

IN THE MATTER OF THE *HEALTH PROFESSIONS ACT*, R.S.A. 2000, c.H-7, AS AMENDED (THE “ACT”);

AND IN THE MATTER OF A HEARING INTO THE CONDUCT OF ALYCIA ZAMIRUDDIN, A MEMBER OF THE ALBERTA COLLEGE OF SOCIAL WORKERS;

AND IN THE MATTER OF A PROFESSIONAL CONDUCT HEARING REGARDING THE CONDUCT OF ALYCIA ZAMIRUDDIN UNDERTAKEN VIRTUALLY DUE TO THE GLOBAL PANDEMIC CAUSED BY THE COVID-19 VIRUS;

AND INTO THE MATTER OF A COMPLAINT INTO THE CONDUCT OF ALYCIA ZAMIRUDDIN PURSUANT TO S. 77(a) OF THE ACT

**REASONS FOR DECISION OF THE HEARING TRIBUNAL –
DECISION ON MERITS AND SANCTION (PROCEEDING BY CONSENT)**

SUMMARY

1. A hearing into the conduct of ALYCIA ZAMIRUDDIN (the “Member”) proceeded by consent pursuant to a public hearing held on December 15, 2020 by way of a virtual WebEx Hearing, before a Hearing Tribunal (the “Hearing Tribunal”) of the Alberta College of Social Workers (the “College”).
2. The matter proceeded by way of consent with the Member admitting the following conduct:

1. Prohibited Relationship and Exploitation

Commencing in or about 2019, I was involved in a personal and intimate relationship with a client, JA. Such conduct contravenes s. F.3(b) and F.7(a)(i) the Standards of Practice 2019, Value 4 of the Code of Ethics 2005 and constitutes unprofessional conduct pursuant to s. 1(1)(pp)(ii) and (xii) of the Health Professions Act.

2. Practicing Without Being Registered

That for the periods of April to June 2019 (while I was employed with Children’s Services) and May to July 2020 (while I was employed as a Family Support Worker at Oak Hills Ranch) I worked when I did not have a valid practice permit. Such conduct contravenes s. B.1 (a)(e) of the Standards of Practice 2019, Value 4 of the Code of Ethics 2005 and constitutes unprofessional conduct pursuant to s. 1(1)(pp)(i)(ii) and (xii) of the Health Professions Act.

3. Failure to Cooperate in ACSW Investigation

For the duration of the ACSW investigation, I could not be reached and did not respond to email or phone messages from the ACSW Investigator. Such conduct constitutes unprofessional conduct pursuant to s. 1(1)(pp)(vii)(B) and (xii) of the Health Professions Act.

4. Confidentiality

That I breached my obligation of confidentiality to Children's Services by accessing confidential information.¹

3. The Hearing Tribunal accepted the admissions of the Member with respect to her conduct and confirmed the admitted unprofessional conduct. The Hearing Tribunal then proceeded to address the appropriate sanctions to be ordered in light of such admissions.
4. The Complaints Director and the Member were able to arrive at a consent resolution with respect to proposed sanctions.² The Hearing Tribunal reviewed the proposed sanctions and accepted the parties' joint submission respecting sanctions.
5. Therefore, the Hearing Tribunal orders that the sanctions to be imposed in this matter are as follows:

1. A Reprimand shall be issued as against the Member.

2. The Member shall be suspended from the practice of social work for a period of three (3) years, from the date of this Order.

3. The Member shall be subject to supervision for a period of two (2) years from the date that she resumes the practice of social work after the conclusion of her 3 year suspension. The costs of this supervision will be the responsibility of the Member. The supervisor shall be approved by the ACSW, and the ACSW shall be entitled to such reporting and disclosure from the supervisor as the ACSW deems necessary from time to time.

4. In addition to the above supervision, the Member shall be obliged to undertake two (2) consultations per year, for three (3) years for a total of six (6) consultations with a senior RSW practitioner, as approved by the ACSW. The costs of these consultations shall be the responsibility of the Member. The ACSW shall be entitled to any such reporting as it deems necessary from time to time.

5. The Member shall successfully complete a university level ethics course within three (3) years of the date of this Order at her own cost and to be approved by the Complaints Director.

¹ Admission of Unprofessional Conduct pursuant to s. 77(a) of the Act, Exhibit 5

² Consent Order, Exhibit 6

6. The Member shall pay costs in the sum of One Thousand Dollars (\$1,000.00) within three (3) years of the date of this Order.

7. The Complaints Director shall maintain the discretion to further suspend the Member's permit to practice pending a Hearing should the Complaints Director, in his/her sole discretion, conclude that the Member has breached this Order.

8. There shall be publication of this Consent Order on a "with names" basis on the ACSW website.

6. Having reviewed the materials and having heard from the Member, the Hearing Tribunal encourages the Member to seek at her own initiative, cost and time, the services of a therapist during the period of her suspension to assist her in addressing some of the underlying issues that may have been a factor in the unprofessional conduct that was the subject of the hearing.

CONDUCT OF THE HEARING

Composition of the Hearing Tribunal

7. The Composition of a Hearing Tribunal is required to comply with Section 12 of the Act. This section provides:

12(1) Twenty-five percent of the voting members of a council, a complaint review committee and a hearing tribunal and of a panel of any of them must be public members but with the consent of the council the percentage of the public members may be greater than 25%.

(2) Despite the bylaws governing quorum, the number of public members required by subsection (1) must be present at an appeal under Part 4 before a council, a ratification of a settlement and a review by a complaint review committee and a hearing by a hearing tribunal.

(3) Despite subsections (1) and (2), the powers and duties of a council, complaint review committee or a hearing tribunal or a panel of any of them are not affected by a vacancy in the office of a public member for up to 6 months from the date that the schedule to this Act that governs the college comes into force.

8. Therefore, in conformity with s. 12 of the Act, the members of the Hearing Tribunal appointed in these proceedings are:

- Mary Berube RSW (Chair)
- Stanley Haroun, RSW
- Pat Matusko, Public Member
- Evelyn Wotherspoon, RSW

9. There were no objections to the composition of the Hearing Tribunal.

Public Hearing

10. The hearing was a public hearing pursuant to s. 78 of the Act.

Parties

11. The parties in attendance at the hearing were:

Alycia Zamiruddin, the Member
 Jeff Jesse, the Member's Union Representative
 Sheryl Pearson, Complaints Director for the College
 Karen Smith, legal counsel to the Complaints Director

The Hearing

12. The Notice of Hearing issued by the Alberta College of Social Workers (the "College") (**Exhibit 1**) set out the specific allegations against the Member. The Member was alleged to have engaged in several instances of conduct that:
- (i) constituted unprofessional conduct pursuant to s. 1(1)(pp)(i), (ii), and (xii), of the Act;
 - (ii) contravened s. B.1(a) and (e), s. D.5(a) and (b), D.8, s. F. 4(a) and (c), F. 5 and F. 7 of the Standards of Practice 2019; and
 - (iii) contravened Value 4 of the Code of Ethics 2005.
13. As noted above, the Hearing proceeded by consent via the virtual platform, WebEx, and a number of admissions were made by the Member with respect to her conduct during the time frame of 2019. The Member's admissions were set out in an Admission of Unprofessional Conduct, **Exhibit 5**. The Member admitted to and acknowledged the following:

1. Prohibited Relationship and Exploitation

Commencing in or about 2019, I was involved in a personal and intimate relationship with a client, JA. Such conduct contravenes s. F.3(b) and F.7(a)(i) the Standards of Practice 2019, Value 4 of the Code of Ethics 2005 and constitutes unprofessional conduct pursuant to s. 1(1)(pp)(ii) and (xii) of the Health Professions Act.

2. Practicing Without Being Registered

That for the periods of April to June 2019 (while I was employed with Children's Services) and May to July 2020 (while I was employed as a Family Support Worker at Oak Hills Ranch) I worked when I did not have a valid practice permit. Such conduct contravenes s. B.1 (a)(e) of the Standards of Practice 2019, Value 4

of the Code of Ethics 2005 and constitutes unprofessional conduct pursuant to s. 1(1)(pp)(i)(ii) and (xii) of the Health Professions Act.

3. Failure to Cooperate in ACSW Investigation

For the duration of the ACSW investigation, I could not be reached and did not respond to email or phone messages from the ACSW Investigator. Such conduct constitutes unprofessional conduct pursuant to s. 1(1)(pp)(vii)(B) and (xii) of the Health Professions Act.

14. Given the foregoing admissions pursuant to s. 70 of the Act, and following a consideration of the admissions by the Hearing Tribunal, such admissions were accepted by the Hearing Tribunal. In reliance upon the admissions, the Hearing Tribunal found that the Member did engage in conduct that constituted unprofessional conduct and were breaches of the Standards of Practice 2019 and the Code of Ethics 2005 as set out in the Consent Order executed by the Member (**Exhibit 6**).
15. Mr. Jesse, the support person from the Union who was present with the Member during the hearing, asked the Hearing Tribunal to consider that the Member was taking responsibility for her actions.
16. The Member indicated to the Hearing Tribunal that:
 - Her family life was extremely stressful and chaotic during the year preceding her unprofessional conduct; that she was experiencing anxiety and depression, and that she became disengaged at work. She does not however see this as an excuse for her unprofessional conduct.
 - She fully acknowledges that her behaviour was unprofessional, and that while she did not promptly take responsibility for her actions then, she is doing so now.
 - She is experiencing remorse and regret for her actions and is developing insight into what transpired.
 - She believes that her actions were selfish and may have harmed her client, for which she is deeply sorry.
17. The Hearing Tribunal considered the appropriate sanctions to apply to the Member in light of her admissions and noted the joint submission was made by the Complaints Director and the Member with respect to sanctions.

Law regarding Joint Submissions

18. The Hearing Tribunal heard submissions from counsel to the Complaints Director regarding joint submissions. In summary, counsel to the Complaints Director referred the Hearing Tribunal to the decision of *R. v. Anthony Cook*, 2016 SCC 43. This decision, although given in the criminal context, discusses how courts should treat joint

submissions on sentence. The Supreme Court of Canada found that a court should only depart from a joint submission that fails the public interest test. Under this test, the joint submission may only be departed from where the proposed sentence would bring the administration of justice into disrepute or would otherwise be contrary to the public interest. The Court reasoned that for joint submissions to be possible, parties must have a high degree of confidence that they will be accepted. Therefore, the more stringent public interest test was appropriately a very stringent test and best reflected the many benefits that joint submissions bring to the criminal justice system and the corresponding need for a high degree of certainty in them.

19. This same test has been applied in the regulation of professionals and the consideration of joint submissions in professional conduct hearings.
20. The Hearing Tribunal accepts the law as set out above and has considered whether the sanctions proposed by the parties meet the public interest test. In this case, the Hearing Tribunal does not find any reason to depart from the joint submission on sanctions proposed by the parties. In any event, it did note how the joint submission meets the objectives for sentencing where parties are found responsible for unprofessional conduct.

The Objectives of Sanctions for Unprofessional Conduct

21. The objectives of sanctions commonly in professional misconduct cases are as follows:
 - i. Protection of the Public--This is the primary obligation of a professional regulatory entity in response to its mandate to govern its members. The Hearing Tribunal must evaluate what risks there are to the public by the professional continuing to practice.
 - ii. Deterrence--In imposing sanctions, with the effect of deterrence, the regulatory body sends a message to the particular member and other members of the profession, generally, that this conduct will not be condoned.
 - iii. Rehabilitation--Steps should be taken by the Hearing Tribunal to foster the Member's return to professional practice as appropriate.
 - iv. Fairness--The Hearing Tribunal should impose similar consequences on a member comparable to those imposed on other members in similar circumstances, recognizing that each set of facts is typically unique.
 - v. Integrity of the Profession--The College is mandated with regulating its members and, as such, has obligations in exercising this privilege. It ought to be seen to be properly monitoring the conduct of its members in order to continue that privilege.

The Joint Submission Addresses the Objectives for Sanctioning Unprofessional Conduct

1. A Reprimand shall be issued as against the Member.

22. A public reprimand is a deterrence to similar conduct by Members. It is a public denouncement of the conduct.

2. The Member shall be suspended from the practice of social work for a period of three (3) years, from the date of this Order.

23. This provision addresses several objectives. Firstly, it protects the public by removing the Member from the practice of social work. It prevents the Member from holding out to the public that she is a registered social worker. Secondly, it allows the Member time away from the practice to focus on the issues that may have contributed to the problematic conduct. In this way, it supports the rehabilitation of the Member. Thirdly, it also sends a strong message to the profession that this type of conduct and boundary breach is serious and will be treated seriously by the College.

3. The Member shall be subject to supervision for a period of two (2) years from the date that she resumes the practice of social work after the conclusion of her 3 year suspension. The costs of this supervision will be the responsibility of the Member. The supervisor shall be approved by the ACSW, and the ACSW shall be entitled to such reporting and disclosure from the supervisor as the ACSW deems necessary from time to time.

24. This aspect of the joint order addresses the objective of rehabilitation and protection of the public. Practicing while supervised allows the Member to return to practice while the public is protected by the supervision. It also allows for the Member to be guided in this supervision and, in that way, this part of the order also supports the rehabilitation of the Member. This supports the integrity of the practice of social work.

4. In addition to the above supervision, the Member shall be obliged to undertake two (2) consultations per year, for three (3) years for a total of six (6) consultations with a senior RSW practitioner, as approved by the ACSW. The costs of these consultations shall be the responsibility of the Member. The ACSW shall be entitled to any such reporting as it deems necessary from time to time.

25. This aspect of order addresses rehabilitation of the Member as well as protection of the public. By having a regular consultation with a senior RSW practitioner, the Member's ability to check her progress and return to the practice is supported. It also allows for a regular check in for the College on the Member's progress so that any issues can be addressed. This is protective of the public and supports the integrity of the practice of social work.

5. The Member shall successfully complete a university level ethics course within three (3) years of the date of this Order at her own cost and to be approved by the Complaints Director.

26. This order reinforces for the Member the importance of honesty and ethics in practice. It is supportive of the integrity of the professional and supports the continued education and rehabilitation of the Member during her suspension from the practice.

6. The Member shall pay costs in the sum of One Thousand Dollars (\$1,000.00) within three (3) years of the date of this Order.

27. This aspect of the order supports the fairness of the order, in that the costs of these proceedings, ultimately borne by all members of the College, are offset to some degree by the Member whose conduct occasioned the proceedings.

7. The Complaints Director shall maintain the discretion to suspend the Member's permit to practice pending a Hearing should the Complaints Director, in his/her sole discretion, conclude that the Member has breached this Order.

28. This aspect of the order is protective of the public. The Hearing Tribunal is confident about the Member's wish to learn from these proceedings. However, the Hearing Tribunal also agrees that to address any risk to the public, and given the agreed facts, it is reasonable that the Complaints Director be permitted to further suspend the Member's permit to practice should they conclude that this Order has been breached.

8. There shall be publication of this Consent Order on a "with names" basis on the ACSW website.

29. Finally, this aspect of the Order is necessary to support the public's confidence that unprofessional conduct is being addressed openly. Further, it is necessary to support the protection of the public by being transparent about Members whose conduct has come under scrutiny and found to be unprofessional.

30. In conclusion, the Hearing Tribunal has no reason not to accept the joint resolution proposed by the parties.

ORDER OF THE HEARING TRIBUNAL

31. Therefore, the Hearing Tribunal orders that the sanctions to be imposed in this matter are as follows:

1. A Reprimand shall be issued as against the Member.

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4. In addition to the above supervision, the Member shall be obliged to undertake two (2) consultations per year, for three (3) years for a total of six (6) consultations with a senior RSW practitioner, as approved by the ACSW. The

costs of these consultations shall be the responsibility of the Member. The ACSW shall be entitled to any such reporting as it deems necessary from time to time.

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8. There shall be publication of this Consent Order on a "with names" basis on the ACSW website.



Mary Berube, Chair
On Behalf of the Hearing Tribunal