

IN 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 MS. [REDACTED] [REDACTED] A MEMBER OF THE ALBERTA
COLLEGE OF SOCIAL WORKERS;

AND INTO THE MATTER OF COMPLAINTS BY [REDACTED]
[REDACTED] AND [REDACTED] INTO THE CONDUCT
OF MS. [REDACTED] [REDACTED] PURSUANT TO S. 77(a) OF THE *HEALTH
PROFESSIONS ACT*

REASONS FOR DECISION

Pursuant to a public hearing held on *March 21, 2019* at the *Calgary* offices of *Parlee McLaws LLP*, 3300 Canada Trust Tower, 421 7th Avenue SW, *Calgary Alberta*, the Alberta College of Social Workers Hearing Tribunal is issuing its reasons for decision.

A hearing into the conduct of Ms. [REDACTED] was held on *March 25, 2019* pursuant to the *Health Professions Act*, R.S.A. 2000, c.H-7 as amended (the “Act”).

Member of the Hearing Tribunal were:

- Judy Todd (Chairperson),
- Neil Thompson (RSW),
- Michael Kozielec (Public Member)

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

The hearing proceeded on *March 15, 2019*.

The allegations in the Notice of Hearing arise from complaints from Ms. [REDACTED] [REDACTED] and Mr. [REDACTED] [REDACTED]

The allegations in the Notice of Hearing are as follows:

WHEREAS you have been a Registered Social Worker with the Alberta College of Social Workers (“ACSW”) since January 8, 2008.

AND WHEREAS you were employed as a Behaviour Health Consultant at Alberta Health Services commencing September of 2017.

AND WHEREAS during orientation for the Behaviour Health Consultant position, you made statements within the context of the group orientation that you had worked with various behavioural health consultants from the program while in your role as a therapist with a contracted EAP program.

AND WHEREAS your employment with AHS was terminated on October 24, 2017.

AND WHEREAS a complaint was received by [REDACTED] on October 10, 2017, and an additional complaint by [REDACTED] relating to the same matters on October 24, 2017.

AND FURTHER TAKE NOTICE that you will be required to answer the following allegations:

Confidentiality

1. That on October 16, 2017, you self-disclosed a breach of confidentiality to the ACSW.
2. Upon commencing employment with AHS, you failed to disclose that you knew and recognized some of the employees with whom you would be working as a Behaviour Health Consultant with AHS.
3. During the course of the orientation for the Behaviour Health Consultant position, you disclosed information that identified Behaviour Health Consultants whom had sought counselling for services through an AFAP program with which you had been employed.
4. You disclosed details about the breach of confidentiality including the names of the individuals to mentors/friends notwithstanding that you had been asked to keep the breach of confidentiality confidential.

Such conduct contravenes ss. 3.3(A)(B) and 3.5(B) B.5(a)(b) of the Standards of Practice 2013, Value 5 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*.

Professional Accountability

5. That when the issues of breach of confidentiality were brought to your attention, you failed to appropriately take responsibility for your conduct and attempted to justify and/or minimize the confidentiality breaches.

Such conduct contravenes ss. G.1(a)(b)(i) and G.3(a) of the Standards of Practice 2013, Value 5 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 Tribunal Members confirmed they were unaware of any bias of conflict of interest based on circumstances that exist or existed in the past which, if known, could raise a reasonable apprehension of bias or of a conflict of interest with respect to the outcome of this hearing or any of the individuals involved in the hearing.

As there were no objections, and no facts were in dispute, the allegations of unprofessional conduct related to Ms. [REDACTED] as set out in the Notice of Hearing were read into the record by the court reporter and the Notice of Hearing was admitted as the first exhibit to this Hearing.

There were no preliminary applications put forth by either party.

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

Ms. [REDACTED] *Respondent*

The following documents were accepted as Exhibits at the Hearing:

- Exhibit 1 - Notice of Hearing
- Exhibit 2 – Notice to Attend
- Exhibit 3 - Investigation Report #17.63
- Exhibit 5 - Investigation Report #17.72
- Exhibit 5 - Affidavit of Service
- Exhibit 6 - Admission of Unprofessional Conduct
- Exhibit 7 - Consent Order

The investigated member, Ms. [REDACTED] provided a written admission of unprofessional conduct to the Hearing Tribunal dated March 1, 2019 pursuant to s. 70(1) of the Act.

The Hearing Tribunal accepts all of the admission of the investigated member.

GENERAL FINDINGS OF FACT

1. [REDACTED] has been a registered Social Worker with the Alberta College of Social Workers (“ACSW”) since January 8, 2008.
2. At all material times Ms. [REDACTED] was employed as Behaviour Health Consultant at Alberta Health Services (“AHS”) commencing September 2017.
3. During the orientation for a Behaviour Health Consultant position, Ms. [REDACTED] made statements within the context of the group orientation that she worked with various behavioural health consultants from the program while in her role as a therapist with a contracted Employee Assistant Program (“EAP”).
4. Both the colleague to whom she made the disclosure and her employer filed complaints with AHS.
5. Ms. [REDACTED] employment with AHS was terminated on October 24, 2017.

Findings of Unprofessional Conduct:

Breach of Confidentiality

1. Upon commencing employment with AHS, Ms. [REDACTED] failed to disclose that she knew and recognized some of the employees with whom she would be working as a Behaviour Health Consultant with AHS.

Following review of the evidence submitted at the Hearing Tribunal, the Tribunal determined that Ms. [REDACTED] was provided with opportunity to disclose that she knew some of the employees with whom she would be working - given that they were her former clients to whom she provided professional services - yet she did not do so, claiming she could not readily identify names of individuals and that she was better at identifying faces. During the course of the orientation for the Behaviour Health Consultant position, Ms. [REDACTED] disclosed information that identified Behaviour Health Consultants whom had sought counselling for services through an AFAP program with which Ms. [REDACTED] had been employed.

The Hearing Tribunal finds that Ms. [REDACTED] was given another opportunity to self-disclose that a conflict of interest existed when she was provided with documents as part of the hiring process which specifically sought self-disclosure in the event of a conflict of interest. Ms. [REDACTED] did not indicate on this form that a conflict of interest existed.

2. Ms. [REDACTED] disclosed details about the breach of confidentiality including the names of the individuals to mentors/friends notwithstanding that Ms. [REDACTED] had been asked to keep the breach of confidentiality confidential.

The Hearing Tribunal finds that Ms. [REDACTED] breached confidentiality when she shared names of former clients with others despite being asked not to do so by her employer and that this breach contravened:

Ss. 3.3(A)(B) and 3.5(B) B.5(a)(b) of the Standards of Practice 2013, Value 5 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 Tribunal found that on September 24, 2017 in a meeting Ms. [REDACTED] was asked by one of the complainants Mr. [REDACTED] [REDACTED] not to discuss this situation with anyone. On October 23, 2017 in another meeting with Mr. [REDACTED] Ms. [REDACTED] informed him that she had discussed the situation with a number of people whom she saw as mentors.

Professional Accountability

3. That when the issues of breach of confidentiality were brought to her attention, Ms. [REDACTED] failed to appropriately take responsibility for her conduct and attempted to justify and/or minimize the confidentiality breaches.

Such conduct contravenes ss. G.1(a)(b)(i) and G.3(a) of the Standards of Practice 2013, Value 5 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 Tribunal did not see any indication in the evidence that Ms. [REDACTED] showed she had an awareness of the notion of conflict of interest or conflict of interest issues that could arise in her work as a Behavioural Consultant with Alberta Health Services or made any attempt to mitigate them.

The Hearing Tribunal accepted the evidence provided for its consideration including the viva voce evidence provided to the Tribunal by Ms. [REDACTED]. Ms. [REDACTED] herself has agreed to the statement of facts and is now willing to accept sanctions related to her practice in this regard.

It is the obligation of a Registered Social Worker to be aware of the standards of practice that regulate and guide their practice. Ms. [REDACTED] could reasonably be expected to understand her responsibility to identify potential conflict of interest issues should they arise and takes steps to ensure issues are mitigated.

Confidentiality is an important hallmark of Social Work Practice. The need to keep information regarding clients should be well known to any practicing Social Worker. Ms. [REDACTED] has been a registered Social Worker since 2008 and has a PhD in Psychology. It is reasonable to assume that a Social Worker with this length of work history and level of education would have a significant understanding of these two standards governing their practice.

It is the finding of this Hearing Tribunal that the facts and evidence as indicated above constitute unprofessional conduct.

REASONS FOR DECISION ON SANCTION

As a result of the findings of the Hearing Tribunal with respect to allegations of unprofessional conduct, the Hearing Tribunal makes the following orders in accordance with s. 82 of the Act.

1. A reprimand shall be issued as against Ms. [REDACTED]
2. Ms. [REDACTED] shall practice under supervision by a RSW social worker (either within her employment or outside of her employment) for a period of one (1) year. The cost of this supervision shall be the responsibility of Ms. [REDACTED]. The individual providing supervision shall be approved by the ACSW. The terms of this supervision shall be agreed upon between Ms. [REDACTED] and the supervisor, with disclosure to the ACSW as required.
3. Ms. [REDACTED] shall undertake five (5) additional hours of continuing education focused on boundaries, ethics and/or confidentiality within six (6) months from the date of this Order, as approved by the Complaints Director. The cost of this continuing education shall be the responsibility of Ms. [REDACTED].
4. Ms. [REDACTED] shall be obliged to undertake four (4) consultations with a senior RSW social worker practitioner approved by the ACSW within one (1) year from the date of this Order. The cost of these consultations will be the responsibility of Ms. [REDACTED]. The ACSW shall be entitled to any such reporting as it deems necessary from time to time.

5. Ms. [REDACTED] shall pay costs in the amount of \$750.00 within one (1) year from the date of this Order.
6. The Complaints Director shall maintain the discretion to suspend Ms. [REDACTED] pending a Hearing should the Complaints Director in his/her sole discretion conclude that Ms. [REDACTED] has breached or failed to satisfy this Order.
7. This Order shall be published on a “no names” basis.

The Hearing Tribunal makes its orders as set out above on the basis of the following reasons.

The Hearing Tribunal considered the following five points when making this order:

Are the sanctions sufficient?

- a. Do they protect the public?
- b. Will they serve as a deterrent to this member and ACSW members at large?
- c. Are the sanctions rehabilitative?
- d. Are the sanctions fair when considered against comparable consequences for behaviour?
- e. Will the sanctions ensure the integrity of the profession is maintained?

1. The Tribunal accepts the sanctions as outlined in the Consent Order are sufficient for the following reasons:
 1. The Tribunal heard from Ms. [REDACTED] that she now fully appreciates and understands the seriousness of her breach of confidentiality and that the entire process leading up to and including the actual Hearing before the Tribunal, served to underscore the importance confidentiality plays in all aspects related to her professional practice.
 2. Confidentiality is one of the hallmarks of the Social Work profession and therefore a breach of the confidentiality standard is very serious. The Tribunal believe that practice supervision on a regular basis by a registered Social Worker and four (4) social work consultations with a senior Social Worker within a one year period of the date of this order should allow for Ms. [REDACTED] practice to be reviewed, ensuring it meets acceptable practice standards regarding confidentiality and allows Ms. [REDACTED] opportunity to receive constructive feedback pertaining to her practice. The addition of five (5) additional hours of continuing education related to confidentiality will offer Ms. [REDACTED] an opportunity to further reflect on the importance confidentiality plays in professional social work, while simultaneously helping her to recognize boundary issues related to confidentiality that might lead to a breach in future situations.
 3. Conflict of Interest can be a subjective matter when being viewed by social work practitioners. Ms. [REDACTED] has shown poor judgement in making decisions in this

regard. The Tribunal believes that practice supervision on a regular basis by a registered Social Worker and four (4) social work consultation with a senior Social Worker within a one year period of the date of this order would allow Ms. [REDACTED] to discuss possible conflict of interest issues that might arise and develop better skills in approaching these situations. The addition of five hours of continuing education related to boundary issues and conflict of interest would provide added information for Ms. [REDACTED] to utilize to judge future situation as they arise.

4. The comprehensive nature of these sanctions including a fine of \$750.00 and a Letter of Reprimand on [REDACTED] file are acceptable to the Tribunal and are seen as reasonable and fair given the evidence submitted. These sanctions will serve as a deterrent not only in the context of this case but other similar potential behaviour that may be problematic to ACSW members at large.
5. The Hearing Tribunal accepts the Joint Submission as to Sanctions. The acceptance of these sanctions by the Hearing Tribunal along with concomitant orders is aimed at the integrity of the Social Work Profession will be maintained. Moreover, these sanctions will serve to ensure public confidence is maintained in the work performed by ACSW members and that professional accountability is a key component of the profession.

Signed on behalf of the Hearing Tribunal on June 26, 2019

A handwritten signature in black ink, appearing to read 'Judy Todd', is written over a horizontal line.

Judy Todd, RSW
Chair of the Hearing Tribunal