

**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 Maryana St. Hiliare, 2023 ONCSWSSW 10

Original decision date: 20231128
Corrected decision date: 20231130

BETWEEN:

THE ONTARIO COLLEGE OF SOCIAL WORKERS
AND SOCIAL SERVICE WORKERS

- and -

MARYANA ST. HILIARE

PANEL:	Charlene Crews	Chair, Professional Member
	Rita Silverthorn	Professional Member
	Chisanga Chekwe	Public Member

Appearances: Benjamin Kates, counsel for the College
No one appearing for the Registrant
Andrea Gonsalves, Independent Legal Counsel to the Panel

Heard: July 17 and 18, 2023

CORRECTED DECISION AND REASONS FOR DECISION

[1] This matter came on for hearing before a panel of the Discipline Committee (the “**Panel**”) on July 17 and 18, 2023, at the Ontario College of Social Workers and Social Service Workers (the “**College**”).

[2] Maryana St. Hiliare (the “**Registrant**”) was neither present nor represented at the hearing. College counsel called evidence to establish that the Registrant had been served with the Notice of Hearing and advised of the hearing date.

[3] The Panel accepted that the Registrant was properly served with the Notice of Hearing and had adequate notice of the time, date, place and nature of the hearing, and the consequences of not attending. Accordingly, pursuant to s. 7(1) of the *Statutory Powers Procedure Act*, RSO 1990,

c S.22 (“*SPPA*”), the Panel proceeded with the hearing in the Registrant’s absence on the basis that the Registrant denied the allegations against her.

The allegations

[4] In the Notice of Hearing dated August 4, 2022,¹ the Registrant is alleged to be guilty of professional misconduct within the meaning of subsection 26(2) of the *Social Work and Social Service Work Act*, 1998, SO 1998, c 31 (the “**Act**”) in that she is alleged to have engaged in conduct that contravenes the Act, Ontario Regulation 384/00 (the “**Professional Misconduct Regulation**”), Schedule “A” to By-law No. 66 of the Ontario College of Social Workers and Social Service Workers, being the Ontario College of Social Workers and Social Service Workers Code of Ethics (the “**Code of Ethics**”), and Schedule “B” to By-law No. 66 of the Ontario College of Social Workers and Social Service Workers, being the Ontario College of Social Workers and Social Service Workers Standards of Practice Handbook (the “**Handbook**”).²

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

1. Now and at all times relevant to the allegations, you were a registered social worker with the Ontario College of Social Workers and Social Service Workers (the “**College**”). At all relevant times, you provided social work services to clients through your employment at Ottawa Community Immigrant Services Organization (“**OCISO**”).
2. Between approximately September 2018 and at least October 2019, you provided social work services at OCISCO to [the Client] Those services included counselling.
3. Between approximately September 2018 and at least October 2019, you violated professional boundaries and engaged in behaviour that was not of a clinical nature appropriate to the service provided. In particular, you engaged in some or all of the following behaviour:
 - (a) Gave [the Client] your personal phone number and encouraged [the Client] to contact you at that number any time;
 - (b) Disclosed the details of [a health] diagnoses relating to you, which details may have been embellished, exaggerated, or untrue;
 - (c) Repeatedly exchanged text messages with [the Client] in which you shared details relating to your personal health;
 - (d) Did not set appropriate professional boundaries or otherwise dissuade [the Client] when she sent you text messages inquiring about your health and offering to bring you food;
 - (e) Spent an inordinate amount of time during your appointments with [the Client] speaking about yourself and your own life, in a manner that was not clinically appropriate;

¹ The Notice of Hearing was updated on March 31, 2023, with the scheduled hearing dates of July 17, 18 and 19, 2023, and was re-served on the Registrant.

² 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.

- (f) Disclosed, during an appointment with [the Client], the details of a personal trauma that may have been embellished, exaggerated, or untrue; and/or
 - (g) Accepted gifts from [the Client]
4. In and around August 2019, you charged and accepted a fee in exchange for preparing an unauthorized report (the “**Report**”). In particular:
- (a) At all relevant times you either knew, or ought to have known, OCISO’s policies, guidelines, and practices relevant to the drafting of reports on behalf of clients;
 - (b) On or about August 8, 2019, you told [the Client] that you would prepare a Report in support of a stomach stapling procedure for [the Client], notwithstanding that OCISO does not prepare reports of this nature;
 - (c) On or about August 8 and 9, 2019, you advised [the Client] that you would charge her \$250 for the Report, being a 50% discount, notwithstanding that OCISO does not charge either \$250 or \$500 for its reports;
 - (d) On or about August 11, 2019, you advised [the Client] that you would deliver the Report to your “supervisor” for review. Nevertheless, at no time did you advise OCISO management of your offer to provide [the Client] with the Report, provide the Report to your supervisor for review, or seek authorization for the Report in accordance with OCISO policies, guidelines, and practices;
 - (e) On or about August 19, 2019, you drafted the Report and provided it to [the Client] in exchange for \$250 cash;
 - (f) You did not provide [the Client] with a computer-generated receipt in accordance with OCISO’s policies, guidelines, and practices. Instead, you provided [the Client] with a generic receipt;
 - (g) You did not leave a copy or other record of the Report in [the Client]’s file; and/or
 - (h) You did not deliver [the Client]’s \$250 fee to OCISO’s finance department.
5. On or about August 31, 2020, [the Client] contacted OCISO about the Report. You denied to OCISO that you had drafted the Report for [the Client]
6. On or about August 31, 2020, you telephoned [the Client] During that conversation, you offered to repay [the Client] the \$250 charge for the Report and discouraged her from communicating further with OCISO.

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

- (a) In that you violated **Section 2.2 of the Professional Misconduct Regulation** and
 - (i) **Principle I of the Handbook (commented on in Interpretations 1.5, 1.6 and 1.7)** by failing to be aware of your values, attitudes and needs and how those impact on your professional relationship with clients; by failing to distinguish your needs and interests from those of your clients to ensure that, within your professional relationship, clients’ needs and interests remained paramount; and, while employed by an organization, by failing to maintain an awareness and consideration of the purpose,

mandate and function of that organization and how these impact on and limited professional relationships with clients;

- (ii) **Principle II of the Handbook (commented on in Interpretations 2.1.1, 2.1.3, 2.1.4, 2.2, 2.2.1(ii), 2.2.3, 2.2.4, and 2.2.8)** by:
 - (A) failing to be aware of the extent and parameters of your competence and professional scope of practice and to limit your practice accordingly;
 - (B) failing to refer a client whose needs fell outside your usual area of practice to another professional and instead by providing services beyond your professional scope of practice;
 - (C) failing to maintain current knowledge of policies, programs and issues related to the community, its institutions and services in your areas of practice;
 - (D) failing to ensure that any professional recommendations or opinions provided by you are appropriately substantiated by evidence and supported by a credible body of professional knowledge;
 - (E) 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;
 - (F) engaging in a professional relationship that constitutes a conflict of interest and/or in a situation in which you ought reasonably to have known that the client would be at risk;
 - (G) using information obtained in the course of a professional relationship and/or using your professional position of authority, to coerce, improperly influence, harass, abuse or exploit a client, former client, student, trainee, employee, colleague or research subject;
 - (H) soliciting or using information from clients to acquire, either directly or indirectly, advantage or material benefits; and
 - (I) engaging in conduct that could reasonably be perceived as reflecting negatively on the profession of social work; and
- (iii) **Principle III of the Handbook (commented on in Interpretation 3.1, 3.8)** by failing to provide your client with accurate and complete information regarding the extent, nature, and limitations of any services available to them; and by providing a service that you knew or ought reasonably have known was not likely to benefit your client;
- (iv) **Principle IV of the Handbook (commented on in Interpretation 4.1.2)** by making a statement in a report in the course of practising the profession that you knew or ought reasonably to have known was false, misleading, inaccurate or otherwise improper; and/or
- (v) Sections 3 and 5 of the **Code of Ethics** by:
 - (A) failing to carry out your professional duties and obligations with integrity and objectivity; and by

- (B) exploiting your relationship with a client for personal benefit, gain, or gratification;
- (b) In that you violated **Section 2.6 of the Professional Misconduct Regulation** in that you used information obtained during a professional relationship with a client and/or your professional position of authority to coerce, improperly influence, harass or exploit a client or former client;
- (c) In that you violated **Section 2.24 of the Professional Misconduct Regulation** by submitting an account or charge for services that you knew to be false or misleading;
- (d) In that you violated **Section 2.25 of the Professional Misconduct Regulation** by charging a fee that is excessive in relation to the service performed;
- (e) In that you violated **Section 2.36 of the Professional Misconduct Regulation** by engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

Registrant's position

[6] As the Registrant was not present or represented at the hearing, she was deemed by the Panel to deny the allegations.

The evidence

[7] The College called one witness to testify *viva voce* at the hearing: [the Client]. The College also tendered affidavit evidence from three witnesses:

- a. [M.R.], Executive Director of the Ottawa Community Immigrant Services Organization (“**OCISO**”), which was the Registrant’s employer at the time of the events in question. Ms. [M.R.] assumed the role of Executive Director after the Registrant’s employment with the organization came to an end;
- b. [A.W.], who was Human Resources and Operations Manger at OCISO between April 2011 and approximately December 2021, which includes the time period of the events in issue; and
- c. [K.P.], a human resources consultant with PHR Solutions in Ottawa. Ms. [K.P.] was retained by OCISO in September 2020 to conduct an investigation regarding the concerns raised by the Client about the services provided by the Registrant.

[8] In seeking to tender the evidence of Ms. [M.R.], Ms. [A.W.] and Ms. [K.P.] by way of affidavit, the College advised the panel that the witnesses could be made available for questioning by the panel. College counsel further advised that some of the evidence in the affidavits is hearsay, as it relays information provided by others which is not under oath and was being relied upon by the College for the truth of its content.

[9] In support of the College’s request to have the hearsay evidence admitted, College counsel relied on several grounds. First, he noted that s. 15 of the *SPPA* permits the Panel to accept hearsay evidence if it is relevant. Second, the principled exception to the hearsay rule allows hearsay to be

admitted if it is necessary and reliable. Third, party admissions are admissible as a recognised exception to the hearsay rule.

[10] Before admitting the affidavits into evidence, the Panel reviewed the affidavits and deliberated. The Panel made a ruling admitting the affidavits into evidence, including those portions that contain hearsay evidence. The affidavits of Ms. [A.W.], Ms. [M.R.] and Ms. [K. P.] provide relevant background and contextual evidence. The witnesses all held positions that gave them access to the information set out in their affidavits and they held positions that required them to know this information, both of which are indicators of reliability. The Panel was satisfied that the evidence was not controversial and that the witnesses had no motivation to lie. All affidavits were based on factual information and details were provided in each report. All reports aligned with one another.

[11] Further, some of the hearsay evidence constituted admissions by the Registrant and she cannot complain about the unreliability of her own statements, particularly when she has elected not to participate in the hearing. In addition, proportionality and necessity are factors here. Ms. [K.P.]’s affidavit describes information obtained from another former OCISO employee. That employee may have been the most knowledgeable person to speak to the issues but College counsel advised that the College did not have her contact information and likely could not have obtained evidence directly from her without considerable time, effort and expense.

[12] For these reasons, the Panel marked the affidavits as exhibits while recognizing that the weight, if any, to be given to the affidavits was a matter to be decided at the end of the case.

[13] The College submitted that the Client in this case was not the complainant and that this matter arose as a result of OCISO’s mandatory reporting process

Witness – [The Client]

[14] The Client testified that she became a client of OCISO in 2018. At the time, she was new to Canada and was experiencing isolation.

[15] The Client had approximately ten in-person counselling sessions with the Registrant. The Registrant invited the Client for coffee. The Client viewed her relationship with the Registrant as both professional and as a friend relationship and accepted this as normal practice.

[16] The Client testified that the Registrant provided her personal phone number and told the Client she could call or text at any time. The Client also accepted this as normal.

[17] The Client testified that she felt only the first one or two sessions were focussed on her issues, and the remaining sessions were “all about” the Registrant who talked about her personal life.

[18] The Registrant shared personal information with the Client about her personal illness (*redacted*), pain medication and going to Europe for surgery. She told the Client that the “queen of Saudi Arabia” arranged for the death of her husband and kids, and the Registrant removed her shirt to show the Client scars on the Registrant’s body that she said the queen was responsible for. The Registrant explained to the Client that she had run to Canada to get away from the queen. The

Client testified that she felt sorry for the Registrant's situation and thought the Registrant had shared her struggles to make the Client feel better about the Client's own situation.

[19] The Client testified that she did not know if this was normal and questioned whether the Registrant needed a friend. In addition the Registrant disclosed information regarding her promotion at work and as a result the Client bought her gifts including a scarf, perfume and toiletry items, which the Registrant accepted. The Registrant did not advise the Client that she could not accept gifts.

[20] The Client testified that there were a number of text message exchanged between them in which the Registrant shared personal information and the Client asked if she was okay and offered to help the Registrant in various ways. The Client identified printouts of text messages she exchanged with the Registrant, which were entered into evidence, together with certified English translations.

[21] The Client explained that in the summer of 2019 she was unhappy that she had gained weight but she had been denied surgery because she was not sufficiently overweight. The Registrant offered to write a report on behalf of the Client to facilitate approval for the Client to receive surgery (stomach stapling or vertical banded gastroplasty) for weight loss. Between August 9 and 11, 2020, the Client and the Registrant exchanged text messages relating to the report and the fees associated with the report. The Registrant told the Client the report would cost \$250 and that she was giving the Client a 50% discount, as the charge for the report should have been \$500. The Client, who was working only part-time, told the Registrant this was a lot of money for her to pay. However, the Client asked the Registrant to prepare the report, which she did, and later that month when the Client received the report she paid \$250 cash to the Registrant. The Registrant gave her a receipt.

[22] The Client testified that at some point after she received the report, she contacted the OCISO agency with questions about it. The Client could not recall exactly when that occurred but said it was approximately a year later. A friend of the Client, who worked for another community agency, advised her that OCISO could not charge for the report. Her friend asked to see the receipt for payment and advised the Client that it was from Dollarama. This left the Client feeling that something was wrong in what took place with the Registrant. The Client questioned the Registrant and stated that she wanted to believe her and did not want to think that the Registrant had lied to her.

[23] The Client then called OCISO and spoke with a supervisor who asked the Client for the receipt. The Registrant then contacted the Client and asked her not to provide the receipt to OCISO and offered to give her money back. The Client provided the receipt to OCISO and met with the supervisor and another staff from the agency.

Affidavit of [M.R.]

[24] [M.R.] is the Executive Director of OCISO. She assumed the role in May 2022. Ms. [M.R.] testified that OCISO provides settlement services for immigrants and refugees in the Ottawa area. The Registrant worked as a clinical counsellor at OCISO from January 2017 until her resignation on October 6, 2020.

[25] Ms. [M.R.] testified that OCISO conducted an internal investigation in August and September 2020 following concerns being raised by the Client regarding the Registrant. The issue investigated included a “report of services” that was prepared by the Registrant dated August 19, 2019.

[26] Although Ms. [M.R.] was not the Executive Director while the Registrant was employed at OCISO, nor was she involved in the investigation regarding the Registrant, she was informed about the circumstances regarding the Registrant’s departure from OCISO and the investigation that took place. [M.R.] reported that she acquired this information through a review of OCISO’s documents and by speaking with [A.W.], OCISO’s former Human Resources and Operations Manager.

[27] Ms. [M.R.] confirmed that the same policies with respect to the preparation of client reports were in place at OCISO from 2019 to 2020. Ms. [M.R.] explained that OCISO has three different formats of reports, none of which is called a “report of services”. The types of reports offered at OCISO include a “clinical report”, a “letter of support”, and a “letter of service”. In and around August 2019, OCISO charged \$300 for a clinical report, but a letter of service and letter of support were free of charge. Clinical reports are multiple-page reports discussing the clinical aspects of a client’s counselling, usually in support of a refugee claim. They are normally requested by a client’s legal counsel and are covered by Legal Aid. OCISO requires its counsellors to consult with the Counselling Program Manager if a client requests a report after sessions have begun.

[28] Ms. [M.R.] testified that according to OCISO’s policies, if a client were to request a clinical report for a stomach stapling procedure, OCISO would refer the client to a doctor, who would in turn refer the client to a specialist.

Affidavit of [A.W.]

[29] [A.W.] was the Human Resources and Operations Manger at OCISO between April 2011 and approximately December 2021.

[30] Ms. [A.W.] gave evidence that in 2019 and 2020, the Registrant was employed at OCISO as a Counsellor as part of the Counselling team, providing counselling to clients.

[31] Ms. [A.W.] was not aware of any concerns with respect to the Registrant’s conduct prior to August 2020. As Human Resource Manager, Ms. [A.W.] became aware that the Client contacted OCISO in late August 2020 regarding a report that the Registrant had written for her in August 2019. Information obtained from the Client by the Registrant’s Counselling Program Manager, Patricia Davies, raised concerns that the Registrant had misled the Client by writing a report and charging a fee without authorization.

[32] Around August 31 and September 1, 2020, Ms. Davies made initial inquiries in response to the Client’s concerns. Ms. Davies updated Ms. [A.W.], who recommended that OCISO hire an external consultant to investigate the issues raised by the Client. OCISO retained [K.P.] to conduct the investigation and Ms. [K.P.] was responsible for, among other things, speaking with the Registrant and the Client, and for drafting a report of her findings. Ms. [K.P.] was assisted by Ms. Davies. Ms. [A.W.] was responsible for aspects of the investigation that involved confidential information that the organization could not disclose to Ms. [K.P.].

[33] Ms. [A.W.] reviewed the investigation report, the receipt provided to the Client by the Registrant, and the Client's OCISO file. She was able to confirm that the Client's file did not contain a copy of the report and that the receipt the Registrant gave to the Client did not resemble the receipts typically provided by OCISO.

[34] Ms. [A.W.] suspended the Registrant on September 9, 2020, pending the outcome of the investigation. On October 6, 2020, the Registrant resigned from OCISO.

Affidavit of [K.P.]

[35] [K.P.] is the HR Consultant with PHR Solutions in Ottawa. Ms. [K.P.] testified in her affidavit that she was retained by OCISO in September 2020 to conduct the investigation of the Registrant as a result of the concerns raised by the Client.

[36] Ms. [K.P.] gave evidence that she prepared an investigation report for OCISO summarizing her investigation. The report was appended to her affidavit. The report records statements that were made by the Registrant during her interview and in conversations with OCISO employees. Statements that were made by the Registrant were made directly to Ms. Davies and captured in Ms. Davies' notes. Ms. [K.P.] reviewed Ms. Davies notes in the course of preparing the investigation report.

[37] Ms. [K.P.] and Ms. Davies met with the Registrant and interviewed her with respect to the report she prepared for the Client and the \$250 fee charged for the report.

[38] Ms. [K.P.] testified that the Registrant understood the process of providing reports and which types of reports OCISO provides to clients. The Registrant also understood that when a client requests a report, the manager must give approval and the report is reviewed with the Client. Payment is made and a receipt is produced through OCISO. The normal charge is \$300. Through the investigation it was determined that the Registrant had provided approximately half-a-dozen such reports since 2019.

[39] The Registrant provided the Client with a letter in August 2019 in support of the Client receiving a stomach surgery. The Registrant acknowledged that she did not get approval from her manager to write the report and confirmed that there were no case file notes or receipt in the Client's file. The Registrant confirmed that on August 31, 2020, she told Ms. Davies that she did not remember providing a report to the Client or collecting \$250. The Registrant also acknowledged that on September 1, 2020, she told Ms. Davies that she had indeed provided a report for the Client and that she had found an envelope containing \$250 in cash and a receipt. At the end of the interview Ms. [A.W.] informed the Registrant that she was being sent home pending further investigation.

Submissions of the College

[40] The College grouped the allegations against the Registrant into two sets. The first set are allegations that the Registrant intentionally and improperly prepared and charged the Client \$250 for an unauthorized report. In doing so, she prepared an improper document, exceeded her scope of practice, engaged in boundary violations, failed to ensure the Client's needs and interests remained paramount, and acted in a conflict of interest. Secondly, the College alleges that the Registrant improperly shared intimate and personal information with the Client, by text messaging

and in counselling sessions, thereby failing to establish and maintain boundaries. The College submits that these two sets of allegations are related and that the Registrant's over-sharing garnered sympathy from the Client and set the stage for her more serious ethical breach, preparing and charging for the report.

[41] The College submits that the Registrant prepared an unauthorized report. The Registrant admitted this to her employer. The College submits that this fact alone gives rise to findings of professional misconduct that the Registrant prepared an improper report, charged excessive fees, and exceeded her scope of practice. The Registrant also failed to follow the employer's policies and protocols. The evidence submitted by the College supports an inference that the Registrant's conduct was intentional. The College submits that with the Registrant's level of experience, her text messages to the Client and her effort to keep the report a secret cannot be reconciled with an innocent explanation. The most likely explanation is that the Registrant intentionally deceived the Client to enrich herself and thereby engaged in misconduct that implicates her integrity.

[42] With respect to the second allegation, the College submits that the Registrant's text messages with the Client are sufficient evidence to prove that she engaged in improper self-disclosure and boundary violations. The text messaging with the Client show that the Registrant elicited sympathy by sharing information about her health, among other things. Beyond the text messages, the Client's testimony demonstrated the degree to which the Registrant crossed the line by dominating counselling sessions, sharing information about her own health and past trauma, and accepting gifts from the Client. The College submits that the Client's evidence is clear, cogent, and credible.

Advice of Independent Legal Counsel

[43] ILC advised that the task of the Panel is to decide whether each of the allegations of professional misconduct have been proven and that the College bears the onus of proof based on a balance of probabilities.

[44] ILC advised that the Panel must assess whether the evidence is sufficient to prove the alleged conduct on the balance of probabilities.

[45] ILC advised the Panel to consider the testimony of the Client and to assess whether her evidence was credible and reliable. The Panel should also consider the affidavits and the text messages between the Client and the Registrant as submitted in Exhibit 7.

[46] Noting that during the hearing, the Panel ruled the affidavit evidence admissible, including the hearsay contained in the affidavits, ILC advised that the Panel would have to decide in its deliberations what weight to give each piece of evidence, including the hearsay—that is, the degree to which the evidence convinces the Panel to accept or reject a factual assertion, taking into account the persuasiveness of the evidence and any concerns about its reliability including how it was recorded, recalled or relayed to the Panel.

[47] ILC advised the Panel to assess witness credibility based on considerations of reliability, truthfulness, and whether there are any reasons for the witness not to tell the truth. Factors include the witness's memory; their capacity to remember and reasons why they may have difficulty in remembering, such as the amount of time that has passed; whether the testimony is reasonable and

hangs together; whether it is internally consistent and consistent with other evidence; and whether the witness has an interest in the outcome.

[48] ILC cautioned the Panel about the Client's testimony about the information provided to her from a friend who worked for another community center regarding the cost of the report. If it is used for the truth of its content it would amount to hearsay. However, if the information is simply used as part of the narrative because it explains why the Client contacted the agency about the report and fee, this is a non-hearsay purpose and does not engage hearsay concerns. With respect to whether the fee charged for the report was reasonable, ILC advised the Panel to look to other evidence to support this allegation.

Decision of the Panel

[49] The Panel recognized that the College bears the onus of proving the allegations against the Registrant on the balance of probabilities, using clear, cogent and convincing evidence.

[50] Having carefully considered the onus and standard of proof, the evidence of the College and the submissions of counsel for the College, the Panel finds that the Registrant committed the acts of professional misconduct alleged in the Notice of Hearing. With respect to allegation (e), the Panel finds that the Registrant's conduct would reasonably be regarded by members as disgraceful, dishonourable and/or unprofessional.

Reasons for decision

[51] As noted above, the Panel heard *viva voce* evidence from one witness, [The Client], and received affidavit evidence from three witnesses. The Panel has considered the credibility of the witnesses prior to making any findings.

[52] The Panel found the Client to be a credible witness. She testified in a straightforward and detailed manner and was clear about relaying information. She appeared to be honest and forthcoming with information. The Client had no apparent motive to fabricate any of her story. She shared her concerns about her experience with the Registrant during the approximate ten sessions that took place between 2018 and 2020. She was consistent in her statements regarding the facts of the incidents and included details regarding comments made to her by the Registrant with regards to her sharing personal information, making herself the focus of sessions and by offering to write a letter supporting her need for stomach stapling surgery. The Panel considered the Client's potential interest in the outcome of the matter and did not form any concerns in respect of the veracity of her evidence. Although the Client expressed feeling sorry for the Registrant, she was credible in her description of the Registrant offering to write a letter for her and charging her a 50% discounted price in cash. After careful consideration the Panel found that the Client's testimony was cohesive, consistent and reliable.

[53] After careful consideration the Panel found that the Registrant engaged in professional misconduct as alleged in each allegation in the Notice of Hearing.

Allegation (a) – failure to maintain the standards

[54] With respect to allegation (a)—that the Registrant engaged in professional misconduct by failing to maintain the standards of the profession as set out in Section 2.2 of the Professional

Misconduct Regulation—the allegations focussed on several standards reflected in the Handbook and in the Code of Ethics.

[55] In connection with Principle I of the Handbook (as commented on in Interpretation 1.5, 1.6 and 1.7), the Registrant failed to be aware of her values, attitudes and needs and how those impact on her professional relationship with clients; failed to distinguish her needs and interests from those of her Client to ensure that, within the professional relationship, the Client's needs and interests remain paramount; and failed to maintain an awareness and consideration of the purpose, mandate and function of her employer, OCISO, and how these impact on and limited her professional relationships with the Client.

[56] In particular, the evidence established that the Registrant failed to be aware of the impact of giving the Client her personal phone number and encouraging the Client to contact her at any time. The Registrant spent an inordinate amount of time during sessions speaking about herself and her life in a manner that was not clinically supported. The Registrant engaged in repeated text message exchanges in which the Client inquired about, and she discussed, her health, and the Client offered to bring her food and offered gifts.

[57] Regarding Principal II of the Handbook (as commented on in Interpretation 2.1.1, 2.1.3, 2.1.4, 2.2, 2.2.1, 2.2.3, 2.2.4 and 2.2.8), the Registrant failed to recognize the parameters of her competence and professional scope of practice by informing the Client at the beginning of August 2019, that she would prepare a report in support of a stomach stapling procedure, while knowing that OCISO does not provide reports of this nature. In writing a report that was not authorized by OCISO, the Registrant failed to follow her employer's current policies, guidelines and procedures.

[58] The Registrant failed to protect the Client from an abuse of power in that she provided services she was unauthorized to provide and charged the Client \$250 for the report, knowing that OCISO did not charge \$250 or \$500 for its reports. The Registrant failed to submit the charge for the report to the finance department at OCISO and neglected to document any such exchange in the Client's file.

[59] The Registrant failed to maintain clear and appropriate boundaries by engaging in personal text messaging and accepting gifts from the Client. Similarly, the Registrant failed to maintain the paramouncy of the Client's needs by sharing her own personal health information, and spending an inordinate amount of time during sessions speaking about her personal life in a manner that was not clinically appropriate. The Registrants' actions in totality could reasonably be perceived as reflecting negatively on the professional of social work

[60] Regarding 2.6 of the Professional Misconduct Regulation the Registrant used information obtained during her professional relationship with the Client to coerce, improperly influence and exploit the Client by sharing information regarding her own personal details of a [health] diagnosis which may have been embellished, exaggerated or untrue. As a result the Client felt the need to offer the Registrant favors such as bringing her food and buying her gifts.

[61] The Registrant failed to maintain the standards of the profession as reflected in Principal III of the Handbook (as commented on in Interpretation 3.1, 3.8) by failing to provide the Client with accurate and complete information regarding the extent, nature, and limitations of any services available to her; and by providing a service that the Registrant knew or ought reasonably have known was not likely to benefit her Client. The Registrant failed to provide the Client with

accurate and complete information by providing the Client with a Report in exchange for \$250 cash. The Client was not provided with a computer generated receipt in accordance with OCISO policies, guideline, and practices, instead was provided with a generic receipt.

[62] The Registrant failed to uphold the standards of practice set out in Principal IV of the Handbook (as commented on in Interpretation 4.1.2) by making a statement in a report, while in the course of practising the profession, that she knew or ought reasonably to have known was false, misleading, inaccurate or otherwise improper. Specifically, the Registrant stated in her report that in her opinion the Client might benefit from a stomach stapling procedure, when an assessment of that nature was outside the scope of the Registrant's employment and the scope of practice of a social worker. The Registrant did not advise her manager that she was preparing the report and did not provide the report to the supervisor for review. The Registrant did not seek authorization for the report in accordance with OCISO policies, guidelines, and practices, nor was a copy put in the Client's file.

[63] Finally in respect of the Panel's findings that the Registrant failed to maintain the standards of the profession, she contravened sections 3 and 5 of the Code of Ethics by failing to carry out her professional duties and obligations with integrity and objectivity in that she sought to garner sympathy and concern from the Client by focusing time spent with the Client sharing details of her personal health. The Registrant also abused her position of power to coerce her Client to pay a fee that the registrant knew to be false or misleading and was excessive in relation to the services provided at OCISO.

Allegation (b) – using information or position of authority to coerce, influence, harass or exploit

[64] Regarding allegation (b), the Registrant contravened s. 2.6 of the Professional Misconduct Regulation in that she used information obtained during her professional relationship with the Client, and used her position of authority, to coerce, improperly influence, harass and exploit the Client. The evidence reviewed above establishes on a balance of probabilities that the Registrant used her position of authority to engage in a relationship that exceeded professional boundaries, and exploited her Client's sympathy with her personal health problems, leading to the Client offering to bring food, buying presents and paying cash for an unauthorized report prepared by the Registrant.

Allegation (c) – submitting a charge for services that is false or misleading

[65] With regards to allegation (c), the Registrant contravened s. 2.24 of the Professional Misconduct Regulation by submitting an account or charge for services that the Registrant knew was false or misleading. The Registrant knew that she did not have the authority to prepare the report that she provided to the Client, and she then charged the Client \$250 for the report. The charge to the Client for an unauthorized report was misleading. The Registrant failed to document either the report or the charge on the Client's file, and did not submit the Client's \$250 to OCISO, which further demonstrates the Registrant's awareness of her own wrongdoing.

Allegation (d) – charging a fee that is excessive

[66] With regards to allegation (d), s. 2.25 of the Professional Misconduct Regulation makes it an act of professional misconduct for a member to charge a fee that is excessive in relation to the

service performed. The Registrant charged the Client a fee for a report that was unauthorized; further, the fee charged exceeded any amount charged by OCISO. OCISO does not charge either \$250 or \$500 for its authorized reports. Accordingly, the Panel found the Registrant breached s. 2.25 of the Professional Misconduct Regulation.

Allegation (e) – disgraceful, dishonourable or unprofessional conduct

[67] With respect to allegation (e), the Panel found that the Registrant engaged in conduct that, in all circumstances, would reasonably be regarded by registrants as disgraceful, dishonourable, and/or unprofessional. While providing social work services to the Client, the Registrant violated professional boundaries by exchanging personal phone numbers and encouraging the Client to contact her at any time, disclosed details about her personal health, spent excessive time in sessions talking about her own life, accepted gifts from the Client, offered to prepare and unauthorized report that fell outside of her scope of practice, and charged the Client an amount that did not coincide with OCISO's policies, and did not record or submit this charge to the OCISO financial department. This conduct fell well below the standards expected of a social worker and the Registrant knew or ought to have known that her actions were unacceptable.

College's position on penalty

[68] In light of the findings against the Registrant, the College requested that the Panel make an order as follows.

1. The Registrant shall be reprimanded electronically or in writing by the Discipline Committee, the fact and nature of which shall be recorded on the College's Register.
2. The Registrar shall be directed to suspend the Registrant's Certificate of Registration for a period of ten (10) months, the first eight (8) months of which shall be served commencing on the date of the Discipline Committee's Order herein. The remaining two (2) months of the suspension shall be remitted if, on or before the eight (8)-month anniversary of the Discipline Committee's Order herein, the Registrant provides evidence, satisfactory to the Registrar of the College, of compliance with the terms and conditions imposed under paragraph 3(a) below. If the Registrant fails to comply with those terms and conditions, the Registrant shall serve the remaining two (2) months of the suspension following the eight (8) month anniversary of the Discipline Committee's Order herein.³
3. The imposition of terms, conditions, and limitations on the Registrant's certificate of registration, as follows:⁴

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

⁴ If the Registrant is unable to meet the terms, conditions, and limitations hereby imposed upon her, then she is to contact the Registrar of the College within 14 days of discovering that the terms, conditions and limitations cannot be satisfied and advise the Registrar of the same.

- (a) The Registrant shall, at her own expense, participate in and successfully complete a boundaries and ethics training course, as prescribed by and acceptable to the College, and provide proof of such completion to the Registrar within eight (8) months from the date of the Order.
- (b) The Registrant shall, at her own expense,⁵ receive supervision of her social work practice from a registered social worker, approved by the Registrar in advance, for a period of two (2) years from the date at which the Registrant returns to practice from the suspension set out at paragraph 2.⁶ The Registrant must additionally provide to the approved supervisor (and any other approved supervisor) the final reasons for decision of the Discipline Committee arising from this proceeding and must provide written confirmation, signed by the supervisor, of receipt of the decision to the Registrar within 15 days of returning to practice under supervision (and within 15 days of the approval of any subsequent supervisor). The supervisor shall provide a report to the Registrar at the 12th month and at the 24th month of the period of supervision, which report shall confirm that the supervision took place and detail the nature of the supervision. In the event that the Registrant operates a private practice, the Registrant must seek consent from prospective clients to share personal health information with her supervisor in order to allow the supervisor to review client files and engage in a review.⁷
- (c) In the event that, in the two (2) years that follow the date of the Registrant's return to practice from the suspension set out at paragraph 2, the Registrant obtains employment engaging in activities that fall within the social work scope of practice:
 - (i) At least 72 hours prior to resuming practice, the Registrant shall advise the Registrar of the name and address of her employer, the position in which she will be working, and the start date;
 - (ii) The Registrant shall receive supervision of her social work practice within her place of employment, from the supervisor identified to the Registrar, for a period of two (2) years in accordance with paragraph 3(b) herein; and
 - (iii) If the Registrant's employment ends, or the Registrant changes employers and/or supervisors, she shall forthwith advise the Registrar of

⁵ For clarity, all expenses relating to supervision, including the obligation to review the College's materials and to communicate with the College where necessary, are at the expense of the Registrant.

⁶ For greater clarity, the Registrant must receive a total of two years of supervision in either private practice or in a workplace environment to be in compliance with the provisions of subparagraph 3(c) and 3(d). If at any time the Registrant ceases to practice in either private practice or in a workplace, the supervision period will stop running and will resume when her new employment or private practice supervision commences. The Registrant cannot fulfill the supervision requirement by refraining from engaging in the practice of social work for a two-year period. The supervision condition will run continuously until a total of two years of supervision has been completed and the Registrant cannot practice without supervision until the term is completed.

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

the termination or change in her employment and/or the name of her new supervisor.

4. The finding and the order of the Discipline Committee shall be published, in detail 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 CanLII, and on the College's public register.
5. An order directing the Registrant to pay costs to the College in the amount of \$42,778.63 payable within 60 days of the date of the Order.

Submissions of the College on penalty and costs

[69] The College argued that in imposing penalty in this case, the Panel needs to consider the protection of the public, as its primary consideration in order to instill confidence in the College's ability to regulate its members.

[70] The appropriate penalty must act as a specific deterrence to the Registrant in order to discourage her from engaging in future professional misconduct. In addition the penalty must serve as general deterrence to membership at large and encourage the Registrant to consider the consequences of engaging in this, or any, type of misconduct.

[71] The College argued that there are no mitigating factors in this case. The Registrant did not participate in the hearing, resulting in the need to have the Client testify. In addition the Registrant did not make any submissions regarding this matter.

[72] The aggravating factors in this case are the Registrant's intent to take advantage of a vulnerable Client who was seeking help at a low point in her life as a new immigrant, who was isolated, divorced and was experiencing a language barrier, resulting in the Registrant taking advantage of the Client's situation.

[73] The College argued that a substantial suspension is appropriate as it sends a direct message to the Registrant and meets both specific and general deterrence. The proposed 10-month suspension sends a message to both the Registrant and the profession at large about the unacceptability of the Registrant's conduct. The length of the suspension represents an incremental increase relative to previous cases of a similar nature. The College submitted that the increase is warranted in this case due to the fact that the Registrant attempted to financially benefit from her actions, the vulnerability of the Client and the absence of an agreed statement of fact or joint submission on penalty. The College's proposed penalty includes the provision for two-months of the suspension to be remitted upon timely completion of the remedial training. The Registrant could therefore reduce the suspension to a *de facto* 8-month suspension by completing the remedial steps to learn from her wrongdoing.

[74] The College sought terms conditions and limitations on the Registrant's certificate of registration as remedial measures for the Registrant and to maintain public confidence in the profession. The order requested by the College would require the Registrant to engage in training directed at the ethical shortcomings that occurred, including boundary violations. The proposed terms and restrictions also relate to supervision and employer notification which are directed at public protection. These conditions provide a framework for an eventual phased return to practice

by the Registrant that gives the Registrant the opportunity to internalize the learnings from this case.

[75] With regards to the reprimand, the College argued that in issuing a reprimand the Panel has the opportunity to state its concerns and disapproval in order to reinforce the significance of the misconduct and to discourage reoccurrence. It may be appropriate to deliver the reprimand in writing given the Registrant's failure to attend the hearing.

[76] College argued that publication of the Discipline Committee's decision with the Registrant's name is necessary from a public protection standpoint as well as to serve as a both specific and general deterrent. Publication is necessary to protect the public interest and maintain public confidence in the integrity of the College's discipline process, and it is consistent with the approach taken previously by this College in all recent decisions.

[77] The College asked the Panel to exercise its jurisdiction under s. 26(5) of the Act to make order requiring the Registrant to pay costs to the College, arguing that such an order is appropriate so the membership at large does not have to bear the full costs of addressing the Registrant's misconduct. The College tendered evidence that it incurred total costs of \$64,816.11 and requested an award of approximately 66% of that amount, or \$42,778.62. The College argued that while the Registrant is entitled to require the College to prove its case against her, she took an approach that increased the costs by not making her own submission in her defense.

Penalty and costs decision

[78] Having considered the findings of professional misconduct, the relevant evidence and the submissions of the College, the Panel agrees with the College's position on penalty and costs, and makes the following order.

1. The Registrant shall be reprimanded electronically or in writing by the Discipline Committee, the fact and nature of which shall be recorded on the College's register.
2. The Registrar shall be directed to suspend the Registrant's Certificate of Registration for a period of ten (10) months, the first eight (8) months of which shall be served commencing on the date of the Discipline Committee's Order herein. The remaining two (2) months of the suspension shall be remitted if, on or before the eight (8) months anniversary of the Discipline Committee's order herein, the Registrant provides evidence, satisfactory to the Registrar of the College, of compliance with the terms and conditions imposed under paragraph 3 (a) below. If you the Registrant fails to comply with those terms and conditions, the Registrant shall serve the remaining two (2) months of the suspension following the eight (8) month anniversary of the Discipline Committee's Order herein.
3. The imposition of terms, conditions and limitations on the Registrant's certificate or registration, as follows.
 - (a) The Registrant shall, at her own expense, participate in and successfully complete a boundaries and ethics training course, as prescribed by and acceptable to the College, and provide proof of such completion to the Registrar within eight (8) months from the date of the Order.

- (b) The Registrant shall, at her own expense, receive supervision of her social work practice from a registered social worker, approved by the Registrar in advance, for a period of two (2) years from the date at which the Registrant returns to practice from the suspension set out at paragraph 2. The Registrant must additionally provide to the approved supervisor (and any other approved supervisor) the final reasons for decision of the Discipline Committee arising from this proceeding and must provide written confirmation, signed by the supervisor, of receipt of his decision to the Registrar within 15 days of the approval of any subsequent supervisor). The supervisor shall provide a report to the Registrar at the 12th month and at the 24th month of the period of supervision, which report shall confirm that the supervision took place and detail the nature of the supervision. In the event that the Registrant's t operates a private practice, the Registrant must seek consent from prospective clients to share personal health information with her supervisor in order to allow the supervisor to review client files and engage in a review.
 - (c) In the event that in the two (2) years following the date of the Registrant's return to practice from the suspension set out in paragraph 2, the Registrant obtains employment engaging in activities that fall within the social work scope of practice:
 - (d) At least 72 hours prior to resuming practice, the Registrant shall advise the Registrar of the name and address of her employer, the position in which she will be working, and the start date;
 - (e) The Registrant shall receive supervision of her social work practice within her place of employment, from the supervisor identified to the Registrar, for a period of two (2) years in accordance with paragraph 3(b) herein and
 - (f) If the Registrant's employment ends, or the Registrant changes employers and/or supervisors, she shall forthwith advise the Registrar of the termination or change in her employment and/or the name of her new supervisor.
4. The findings and the order of the Discipline Committee shall be published, in detail 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 CanLII, and on the College's public register.
5. An order directing the Registrant to pay costs to the College in the amount of \$42,778.63 payable within 60 days of the date of the order.

Reasons for penalty decision

[79] The Panel recognized that the penalty to be imposed after a finding of professional misconduct must maintain high professional standards, preserve public confidence in the ability of the College to regulate its members, and, above all, protect the public. These objectives are achieved through a penalty that addresses the principles of general deterrence, specific deterrence and, where appropriate, rehabilitation and remediation of the Registrant's practice. The penalty should fall within the range of reasonable penalties for similar misconduct, and reflect the mitigating and aggravating factors and the principle of proportionality.

[80] The Panel considered carefully the submissions of College Counsel. The Panel did not receive any submissions from the Registrant and the Registrant did not attend the disciplinary hearing after repeated attempts to engage the Registrant in the process. The Registrant was not present to speak to any mitigating factors or allegations.

[81] The Panel found that the Registrant's failure to appear before the Discipline Committee was a conscious and deliberate action.

[82] The Panel found that the penalty proposed by the College is reasonable, serves and protects the public interest and ensures the high professional standards are maintained and the penalty addresses both specific and general deterrence. The 10-month suspension and terms, conditions and limitations imposed on the Registrant's certificate of registration demonstrate to the Registrant and to other members of the profession that this type of conduct will not be treated lightly. The publication of the details of this decision will further communicate a clear message to the public that professional misconduct of this nature will not be tolerated.

[83] The Panel's findings of professional misconduct are serious and reflect several aggravating factors:

- a. The Registrant exploited her client by engaging in behavior that violated professional boundaries and garnered sympathy from her Client as a result of focussing the relationship on the Registrant, engaging in personal text messaging, and accepting gifts.
- b. The Registrant prepared and charged the Client for a report that she was not qualified to give and subsequently was of no value to the Client. Furthermore the Registrant did not follow the policies and procedures of the organization, did not seek approval to write the report and charged an excessive amount, asking for the cost to be paid in cash.
- c. The Registrant prepared and delivered the report to the Client and received \$250.00 in cash. The receipt provided to the Client was not a computer generated receipt in accordance with OCISO's policies, guidelines, and practices, it was a generic receipt provided by the Registrant.
- d. The Registrant failed to place a copy or other record of the report in the Client's file and did not provide the \$250 fee to the finance department.
- e. The Registrant denied to Management having written a report, offered to repay \$250 back to the Client and asked the Client to have no further communication with OCISO in an effort to conceal her wrongdoing.

[84] In addition the Registrant disregarded the discipline process by not participating in it. There were no mitigating factors to temper the penalty and the Panel has no reason to be lenient.

[85] Having regard to all the considerations, the penalty imposed by the Panel is appropriate.

Reasons for costs decision

[86] The College's requests a significant costs order in the amount of \$42,778.63, representing approximately 66% of the total costs incurred by the College in this matter. The Panel found the

amount sought to be fair and reasonable, and exercised its discretion to impose a costs order in that amount.

[87] Each costs decision is based on the particular facts of the case including the length of the investigation, the conduct of the hearing, the complexity of the allegations involved in the case and the seriousness of the professional misconduct proven by the College. The amount sought is supported by the decisions made by other the discipline committees of other colleges. For example, in *Ontario (College of Chiropodists of Ontario) v. MacMull*, 2023 ONCOCOO 3, which involved similar circumstances in that the registrant did not appear or contest his discipline hearing, the discipline committee of the College of Chiropodists cited the registrant’s non-participation when awarding costs representing approximately two-thirds of the College’s actual costs.

[88] Given the Registrant’s failure to participate in the discipline process and the Panel’s findings of professional misconduct on all allegations advanced the College, the proposed penalty represents an incremental increase to the penalty range relative to the precedents set in other cases, including *Ontario College of Social Workers and Social Service Workers v Templer Teran*, 2021 ONCSWSSW 1, *Ontario College of Social Workers and Social Service Workers v Sharleen Cainer*, 2022 ONCSWSSW 4, *Ontario College of Social Workers and Social Service Workers v Marangwanda*, 2019 ONCSWSSW 1 and *Ontario College of Social Workers and Social Service Workers v Forgaard-Pullen* (2017).

[89] The Panel finds that an order for costs of bringing this matter to a hearing ensures that the membership at large does not have to bear the full costs arising from the Registrant’s professional misconduct—which were significant in this case—and is in line with like orders issued by this College.

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

Date: November 30, 2023

Signed: _____

Charlene Crews, Chair
Rita Silverthorn
Chisanga Chekwe