

**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 Burden, 2024
ONCSWSSW 3

Decision date: 20240214

BETWEEN:

THE ONTARIO COLLEGE OF SOCIAL WORKERS
AND SOCIAL SERVICE WORKERS

- and -

ALEXANDRA ELIZABETH MICHELLE BURDEN

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

Appearances: Alyssa Armstrong, counsel for the College
Rebecca Young, counsel for the Registrant
Andrea Gonsalves, Independent Legal Counsel to the Panel

Heard: August 8, 2023

DECISION AND REASONS FOR DECISION

[1] This matter came on for hearing on August 8, 2023, before a panel of the Discipline Committee (the “**Panel**”) of the Ontario College of Social Workers and Social Service Workers (the “**College**”), by video conference.

[2] The Registrant, Alexandra Burden (the “**Registrant**”), was not present at the hearing. Her counsel was present at the hearing and advised that the Registrant would not be attending. The Registrant’s counsel assured the Panel that the Registrant was aware of the proceedings and had signed an agreed statement of fact admitting to the allegations, as well as a written plea inquiry. The Registrant’s counsel also pointed out that the Discipline Committee’s *Rules of Procedure* do not require a registrant to attend their discipline hearing. The College did not object to the hearing proceeding in the Registrant’s absence.

[3] Based on the submissions of counsel, the Panel accepted that the Registrant had been properly served with the Notice of Hearing and had instructed her counsel to be present and represent her at the hearing. The Panel was satisfied that no injustice would result if the hearing continued in the Registrant's absence.

Publication ban

[4] The College requested an order banning publication of the client's name and of any information that would identify the client in this matter. The College's request was made under s. 28(7) of the *Social Work and Social Service Work Act*, 1998, SO 1998, c 31 (the "Act"), and was based on the fact that the allegations and evidence in this case involve sensitive personal information about the client. The Registrant's counsel consented to the order sought.

[5] The Panel was satisfied that it was appropriate to order the publication ban as requested. Although discipline hearings are open to the public, the Panel found it necessary to protect the identity of the complainant, who was a vulnerable person.

The allegations

[6] In the Notice of Hearing dated June 16, 2022, the Registrant is alleged to be guilty of professional misconduct within the meaning of s. 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**").¹

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

I. The following are particulars of the said allegations:

1. You are, and were at all times relevant to these allegations, a registered social worker with the Ontario College of Social Workers and Social Service Workers (the "**College**").
2. At all material times, you were practising social work in Kitchener, Ontario, at House of Friendship.
3. At all material times, you worked as a Housing Support Worker and/or Life Skills & Community Worker. Your role as a Housing Support Worker was to provide support and assist clients to maintain housing and develop a sense of home and belonging. Your role as a Life Skills & Community Worker was to support clients' inclusion and participation in the broader community.

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

4. On or about May 28, 2020, you began providing social work services to ["X.X."] (the "Client").
5. The Client was a vulnerable person who had sought assistance from you with respect to housing, employment, substance misuse and mental health issues.
6. As you were aware from the outset of the professional relationship, the Client struggled with a recent history of homelessness and substance misuse.
7. During the period from approximately May 28, 2020 to December 3, 2020 you interacted with the Client either in person, and/or by text, email, or phone on at least 73 separate dates.
8. From approximately August 3, 2020 to December 8, 2020, you exchanged text messages with the Client which included extensive self-disclosure and dealt with topics of a personal nature.
9. As your interactions with the Client progressed, the Client began to experience personal and/or romantic feelings for you and the Client expressed those feelings to you by text message and/or in person. On approximately two occasions, the Client told you that he loved you and/or that he had feelings for you or words to that effect.
10. On or about December 8, 2020, your employer removed the Client from your caseload due to concerns with respect to boundary violations.
11. You were terminated by House of Friendship on December 6, 2021.
12. During the professional relationship with the Client, you engaged in a series of boundary crossing and/or boundary violation behaviours relating to the Client, in that you:
 - (a) attended the Client's apartment at [redacted] (where you worked), on a regular basis to socialize and/or spend time with the Client;
 - (b) saw the Client for extended periods of time during and/or outside of formal work hours;
 - (c) gave gifts to the Client including by purchasing cannabis or similar substances for the Client on at least one occasion and/or giving the Client money so that he could purchase cannabis or similar substances;
 - (d) accepted favours from the Client;
 - (e) exchanged texts with the Client of a personal nature, examples of which include:
 - i. "Need any more money?"
 - ii. "Don't you have any change or bottles you could take back to get some?"
 - iii. "Did you get weed?"

- iv. “Hey I hope your night goes well. Sorry I wasn't the most helpful, I'm going to go home and sit in front of my happy light and hope the depression is sucked out of me by tomorrow”;
 - v. “Man I need something that works, other than therapy because that’s too expensive lol”;
 - vi. “I am so sorry about last night. I should have just said I had a bad day...Like really bad... and that we'd talk tomorrow when I was ok. Honestly you know I've got your back regardless of any decisions you make and am here to support. I was upset last night and it had nothing to do with you so again I'm so sorry about that”;
 - vii. [responding to reassurances from the Client] “Sir, I was not, but I appreciate your understanding lol. I’m gonna do better. I would not have reacted at all like that if other people hadn’t annoyed me all day lol.”
 - viii. “Lol even if they did switch me you’d be allowed to still talk to me you don’t have to go completely off the map lol...” [to which the Client responded] “Obviously I’d still talk to you, just not anyone else. There'd be no point...”; and/or
 - ix. “That’s me. Unqualified but doing my best hahaha All of us really lol” [to which the Client responded] “That’s bull. You’re the best they’ll ever have!” [to which the Member responded] “Lol no no all of us are unqualified for everything we just do our best haha”;
- (f) disclosed personal details to the Client, including information related to your health and/or personal concerns about your employment situation;
 - (g) disclosed information about the workplace and/or your colleagues to the Client;
 - (h) advised the Client that you were still advocating to continue to provide services to the Client, notwithstanding that:
 - i. the Client had told you that he loved you, had feelings for you, or words to that effect; and/or
 - ii. your supervisor had advised you of her concerns with respect to your boundaries with the Client.
 - (i) failed to maintain awareness of your own emotional needs and/or reactions to the Client; and/or
 - (j) failed to seek timely supervision with respect to the increasing amount of time spent with the Client, and your communications with the Client.
13. During the professional relationship with the Client, you practised and provided social work services while in a conflict of interest, in that you failed to adequately address the Client’s disclosure that he loved you or had feelings for you, or words to

that effect. Instead, you continued to engage in text exchanges with the Client that were highly personal.

14. During the professional relationship with the Client, you failed to document the full extent of your interactions with the Client, including the amount of time you spent with the Client during in-person meetings and/or the content, duration and/or timing of your communications with the Client, including (but not limited to) communications by text message.

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) violation of section 2.2 of the Professional Misconduct Regulation and Principle I of the Handbook (as commented on in Interpretations 1.5, 1.6 and 1.7) by failing to maintain awareness of your own values, attitudes and needs and how these impact your professional relationship with your client; by failing to distinguish your needs and interests from those of your client to ensure that your client's needs and interests remain paramount; by failing to maintain an awareness of and consideration of the purpose, mandate and function of your employment organization and how these impact on and limit your professional relationship with your client;
- (b) violation of sections 2.2 and 2.10 of the Professional Misconduct Regulation and Principle II of the Handbook (as commented on in Interpretations 2.1.5, 2.2, 2.2.1, 2.2.6 and 2.2.8) and Interpretations 8.4 and 8.4.1 by failing to engage in the process of self-review and evaluation of your practice and seek consultation when appropriate; by failing to establish and maintain clear and appropriate boundaries in professional relationships for the protection of your client; by engaging in a professional relationship that constituted a conflict of interest or in situations in which you ought reasonably to have known that the client would be at risk in any way; by failing to avoid conflicts of interest and/or dual relationships with your client that could impair your professional judgment or increase the risk of exploitation or harm to your client; by engaging in the practice of social work while under the influence of any substance, or while suffering from illness or dysfunction, which you knew or ought to have known impaired your ability to practise; by engaging in conduct in the practice of social work which could reasonably be perceived as reflecting negatively on the profession of social work; by failing to clearly state to your client that his behaviour was inappropriate by virtue of the professional relationship when your client initiated behaviour of a sexual nature; by failing to terminate the relationship with your client when the overtures or provocative sexual behaviour by the client towards you became intrusive to the professional relationship;
- (c) violation of section 2.2 and 2.9 of the Professional Misconduct Regulation and Principle III of the Handbook (as commented on in Interpretations 3.7 and 3.8) by failing to assume full responsibility for demonstrating that your client had not been exploited, coerced or manipulated intentionally or unintentionally where a personal relationship occurred with your client; by providing a service that you knew or ought reasonably to have known was not likely to benefit your client;

- (d) violation of section 2.2 and 2.20 of the Professional Misconduct Regulation and Principle IV of the Handbook (as commented on in Interpretation 4.1.1) by failing to record information in a manner that conforms with accepted service or intervention standards and protocols within the profession of social work, relevant to the services provided, and/or in a format that facilitates the monitoring and evaluation of the effects of the service/intervention, when you failed to fully and accurately document in the social work record your communications and interactions with your client;
- (e) violation of section 2.28 of the Professional Misconduct Regulation by contravening the Act or regulations or by-laws;
- (f) violation of 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

[8] The Registrant's counsel advised the Panel at the hearing that the Registrant admitted to the allegations in the Notice of Hearing. These admissions are confirmed in the Agreed Statement of Facts signed by the Registrant. The Panel was also provided with a written plea inquiry signed by the Registrant, which confirmed her understanding of the allegations made against her and the consequences of admitting to the allegations, and that she admits the allegations voluntarily.

[9] The Panel was satisfied that the Registrant's admissions were voluntary, informed and unequivocal.

The evidence

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

BACKGROUND

1. Now and at all times relevant to the allegations in the Notice of Hearing dated June 16, 2022, Alexandra Elizabeth Michelle Burden (the "**Registrant**") was a registered social work member with the Ontario College of Social Workers and Social Service Workers (the "**College**"). The Registrant first registered with the College as a Social Worker on December 7, 2016.
2. At all times relevant to the allegations, the Registrant was working as a Housing Support Worker and/or Life Skills & Community Worker at House of Friendship in Kitchener, Ontario, which involved the practice of social work.
3. The Registrant's role as a Housing Support Worker was to provide support and assist clients to maintain housing and develop a sense of home and belonging. Participants in the program were individuals living on low income who may have experienced homelessness. This role included supporting clients in securing food and tackling tasks of daily living. The role could also include going for walks with tenants in order to encourage engagement, exercise and to facilitate attendance at appointments.

4. The Registrant's role as a Life Skills & Community Worker was to support clients' inclusion and participation in the broader community. This role involved assisting tenants in developing life skills in accordance with individualized life skill learning plans, supporting the development of an inclusive tenant community, and supporting tenants' inclusion and participation in the broader community.

THE REGISTRANT'S CONDUCT WITH RESPECT TO ["X.X."]

5. From on or about May 28, 2020 to December 8, 2020, the Registrant provided social work services to a client, ["X.X."], as described below.
6. At all times relevant to the allegations, ["X.X."] resided in an apartment that was provided to him as part of his participation in the House of Friendship housing program for low-income individuals who have experienced homelessness. The House of Friendship office, where the Registrant worked during her shifts, was located on the same premises where ["X.X."] resided.
7. At all relevant times, the Registrant was aware that ["X.X."] was a vulnerable person who struggled with a recent history of homelessness, substance misuse and addiction. Throughout the course of the professional relationship, ["X.X."] sought the Registrant's support with respect to housing, employment, substance misuse, addiction, mental health issues and problematic personal and family relationships. That support consisted of social work services, including:
 - (a) discussing issues relating to housing, mental health, addiction, inter-personal relationships (including friendships and family relationships), and employment issues;
 - (b) assisting ["X.X."] in securing food and other household items;
 - (c) accompanying ["X.X."] on walks to appointments;
 - (d) communicating with ["X.X."] to provide reminders regarding appointments; and
 - (e) referring ["X.X."] to resources and/or service providers.

During the period from approximately May 28, 2020 to approximately December 3, 2020, the Registrant interacted with ["X.X."] either in person, and/or by text, email or phone on at least 73 separate dates. Some of these communications were appropriate given the Registrant's employment. However, due to their frequency, duration, and personal nature, many of these communications were inappropriate and unprofessional.

8. From approximately August 3, 2020 to approximately December 8, 2020, the Registrant exchanged text messages with ["X.X."], which included extensive self-disclosure and dealt with topics of a personal (rather than clinical) nature that were not appropriate to the services being provided.
9. As the Member's interactions with ["X.X."] escalated, ["X.X."] began to experience personal and romantic feelings for the Member. ["X.X."] expressed those feelings to the Registrant by text messages and in person.

10. In or about September 2020, the Registrant's manager told the Registrant that she had concerns with respect to the excessive amount of time the Registrant was spending with and/or providing support to ["X.X."].
11. In or around October 2020, the Registrant was seen to be crying at work. She then advised her manager that ["X.X."] had expressed that he loved the Registrant. There was no specific notation in the Registrant's clinical notes of ["X.X."]'s romantic overtures toward her. The Registrant's clinical notes indicate that she discussed boundaries with ["X.X."] on one occasion in October 2020, but there is no indication in the clinical notes of what prompted this discussion. There is also no indication that the Registrant addressed ["X.X."]'s comments and behaviours toward her as inappropriate by virtue of the professional relationship.
12. At the time (in October 2020), the Registrant objected to her manager's suggestion that ["X.X."] be removed from her caseload and continued to advocate to her manager that ["X.X."] should remain assigned to her caseload rather than being transferred to a different worker. The Registrant's manager agreed to this, provided that the Registrant be subject to close supervision.
13. On December 3, 2020, ["X.X."] again expressed romantic interest in the Registrant. The Registrant brought these comments to her manager's attention on December 4, 2020. According to the manager's notes, the Registrant stated that:
 - (a) ["X.X."] had only made verbal comments to the Registrant; and
 - (b) that she had addressed the inappropriate comments with ["X.X."] at the time that ["X.X."] made such comments.
14. On December 8, 2020, over the Registrant's objections, her employer removed ["X.X."] from the Registrant's caseload due to concerns with respect to boundary violations. After the Registrant's supervisor informed her that ["X.X."] would be removed from her caseload, the Registrant was seen to be crying at work.
15. The Registrant's employment with House of Friendship was terminated without cause on January 6, 2021 by way of a letter that was incorrectly dated December 6, 2021. The letter indicated that the reasons for termination included the Registrant's dealings with ["X.X."] and her resistance to the suggestion that ["X.X."] should be removed from her caseload due to boundary issues. The letter also indicated that the Registrant's relationship with ["X.X."] had resulted in harm and risk to the client, the Registrant, the Registrant's colleagues, and House of Friendship's reputation.
16. During the professional relationship with ["X.X."], the Registrant acknowledges that she engaged in a series of boundary crossing and/or boundary violation behaviours relating to ["X.X."], in that she:
 - (a) attended ["X.X."]'s apartment at *[redacted]* (where the Registrant worked), on a regular basis to socialize and/or spend time with ["X.X."];
 - (b) saw ["X.X."] for extended periods of time during and/or outside of formal work hours;
 - (c) gave gifts to ["X.X."] including by purchasing cannabis or similar substances for ["X.X."] on at least one occasion and/or giving ["X.X."] money so that he

could purchase cannabis or similar substances when ["X.X."] was in need of support to address addiction issues;

- (d) accepted favours from ["X.X."];
- (e) exchanged texts with ["X.X."] of a personal nature, examples of which include:
 - (i) "Need any more money?"
 - (ii) "Don't you have any change or bottles you could take back to get some?"
 - (iii) "Did you get weed?"
 - (iv) "Hey I hope your night goes well. Sorry I wasn't the most helpful, I'm going to go home and sit in front of my happy light and hope the depression is sucked out of me by tomorrow";
 - (v) "Man I need something that works, other than therapy because that's too expensive lol";
 - (vi) "I am so sorry about last night. I should have just said I had a bad day...Like really bad... and that we'd talk tomorrow when I was ok. Honestly you know I've got your back regardless of any decisions you make and am here to support. I was upset last night and it had nothing to do with you so again I'm so sorry about that";
 - (vii) [responding to reassurances from ["X.X."]] "Sir, I was not, but I appreciate your understanding lol. I'm gonna do better. I would not have reacted at all like that if other people hadn't annoyed me all day lol."
 - (viii) "Lol even if they did switch me you'd be allowed to still talk to me you don't have to go completely off the map lol..." [to which ["X.X."] responded] "Obviously I'd still talk to you, just not anyone else. There'd be no point..."; and/or
 - (ix) "That's me. Unqualified but doing my best hahaha All of us really lol" [to which ["X.X."] responded] "That's bull. You're the best they'll ever have!" [to which the Registrant responded] "Lol no no all of us are unqualified for everything we just do our best haha";
- (f) disclosed personal details to ["X.X."], including information related to her health and/or personal concerns about her employment situation;
- (g) disclosed information about the workplace and/or her colleagues to ["X.X."];
- (h) advised ["X.X."] that she was still advocating to continue to provide services to ["X.X."], notwithstanding that:
 - (i) ["X.X."] had told the Registrant that he loved her, had feelings for her, or words to that effect; and

- (ii) The Registrant's supervisor had advised her of the supervisor's concerns with respect to her boundaries with ["X.X."].
 - (i) failed to maintain awareness of her own emotional needs and/or reactions to ["X.X."]; and
 - (j) failed to seek timely supervision with respect to the increasing amount of time spent with ["X.X."], and her communications with ["X.X."]
17. During the professional relationship with ["X.X."], the Registrant practised and provided social work services while in a conflict of interest, in that she failed to adequately address ["X.X."]'s disclosure that he loved her or had feelings for her, or words to that effect. Instead, the Registrant continued to engage in text exchanges with ["X.X."] that were highly personal, were not of a clinical nature and were not appropriate to the services being provided.
18. During the professional relationship with ["X.X."], the Registrant failed to document the full extent of her interactions with ["X.X."], including the amount of time she spent with ["X.X."] during in-person meetings and/or the content, duration and/or timing of her communications with ["X.X."], including (but not limited to) communications by text message.

[11] The Agreed Statement of Facts also confirms the Registrant's admission that by reason of engaging in the conduct outlined above, she is guilty of professional misconduct as set out in s. 26(2)(a) and (c) of the Act, as particularised in the Notice of Hearing.

Decision of the Panel

[12] Having considered the admissions of the Registrant, the evidence contained in the Agreed Statement of Facts, and the submissions of counsel, the Panel finds that the Registrant committed the acts of professional misconduct alleged in the Notice of Hearing. With respect to allegation (f), the Panel finds that the Registrant's conduct would reasonably be regarded by members as dishonourable and unprofessional.

Reasons for decision

[13] The Registrant's admission and the evidence presented in the Agreed Statement of Facts were sufficient to substantiate the findings of misconduct outlined in the Notice of Hearing.

[14] The evidence led by the College satisfied the Panel that the Registrant provided social work services to a client whom she knew (by reason of his enrolment in the housing support program where she was employed) to be a vulnerable person with a history of homelessness, mental health and addiction.

[15] The Registrant spent a disproportionate amount of time with the client in the privacy of his home; crossed professional boundaries relating to personal self-disclosure; engaged in communications of a personal nature not related to the client's support needs; gave and accepted gifts, including money and cannabis; and failed to respond appropriately to the client's declaration of romantic feelings.

[16] The Panel was satisfied that the Registrant knew that her relationship with the client was not in the client's best interest. She was witnessed crying at work on two occasions in relation to the client's romantic overtures. In addition, she protested twice when the manager initiated the removal of the client from the Registrant's caseload due to boundary concerns and continued to maintain a personal relationship with the client both during and outside of formal work hours. The boundary concerns ultimately resulted in the termination of the Registrant's employment with the organization. Further, the Registrant failed to record the full scope of her interactions and correspondences with the client, including timing, topic and length of these exchanges.

[17] The Panel accepts that the Registrant engaged in the professional misconduct outlined in the Notice of Hearing. The evidence proves on a balance of probabilities that the Registrant engaged in the boundary violations, standards breaches, record-keeping violations alleged.

[18] With respect to allegation (e), the Panel's found that the Registrant's conduct would reasonably be regarded by members as dishonourable and unprofessional. The Registrant developed a personal relationship with a vulnerable client, engaged in long term boundary violations, failed to respond professionally to the clients declaration of romantic feelings. In doing this the Registrant fell below the standards expected of a member of the social work profession and put the public confidence in the profession at risk.

Penalty submissions

[19] At the hearing, the parties were in agreement on the issue of penalty and presented to the Panel a Joint Submissions as to Penalty ("**Joint Submission**"). In the Joint Submission, the parties presented the following additional agreed facts relevant to the issue of penalty:

1. The Registrant desires to resign from the College and to not engage in conduct that falls within the scope of practice of social work. [A copy of the Registrant's resignation letter is attached to the Joint Submission as an exhibit.]
2. Provided this proposed penalty is accepted by the panel, the Registrar will forthwith accept the resignation of the Registrant pursuant to section 13(2) of the [Act].

[20] The Joint Submission then asks this Panel make an order as follows.

1. The Registrant shall be reprimanded by the Discipline Committee and the act and nature of the reprimand 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 five (5) months, which shall be suspended and shall not be served until such time as the Registrant is issued a new certificate of registration.
3. Prior to issuing a certificate of registration, the Registrant shall:
 - (a) Participate in and successfully complete, at her own expense, a boundaries and ethics training course, as prescribed by and acceptable to the College, and provide proof of such completion to the Registrar.

- (b) Engage, at her own expense,² in psychotherapy as directed by a therapist, approved by the Registrar of the College, which must include a minimum of eight (8) sessions, with written reports as to the substance of the psychotherapy and the progress of the Registrant after sessions 4 and 8 to be provided by the therapist to the College upon the Registrant's application for a certificate of registration. Before the first session, the Registrant must provide to the approved therapist the Notice of Hearing as well as the Agreed Statement of Facts and Joint Submission as to Penalty and must retain written confirmation, signed by the therapist, that these documents were provided and reviewed. The Registrant must also provide the final decision of the Discipline Committee to the approved therapist and must retain written confirmation, signed by the therapist, that the final decision was provided and reviewed. If the final decision of the Discipline Committee is not yet available at the commencement of the psychotherapy relationship, the Registrant must subsequently provide it to the approved therapist within 72 hours of receipt. The psychotherapy must be completed to the satisfaction of the Registrar based on the reports from the therapist which outline the substance of the psychotherapy and the progress of the Registrant. The reports must indicate that the therapist reviewed at the outset the Notice of Hearing, Agreed Statement of Facts, Joint Submission as to Penalty and final decision of the Discipline Committee. The reports must also indicate that the focus of the psychotherapy was on concerns raised by the Registrant's conduct which gave rise to this matter.

The Registrant acknowledges that her failure to complete the requirements of subparagraphs 3(a) and (b) would provide the Registrar sufficient grounds to refuse to issue to her a certificate of registration pursuant to section 18(3)(a) of the Act should she reapply for registration with the College in the future.

4. The Registrar shall be directed to impose terms, conditions and limitations on the Registrant's certificate of registration as set out in paragraphs 4(a) and 4(b), which order shall be suspended until such time as the Registrant is issued a new certificate of registration and will commence upon completion of the Registrant's mandatory five (5) month suspension as indicated in paragraph 2 above. The Registrant acknowledges that the following terms on penalty provide a sufficient basis for the Registrar to impose terms, conditions and limitations on the Registrant's certificate of registration pursuant to section 18(5) of the Act. These terms, conditions and limitations shall consist of the following:³
 - (a) For a period of one (1) year following the date upon which the Registrant returns to or commences any activities that fall within the practice of social work, the Registrant shall:
 - (i) At her own expense, receive supervision of her social work practice, whether in private practice or in the context of employment, and shall advise the Registrar of the name of the person who will be providing supervision of her social work practice, who shall be a regulated

² For clarity, all aspects of the psychotherapy, including the obligation of the psychotherapist to review College materials and to provide reports to the College, are at the expense of the Registrant.

³ 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.

professional and approved in advance by the Registrar, but who is not required to be employed by the Registrant's employer. The Registrant shall meet with her supervisor not less than once per month to discuss and review her social work practice, and the approved supervisor shall provide two (2) written reports to the Registrar, at months six (6) and 12 providing details of the supervision.

- (ii) Provide to the approved supervisor the Notice of Hearing as well as the Agreed Statement of Facts, Joint Submission as to Penalty and final decision of the Discipline Committee and provide written confirmation, signed by the supervisor, of receipt of these documents to the Registrar within 15 days of her return to practice under supervision. In the event the final decision of the Discipline Committee is not available at the commencement of the supervisory relationship, the Registrant must subsequently provide it to the approved supervisor within 72 hours of receipt.
- (iii) In the event that the Registrant wishes to change supervisors, she shall forthwith advise the Registrar of her wish to terminate the approved supervisory relationship and present the name of her proposed new supervisor for approval in accordance with paragraph 4(a)(i) and, upon the approval by Registrar, the Registrant shall comply with the requirements of paragraph 4(a)(i) and (ii) in respect of her new supervisor for the balance of the one (1) year period.⁴
- (iv) In the event that the Registrant operates a private practice and/or receives supervision from an approved supervisor who is not employed by her employer, the Registrant shall seek consent from prospective clients and, if applicable, her employer to share personal health information with her supervisor in order to allow the supervisor to review client files and engage in supervision, and shall anonymize all personal information of clients while discussing her client files with her supervisor.⁵
- (v) Forthwith upon completion of the supervision referred to above, in subparagraphs 4(a)(i)-(iv), the Registrant shall provide to the Registrar written confirmation from her supervisor(s) of such completion.⁶

⁴ For clarity, the Registrant shall provide her new supervisor with the Notice of Hearing, the Agreed Statement of Facts and Joint Submission as to Penalty, and, if available, the final decision of the Discipline Committee and provide written confirmation, signed by the supervisor, of receipt of these documents to the Registrar within 15 days of the commencement of supervisory relationship. If the final decision of the Discipline Committee is not yet available at the commencement of the supervisory relationship, the Registrant must subsequently provide it to the approved supervisor within 72 hours of receipt.

⁵ For greater clarity, while a client may refuse to sign a consent to release 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.

⁶ For greater clarity, the Registrant must receive a total of one (1) year of supervision in either private practice or in a workplace environment to be in compliance with the provisions of subparagraph 4(c) and 4(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

- (b) For a period of two (2) years following the date upon which the Registrant returns to or commences any activities that fall within the practice of social work, the Registrant shall:
 - (i) At least 72 hours in advance of returning to or commencing any activities that fall within the scope of practice of social work, advise the Registrar, in writing, of the nature and particulars of the professional practice in which the Registrant proposes to engage, including but not limited to the name, address, and telephone number of her practice and her employer, if any, the position or other capacity in which she will be working, and the proposed start date.
 - (ii) If the Registrant's employment or practice arrangement ends, or the Registrant changes employers or enters private practice, she shall forthwith advise the Registrar of the termination of or change of her employment and comply with paragraph 4(b)(i) in respect of her new employer.
 - (c) The Discipline Committee's finding and Order (or a summary thereof) shall be published, with identifying information concerning the Registrant 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 that is provided to the public and is deemed appropriate by the College.
- 5. The Registrant shall pay costs to the College in the amount of \$5,000 to be paid in accordance with the following schedule:
 - (a) \$1,250 to be paid upon acceptance by the panel of this penalty;
 - (b) \$1,250 to be paid within 90 days of the acceptance of the panel of this penalty;
 - (c) \$1,250 to be paid within 180 days of the completion of the acceptance of the panel of this penalty;
 - (d) \$1,250 to be paid within 270 days of the acceptance of the panel of this penalty.

In the event that either of the first two payments are not made in accordance with the schedule, the entire amount outstanding becomes immediately due.

[21] During the hearing, an issue arose as to the reprimand sought in the first paragraph of the Joint Submission. Paragraph 1 of the Joint Submission did not specify the form in which the reprimand would be delivered. At the hearing, College counsel initially made the submission that a written reprimand would be appropriate given that the Registrant was not in attendance. The Registrant's counsel in her submissions agreed that a written reprimand is appropriate. Independent legal counsel advised the Panel that since the Joint Submission did not specify a form of reprimand, if accepted it would leave the Panel with discretion to decide the form of delivery;

supervision requirement by refraining from engaging in the practice of social work for a 1-year period. The supervision condition will run continuously until a total of one (1) year of supervision has been completed and the Registrant cannot practice without supervision until the term is completed.

that the Registrant's non-attendance was not itself an impediment to delivering the reprimand orally or by video conference, as that could be scheduled on a different date; and that oral reprimands are generally more effective in serving the purpose of conveying to the Registrant the Panel's disapproval of the conduct.

[22] Following independent legal counsel's advice, College counsel submitted that the parties' agreement that a written reprimand was most appropriate should be given weight. The Registrant's counsel submitted that because both parties submit that the reprimand should be in writing, that ought to be considered part of the joint submission and assessed under the high threshold for rejecting a joint submission in *R v Anthony-Cook*, 2016 SCC 43. She also noted that in the recent case of *Ontario College of Social Workers and Social Service Workers v Finlay* the Discipline Committee ordered a written reprimand on the joint submission of the parties where the registrant had participated in the discipline process.

[23] The Panel sought further submissions on the issue. In their further submissions to the Panel, it became clear that the parties were, effectively, amending paragraph 1 of the Joint Submission to specify that the reprimand be delivered in writing. After the hearing, the parties filed a signed Amended Joint Submission on Penalty. Although the oral hearing had concluded, the Panel agreed to receive the Amended Joint Submission because no decision on penalty had been reached and because the Amended Joint Submission reflected the parties' positions as communicated to the Panel orally during the hearing. The Amended Joint Submission is identical to the Joint Submission except for the addition of the words "in writing" paragraph 1:

The Registrant shall be reprimanded in writing by the Discipline Committee and the fact and nature of the reprimand shall be recorded on the College's Register.

Penalty decision

[24] Having considered the findings of professional misconduct, the evidence and the submissions of the parties, the Panel accepts the Joint Submission and makes an order as follows.

1. The Registrant shall be reprimanded in writing by the Discipline Committee and the act and nature of the reprimand 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 five (5) months, which shall be suspended and shall not be served until such time as the Registrant is issued a new certificate of registration.
3. Prior to issuing a certificate of registration, the Registrant shall:
 - (a) Participate in and successfully complete, at her own expense, a boundaries and ethics training course, as prescribed by and acceptable to the College, and provide proof of such completion to the Registrar.
 - (b) Engage, at her own expense,⁷ in psychotherapy as directed by a therapist, approved by the Registrar of the College, which must include a minimum of

⁷ For clarity, all aspects of the psychotherapy, including the obligation of the psychotherapist to review College materials and to provide reports to the College, are at the expense of the Registrant.

eight (8) sessions, with written reports as to the substance of the psychotherapy and the progress of the Registrant after sessions 4 and 8 to be provided by the therapist to the College upon the Registrant's application for a certificate of registration. Before the first session, the Registrant must provide to the approved therapist the Notice of Hearing as well as the Agreed Statement of Facts and Joint Submission as to Penalty and must retain written confirmation, signed by the therapist, that these documents were provided and reviewed. The Registrant must also provide the final decision of the Discipline Committee to the approved therapist and must retain written confirmation, signed by the therapist, that the final decision was provided and reviewed. If the final decision of the Discipline Committee is not yet available at the commencement of the psychotherapy relationship, the Registrant must subsequently provide it to the approved therapist within 72 hours of receipt. The psychotherapy must be completed to the satisfaction of the Registrar based on the reports from the therapist which outline the substance of the psychotherapy and the progress of the Registrant. The reports must indicate that the therapist reviewed at the outset the Notice of Hearing, Agreed Statement of Facts, Joint Submission as to Penalty and final decision of the Discipline Committee. The reports must also indicate that the focus of the psychotherapy was on concerns raised by the Registrant's conduct which gave rise to this matter.

The Registrant acknowledges that her failure to complete the requirements of subparagraphs 3(a) and (b) would provide the Registrar sufficient grounds to refuse to issue to her a certificate of registration pursuant to section 18(3)(a) of the Act should she reapply for registration with the College in the future.

4. The Registrar shall be directed to impose terms, conditions and limitations on the Registrant's certificate of registration as set out in paragraphs 4(a) and 4(b), which order shall be suspended until such time as the Registrant is issued a new certificate of registration and will commence upon completion of the Registrant's mandatory five (5) month suspension as indicated in paragraph 2 above. The Registrant acknowledges that the following terms on penalty provide a sufficient basis for the Registrar to impose terms, conditions and limitations on the Registrant's certificate of registration pursuant to section 18(5) of the Act. These terms, conditions and limitations shall consist of the following:⁸
 - (a) For a period of one (1) year following the date upon which the Registrant returns to or commences any activities that fall within the practice of social work, the Registrant shall:
 - (i) At her own expense, receive supervision of her social work practice, whether in private practice or in the context of employment, and shall advise the Registrar of the name of the person who will be providing supervision of her social work practice, who shall be a regulated

⁸ 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.

professional and approved in advance by the Registrar, but who is not required to be employed by the Registrant's employer. The Registrant shall meet with her supervisor not less than once per month to discuss and review her social work practice, and the approved supervisor shall provide two (2) written reports to the Registrar, at months six (6) and 12 providing details of the supervision.

- (ii) Provide to the approved supervisor the Notice of Hearing as well as the Agreed Statement of Facts, Joint Submission as to Penalty and final decision of the Discipline Committee and provide written confirmation, signed by the supervisor, of receipt of these documents to the Registrar within 15 days of her return to practice under supervision. In the event the final decision of the Discipline Committee is not available at the commencement of the supervisory relationship, the Registrant must subsequently provide it to the approved supervisor within 72 hours of receipt.
- (iii) In the event that the Registrant wishes to change supervisors, she shall forthwith advise the Registrar of her wish to terminate the approved supervisory relationship and present the name of her proposed new supervisor for approval in accordance with paragraph 4(a)(i) and, upon the approval by Registrar, the Registrant shall comply with the requirements of paragraph 4(a)(i) and (ii) in respect of her new supervisor for the balance of the one (1) year period.⁹
- (iv) In the event that the Registrant operates a private practice and/or receives supervision from an approved supervisor who is not employed by her employer, the Registrant shall seek consent from prospective clients and, if applicable, her employer to share personal health information with her supervisor in order to allow the supervisor to review client files and engage in supervision, and shall anonymize all personal information of clients while discussing her client files with her supervisor.¹⁰
- (v) Forthwith upon completion of the supervision referred to above, in subparagraphs 4(a)(i)-(iv), the Registrant shall provide to the Registrar written confirmation from her supervisor(s) of such completion.¹¹

⁹ For clarity, the Registrant shall provide her new supervisor with the Notice of Hearing, the Agreed Statement of Facts and Joint Submission as to Penalty, and, if available, the final decision of the Discipline Committee and provide written confirmation, signed by the supervisor, of receipt of these documents to the Registrar within 15 days of the commencement of supervisory relationship. If the final decision of the Discipline Committee is not yet available at the commencement of the supervisory relationship, the Registrant must subsequently provide it to the approved supervisor within 72 hours of receipt.

¹⁰ For greater clarity, while a client may refuse to sign a consent to release 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.

¹¹ For greater clarity, the Registrant must receive a total of one (1) year of supervision in either private practice or in a workplace environment to be in compliance with the provisions of subparagraph 4(c) and 4(d). If at any time the

- (b) For a period of two (2) years following the date upon which the Registrant returns to or commences any activities that fall within the practice of social work, the Registrant shall:
 - (i) At least 72 hours in advance of returning to or commencing any activities that fall within the scope of practice of social work, advise the Registrar, in writing, of the nature and particulars of the professional practice in which the Registrant proposes to engage, including but not limited to the name, address, and telephone number of her practice and her employer, if any, the position or other capacity in which she will be working, and the proposed start date.
 - (ii) If the Registrant's employment or practice arrangement ends, or the Registrant changes employers or enters private practice, she shall forthwith advise the Registrar of the termination of or change of her employment and comply with paragraph 4(b)(i) in respect of her new employer.
- 5. The Discipline Committee's finding and Order (or a summary thereof) shall be published, with identifying information concerning the Registrant 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 that is provided to the public and is deemed appropriate by the College.
- 6. The Registrant shall pay costs to the College in the amount of \$5,000 to be paid in accordance with the following schedule:
 - (a) \$1,250 to be paid upon acceptance by the panel of this penalty;
 - (b) \$1,250 to be paid within 90 days of the acceptance of the panel of this penalty;
 - (c) \$1,250 to be paid within 180 days of the completion of the acceptance of the panel of this penalty;
 - (d) \$1,250 to be paid within 270 days of the acceptance of the panel of this penalty.

In the event that either of the first two payments are not made in accordance with the schedule, the entire amount outstanding becomes immediately due.

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 1-year period. The supervision condition will run continuously until a total of one (1) year of supervision has been completed and the Registrant cannot practice without supervision until the term is completed.

Reasons for penalty decision

[25] The Panel recognized that the penalty should maintain high professional standards, preserve public confidence in the ability of the College to regulate its Registrants, and, above all, protect the public. This is achieved through a penalty that considers the principles of general deterrence, specific deterrence and, where appropriate, rehabilitation and remediation of the Registrant's practice. The Panel also 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.

[26] Applying the lenses of proportionality and public protection, the Panel determined that the Joint Submission on Penalty satisfied the College's duty to uphold public confidence in the profession, protect the public interest through effective self-governance, and meet the principles of general and specific deterrence. Additionally, the submission offered the tools and potential for the Registrant's rehabilitation.

[27] The written reprimand is one of the main ways the penalty achieves its goal of specific deterrence. It should be noted that the practice of the Discipline Committee is to deliver reprimands orally, absent of extenuating circumstances, as the effectiveness of a reprimand is best met when the Panel can express their disapproval directly to the Registrant. The Panel was not advised of the reasons for the Registrant's absence from the proceedings, however, as the Registrant elected to not attend the hearing proceedings, as was her right, and after hearing submissions of the parties, the Panel reluctantly agreed to issue a written reprimand. As a result of the parties' amendment of the Joint Submission the Panel accepted that the form of the reprimand was governed by the rule in *R v Anthony Cook* (along with the rest of the Joint Submission) and the Panel could not depart from that joint position, as the public interest threshold was not met.

[28] In addition to the decision being published on the College's website, the suspension and period of supervision are crucial measures that will deter the Registrant from engaging in future wrongdoing should she return to practise.

[29] The Panel acknowledged the aggravating factors in this case, which included the Registrant's prolonged misconduct, the client's vulnerability, the fact that the Registrant persisted in her behaviour even after her employer had formally addressed the boundary violations, and the inherent power imbalance between the Registrant and Client due to the Registrant's provision of supportive services to the Client relating to housing, employment, substance misuse, addiction, mental health issues and complex personal and family relationships.

[30] Among the mitigating factors were the Registrant's willingness to enter into an Agreed Statement of Facts and Joint Submission on Penalty, her guilty plea and admission of specific facts as stated in the Agreed Statement of Facts, and that fact that she had not been the subject of any prior complaints or disciplinary actions with the College.

[31] The provisions of penalty, which call for the Registrant to successfully complete a course on boundaries and ethics and participate in psychotherapy, with oversight by the College, serve the goal of rehabilitation and remediation. If the Registrant fails to fulfill these conditions, the Registrar would be well placed to decline to reissue a certificate of registration should she chose to reapply for registration with the College in the future.

[32] The terms of the Joint Submission serve as a message to others not to engage in similar behaviour in their practice and that the College takes such misconduct seriously and will deal with it appropriately.

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

Date: _____

Signed: _____

Rita Silverthorn, Chair
Charlene Crews
Chisanga Chekwe