for the Member
Aaron Dantowitz, Independent Legal Counsel to the Panel

Heard: July 31, 2020

DECISION AND REASONS FOR DECISION

[1] This matter came on for hearing before a panel of the Discipline Committee (the “**Panel**”) of the Ontario College of Social Workers and Social Service Workers Ontario (the “**College**”), via videoconference, on July 31, 2020. Robert Goulard (the “**Member**”) was present at the hearing.

Overview

[2] The Member is a registered Social Worker. In or about February 2016 and January 2018, the Member engaged in inappropriate communication; breach of confidentiality; failure to meet the standards of practice when working with a Client who suffers from a brain injury; and boundary violations that included conflict of interest and dual relationships. An Agreed Statement of Facts was submitted as well as a Joint Submission of Penalty and Costs. The Agreed Statement of Facts, the substantive portion of which is reproduced below, lists the evidence, agreed to by both parties, that support the allegations of Professional Misconduct outlined in the Reasons for Decision. The hearing proceeded with the Agreed Statement of Facts and the withdrawal of certain allegations, accepted by the Panel. The parties made a joint submission on order which the Panel also accepted.

Preliminary Motion to Amend Notice of Hearing

[3] At the outset of the hearing, the Panel dealt with a motion, brought by the College on the consent of the Member, to correct a typographical error in the Notice of Hearing dated August 16th, 2019. The basis of the motion was that a phrase had been inadvertently deleted in the preparation of the Notice of Hearing, with the result that two paragraphs of the particulars of the allegations were combined when they should not have been. The Panel received advice from Independent Legal Counsel that it could allow an amendment to the Notice of Hearing, provided that doing so would not (a) amount to a circumvention of the statutory process by which allegations are referred to the Discipline Committee or (b) work an unfairness to the Member, in the sense that the Member would be taken by surprise by the change. The Panel was satisfied that the amendment was appropriate because it was simply to correct an obvious error, and was consented to by the Member, and made an order amending the Notice of Hearing in the form requested.

The Allegations

[4] The parties indicated that they had reached an agreement whereby the College would seek the withdrawal of certain elements of the allegations and the Member would admit to the remaining allegations. The Panel accepted the withdrawals, as reflected in the following description of the allegations.

[5] In the Notice of Hearing dated August 16, 2019, the Member is alleged to be guilty of professional misconduct within the meaning of Section 26(2) pursuant to the *Social Work and Social Service Work Act*, 1998, S.O. 1998, c 31 (the “**Act**”) in that he is alleged to have engaged in conduct that 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**”).

[6] The factual particulars of the allegations set out in the Notice of Hearing, as amended by the Panel’s order, are as follows:

1. Between in or about February 2016 and January 2018, you were registered as a social worker with the Ontario College of Social Workers and Social Service Workers (the “**College**”).

2. Between in or about 2003 and 2018, you were self-employed as a Social Worker in private practice.
3. Between in or about February 2016 and January 2018, you provided professional services to Clients [Client A], [Client B], and their two children (the “**Clients**”).
4. During that time period, the professional services you provided to the Clients included counselling services.
5. During that time period, you provided [Client A] with counselling services for a period of approximately 3 to 4 months.
6. During that time period, [Client A] was in a vulnerable state because of a brain injury he had sustained due to a snowmobile accident, which occurred in or about February 2016. As a result, [Client A] struggled with memory, cognitive deficits, impulse control, and anger management. [Client A] could not work or drive.
7. You knew, or ought to have known, of [Client A]’s brain injury and his resulting condition and vulnerabilities, as described above, at the time when [Client A] became your client and while you were providing professional services (including counselling services) to [Client A]
8. When [Client A] became your client, he was also experiencing marital issues, of which you were aware.
9. You engaged in inappropriate communication, and/or verbal, emotional, and/or psychological abuse between in or about February 2016 and January 2018. This inappropriate communication and abuse included, but was not limited to the fact that you:
 - (a) raised your voice to [Client A] during counselling sessions;
 - (b) directed profane, demeaning, and derogatory language at [Client A] during counselling sessions with [Client A], for example, by telling [Client A] to “get the fuck out” of your office, and stating that he deserved to be physically assaulted by his wife and that you would “hit [[Client A]] in the fucking head too”;
 - (c) made profane, demeaning, and derogatory comments about [Client A] during counselling sessions with [Client A], for example, by telling [Client A] that his family “fucking hates” him;
 - (d) behaved in a physically aggressive manner during counselling sessions with [Client A] by banging on your desk, leaning over your desk in the direction of [Client A], and leaning over [Client A] and getting very close to his face and asking, “Am I in your space yet?”;
 - (e) showed [Client A] a picture while telling him that he was or resembled the individual in the picture and that [Client A] was “ugly”;

- (f) indicated that you would “fix” [Client A]’s family life for him; and/or
 - (g) behaved in an antagonistic and confrontational manner.
10. You breached confidentiality between in or about February 2016 and January 2018 by, without appropriate authorization or consent:
- (a) disclosing information about Client A’s spouse and children to D.L., between in or about February 2016 and January 2018; and/or
 - (b) confronting participants in group sessions (the “**Men’s Group**”) with issues raised by their respective wives in the course of their individual counselling sessions in or about between February 2016 and January 2018.
11. You engaged in boundary violations and provided a professional service to [Client A] while you were in a conflict of interest and/or dual relationship, in or about February 2016 and January 2018. These violations include, but were not limited to the fact that you:
- (a) had on-going client relationships consisting of simultaneous individual, joint, and group sessions with [Client A] and his wife, as well as individual sessions with their adolescent children in a situation where the parties’ interests were in conflict;
 - (b) had connections to clients on your personal Facebook page;
 - (c) revealed a significant amount of personal information during counselling sessions with [Client A], including details of your marriage, your addictions to drugs and alcohol, your experiences of rehabilitation, and subsequent changes in your life; and/or
 - (d) allowed your daughter to participate in a women’s counselling group that you facilitated.
12. You failed to ensure that supports were in place for [Client A] upon termination of the therapeutic relationship with [Client A] between in or about February 2016 and January 2018.
13. You failed to meet the standards of the profession, based on but not limited to the fact that you:
- (a) failed to take into account [Client A]’s brain injury when providing services to [Client A], between in or about February 2016 and January 2018;
 - (b) lacked the skills and knowledge necessary to provide counselling services to a brain injured client;

- (c) failed to seek out guidance or supervision upon realizing that you lacked the requisite skills and knowledge to provide counselling services to a brain injured client; and/or
- (d) failed to liaise with [Client A]’s medical team to inform yourself further of [Client A]’s medical condition.

[7] The allegations of professional misconduct set out in the Notice of Hearing, after the withdrawals, are as follows:

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 (commented on in Interpretation 1.1)** by failing to set and evaluate goals with clients and failing to identify a purpose for the relationship between you and clients;
- (b) [Withdrawn]
- (c) [Withdrawn]
- (d) In that you violated **Section 2.2 of the Professional Misconduct Regulation and Principle I of the Handbook (commented on in Interpretation 1.3)** by failing to respect and facilitate self-determination in a number of ways, including acting as resources for clients and encouraging them to decide which problems they want to address as well as how to address them;
- (e) In that you violated **Section 2.2 of the Professional Misconduct Regulation and Principle I of the Handbook (commented on in Interpretation 1.4)** by failing to demonstrate acceptance of each client’s uniqueness;
- (f) [Withdrawn]
- (g) In that you violated **Section 2.2 of the Professional Misconduct Regulation and Principle I of the Handbook (commented on in Interpretation 1.6)** by failing to distinguish your needs and interests from those of your clients to ensure that, within professional relationships, clients’ needs and interests remain paramount;
- (h) [Withdrawn]
- (i) In that you violated **Section 2.2 of the Professional Misconduct Regulation and Principle II of the Handbook (commented on in Interpretation 2.1.1)** by failing to be aware of the extent and parameters of your competence and your professional scope of practice and limit your practice accordingly; by failing to inform a client of the option to be referred to another professional when a client’s needs fall outside your usual area of practice;

- (j) In that you violated **Section 2.2 of the Professional Misconduct Regulation and Principle II of the Handbook (commented on in Interpretation 2.1.4)** by failing to ensure that any professional recommendations or opinions you provide are appropriately substantiated by evidence and supported by a credible body of professional social work knowledge or a credible body of professional social service work knowledge;
- (k) In that you violated **Section 2.2 of the Professional Misconduct Regulation and Principle II of the Handbook (commented on in Interpretation 2.1.5)** by failing to engage in the process of self-review and evaluation of your practice and failing to seek consultation when appropriate, as part of maintaining competence and acquiring skills in social work or social service work practice;
- (l) [Withdrawn]
- (m) In that you violated **Section 2.5 of the Professional Misconduct Regulation** by abusing a client verbally, psychologically, or emotionally;
- (n) [Withdrawn]
- (o) [Withdrawn]
- (p) In that you violated **Section 2.9 of the Professional Misconduct Regulation and Principles II and III of the Handbook (commented on in Interpretations 2.2.8, 2.2.9, 3.2 and 3.8)** by failing to deliver client services and respond to client queries, concerns, and/or complaints in a timely and reasonable manner and/or by providing a service that you knew or ought reasonably to have known were not likely to benefit the client;
- (q) In that you violated **Section 2.10 of the Professional Misconduct Regulation and Principle II of the Handbook (commented on in Interpretations 2.2.1, and 2.2.4)** by providing a professional service while you were in a conflict of interest;
- (r) In that you violated **Section 2.11 of the Professional Misconduct Regulation and Principles III and V of the Handbook (commented on in Interpretations 3.1, 5.1, 5.3, and 5.4)** by giving information about a client to a person other than the client or his or her authorized representative;
- (s) [Withdrawn]
- (t) [Withdrawn]
- (u) In that you violated **Section 2.36 of the Professional Misconduct Regulation** by engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

Member's Plea

[8] The parties indicated that they had reached an agreement whereby the College would seek the withdrawal of certain elements of the allegations and the Member would admit to the remaining allegations. The Panel accepted the withdrawals, and the Member pleaded guilty to the allegations of professional misconduct set out in the Notice of Hearing that were not withdrawn. Regarding allegation II.(u), the Member admitted that his conduct would reasonably be regarded by members as disgraceful, dishonourable and unprofessional.

[9] The Panel conducted an oral plea inquiry and was satisfied that the Member's admission was voluntary, informed and unequivocal.

The Evidence

[10] The evidence was tendered by way of an Agreed Statement of Facts. The substantive portion of the Agreed Statement of Facts read as follows:

1. Now and at all times relevant to the allegations, Robert Goulard (the "**Member**") was a registered social work member of the Ontario College of Social Workers and Social Service Workers (the "**College**"). At all relevant times, the Member was self-employed as a social worker in private practice.
2. The Member provided counselling services to a client (the "**Client**"), the Client's wife, and their two children between in or about February 2016 to January 2018.
3. During that time period, the Member provided counselling services to the Client for a period of approximately three to four months. The Member provided counselling to the Client on an individual, joint (with the Client's spouse), and group basis. The group counselling occurred in a Men's Group ("**Men's Group**").
4. During the same time period, the Member also provided counselling to the Client's spouse on an individual, joint (with the Client), and group basis. The group counselling occurred in a Women's Group ("**Women's Group**").
5. The Member also provided each of the couple's children with individual counselling services during the same time period.
6. The Client acquired a brain injury in or about February 2016 as a result of a snowmobiling accident. As a result of the acquired brain injury, the Client struggled with memory, cognitive deficits, impulse control, and anger management. The acquired brain injury also precluded the Client from working or driving. The Client had several professionals who were part of his treatment team to assist him in recovering from the accident. The Member was not part of that treatment team.
7. The Client's marriage was troubled before the accident and, after the accident, the Client and his wife separated.

Failure to Meet The Standards of Practice In Light of the Client's Brain Injury:

8. The Member was not knowledgeable about brain injuries while he was providing social work services to the Client. He acknowledged to the Client that he “did not know much about brain injuries.” During a session on November 2, 2017, another professional on the Client’s treatment team, Mr. A, attended the Client’s counselling session with the Member. During that session, the Member’s conduct caused Mr. A to believe that the Member was unaware of the Client’s brain injury or memory issues, and Mr. A confirmed the Client’s diagnosis to the Member. The Member acknowledged that he had not read the Client’s medical records or reports from the Client’s neuropsychologist, and refused to change his approach to the session.
9. In light of this, the Client informed the Member on several occasions that his brain injury caused him to be forgetful and made him slower to process things than other people, and he asked the Member not to scold him for forgetting things. Nonetheless, the Member would become angry at the Client if he responded slowly, would tell him that he was no different than other people, and would state that “all [the Client wants] is pity.”
10. The Member insisted on using the same approach he used with his other clients who did not have brain injuries. The Client informed the Member that his therapeutic approach was not working for him. The Member refused to change his approach and informed the Client that he used a “tough love” approach to counselling. The Member failed to recognize that the use of this therapeutic approach with a client who suffered from a brain injury was not supported by a credible body of social work knowledge and was inappropriate to the Client’s condition.
11. Although one of the goals of the Client’s treatment team was to improve the Client’s self-management skills and assertiveness, the Member did not model such behavior.
12. The Member did not recognize that he lacked the necessary knowledge or skills, or seek out guidance or supervision about the provision of counselling services in the context of the Client’s brain injury. Similarly, he did not liaise with the Client’s medical team to inform himself of the extent of the Client’s injury or adjust his therapeutic approach in light of this medical issue. Accordingly, the Member never sought supervision or assistance when providing services to the Client.

Inappropriate Communication and/or Verbal, Emotional, and/or Psychological Abuse

13. During the counselling relationship, the Member frequently made accusatory statements to the Client during multiple sessions, including that:
 - (a) the Client’s problems were “all his fault”;
 - (b) that the Client’s wife and children “hated” him;
 - (c) that the Client’s children think he is a “fuck-up”;
 - (d) that it was the Client’s fault his family left home;
 - (e) that the Client would “fucking lose everything”; and

- (f) that the Client was “ugly”.
14. On at least one occasion, the Member stood over the Client or walked towards the Client, encroaching on his personal physical space, and said, “am I in your space yet?”
 15. During the Client’s November 2, 2017 session that was also attended Mr. A (a member of the Client’s treatment team), the Member yelled angrily at the Client for a prolonged period, used foul language throughout the session, and personally attacked the Client. The Member and the Client also yelled obscenities and verbal assaults at one another during the session. At one point, the Member became physically intimidating, slapping his desk, leaning over the Client, and yelling at him.
 16. Among other things, the Member engaged in the following behaviours during the November 2, 2017 session:
 - (a) Yelled that the Client’s “fucking family fucking hates [him]”, that the Client was “fucking ugly”, and that the Client’s family “hates [him], hates [his] guts”; and
 - (b) Implied that the Client deserved to be subjected to physical violence by his wife. In particular, the Client asked the Member “what should you do when you are having dinner with your family and your wife gets pissed at you and hits you on the head with a plate?”. The Member responded by asking “what did you do to deserve it? You need to check yourself. ... Stop complaining, I would hit you in the fucking head too. You probably fucking deserved it, you are a piece of shit.”
 17. These exchanges caused the Client to become very agitated and visibly upset. Members of the Client’s treatment team stated that after sessions with the Member, the Client would often be crying and would ask if the Member was telling the truth – if his family really hated him.

Breach of Confidentiality

18. In the course of providing services to the Client, the Client’s wife, and their two children, the Member breached confidentiality by disclosing to the Client information the Client’s spouse and children had conveyed to him during their private counselling sessions. In particular:
 - (a) The Member told the Client that his wife and children had informed the Member that they “hated” the Client and thought he was a “fuck-up”.
 - (b) The Member dismissed the Client’s queries or comments by making to statements to the effect that “[the Client’s wife] told me the whole story. Your fucking family fucking hates you, they despise you! I spoke to your son and daughter, they both told me they hate you!”
19. The Member provided social work services to multiple members of the Client’s family and failed to obtain express formal written consent prior to disclosing information that was shared in private sessions.

20. In addition, during the Men's Group, the Member confronted various group members with issues their respective wives had raised in their counselling with him.

Boundary Violations, Conflict of Interest, and/or Dual Relationship

21. The Member engaged in boundary violations by discussing his personal and family issues at length during sessions with the Client. This included discussions of the Member's own addictions to drugs and alcohol, his journey through rehab, how he turned his life around, and the impact of his addictions on his wife and children. The Member's self-disclosure went beyond what was appropriate or necessary for the therapeutic relationship with the Client.
22. The Client created an audio recording of one of his counselling sessions with the Member. During that recording, the Member speaks for approximately 50 minutes of the 60-minute session, largely about his own experiences. The Client states that he wondered why his sessions seemed to be more about the Member than about him, and wondered if the Member was projecting his own issues onto him. During the session on November 2, 2017 that was attended by Mr. A (a member of the Client's treatment team), Mr. A similarly noted that there were several "red flags" because the Client seemed to know about – and refer to – a significant amount of personal information about the Member and the Member's marriage.
23. The Member also failed to recognize or take steps to address the fact that there was a conflict of interest in his simultaneously providing counselling to the Client, the Client's wife, and their children, who had different (and at times inconsistent) goals and interests. In particular, the Client and the Client's wife had interests that did not align and, in particular, there was tension between the Client and his care team on one hand, and the Client's wife on the other. For instance, the Member encouraged the Client to move out of his home so that the Client's wife and children could reside there instead.
24. The Member acknowledges that he ought to have restricted his involvement to either joint sessions with both the Client and the Client's wife or, (with the Client's consent) to individual sessions only with the Client's wife.
25. The Member engaged in boundary violations that blurred the line between his personal and professional lives. In particular, he had the Client's wife and other clients as "friends" on his personal Facebook page, and would also drive the Client home from sessions on occasion.

The College's Standards of Practice

26. As a social worker, the Member is required to demonstrate competence with respect to clients. The College's Code of Ethics and Standards of Practice Handbook (the "**Handbook**") defines a competence as follows:
 1. For social workers and social service workers it means: The ability to fulfill the requirements of professional practice. Competence includes possession of all relevant educational and experiential requirements, and the ability to carry out professional

duties and achieve goals while adhering to the values and code of ethics of the professions.

2. Competence for social workers and social service workers also includes, but is not limited to, having the capacity to understand and act reasonably.

27. The Handbook also defines body of professional social work knowledge:

Each of the phrases “Body of professional social work knowledge” and “body of professional social service work knowledge” relates to both theoretical and practical understanding. A body of knowledge can be attained through education, clinical experience, consultation and supervision, professional development and a review of relevant research and literature. Professional social work knowledge and professional social service work knowledge draw upon the knowledge base of other professions including sociology, psychology, anthropology, medicine, law and economics as well as their own respective distinct bodies of knowledge.

28. The Member acknowledges that his “tough love” approach with this Client was not reasonable in light of the Client’s condition, and the manner in which the Member carried out that approach was not supported by a credible body of social work knowledge. In particular, while it may be appropriate in certain situations to be direct with clients, aggressive, insulting, profane, and derogatory behaviour is not condoned by any credible body of professional social work knowledge. The Member used his therapeutic approach in good faith but realizes now, with the benefit of hindsight, that it was flawed and not appropriate.

29. In light of the behavior acknowledged in this Agreed Statement of Facts, the Member further acknowledges that he did not appropriately facilitate the Client’s self-determination, as set out in the Handbook.

30. The Member acknowledges that he was in a conflict of interest and dual relationships by virtue of the conduct outlined in paragraphs 21-26.

Admissions of Professional Misconduct

31. With leave of the Panel, the College requests that the allegations in paragraphs II (b), (c), (f), (h), (l), (n), (o), (s), and (t) of the Notice of Hearing be withdrawn.

32. The Member 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:

- (a) In that you violated **Section 2.2 of the Professional Misconduct Regulation and Principle I of the Handbook (commented on in Interpretation 1.1)** by failing to set and evaluate goals with clients and failing to identify a purpose for the relationship between you and clients;

- (b) [Withdrawn]
- (c) [Withdrawn]
- (d) In that you violated **Section 2.2 of the Professional Misconduct Regulation and Principle I of the Handbook** (commented on in **Interpretation 1.3**) by failing to respect and facilitate self-determination in a number of ways, including acting as resources for clients and encouraging them to decide which problems they want to address as well as how to address them;
- (e) In that you violated **Section 2.2 of the Professional Misconduct Regulation and Principle I of the Handbook** (commented on in **Interpretation 1.4**) by failing to demonstrate acceptance of each client's uniqueness;
- (f) [Withdrawn]
- (g) In that you violated **Section 2.2 of the Professional Misconduct Regulation and Principle I of the Handbook** (commented on in **Interpretation 1.6**) by failing to distinguish your needs and interests from those of your clients to ensure that, within professional relationships, clients' needs and interests remain paramount;
- (h) [Withdrawn]
- (i) In that you violated **Section 2.2 of the Professional Misconduct Regulation and Principle II of the Handbook** (commented on in **Interpretation 2.1.1**) by failing to be aware of the extent and parameters of your competence and your professional scope of practice and limit your practice accordingly; by failing to inform a client of the option to be referred to another professional when a client's needs fall outside your usual area of practice;
- (j) In that you violated **Section 2.2 of the Professional Misconduct Regulation and Principle II of the Handbook** (commented on in **Interpretation 2.1.4**) by failing to ensure that any professional recommendations or opinions you provide are appropriately substantiated by evidence and supported by a credible body of professional social work knowledge or a credible body of professional social service work knowledge;
- (k) In that you violated **Section 2.2 of the Professional Misconduct Regulation and Principle II of the Handbook** (commented on in **Interpretation 2.1.5**) by failing to engage in the process of self-review and evaluation of your practice and failing to seek consultation when appropriate, as part of maintaining competence and acquiring skills in social work or social service work practice;
- (l) [Withdrawn]
- (m) In that you violated **Section 2.5 of the Professional Misconduct Regulation** by abusing a client verbally, psychologically, or emotionally;
- (n) [Withdrawn]

- (o) [Withdrawn]
- (p) In that you violated **Section 2.9 of the Professional Misconduct Regulation and Principles II and III of the Handbook** (commented on in **Interpretations 2.2.8, 2.2.9, 3.2 and 3.8**) by failing to deliver client services and respond to client queries, concerns, and/or complaints in a timely and reasonable manner and/or by providing a service that you knew or ought reasonably to have known were not likely to benefit the client;
- (q) In that you violated **Section 2.10 of the Professional Misconduct Regulation and Principle II of the Handbook** (commented on in **Interpretations 2.2.1, and 2.2.4**) by providing a professional service while you were in a conflict of interest;
- (r) In that you violated **Section 2.11 of the Professional Misconduct Regulation and Principles III and V of the Handbook (commented on in Interpretations 3.1, 5.1, 5.3, and 5.4)** by giving information about a client to a person other than the client or his or her authorized representative;
- (s) [Withdrawn]
- (t) [Withdrawn]
- (u) 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.

33. For the purposes of paragraph 32(u) above, the parties agree that the Member's conduct should be classified as disgraceful, dishonourable, and unprofessional.

Decision of the Panel

[11] The Panel accepted the admissions of professional misconduct set out in the Agreed Statement of Facts, and accordingly made findings of professional misconduct as alleged in the Notice of Hearing, after the withdrawals. Regarding allegation II.(u), the Panel found that the Member's conduct would reasonably be regarded as disgraceful, dishonourable and unprofessional.

Reasons for Decision

[12] The Panel concluded, based on the facts contained in the Agreed Statement of Facts that there was sufficient basis for finding that the Member engaged in professional misconduct. The admission of the Member of inappropriate and abusive communications with the Client; a failure to maintain the standards of practice in light of the Client's brain injury; breach of confidentiality; and boundary violations that included conflict of interest/dual relationships all constituted sufficient evidence of conduct that fails to meet the standards of the profession of social work. The Panel found that the Member's conduct would be regarded by members as disgraceful, dishonourable and unprofessional.

[13] Regarding allegation II.(a), that the Member violated Section 2.2 of the Professional Misconduct Regulation and Principle I of the Handbook (commented on in Interpretation 1.1) by failing to set and evaluate goals with clients and failing to identify a purpose for the relationship between the Member and clients: The Member was not knowledgeable about brain injuries and acknowledged to not have read the Clients' medical records or reports from the Client's neuropsychologist and further the Member refused to change his approach to the session to accommodate the Client's needs. Also, despite the Client's plea to respect his limitations due to the brain injury, including his forgetfulness and slowness to process things, the Member displayed anger towards the Client if the Client responded slowly. During one session the Member told the Client that he was no different than other people and all the Client wanted was pity.

[14] Regarding allegation II.(d), that the Member violated Section 2.2 of the Professional Misconduct Regulation and Principle I of the Handbook (commented on in Interpretation 1.3) by failing to respect and facilitate self-determination in a number of ways, including acting as resources for clients and encouraging them to decide which problems they want to address as well as how to address them: Despite the Client informing the Member that his therapeutic approach was not working for him, the Member refused to change his approach and informed the Client that he used a "tough love" approach to counselling. The Member refused to change his approach to accommodate the Client and respect his limitations related to his acquired brain injury which included struggles with memory, cognitive deficits, impulse control and anger management. The Member acknowledged in the Agreed Statement of Facts that in light of this behaviour he did not appropriately facilitate the Client's self-determination as set out in the Handbook.

[15] Regarding allegation II.(e), that the Member violated Section 2.2 of the Professional Misconduct Regulation and Principle I of the Handbook (commented on in Interpretation 1.4) by failing to demonstrate acceptance of each client's uniqueness: Although one of the goals of the Client's treatment team was to improve the Client's self management skills and assertiveness, the Member did not model such behaviour. Rather the Member, during the counselling relationship with the Client engaged in inappropriate communication that was verbally, emotionally and/or psychologically abusive. The Member made accusatory statements to the Client during multiple sessions, including but not limited to that the Client's problems were "all his fault" and that the Client was "ugly".

[16] Regarding allegation II.(g), that the Member violated Section 2.2 of the Professional Misconduct Regulation and Principle II of the Handbook (commented on in Interpretation 1.6) by failing to distinguish his needs and interests from those of his clients to ensure that, within professional relationships, clients' needs and interests remain paramount: The Member's self disclosure went beyond what was appropriate or necessary for the therapeutic relationship with the Client indicating that the client's needs and interest were not central and paramount during the helping relationship. This included discussions about the Member's own addictions to drugs and alcohol, his journey through treatment and how he turned his life around. During the session on Nov 2, 2017, that was attended by Mr. A (a member of the Client's treatment team), Mr. A noted that there were several "red flags" because the Client seemed to know about, and refer to, a significant amount of personal information about he Member and the Member's marriage.

[17] Regarding allegation II.(i), that the Member violated Section 2.2 of the Professional Misconduct Regulation and Principle II of the Handbook (commented on in Interpretation 2.1.1) by failing to be aware of the extent and parameters of his competence and his professional scope

of practice and limit his practice accordingly; by failing to inform a client of the option to be referred to another professional when a client's needs fall outside his usual area of practice: The Member admitted to not having had any training or experience in working with individuals who suffer from brain injury and proceeded to provide counselling without consultation on how to proceed effectively.

[18] Regarding allegation II.(j), that the Member violated Section 2.2 of the Professional Misconduct Regulation and Principle II of the Handbook (commented on in Interpretation 2.1.4) by failing to ensure that any professional recommendations or opinions he provides are appropriately substantiated by evidence and supported by a credible body of professional social work knowledge or a credible body of professional social service work knowledge: The College's Standards of Practice defines body of professional social work knowledge as knowledge that can be attained through education, clinical experience, consultation and supervision, professional development and a review of relevant research and literature. The member used a therapeutic approach in good faith but later realised that it was flawed and inappropriate for use with the Client. While it may be an appropriate approach in certain situations to be direct with a client, aggressive, insulting, profane and derogatory behaviour is not condoned by any credible body of professional social work knowledge.

[19] Regarding allegation II.(k), that the Member violated Section 2.2 of the Professional Misconduct Regulation and Principle II of the Handbook (commented on in Interpretation 2.1.5) by failing to engage in the process of self-review and evaluation of his practice and failing to seek consultation when appropriate, as part of maintaining competence and acquiring skills in social work or social service work practice: The Member did not consult with the Client's treatment team nor did the Member refer the Client to an organization that is knowledgeable and accommodating to individuals who suffer from acquired brain injuries in order to show a proper evaluation of the Client's abilities and need for accommodations.

[20] Regarding allegation II.(m), that the Member violated Section 2.5 of the Professional Misconduct Regulation by abusing a client verbally, psychologically, or emotionally: During the counselling relationship, the Member frequently made accusatory statement to the Client during multiple sessions including but not limited to the accusation that the Client was at fault for his family leaving, that his children and wife hated him, and that the Client would lose everything. The Member during at least one occasion impinged on the Client's personal physical space by walking towards the Client and asked "am I in your space yet?" During a session on November 2nd, 2017 that was attended by Mr. A (a member of the Client's treatment team), the Member yelled angrily at the Client for a prolonged period, used foul language throughout the session, and personally attacked the Client. During this same session, the Member implied that the Client deserved to be subjected to physical violence by his wife. The exchanges of abusive behaviour by the Member to the Client caused the Client to become agitated and visibly upset. Members of the Client's treatment team stated that, following sessions with the Member, the Client would be crying and asking if the statements about his family hating him were true.

[21] Regarding allegation II.(p), that the Member violated Section 2.9 of the Professional Misconduct Regulation and Principles II and III of the Handbook (commented on in Interpretations 2.2.8, 2.2.9, 3.2 and 3.8) by failing to deliver client services and respond to client queries, concerns, and/or complaints in a timely and reasonable manner and/or by providing a service that he knew or ought reasonably to have known were not likely to benefit the client: The Client informed the

Member that his therapeutic approach was not working for him. The Member refused to change his approach and informed the Client that he used a “tough love” approach to counselling. The Member failed to recognize the ineffectiveness of this approach with a client who suffered from a brain injury. The Member further failed to recognize that this therapeutic approach was not supported by a credible body of social work knowledge and was inappropriate to the Client’s condition.

[22] Regarding allegation II.(q), that the Member violated Section 2.10 of the Professional Misconduct Regulation and Principle II of the Handbook (commented on in Interpretations 2.2.1, and 2.2.4) by providing a professional service while he was in a conflict of interest: The Member engaged in boundary violations which included providing counselling to the Client, the Client’s wife, and their children who had different, and inconsistent, goals and interests. The Member acknowledges that he ought to have restricted his involvement to either joint sessions with both the Client and the Client’s wife or, (with the Client’s consent” to individual sessions only with the Client’s wife. The inclusion by the Member of the Client’s wife and other clients as “friends” on his personal Facebook is a boundary violation as it blurs the line between the Member’s personal and professional life. The Member drove the Client home from sessions on occasion and, unless the transportation of clients is included as an activity included in a professional’s a job description (i.e. outreach worker), providing rides to a Client can also blur the line between personal and professional.

[23] Regarding allegation II.(r), that the Member violated Section 2.11 of the Professional Misconduct Regulation and Principles III and V of the Handbook (commented on in Interpretations 3.1, 5.1, 5.3, and 5.4) by giving information about a client to a person other than the client or his or her authorized representative: During the provision of providing counselling services to the Client, the Client’s wife, and their two children, the Member disclosed information shared by the Client’s wife and children, to the Client, without written consent to share information. This constitutes a breach of confidentiality. In particular the Member told the Client that his wife and children had informed the Member that they “hated” the Client and thought he was a “fuck-up”. Also, during the Men’s Group, the Member confronted various group members with issues that were shared by their respective wives during private sessions with the Member.

[24] Regarding allegation II.(u), that the Member violated Section 2.36 of the Professional Misconduct Regulation by engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional: The conduct of the Member would reasonably be regarded by members as disgraceful, dishonourable and unprofessional. The Member’s conduct includes having engaged in the failure to meet the Standards of Practice in light of the Client’s brain injury; having engaged during counselling sessions with the Client in inappropriate communication including verbal, emotional and/or psychological abuse; having breached of confidentiality; and having engaged in boundary violations including conflict of interest/dual relationships.

Submissions on Order

[25] The parties were in agreement on the issue of what order the Panel should make in light of the findings of professional misconduct. They presented to the Panel a Joint Submission as to Order (“**Joint Submission**”) asking this Panel make an order as follows:

1. The Member shall be reprimanded in person 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 four (4) months, the first three (3) months of which shall be served commencing on September 1, 2020. The remaining one (1) month of the suspension shall be remitted if, on or before the two (2) year 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 two (2) year anniversary of the Discipline Committee's Order herein.
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 complete six (6) sessions with an Expert who is approved by the Registrar and who is a regulated professional with expertise in the issues regarding the Member's behaviour raised in the Notice of Hearing. The sessions with the Expert shall be completed at the Member's own expense and within two (2) years of the Discipline Committee's order. The sessions with the Expert shall address the following:
 - i. The application of the College's Standards of Practice, the scope of practice for social work, and the relevant legislation and regulations to issues of:
 1. Communicating with clients;
 2. Respecting and prioritizing clients' needs;
 3. Limits on the scope of practice for social work;
 - ii. The Member's understanding of items referred to in paragraph 3(a)(i)(1)-(3) above;
 - iii. The Member's conduct as described in the Notice of Hearing (and in any Agreed Statement of Facts reached by the parties);
 - iv. The consequences of that conduct to clients, the profession, and to himself;
 - v. Strategies for preventing the aforementioned conduct from occurring again; and
 - vi. The Member's responsibilities as a member of a self-regulated profession.
 - (b) Requiring the Member to provide a written direction to the Expert to complete and forward a written report to the Registrar within forty-five (45) days from the date of the last mentoring session. The Expert's report ("Report") shall:

- i. confirm the dates of all sessions attended by the Member;
 - ii. confirm that the Standards of Practice, scope of practice for social work, legislation, and regulations referred to above were covered with the Member; and,
 - iii. include a summary of the Member's insight into his conduct as described in the two Notices of Hearing (and in any Agreed Statement of Facts).
- (c) Requiring the Member to, at his own expense, participate in and successfully complete two continuing education courses that are approved by the Registrar, one related to mindfulness in the therapeutic relationship, and one related to ethical decision making. The Member shall complete these courses within six (6) months of the Discipline Committee's order.
- (d) Prohibiting the Member (except with the prior written consent of the Registrar) from applying under s. 29 of the Social Work and Social Service Work Act, 1998, for the removal or modification of the terms, conditions, or limitations imposed on his certificate of registration for a period of two (2) years from the date on which those terms, conditions, and limitations are recorded on the register; and
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), payable within three (3) months of this Order.

[26] College Counsel cited case law, *R v Anthony-Cook*, 2016 SCC43, as support for the proposition "that a joint submission should not be rejected lightly". In that case, both the Court of Appeal for Ontario and the Supreme Court of Canada held that unless a court (or in this case, the Panel of the Discipline Committee) is of the view that "the proposed sentence would bring the administration of justice into disrepute or is otherwise contrary to public interest" a joint submission should not be rejected.

Decision on Order

[27] Having considered the findings of professional misconduct, the evidence and the submissions of the parties, the Panel accepted the Joint Submission and made an order in the terms of the Joint Submission.

Reasons for Decision on Order

[28] 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.

[29] The Panel concluded that the jointly proposed penalty was within the acceptable range of penalty for this type of professional misconduct. Although there were no cases that were the same, College Counsel referred to 3 analogous cases from this Discipline Committee to support the penalty. One was *Direnfeld*, 2019 ONCSWSSW 8 where the Member showed disregard for the dignity and self-worth of his Client. A second was *Marangwanda*, 2019 ONCSWSSW 1 where the Member spoke extensively about her personal life. A third was *McConnell*, ONCSWSSW 2017 where the Member used an independent model of therapy treatment that was unsupported by research.

[30] The elements of the jointly proposed penalty achieve the objective of general deterrence. The suspension, reprimand and publication will deter other members of the profession from engaging in similar misconduct. The terms, conditions and limitations will help protect the public and improve the Member's practice through remediation and education. Finally, by agreeing to the facts and proposed penalty, the Member has accepted responsibility for his actions.

[31] The panel recognized that the parties had agreed on costs and considered the amount to be reasonable based on Case Law (*Direnfeld*, 2019 ONCSWSSW; *Marangwanda* 2019 ONCSWSSW 1 and *McConnell*, ONCSWSSW 2017) and similar allegations of professional misconduct.

I, Andy Kusi-Appiah sign this decision as chairperson of the Panel and on behalf of the Panel members listed below.

Date: August 31, 2020

Signed: _____
Andy Kusi-Appiah, Chair
Angèle Desormeau, RSSW
Sanjay Govindaraj, RSW