



Ontario College of  
Social Workers and  
Social Service Workers

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

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**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 Cornish, 2018  
ONCSWSSW 9

Decision date: 20180802

**BETWEEN:**

THE ONTARIO COLLEGE OF SOCIAL WORKERS  
AND SOCIAL SERVICE WORKERS

- and -

KERRI-LYNNE CORNISH

PANEL: Linda Danson Chair, Professional Member  
Sophia Ruddock Public Member  
Charlene Crews Professional Member

Appearances: Lara Kinkartz, counsel for the College  
Kirsten Crain, counsel for the Member  
Andrea Gonsalves, Independent Legal Counsel to the Panel

Heard: February 28, 2018

**DECISION AND REASONS FOR DECISION**

[1] This matter came on for a hearing before a panel of the Discipline Committee (the “**Panel**”) on February 28, 2018 at the Ontario College of Social Workers and Social Service Workers (the “**College**”). Kerri-Lynne Cornish (the “**Member**”) and her counsel attended the hearing by videoconference.

## The Allegations

[2] In the Notice of Hearing dated January 25, 2017, the Member is alleged to be guilty of professional misconduct pursuant to subsection 26(2) of the *Social Work and Social Service Work Act* (the “**Act**”) in that she is alleged to have engaged in conduct that contravenes the Act, Ontario Regulation 384/00 (the “**Professional Misconduct Regulation**”), Schedule “A” to By-law No. 66 of the Ontario College of Social Workers and Social Service Workers, being the Ontario College of Social Workers and Social Service Workers Code of Ethics (the “**Code of Ethics**”), and Schedule “B” to By-law No. 66 of the Ontario College of Social Workers and Social Service Workers, being the Ontario College of Social Workers and Social Service Workers Standards of Practice Handbook (the “**Handbook**”).

[3] Counsel for the College advised the Panel that the College was requesting leave to withdraw the allegation set out in paragraph (n) of the Notice of Hearing. The Panel granted this request. Accordingly, the remaining allegations against the Member and the particulars of those allegations are as follows.

1. At all relevant times, you were registered as a social worker with the Ontario College of Social Workers and Social Service Workers (the “**College**”).
2. Between in or about August 2011 to in or about October 2013, you were employed at the [“**Facility**”] in [“**location in Ontario**”].
3. Between on or about August 30, 2011 until on or about May 9, 2013, you provided professional services to Client R.
4. During that time period, the professional services you provided to Client R. included counselling services.
5. Client R. was in a vulnerable state because of the recent death of his wife, and you exploited that vulnerability to establish a personal and/or sexual relationship with him.
6. Between on or about August 30, 2011 and September 29, 2014, you established a personal and/or sexual relationship with Client R. while he was a client and/or former client.
7. Your personal and/or sexual relationship with Client R. began while he was a client, and this personal and/or sexual relationship continued after he ceased to be a client.
8. You engaged in a series of boundary violations with respect to Client R. between August 30, 2011 and September 29, 2014. These boundary violations include, but are not limited to, the fact that you:
  - (a) spoke with Client R. over the phone on several occasions, outside of office hours;

- (b) used sexual language in your conversations with Client R.;
  - (c) engaged in sexual conversations with Client R. over the phone, during which one or both of you masturbated;
  - (d) asked Client R. to meet you socially on one or more occasions and/or met Client R. socially on one or more occasions;
  - (e) informed Client R. that you wanted to be “common law” with him;
  - (f) told Client R. that you loved him;
  - (g) invited Client R. over to your house;
  - (h) met with Client R. at a hotel in [“location in Ontario”] on April 18, 2014;
  - (i) asked Client R. to come and visit you in [“location in Canada”];
  - (j) kissed Client R. and/or allowed him to kiss you during or after one of your sessions with him;
  - (k) hugged Client R. and/or allowed him to hug you during or after one or more of your sessions with him;
  - (l) had sexual relations and/or engaged in sexual touching with Client R. on one or more occasions, including but not limited to at his home, at your home, and/or at a hotel in [“location in Ontario”];
  - (m) continued to pursue a personal and/or sexual relationship with Client R. when he informed you that he did not wish to be in a relationship with you and/or when he questioned whether your relationship with him was ethical; and/or
  - (n) asked Client R. not to report your conduct to the College.
9. You did not seek appropriate supervision, consultation, and/or advice regarding your relationship with Client R, and/or did not develop an appropriate plan when you developed sexual feelings toward Client R;
10. You did not appropriately document, report, seek consultation about, and/or address an incident or incidents in which Client R initiated behaviour of a sexual nature, including but not limited to the incident referred to in paragraph 8(j) above, including, but not limited to, by:
- (a) failing to clearly state that this behaviour was inappropriate because of your professional relationship;
  - (b) failing to take steps to promptly terminate the professional relationship;

- (c) failing to promptly assist the client in seeking alternate services; and/or
  - (d) failing to adequately report, document and/or seek appropriate consultation regarding the incident.
11. Your conduct in engaging in a personal and sexual relationship with Client R. had an adverse impact on him in that it caused him to feel shame and guilt, as well as anger at himself for allowing the relationship to progress as far as it did.

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 Interpretations 1.5 and 1.6)** by failing to be aware of your values, attitudes and needs and how those impacted on your professional relationship with clients, and 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;
- (b) In that you violated **Sections 2.2 and 2.10 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 seek consultation when appropriate;
- (c) In that you violated **Sections 2.2 and 2.10 of the Professional Misconduct Regulation** and **Principle II of the Handbook (commented on in Interpretation 2.2.1)** by engaging in a professional relationship with a client that constituted a conflict of interest and/or in a situation in which you ought reasonably to have known that the client would be at risk. You provided a professional service to a client while you were in a conflict of interest, and failed to avoid that conflict by:
  - (i) failing to evaluate your professional relationship and other situations involving the client and/or former client for potential conflicts of interest and/or failing to seek consultation to assist in identifying and dealing with potential conflicts of interest;
  - (ii) failing to avoid a conflict of interest and/or dual relationship with a client and/or former client that could impair your professional judgment and/or increase the risk of exploitation or harm to the client; and/or
  - (iii) failing to declare the conflict of interest and failing to take appropriate steps to address it and to eliminate the conflict;

- (d) In that you violated **Section 2.2 of the Professional Misconduct Regulation and Principle II of the Handbook (commented on in Interpretation 2.2.2)** by having sexual relations with a client and/or former client;
- (e) In that you violated **Sections 2.2 and 2.6 of the Professional Misconduct Regulation and Principle II of the Handbook (commented on in Interpretation 2.2.3)** by using information obtained in the course of your professional relationship and/or your professional position of authority to coerce, improperly influence, harass, abuse or exploit a client and/or former client;
- (f) In that you violated **Section 2.2 of the Professional Misconduct Regulation and Principle II of the Handbook (commented on in Interpretation 2.2.8)** by failing to avoid conduct that could reasonably be perceived as reflecting negatively on the profession of social work or social service work;
- (g) In that you violated **Section 2.2 of the Professional Misconduct Regulation and Principle III of the Handbook (commented on in Interpretations 3.2 and 3.7)** by failing to deliver client services and respond to client queries, concerns, and/or complaints in a reasonable and/or timely manner and by failing to assume full responsibility for demonstrating that a client and/or former client was not exploited, coerced or manipulated, intentionally or unintentionally;
- (h) In that you violated **Section 2.2 of the Professional Misconduct Regulation and Principle VIII of the Handbook (commented on in Interpretation 8.1)** by failing to be solely responsible for ensuring that sexual misconduct did not occur;
- (i) In that you violated **Section 2.2 of the Professional Misconduct Regulation and Principle VIII of the Handbook (commented on in Interpretation 8.2)** by engaging in sexual intercourse or another form of physical sexual relations with a client, and/or engaging in touching, of a sexual nature, of a client, and/or engaging in behaviour or remarks of a sexual nature towards a client, when that behaviour and those remarks were not of a clinical nature appropriate to the service provided;
- (j) In that you violated **Section 2.2 of the Professional Misconduct Regulation and Principle VIII of the Handbook (commented on in Interpretation 8.3)** by failing to seek consultation/supervision and by failing to develop an appropriate plan when you developed sexual feelings toward a client that could put the client at risk;
- (k) In that you violated **Section 2.2 of the Professional Misconduct Regulation and Principle VIII of the Handbook (commented on in Interpretation 8.4)** when a client initiated behaviour of a sexual nature, by failing to clearly state that this behaviour was inappropriate by virtue of

the professional relationship and/or by failing to terminate the professional relationship and assist the client in seeking alternate services if the overtures or provocative sexual behaviour by the client became intrusive to the provision of professional services;

- (l) In that you violated **Section 2.2 of the Professional Misconduct Regulation** and **Principle VIII of the Handbook (commented on in Interpretation 8.6)** by engaging in sexual relations with a client at the time of referral, assessment, counselling, or other professional services;
- (m) In that you violated **Section 2.2 of the Professional Misconduct Regulation** and **Principle VIII of the Handbook (commented on in Interpretation 8.7)** by engaging in sexual relations with a client and/or former client, to whom you provided counselling and/or psychotherapy services;
- (n) [*withdrawn*]
- (o) In that you violated **paragraph 1 of the Code of Ethics** by failing to maintain the best interest of the client as the primary professional obligation;
- (p) In that you violated **paragraph 3 of the Code of Ethics** by failing to carry out your professional duties and obligations with integrity and objectivity,
- (q) In that you violated **paragraph 5 of the Code of Ethics** in that you exploited your relationship with a client for personal benefit, gain or gratification;
- (r) In that you violated **paragraph 8 of the Code of Ethics** in that you provided social work services in a manner that discredits the profession of social work or diminishes the public's trust in the profession;
- (s) In that you violated **Section 2.5 of the Professional Misconduct Regulation** in that you abused a client physically, sexually, verbally, psychologically or emotionally, including by sexually abusing a client within the meaning of subsection 43(4) of the *Act*;
- (t) In that you violated **Section 2.28 of the Professional Misconduct Regulation** by contravening the *Act*, regulations or by-laws; and/or
- (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 Position

[4] The Member admitted allegations (a) to (m) and (o) to (u) in the Notice of Hearing. The Panel conducted an oral plea inquiry and was satisfied that the Member's admissions were voluntary, informed and unequivocal.

## The Evidence

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

1. At all times relevant to the allegations, Kerri-Lynne Cornish (the "**Member**") was a registered social work member of the Ontario College of Social Workers and Social Service Workers (the "**College**"). She resigned her membership in the College on September 29, 2014 when she moved from Ontario to ["location in Canada"] to pursue new career opportunities.
2. At all times relevant to the allegations and until October 2013, the Member worked as an independent contractor providing social work services at ["the Facility"] in ["location in Ontario"].
3. In August 2011, Client R. was referred to the Member for professional services to help him cope with his grief at the death of his wife. Client R. was known to the Member previously, as he was a high-profile leader in the small community. Between August 30, 2011 and May 9, 2013, the Member provided professional social work services to Client R. At the time, the Member did not consider that the services she was providing included counselling. However, the Executive Director of ["the Facility"] has confirmed that Client R. was referred to the Member for grief counselling by his physician, and that this referral is contained in the Member's chart. A few months after Client R. began receiving professional services from the Member, a chart note from Client R.'s family physician at ["the Facility"] indicates that she and Client R. discussed how his counselling with the Member was progressing. The Member's clinical notes of her sessions with Client R. also refer to the provision of "counselling" or "grief counselling" on three separate occasions.
4. In retrospect, the Member acknowledges that the services she was providing included counselling as defined in the Code of Ethics and Standards of Practice Handbook. She also acknowledges that it was her professional responsibility to be aware of the nature of the professional services she was providing to Client R.
5. The Member and Client R. would hug at the end of some sessions. If called to testify, she would state that she did not perceive this behaviour to be sexual. However, she recognizes that behaviour of this nature blurred her professional boundaries with Client R.

6. At a session in August 2012, the Member and Client R. exchanged a kiss on the lips at the end of a session. Although the Member and Client R. disagree about who initiated the kiss, the Member acknowledges that it was her sole responsibility to ensure that sexual misconduct did not occur.
7. If the Member were to testify, she would state that at the next session she advised Client R. that she was not able to continue a professional relationship with him, and that she explained her obligations in respect of conflicts and romantic relationships with clients. If Client R. were to testify, he would state that the Member never discussed her ethical obligations related to romantic relationships with clients and that she did not indicate that a romantic and/or sexual relationship between her and Client R. was not permitted at any time.
8. The Member's clinical notes for August 23 and 27, 2012 indicate that she and Client R. discussed the Member closing Client R.'s file and referring him to another professional. If called to testify, the Member would state that she believed she closed Client R.'s file at this time. However, the Member acknowledges that she never made a formal closure notation in Client R.'s file. She also acknowledges that she continued to provide professional services to Client R. on five subsequent occasions, until May 9, 2013, and that she documented these services in her clinical notes.
9. The Member did not disclose to any regulated health professional at ["the Facility"] that she and Client R. had shared a kiss, nor did she otherwise seek advice or guidance in relation to this incident. If the Member were to testify, she would state that this was because it was a small community, and she was concerned that it would be embarrassing for Client R. if she were to disclose this incident. However, the Member recognizes that it was her professional obligation to clearly communicate that any sexual contact between her and Client R. was inappropriate, and to terminate the professional relationship in these circumstances. She acknowledges that she did not do so.
10. While Client R. and the Member were in a professional relationship, they began a personal and sexual relationship. The Member allowed Client R. to visit her at her home outside of business hours on three occasions. Their relationship progressed to kissing and sexual touching (including touching of breasts and/or genitals) on two occasions at the Member's home during the period when the Member was providing professional services to him.
11. The Member spoke to Client R. over the phone on several occasions outside of office hours, both while she was providing professional services to him and after their professional relationship ended. During those phone calls, Client R. and the Member engaged in discussions that used sexually suggestive language. They would also talk to each other for long periods of time and Client R. would masturbate. If the Member were to testify, she



would state that she had no knowledge that he was masturbating during phone conversations.

12. The Member did not seek out any supervision, consultation, or advice regarding her relationship with Client R., and did not develop a plan to deal with the conflict of interest when she developed romantic and sexual feelings towards Client R.
13. When Client R. initiated sexual behaviour or reciprocated the Member's sexual advances, the Member did not document the incidents; did not report the incidents to, or consult with, anyone else at ["the Facility"]; and did not properly address those incidents with Client R. There is also nothing in the Member's clinical notes to suggest she informed Client R. that any sexual behaviour was inappropriate in light of their professional relationship. In addition, the Member did not take appropriate steps to promptly terminate the professional relationship, and improperly continued to provide professional services to Client R. until May 9, 2013.
14. At times, Client R. expressed a desire to be in a relationship with the Member, but on several other occasions, Client R. indicated that he did not want to be in a relationship with the Member. When Client R. asked the Member whether the relationship was ethical, the Member did not make it clear that she was not permitted to engage in a romantic or sexual relationship with him. On one occasion, the Member asked Client R. not to report her conduct to the College. If the Member were to testify, she would state that she never asked him not to report her to the College.
15. In September 2013, the Member terminated her contract with ["the Facility"] and took a one-year leave of absence to move to ["location in Canada"]. The romantic relationship between Client R. and the Member continued by telephone. Their phone calls continued to include sexually explicit discussions.
16. On April 18, 2014, the Member was driving from ["location in Canada"] to her residence in ["location in Ontario"] to close it up. In a phone conversation with Client R., she invited him to meet with her at a [Hotel] en route to her previous residence. Client R. agreed and drove 4 hours to meet her there. While at the hotel, the Member and Client R. engaged in sexual activity, which included genital-to-genital contact. This was the last sexual encounter between Client R. and the Member.
17. The romantic relationship between Client R. and the Member continued intermittently. They remained in contact until June 2016 when the Member changed her phone number to sever contact, and Client R. blocked the Member's calls. Over the course of their romantic relationship, the Member and Client R. expressed romantic/sexual feelings for one another. The Member and Client R. discussed the idea of being "common law" on one occasion.

18. As a result of his relationship with the Member, Client R. has expressed feeling shame and guilt, as well as anger at himself for allowing the relationship to progress as far as it did.
19. The Member acknowledges that she permitted professional and personal lines to be blurred in the context of her relationship with Client R., and that she failed to meet the standards of the profession in connection with this relationship. The Member has since sought counselling and completed an ethics and boundaries course.

[6] In the Agreed Statement of Facts the Member expressly admitted that by reason of engaging in the conduct outline above, she is guilty of professional misconduct as set out in s. 26(2)(a) and (c) of the Act, and as alleged at paragraphs (a) to (m) and (o) to (u) of the Notice of Hearing. The Agreed Statement of Facts also confirmed the Member's understanding of the consequences of her admissions, in terms similar to the questions the Panel posed of the Member during the oral plea inquiry.

### **Decision**

[7] Having considered the admissions of the Member, the evidence contained in the Agreed Statement of Fact, and the submissions of counsel, the Panel finds that the Member committed professional misconduct as alleged in paragraphs (a) through (m) and (o) through (u) of the Notice of Hearing. With respect to allegation (u), the Panel finds that the Member's conduct would reasonably be regarded by members as dishonourable and unprofessional.

### **Reasons for Decision**

[8] The panel considered the Agreed Statement of Facts and the Member's plea and finds that this evidence supports findings of professional misconduct as alleged in the Notice of Hearing.

[9] Allegation (a) in the Notice of Hearing is supported by paragraphs 1 to 7 and 10 in the Agreed Statement of Facts.

[10] Allegation (b) in the Notice of Hearing is supported by paragraphs, 9, 10, 11, 12 and 13 in the Agreed Statement of Facts.

[11] Allegation (c) in the Notice of Hearing is supported by paragraphs 5, 6 , 9, 10, 11, 12 and 13 in the Agreed Statement of Facts.

[12] Allegation (d) in the Notice of Hearing is supported by paragraphs 10, 11, 16 and 17 in the Agreed Statement of Facts.

[13] Allegation (e) in the Notice of Hearing is supported by paragraphs 6, 10, 11, 14, 16 and 17 in the Agreed Statement of Facts.

[14] Allegation (f) in the Notice of Hearing is supported by paragraphs 7, 8, 9, 10, 11 , 12, 13 14, 15, 16 and 17 in the Agreed Statement of Facts.

[15] Allegation (g) in the Notice of Hearing is supported by paragraphs 7, 8, 9, 10, 11, 12 , 13 15 to 17 in the Agreed Statement of Facts.

[16] Allegation (h) in the Notice of Hearing is supported by paragraphs 5, 6, 7, 8, 9, 10, 11, 12 and 13 in the Agreed Statement of Facts.

[17] Allegation (i) in the Notice of Hearing is supported by paragraphs 6, 10, 11 and 17 in the Agreed Statement of Facts.

[18] Allegation (j) in the Notice of Hearing is supported by paragraphs 6, 9, 10, 11, 12, and 13 in the Agreed Statement of Facts.

[19] Allegation (k) in the Notice of Hearing is supported by paragraphs 6 , 7, 8 , 9, and 13 of the Agreed Statement of Facts.

[20] Allegation (l) in the Notice of Hearing is supported by paragraphs 6, 10, 11 and 13 in the Agreed Statement of Facts.

[21] Allegation (m) in the Notice of Hearing is supported by paragraphs 4, 10, 11 and 13 in the Agreed Statement of Facts.

[22] Allegation (o) in the Notice of Hearing is supported by paragraphs 4, 6, 12 and 13 in the Agreed Statement of Facts.

[23] Allegation (p) in the Notice of Hearing is supported by paragraphs 4, 5, 6, 8 and 9 to 13 in the Agreed Statement of Facts.

[24] Allegation (q) in the Notice of Hearing is supported by paragraphs 6, 7, 9, 10 and 11 in the Agreed Statement of Facts.

[25] Allegation (r) in the Notice of Hearing is supported by paragraphs 9, 10 and 11 in the Agreed Statement of Facts.

[26] Allegation (s) in the Notice of Hearing is supported by paragraphs 4, 6, 10, 11, 13, 17 and 19 in the Agreed Statement of Facts.

[27] Allegation (t) in the Notice of Hearing is supported by paragraphs 5, 6, 7, 8, 9, 10 to 17 in the Agreed Statement of Facts.

[28] With respect to allegation (u) in the Notice of Hearing, the Panel found the Member's conduct having regard to all circumstances, would reasonably be regarded by members as dishonourable and unprofessional. The conduct was unprofessional because it showed a serious disregard by the Member for her professional obligations. By engaging in an inappropriate personal and sexual relationship with her client, the Member failed to show the good judgment and responsibility required of social workers, and she failed to live up to the standards expected of her. The Member's conduct was also dishonourable. It has an element of moral failing because the Member knew or ought to have known that her conduct was unacceptable and that engaging in a sexual relationship with a vulnerable client falls well below the standards of a social worker.

[29] However, the Panel was not prepared to find that the Member's conduct would reasonably be regarded by members as disgraceful. While the Member's conduct showed serious moral failing that shamed her and, by extension, the profession, the Panel was not satisfied in this case that her conduct casts severe doubt on her fitness and ability to discharge the moral obligations expected of those who practise social work in Ontario. Although any sexual abuse of a client is serious misconduct, sexual abuse is more severe when, for example, it involves minors or sexual assault. This case did not involve sexual abuse of that more aggravated nature. Although a finding that the Member's conduct would be reasonably regarded as disgraceful could have been made in this case, the Panel was of the view that such a finding should be reserved for those more serious cases.

### **Penalty Submission**

[30] The parties were in agreement on the issue of penalty, and jointly submitted that this Panel make an order as follows:

1. The Member shall be reprimanded electronically by the Discipline Committee and the fact and nature of the reprimand shall be recorded on the College's Register for an unlimited period of time, pursuant to s.26(7) of the *Act*;
2. The Registrar shall be directed to revoke the Member's certificate of registration pursuant to s. 26(4)(1) of the *Act*;
3. The period of time during which the Member may not reapply to the College for a new certificate of registration shall be fixed at five (5) years from the date of the Discipline Committee's Order, pursuant to s. 26(7) of the *Act*;
4. The Discipline Committee's finding and Order (or a summary thereof) shall be published, with identifying information concerning the Member included, in the College's official publication and on the College's website, and the results of the hearing shall be recorded on the Register and in any other media-related format that is provided to the public and is deemed appropriate by the College, pursuant to s. 26(5)(3) of the *Act*; and,
5. The Member shall pay the costs of the proceeding to the College in the amount of three thousand dollars (\$3,000) within sixty (60) days of the Discipline Committee's Order, pursuant to s. 26(5)(4) of the *Act*.

[31] Counsel for the College submitted that the College's mandate is to ensure protection of the public and that it has continuing jurisdiction to impose a full range of penalties against the Member even though she resigned her membership in 2014, prior to this hearing. College counsel reviewed the general principles to be considered at the penalty stage: specific deterrence, general deterrence and rehabilitation. The College submitted that revocation of the Member's certificate of registration, though not mandatory, is the appropriate penalty, as sexual abuse of a client is among the most serious acts of professional misconduct. The Member had placed her own needs and interests above those of the client. The Member was not forthright with Client R and did not make clear the unethical nature of their relationship. The Member knew that Client

R, who came to her for grief counselling, was vulnerable following the death of his wife, and she took advantage of his vulnerability by engaging in a romantic and sexual relationship which resulted in Client R later experiencing feelings of shame and guilt relating to the relationship. The Member should have been aware of the power imbalance between herself and Client R and that she was exploiting the trust and power existing within the professional / client relationship when she engaged in non-professional conduct with Client R.

[32] College counsel submitted that the penalty imposed on the Member should be impactful enough to be a specific deterrent to the Member and to send a strong message to other members of the profession. Further, publication of the decision is in the best interest of the public, as it provides transparency about the Discipline Committee's functions and supports the goal of general deterrence.

[33] Counsel for the College argued that an aggravating factor in this case is that the misconduct is very serious, involving sexual abuse of a client. With respect to mitigating factors, the Member admitted the misconduct and voluntarily participated in an ethics and boundaries course.

[34] College counsel provided the Panel with a number of decisions from this Discipline Committee in other cases involving sexual misconduct. She explained that while revocation is not a mandatory penalty for sexual abuse of a client under the Act, and that in older cases this Discipline Committee did not impose revocation orders for such misconduct, the cases she provided demonstrate a more recent trend of this Committee ordering revocation in cases of sexual abuse of a client. College counsel further submitted that, as set out in the joint submission on penalty, it is appropriate for the Panel, pursuant to s. 26(7) of the Act, to fix in its order a five-year period during which the Member may not apply for a new certificate of registration. She noted that a five-year period was similarly fixed in the decisions of this Committee in *Beauchamp-Brown* (2017), *Heywood* (2017) and *Vaz* (2017), all of which involved findings of sexual misconduct involving a client. College counsel argued that this five-year period provides additional deterrence and shows that the College takes sexual misconduct seriously. It is also consistent with the requirements of health colleges governed by the *Regulated Health Professions Act, 1991*, SO 1991, c 18, which provides that in cases involving sexual abuse of a patient, revocation of the member's certificate of registration is mandatory and the member must wait at least five years before applying for reinstatement.

[35] Counsel for the Member argued the Member's actions carried no hallmarks of intentional deceit. Although the Member agrees that she ought to have known better and ought to have conducted herself differently, there are mitigating factors that must be considered, including that the Member has admitted her misconduct and taken responsibility for her actions as outlined in the Agreed Statement of Facts. The Member has since demonstrated insight into her behaviour by attending counselling and completing an ethics and boundaries course at her own initiative. The Member has been a full and cooperative participant throughout the investigation and discipline hearing. The Member gave up her right to a contested hearing, saving the College costs and saving Client R the burden of testifying. The Member's counsel submitted that the agreed penalty achieves both specific and general deterrence. She urged the Panel, in writing its reasons on penalty, to consider the overall context and nature of the case, and the Panel's finding that the Member's conduct did not rise to level of being regarded as disgraceful.

## **Penalty Decision**

[36] Having considered the findings of professional misconduct, the evidence and the submissions of the parties, the Panel accepts the joint submission and makes an order as follows.

1. The Member shall be reprimanded electronically by the Discipline Committee and the fact and nature of the reprimand shall be recorded on the College's Register.
2. The Registrar is directed to revoke the Member's certificate of registration.
3. The period of time during which the Member may not apply to the College for a new certificate of registration shall be fixed at five (5) years from the date of the Discipline Committee's Order.
4. The Discipline Committee's finding and Order (or a summary thereof) shall be published, with identifying information concerning the Member included, in the College's official publication and on the College's website, and the results of the hearing shall be recorded on the Register and in any other media-related format that is provided to the public and is deemed appropriate by the College.
5. The Member shall pay costs to the College in the amount of three thousand dollars (\$3,000) within sixty (60) days of this Order.

## **Reasons for Penalty Decision**

[37] 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.

[38] The Panel accepted the joint submission on penalty. In doing so, the Panel considered the fact that the Member has taken responsibility for and admitted to the allegations outlined in the Agreed Statement of Facts; that she has taken the initiative to attend counselling and completed an ethics and boundaries course; and that she fully cooperated and participated in the hearing process. The Panel also considered the serious nature of the misconduct. Revocation of the Member's certificate of registration and the reprimand achieve both specific and general deterrence, as well as public protection. By ordering under s. 26(7) of the Act that the Member may not apply for a new certificate of registration until at least five years have passed since the date of the Panel's order, the penalty responds to the seriousness of the misconduct. This too serves the goals of specific and general deterrence, as well as public protection.

[39] Publication of the Panel’s finding and order on the public register is in the public interest in demonstrating the transparency of the College’s discipline process, and also advances the objectives of general and specific deterrence.

[40] In sum, taken as a whole the penalty provides both specific deterrence and general deterrence to discourage members of the profession from engaging in similar misconduct; it protects the public; and it sends a strong message that such misconduct will not be dealt with lightly.

I, Linda Danson, sign this Decision as Chairperson of the panel and on behalf of the panel members listed below.

Date: \_\_\_\_\_

Signed: \_\_\_\_\_

Linda Danson  
Sophia Ruddock  
Charlene Crews