

THE MATTER OF THE HEALTH PROFESSIONS ACT, R.S.A.
2000, c.H-7;

AND IN THE MATTER OF A HEARING INTO THE CONDUCT
OF KIMBERLEY ARMSTRONG (formally known as
KIMBERLEY BUGEAUD) A MEMBER OF THE ALBERTA
COLLEGE OF SOCIAL WORKERS;

AND INTO THE MATTER OF A COMPLAINT BY THE
ALBERTA COLLEGE OF SOCIAL WORKERS (ACSW) INTO
THE CONDUCT OF KIMBERLEY ARMSTRONG PURSUANT
TO S. 77(a) OF THE HEALTH PROFESSIONS ACT

REASONS FOR DECISION

Pursuant to a public hearing held on February 19, 2020 at the Edmonton offices of Parlee McLaws continued by teleconference on March 17, 2020, the Alberta College of Social Workers Hearing Tribunal is issuing its reasons for decision.

A hearing into the conduct of Kimberley Armstrong was held on February 19, 2020 pursuant to the *Health Professions Act*, R.S.A. 2000, c.H-7 as amended (the "Act").

The members of the Hearing Tribunal were:

- Neil Thompson (RSW – Chair)
- Sue Mallon (RSW)
- James Lees (Public Member)

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

In addition to the Hearing Tribunal; Respondent; and representatives for the ACSW, Sheryl Pearson, Complaints Director and Karen Smith, Legal Council for the ACSW; there were two Articling Students from Parlee McLaws in attendance.

The allegations in the Notice of Hearing arise from a complaint from the ACSW, dated January 15, 2020.

The allegations in the Notice of Hearing are as follows:

Failure to comply with Orders of Hearing Tribunal

1. You did not comply with an Order of the Hearing Tribunal, by failing to complete the sanctions ordered on September 4, 2013.

Such conduct contravenes s. G.1 (a)(b) of the Standards of Practice 2013, 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*.

Failure to renew practice permit

2. That commencing October 1, 2019, you continued to practice as a social worker, in the scope of practice when your registration was suspended.

Such conduct contravenes s. B.1(c) of the Standards of Practice 2013, 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*.

Participation in statutory committee

3. Notwithstanding that you had not completed the sanctions ordered in September of 2013, you actively engaged in an ACSW legislative committee notwithstanding that your registration was not in good standing.

Such conduct contravenes s. F.3 (b), G.1(a)(b) of the Standards of Practice 2013, 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*.

The hearing proceeded on February 19, 2020, 9:30 a.m. at the offices of Parlee McLaws, Edmonton, AB. The Hearing was adjourned at 3:00 p.m. on this date with an agreement to resume by teleconference on March 17, 2020 at 9:30 a.m. The reason for the adjournment was to provide Ms. Armstrong more time to gather evidence to respond to the allegations. Ms. Armstrong was asked to provide written submission to the Hearing Tribunal by March 4, 2020. And the ACSW was asked to respond by March 11, 2020.

The Hearing Tribunal received a letter from Ms. Armstrong's Doctor (exhibit 10) and a written chronology of events (exhibit 11).

The Hearing Tribunal received public profiles for Ms. Armstrong (exhibit 12) and a Position Description for Manager of Adult Programs – Candora Society of Edmonton (exhibit 13), from the ACSW.

The Hearing Tribunal heard from the following witnesses at the Hearing:

1. Suzanne MacKinnon – Associate Registrar for ACSW; responsible for overseeing the Registration Committee (a Legislative committee).
2. Sheryl Pearson – Complaints Director, ACSW.
3. Kim Armstrong - Respondent; was also sworn in, as she provided evidence to the Hearing Tribunal.

The following documents were accepted as Exhibits at the Hearing:

1. The Amended Notice of Hearing by the Hearing Tribunal of the Alberta College of Social Workers
2. Consent Order – signed and dated September 4, 2013
3. Kim Armstrong timeline; provided by Suzanne MacKinnon
4. Legislative Committee Membership – June 2019; provided by Suzanne MacKinnon
5. Job Description for Project Manager – Adult Learning Needs Assessment Project
6. Kim Armstrong's Resume
7. E-mail from Suzanne MacKinnon to Ms. Armstrong forwarded to Sheryl Pearson, September 3, 2019
8. E-mail response from Ms. Armstrong on September 24, 2019 to Suzanne MacKinnon to the original e-mail from Suzanne MacKinnon dated August 30, 2019

9. E-mail response from Ms. Armstrong on September 24, 2019 to an invitation by Suzanne MacKinnon to the Registration Committee sent on September 11, 2019, to attend a Registration Committee meeting on October 2, 2019
10. Physician letter from Dr. R. Gurke, provided by Kim Armstrong
11. Chronology of interactions with ACSW, provided by Kim Armstrong
12. Social Media profiles for Kim Armstrong referencing her using the title of Social Worker
13. Position Description for Manager of Adult Programs, The CANDORA Society of Edmonton.

General findings of fact:

1. Ms. Kimberley Armstrong (formerly known as Kimberley Bugeaud) has been a Registered Social Worker with the Alberta College of Social Workers ("ACSW") intermittently since 2004.
2. Kimberley Armstrong (Ms. Armstrong) was subject to a hearing Tribunal Order of September 4, 2013 (Exhibit #1).
3. Ms. Armstrong did not complete the sanctions of the Hearing Tribunal of September 4, 2013 as referenced in (Exhibit #1).
4. Ms. Armstrong commenced employment in a position within scope of practice.
5. Ms. Armstrong became a member and participated in the Registration Committee of the ACSW.
6. Ms. Armstrong continued to practice in scope without being properly registered.

The Hearing Tribunal finds that the allegations relating to Kim Armstrong are factually proven. It is the decision of the Hearing Tribunal members that the conduct of Kimberley Armstrong as it relates to the allegations by the ACSW in the Amended Notice of Hearing does constitute unprofessional conduct.

Based on the evidence provided by the witnesses and the written submissions during the Hearing Tribunal process, the members of the Hearing Tribunal have reasonable and probable grounds to believe and accept the finding of unprofessional conduct.

Further to this, on the allegation of a failure to comply with Orders of the Hearing Tribunal, Sheryl Pearson gave evidence that Ms. Armstrong did not meet the conditions of sanctions as ordered on September 4th, 2013. Ms. Pearson stated that in a conversation, with then Kim Bugeaud, she was led to believe that Ms. Armstrong had decided to leave the profession and therefore follow-up with regards to the sanctions was not required.

As per exhibits #3 and #11, on October 20, 2014, Ms. Armstrong submitted a name change to the ACSW. She subsequently renewed her membership on March 16, 2015. This information was not communicated to the Complaints Director and Ms. Armstrong made no effort to contact Ms. Pearson to follow-up on the conditions of her sanctions which had not been met.

Such conduct contravenes s. G1(a)(b) of the Standards of Practice 2013, 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*.

Further to this, on the allegation of failure to renew practice permit according to exhibits #3 and #5 and the witness testimony of Suzanne MacKinnon, Ms. Armstrong continued to work within the scope of practice and use the title of Social Worker while her permit was suspended by the

ACSW.

Ms. MacKinnon highlighted that the qualifications of Ms. Armstrong's position with the Learning fall within scope of practice as indicated in Section 27, 3.(c.1)(b) of the *Health Professions Act*.

In addition, Ms. Armstrong, while suspended continued to represent herself as a Social Worker on social media, as evidenced in exhibit #12.

Such conduct contravenes s. B.1(c) of the Standards of Practice 2013, 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*.

Further to this, on the allegation of participation on a statutory committee both Ms. MacKinnon and Ms. Armstrong in their submitted evidence in exhibits #3, #4 and #11, indicate that Ms. Armstrong participated on a Legislative Committee while she was not a member in good standing.

Ms. Armstrong brought the matter to Ms. MacKinnon's attention in a conversation at a Registration Committee meeting and stated she had not met the requirement of sanctions from a previous Consent Order. This admission by Ms. Armstrong to a series of e-mail exchanges and conversations between Ms. Armstrong and Ms. MacKinnon and Ms. MacKinnon and Sheryl Pearson, exhibits #7, #8 and #9, with references to address the matter.

Such conduct contravenes s.FG.3(b), G.1(a)(b) of the Standards of Practice 2013, 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*.

REASONS FOR DECISION ON SANCTIONS

As a result of the findings of the Hearing Tribunal with respect to allegations of unprofessional conduct by Kimberley Armstrong the ACSW presented to the Hearing Tribunal a submission as to Sanctions. The Hearing Tribunal makes the following orders in accordance with s. 82 of the Act.

1. A written reprimand shall be issued by the ACSW against Ms. Armstrong.
2. Ms. Armstrong's practice will be cancelled
3. Ms. Armstrong shall pay costs in the amount of \$5,000.00 to the ACSW.
4. This Order shall be published on a "with names" basis.

The Hearing Tribunal makes its orders as set out above for the following reasons:

- A. To assess whether the sanctions recommended will bring the administration of justice into disrepute the Hearing Tribunal examined the five objectives of sanctioning principles, namely:
 - **Protection of the Public**— The ACSW is a self-governing body established under the Health Professions Act and is responsible for regulation of the profession in the public interest. Ms. Armstrong by failing to comply with the Orders of the Hearing Tribunal and participating in a statutory committee while not in good standing, frustrated the ACSW's ability to regulate her practice and ensure protection of the public.
 - **Deterrence**— to ensure that recurrence of unprofessional practice is prevented. The objective of specific deterrence is to reinforce the requirement that the regulated member not engage in further unprofessional conduct in the future. The sanctions imposed on Ms.

Armstrong will serve to guide Ms. Armstrong in the future should she re-apply to the College and that unprofessional conduct has consequences which she would bear in the event of any future instances of unprofessional conduct. General deterrence has a similar objective with a broader audience. This sanction will communicate to other members of the profession that unprofessional conduct is unacceptable and will be dealt with by the ACSW in accordance with the Act. The objective is reinforced by publishing decisions of Hearing Tribunals involving findings of unprofessional conduct, which are available for all members to read.

- **Rehabilitation** – The Orders of the Hearing Tribunal of September 4, 2013 had a strong focus on this objective. Specifically sanctions 2,3 and 4 were laid out to aid the member in realigning her professional behaviour with the Standards of Practice for all regulated members. It had a strong emphasis on wellness and self reflection. Unfortunately, Ms. Armstrong chose not to accept this offer of support for her practice.
- **Fairness**- as related to consequences of unprofessional conduct. The Hearing Tribunal recognizes the need of fairness in determining sanctions that are appropriate for the unprofessional conduct of Ms. Armstrong. The written reprimand and assignment of costs are at the low end of the spectrum in terms of severity. In addition, the Hearing Tribunal members need to acknowledge that this was not the first incident of unprofessional conduct by Ms. Armstrong and that the true cost of these proceeding has been in excess of \$15,000.00.
- **Integrity** in terms of ensuring that the integrity of the Social Work Profession is upheld and protected. The ACSW is self regulated and as such, is responsible for ensuring that the Code of Ethics and Standards of Practice are followed by all registered members, as well as taking disciplinary action in cases of unprofessional conduct by a regulated member. Failure to maintain high professional standards and ethics by the ACSW would serve to undermine public confidence in the profession of social work and its registered practitioners.

B. When considering the proposed sanctions in relation to the unprofessional conduct by Ms. Armstrong, the Hearing Tribunal also took into consideration factors relevant to determining appropriate sanction as found in case law, *Jaswal v Medical Board (Newfoundland) 23:1*:

1. Experience of the offending practitioner – Ms. Armstrong had been a Registered Social Worker since 2004. In addition, she is in a position of leadership and trust within her community as a School Board Trustee.
2. The previous character of the practitioner and the presence or absence of any prior complaints or convictions – one prior finding of unprofessional conduct, 2013.
3. The number of times the offence was proven to have occurred – the conduct arose from a single issue, not being properly registered and spanned a number of years.
4. The presence or absence of mitigating circumstances – the Hearing Tribunal noted that Ms. Armstrong in her chronology and by way of her Doctor's letter Exhibits #10 and #11 did indicate that she had a number of personal and mental health issues that influenced her behaviour and inability to maintain her registration.
5. The need to maintain the public confidence in the integrity of the profession – this is also discussed earlier under "Integrity".
6. The range of sentence in other similar cases – The Hearing Tribunal was not presented with any information on sanctions applied in comparable cases.

Therefore, this Hearing Tribunal has determined that the proposed Sanctions would not bring the administration of justice into disrepute and are not contrary to the public interest.

Signed on behalf of the Hearing Tribunal by the Chair on April 23, 2020.



