

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

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

REASONS FOR DECISION

Pursuant to a public hearing held on Wednesday, November 28, 2018 at the Edmonton offices of Parlee McLaws LLP, 1700 Enbridge Centre, 10175-101 St, Edmonton, Alberta; the Alberta College of Social Workers Hearing Tribunal is issuing its reasons for decision.

A hearing into the conduct of [REDACTED] was held on Wednesday, November 28, 2018 pursuant to the *Health Professions Act*, R.S.A. 2000, c.H-7 as amended (the "Act").

The members of the Hearing Tribunal were:

- Gail Zuk (chair)
- Ann Henry
- Michael Kozielec

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

The investigated member, [REDACTED] provided a written admission of unprofessional conduct to the Hearing Tribunal dated October 11, 2018 pursuant to s. 70(1) of the Act.

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

The allegations in the Notice of Hearing arise from a complaint from [REDACTED], dated November 7, 2017.

The allegations in the Notice of Hearing are as follows:

1. That you were unprofessional in your interactions with a 13 year-old client, [REDACTED] on April 27, 2017, when you used abusive/oppressive language toward her by stating:
 - "You want to be a gang member's mat? Do you understand what all that means? Get used to rape. They pass you around. Because you are going to be their property"
 - "I don't care what it is. You have no understanding at all. Don't be so proud of it and think it's cool. Because you won't be when a guy is raping you."

- “Otherwise you want to be a street girl, and street life then tell your caseworker working the program that runs like that. That’s not what this is. Can’t have it both ways.”
 - “This is not a brothel (Tower Road). If the street lifestyle is what you want then you can have it but you can’t pull your crap here”.
2. You were unprofessional in your communications regarding other professionals with whom you were working by referring to them as “fucking bitches”.
 3. That in your interactions with staff at Tower Roads, your conduct was such that it caused your coworkers and individuals reporting to you to feel unsafe, scared and anxious in the environment.
 4. That you failed to be candid in your representations to the investigator with respect to the comments you had made to the youth, [REDACTED], at Tower Roads on April 27, 2017.

Such conduct contravenes ss. E.1(b)(c)(i), F.1(c)(f), G.1(b), B.2(b)ii of the Standards of Practice 2013, Value 1 and 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 November 28, 2018 and was open to the public.

No motions were made on the part of the Hearing Tribunal.

The Hearing Tribunal did not hear from any witnesses as part of the Hearing Tribunal.

The following documents were accepted as Exhibits at the Hearing:

1. Notice of Hearing
2. Notice to Attend
3. Investigation Report
4. Affidavit of Service
5. Admission of Unprofessional Conduct
6. Consent Order

GENERAL FINDINGS OF FACT

1. [REDACTED] has been a registered social worker with the Alberta College of Social Workers (“ACSW”) since 1997.
2. At all relevant times [REDACTED] was employed by McMan Youth, Family and Community Services Association.
3. Between September 12, 2016 and May 2, 2017 [REDACTED] was the supervisor for the Tower Road Transitional Program at McMan Youth, Family and Community Services Association (“Tower Road”). The work environment at Tower Road was challenging.

4. [REDACTED] was a client of McMan Youth, Family and Community Services Association.
5. On April 27, 2017, after [REDACTED] returned to Tower Road having been absent from care, [REDACTED] stated to a [REDACTED] as follows:
 - “You want to be a gang member’s mat? Do you understand what all that means? Get used to rape. They pass you around. Because you are going to be their property”
 - “I don’t care what it is. You have no understanding at all. Don’t be so proud of it and think it’s cool. Because you won’t be when a guy is raping you.”
 - “Otherwise you want to be a street girl, and street life then tell your caseworker working the program that runs like that. That’s not what this is. Can’t have it both ways.”
 - “This is not a brothel (Tower Road). If the street lifestyle is what you want then you can have it but you can’t pull your crap here”
6. [REDACTED] interactions with staff at Tower Roads, were such that they caused co-workers and individuals reporting to her to feel anxious in the work environment.
7. In August 2017, [REDACTED] changed positions in McMan Youth, Family and Community Services Association.

It is the decision of the Hearing Tribunal members that the conduct of [REDACTED] does constitute unprofessional conduct.

Based on the investigation report, the admission of unprofessional conduct on the part of [REDACTED] and 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 and relative to the obligations of a social worker as per the *Health Professions Act (RSA 2000)*, the following are applicable as violations of mandated practice and contravenes sections: 1(1) (pp)(i)(ii) and (xii);

- Whereas a social worker is found to display a lack of knowledge of or lack of skill or judgement in the provision of professional services;
- Contravenes the Health Professions Act, Social Work Code of Ethics and Standards of Practise and
- Displays conduct that harms the integrity of the regulated profession.

Further to this and relative to the obligations of a social worker as per the *Canadian Association of Social Workers Social Work Code of Ethics (2005)* the following are applicable as violations of mandated practice and contravenes section:

- Value 5; Confidentiality in Professional Practice

Further to this and relative to the obligations of a social worker as per the *Alberta College of Social Workers Standards of Practice (2013)* the following are applicable as violations of mandated practice and contravenes sections:

- **D.5(a)** A social worker will safeguard the confidentiality of the information obtained in the course of practice, including while teaching, providing supervision, conducting research of other professional duties.

The Hearing Tribunal accepts the admissions of [REDACTED] the investigated member, and the evidence supporting allegations of unprofessional conduct by [REDACTED] [REDACTED] during the hearing on November 28, 2018.

REASONS FOR DECISION ON SANCTION

As a result of the findings of the Hearing Tribunal with respect to allegations of unprofessional conduct by [REDACTED] the Parties presented to the Hearing Tribunal a proposed Joint Submission as to Sanctions. The Hearing Tribunal adjourned to consider this proposal and decided to accept the Joint Submissions on Sanctions as proposed. The Hearing Tribunal makes the following orders in accordance with s. 82 of the Act.

1. A reprimand shall be issued as against [REDACTED]
2. [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 [REDACTED]. The individual providing supervision shall be approved by the ACSW. The terms of this supervision shall be agreed upon between [REDACTED] and the supervisor, with disclosure to the ACSW as required.
3. [REDACTED] shall be obliged to undertake six (6) 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 [REDACTED]. [REDACTED] The ACSW shall be entitled to any such reporting as it deems necessary from time to time.
4. [REDACTED] shall provide to the ACSW verification by her family practitioner that she is physically, mentally and emotionally well enough to continue in the practice of social work. This report shall be provided to the Complaints Director of the ACSW within sixty (60) days from the date of this Order and any such cost associated with the report shall be the responsibility of [REDACTED]
5. [REDACTED] shall pay costs in the amount of \$750.00 payable within one (1) year from the date of this Order.
6. The Complaints Director shall maintain the discretion to suspend [REDACTED] [REDACTED] pending a Hearing should the Complaints Director in his/her sole discretion conclude that [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.

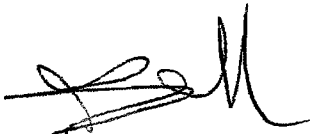
- A. The Hearing Tribunal believes the above noted sanctions are important to uphold the following five objectives regarding sanctions:
- **Protection of the Public** as vulnerable people against the unwarranted use of professional power and authority – The ACSW is a self-governing body established under the Health Professions Act, and is responsible for regulation of the profession in the public interest. This includes ensuring that all registered practitioners are capable of practicing their profession in a manner that protects the public, including their clients, from unacceptable risk or acts of unprofessional conduct. The Hearing Tribunal sees protection of the public as a primary consideration, and the sanction of verification from her family practitioner of physical, mental, and emotional wellness is warranted given [REDACTED] had, during the course of her employment, exercised poor judgment by using abusive/oppressive language toward a client. Her actions in doing so fell below the Standards of Practice and Code of Ethics for her profession and constitute unprofessional conduct.
 - **Deterrence** to ensure that recurrence of unprofessional practise 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 [REDACTED] will serve to guide [REDACTED] in the future when she is practicing as a social worker by demonstrating 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 professionals in the profession that unprofessional conduct is unacceptable and will be dealt with by ACSW in accordance with the Act. This objective is reinforced by publishing decisions of Hearing Tribunals involving findings of unprofessional conduct, which are available for all members to read.
 - **Rehabilitation** in order to improve the practise of and to support the social worker. The Hearing Tribunal noted [REDACTED] understands why her actions were unprofessional and the impact this had on others and believes that a period of supervised practice and consultations on ethical practice will serve [REDACTED] well in the future.
 - **Fairness** as related to consequences of unprofessional conduct. The Hearing Tribunal recognizes the need for fairness in determining sanctions that are appropriate for the unprofessional conduct [REDACTED] has admitted to. The written reprimand and assignment of costs are at the low end of the spectrum in terms of severity. The period of supervised practice and consultations are both fair and appropriate given the nature of the unprofessional conduct by [REDACTED]

- **Integrity** in terms of ensuring that the integrity of the Social Work Profession is upheld and protected. [REDACTED] acknowledged impact of her actions on the work environment and in relation to conduct towards a client. The ACSW is self-regulated, and as such is responsible for ensuring that the Code of Ethics and Standards of Practiced 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 [REDACTED], the Hearing Tribunal also took into consideration factors relevant to determining appropriate sanctions as found in *Jaswal v Medical Board (Newfoundland)* 23:1:
1. The nature and gravity of the proven allegations – [REDACTED] unprofessional conduct was serious as it involved unprofessional interactions with a client and conduct causing coworkers and individuals in a reporting relationship to feel anxious.
 2. Age and experience of the offending practitioner – [REDACTED] is an experienced RSW, and has been a registered social worker with the Alberta College of Social Workers since 1997.
 3. The previous character of the practitioner including the presence or absence of prior complaints or convictions – no information was presented during the hearing regarding any prior complaints or incidents of unprofessional conduct.
 4. The age and mental condition of the offended client – [REDACTED] used abusive/oppressive language towards a client who was a youth (thirteen years old).
 5. The number of times the offence was proven to have occurred – this was a single occurrence of [REDACTED]
 6. The role of the practitioner in acknowledging what happened – [REDACTED] [REDACTED] cooperated in the investigation and resolution of this complaint, and this allowed the matter to proceed as an uncontested hearing. During the hearing she expressed remorse and took responsibility for her lack of professionalism towards the client and staff.
 7. Whether the practitioner had already suffered other serious financial or other penalties as a result of the allegations being made – the Hearing Tribunal was not made aware of any financial or other penalties incurred by [REDACTED]
 8. The impact of the incident on the affected client – the complaint was filed by a staff member and not the client.

9. The presence or absence of any mitigating circumstances – the Hearing Tribunal noted that [REDACTED] was an experienced practitioner who has expressed remorse, and in retrospect, has gained an appreciation of how and why her conduct was unprofessional.
10. The need to promote specific and general deterrence and thereby, to protect the public and ensure the safe and proper practice of social work – this is discussed earlier under “Deterrence” and “Protection of the Public”
11. The need to maintain the public confidence in the integrity of the social work profession – this is also discussed earlier under “Integrity”.
12. The degree to which the unprofessional conduct that was agreed to have occurred was clearly regarded, by consensus, as being the type of conduct that would fall outside of the range of permitted conduct – there was consensus among the Hearing Tribunal members that [REDACTED] clearly admitted to a lack of professionalism that would fall outside the range of permitted conduct.
13. 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 accepts the Joint Submission on Sanctions agreed to by the parties as proposed.

Signed on behalf of the Hearing Tribunal by the Chair on December 20, 2018.



Dr. Gail Zuk
Chair, Hearing Tribunal
On behalf of the Tribunal Members,

