



Ontario College of  
Social Workers and  
Social Service Workers

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

80 Bloor Street W.  
Suite 700  
Toronto, ON M5S 2V1

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

## **Discipline Decision Summary**

This summary of the Discipline Committee's Decision and Reason for Decisions is published pursuant to the Discipline Committee's oral decision rendered on April 23, 2015 and written reasons dated July 13, 2015.

By publishing this summary, the College endeavours to:

- illustrate for social workers, social service workers and members of the public, what does or does not constitute professional misconduct;
- provide social workers and social service workers with direction about the College's standards of practice and professional behaviour, to be applied in future, should they find themselves in similar circumstances;
- implement the Discipline Committee's decision; and
- provide social workers, social service workers and members of the public with an understanding of the College's discipline process.

## **PROFESSIONAL MISCONDUCT**

### **Everett Randall Hamilton, RSW**

Former Member # 801139

### **Agreed Statement of Fact**

The College and the Member submitted a written statement to the Discipline Committee in which the following facts were agreed:

1. From April 27, 2009 until May 10, 2013 (the "Material Time"), the Member was employed as a social worker at a secure custody and detention facility for youth. The Member worked in the intake/assessment unit and his principle duties included providing front line social work services and counseling to youth, many of whom were in crisis. It also included liaising with parents and probation officers.
2. The Member was the only social worker on the unit and additionally acted as case coordinator, providing clinical input to a unit team which included health professionals, clinical managers and youth service officers.
3. During the Material Time, while employed as a social worker at the detention facility, the Member engaged in the following conduct:
  - a. On numerous occasions within the Material Time, the Member falsified his time sheet to indicate that he worked hours that he did not work. On the days where he

falsified his records, he either showed up to work late, departed early or departed for a lengthy period of time and then returned to work. However, he indicated on his timesheet that he had worked all scheduled hours. He continued to engage in that conduct despite being repeatedly notified, cautioned, counseled and suspended by his employer for falsifying his time sheets and misrepresenting his hours at work.

- b. On numerous occasions within the Material Time, the Member was absent from work, came in late for work, left early or took breaks without permission, which was detrimental to his clients and colleagues, as follows:
  - i. The Member's clients were adversely impacted by his frequent absences as he was the only social worker available to clients in the unit. As notice was never provided regarding absences, arrangements were not made in advance of the absences to ensure continuity of services to clients. At the intake/assessment stage, the Member's clients were new to the facility and were often in crisis mode, requiring immediate attention.
  - ii. The Member routinely failed to plan case management meetings or they were cancelled due to his absenteeism. He communicated poorly with the unit team and with other teams involved in transitioning clients from the various units within the detention facility, causing frustration for colleagues and leading to numerous complaints by managers, clinical staff and youth. The Member additionally failed to complete reports that he was required to complete, and reports that were completed were often deficient.
- c. When confronted about his absences, the Member provided untruthful information to a manager when, on April 27, 2010, he advised that he had left a message with the shift office indicating that he was sick and would not be available for his shift. The Member later admitted that he lied when he was confronted with information that the shift office does not have voicemail and therefore he could not have left a message.
- d. While employed at the detention facility the Member carried on secondary employment with a company. While he did report to his manager that he was employed by another company, he indicated that his employment with this company was part-time and conducted solely on his own time, during evenings and on weekends. However,
  - i. The Member was dishonest and provided inconsistent information about the scope of his secondary employment, sometimes indicating that it was restricted to screening clients after hours, by phone or over the internet, and at other times indicating that it required him to conduct face to face meetings with clients.
  - ii. The Member did not identify his secondary employment to the appropriate person within the detention facility contrary to his obligation to do so and contrary to the detention facility's policy on conflict of interest.

- iii. The Member conducted work for his secondary employer during work hours at the detention facility for which he received payment by the detention facility.
  - iv. The Member used his employer's resources, including information technology and telephone, to service clients for his secondary employer.
  - v. The manner in which the Member carried on employment with his secondary employer was in violation of various directives, policies and procedures of his employer.
- e. On or about May 10, 2013, the Member's employment was terminated by his employer after several internal investigations concerning the conduct outlined above led his employer to conclude that the Member acted in a manner which violated various directives, policies and procedures of the employer, that the Member falsely and/or fraudulently signed the attendance register to reflect, and be paid for, hours of work that he did not perform, and that the Member did work for a second employer while on duty and being paid by his employer which his employer concluded was "time theft" and placed the Member in a conflict of interest.

## **Decision**

The Discipline Committee accepted the Member's Plea and the Agreed Statement of Fact and found that the agreed facts support a finding that the Member committed acts of professional misconduct, and in particular, that the Member's conduct:

1. violated sections 2.19 (falsifying a record), 2.21 (making a record, or issuing or signing a certificate, report or other document in the course of practicing the profession that the Member knew or ought reasonably to have known is false, misleading or otherwise improper) and 2.24 (submitting an account or charge for services that the Member knew or ought to have known was false or misleading) of the Professional Misconduct Regulation;
2. violated section 2.29 of the Professional Misconduct Regulation by contravening a provincial law, where the purpose of the law is to protect public health or is relevant to the Member's suitability to practice;
3. violated section 2.10 of the Professional Misconduct Regulation by providing a service while the Member was in a conflict of interest which is defined in the glossary to the College's Code of Ethics and Standards of Practice as

"a situation in which a member has a personal, financial or other professional interest or obligation which gives rise to a reasonable apprehension that the interest or obligation may influence the member in the exercise of his or her professional responsibilities. Actual influence is not required in order for a conflict of interest situation to exist. It is sufficient if there is a reasonable apprehension that there may be such influence."

4. violated section 2.2 of the Professional Misconduct Regulation and section 3 (carrying out professional duties and obligations with integrity and objectivity), 7 (engaging in another profession, occupation, affiliation or calling and allowing these outside interests to affect the relationship with the client) and 8 (providing social work or social service work services in a manner that discredits the profession of social work and diminishes the public's trust in the profession profession) of the Code of Ethics;
5. violated section 2.2 of the Professional Misconduct Regulation, section 1 of the Code of Ethics (maintaining the best interest of the client as the primary professional obligation) and Principle I of the Handbook (commented on in Interpretations 1.5, 1.6 and 1.7) by:
  - i. failing to maintain an awareness of his values, attitudes and needs and how those impact on his professional relationships with clients,
  - ii. failing to distinguish his needs and interests from those of his clients to ensure that within professional relationships, clients' needs and interests remain paramount; and
  - iii. failing to maintain an awareness and consideration of the purpose, mandate and function of his employer organization and how those impact upon and limit professional relationships with clients.
6. violated section 2.2 of the Professional Misconduct Regulation and Principle II of the Handbook (commented on in Interpretation 2.2.8) by engaging in conduct which could reasonably be perceived as reflecting negatively on the professions of social work or social service work.
7. violated section 2.2 of the Professional Misconduct Regulation and Principle III of the Handbook (commented on in Interpretation 3.2) by failing to deliver client services and respond to client queries, concerns and/or complaints in a timely and reasonable manner.
8. violated section 2.2 of the Professional Misconduct Regulation and Principle IV of the Handbook (commented on in Interpretation 4.1.2) by failing to generate a record that reflects the service provider and the identity of the service provider.
9. 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 the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional

## **Penalty Order**

The panel of the Discipline Committee accepted the Joint Submission as to Penalty submitted by the College and the Member and made an order in accordance with the terms of the Joint Submission as to Penalty. The Discipline Committee ordered that,

1. The Member shall be reprimanded in person and the reprimand be recorded on the Register.
2. The Registrar shall be directed to suspend the Member's Certificate of Registration for a period of ten (10) months, the first two (2) months of which shall be served commencing on the date of the Discipline Committee's Order herein. Upon completion of those first two (2) months of the suspension, the remaining eight (8) months of the suspension shall be suspended for a period of two (2) years, commencing on the date of the Discipline Committee's Order herein. The remaining eight (8) months of the suspension shall be remitted on the expiry of that two year period if (on or before the second anniversary of the Discipline Committee's Order herein) the Member provides evidence, satisfactory to the Registrar of the College, of compliance with the terms and conditions imposed under paragraph 3 hereof. If the Member fails to comply with those terms and conditions, the Member shall serve the remaining eight (8) months of the suspension, commencing two (2) years from the date of the Discipline Committee's Order. For greater clarity, the terms and conditions imposed under paragraph 3 hereof will be binding on the Member regardless of the length of suspension served and the Member may not elect to serve the full suspension in place of performing those terms and conditions. If the Member fails to comply with the terms and conditions, 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.
3. The Registrar 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, at his own expense, to engage in psychotherapy with a regulated professional approved by the Registrar of the College for a period of two (2) years from the date of the Discipline Committee's Order, with bi-annual written reports as to the substance of the psychotherapy and the progress of the Member in respect of the topics identified below to be provided to the Registrar of the College by the therapist. The Member must attend for appointments at a frequency as directed by the therapist and must provide to the therapist the decision of the Discipline Committee as well as the prior decision of the Executive Committee dated April 13, 2005 and the prior decision of the Complaints Committee, dated November 15, 2010, receipt of which must be confirmed in writing to the Registrar. The psychotherapy must focus, at a minimum, on the admissions made by the member before the Discipline Committee and how they relate to the following topics:

- (i) the duty to maintain the best interests of the client as the primary professional obligation and the impact of the Member's conduct on clients;
- (ii) the duty to carry out professional obligations with integrity;
- (iii) the duty to ensure that if the Member is employed by multiple employers, that it does not affect his duties or relationship with clients;
- (iv) the duty to avoid conflicts of interest in the provision of social work services;
- (v) the duty to take responsibility for one's actions and to recognize the impact of those actions on clients and how those actions may impact on the public's confidence in the profession.

The Registrar may, if satisfied that the purpose of the therapy has been accomplished, at any time before the expiry of the two year period, direct that the psychotherapy be discontinued;

- (b) requiring the Member, for a period of two years following his receipt of the Discipline Committee's Decision and Reasons in this matter, should he currently be employed (or should he obtain any future or other employment) in a position in which his duties include the provision of social work services, to immediately provide his current, future and/or other employer(s) with a copy of the Decision and Reasons of the Discipline Committee, and to forthwith thereafter deliver any such employer's written confirmation of receipt of a copy of the Decisions and Reasons to the Registrar of the College;
- (c) requiring the Member for a period of two years following receipt of the Discipline Committee's Decision and Reasons in this matter to alert the Registrar in writing of his current employment and any change to employment status where the Member's duties include the provision of social work services. This notice requirement also applies should the Member become self-employed. The notice must be received by the Registrar in writing prior to commencing with any new employment;
- (d) requiring the Member for a period of two years following receipt of the Discipline Committee's Decision and Reasons in this matter to limit his employment to a single employer at any given time where his duties include the provision of social work services. The Member may request exemption from this condition and limitation from the Registrar or her designate and the granting of an exemption shall not be unreasonably withheld. A request for exemption

should be made in writing and should include a description of the hours, roles and responsibilities of each employment opportunity.

- (e) prohibiting the Member from applying under Section 29 of the *Social Work and Social Service Work Act*, 1998, S.O. 1998, Ch. 31, as amended, 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.
4. The Discipline Committee's finding and Order (or a summary thereof) be published (with the Member's name) in the College's official publication on the College's website and on any other materials or in any other location that the College sees fit, at its own discretion, and the results of the hearing be recorded on the Register.
5. The Member be required to pay costs in the amount of \$1,500 in a certified cheque to be provided within two (2) months of the Discipline Committee Hearing.

The Discipline Committee concluded that:

- The penalty was appropriate and the restrictions on the Member's practice and the requirement that he engage in psychotherapy to specifically address the professional misconduct were especially important.
- The Member has been cooperative and has admitted all allegations.
- The Member has agreed to pay costs and the panel is satisfied that the awarding of costs was reasonable and the amount fair.
- The public will be adequately protected with the jointly agreed-upon measures.
- The penalty provides specific deterrence to the Member and general deterrence to all other members with a clear message that this type of conduct will not be tolerated and a similar order will be made for any who choose to engage in similar behaviour.