

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 JEFF STOYAN A MEMBER OF THE ALBERTA COLLEGE
OF SOCIAL WORKERS;

AND INTO THE MATTER OF A COMPLAINT BY BONDA
THOMPSON INTO THE CONDUCT OF JEFF STOYAN
PURSUANT TO S. 77(a) OF THE HEALTH PROFESSIONS ACT

REASONS FOR DECISION

Pursuant to a public hearing held on October 8, 2020 virtually via WebEx, the Alberta College of Social Workers Hearing Tribunal is issuing its reasons for decision.

A hearing into the conduct of Jeff Stoyan was held on October 8, 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:

- Caroline Velie, RSW (Chair)
- Kayla Das, RSW
- Archana Chaudhary, Public Member

Both parties had no objection to the composition of the Tribunal or to the jurisdiction of the Tribunal to hear this matter. Mr Hamish Henderson was counsel for Mr. Stoyan. Karen Smith, provided legal counsel for the ACSW Complaints Director.

The hearing was a public hearing pursuant to s. 78 of the Act and no observers were present.

The investigated member, Jeff Stoyan provided a written admission of unprofessional conduct to the Hearing Tribunal dated October 7, 2020 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 Bonda Thompson, dated June 25, 2019.

The allegations in the Notice of Hearing are as follows:

Inappropriate Relationship

1. That you had an intimate and/or sexual relationship with a colleague, JW, at your respective places of employment during employment hours.

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

Failure to be Candid

2. When confronted with the issue of the sexual relationship with your colleague, you failed to be candid with your employer.

Such conduct contravenes s. G.1(b), G.8(vii) of the Standards of Practice 2013, Values 4 and 6 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.

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:

- Amended Notice of Hearing
- Amended Notice to Attend
- Investigative Report
- Admission of Unprofessional conduct
- Consent Order

GENERAL FINDINGS OF FACT

1. Mr. Stoyan has been a registered Social Worker with the Alberta College of Social Workers (“ACSW”) since 2000.
2. Mr. Stoyan has been employed with Children Services for 19 years and as a Supervisor since May 2012.
3. That Mr. Stoyan had an inappropriate, intimate relationship with a colleague, JW, at his place of employment during employment hours.
4. Mr. Stoyan received a five day suspension without pay on June 17, 2019 as a result of an investigation into conduct that employer deemed unprofessional.
5. Mr. Stoyan initially was dishonest about his alleged misconduct to his employer.

It is the decision of the Hearing Tribunal members that the conduct of Mr. Stoyan does constitute unprofessional conduct.

Based on the investigation report, admission of unprofessional conduct on the part of Mr. Stoyan and the Hearing Tribunal process, the members of the Hearing Tribunal have reasonable and probable ground to believe and accept the finding of unprofessional conduct.

It is the decision of the Hearing Tribunal members that the conduct of Mr. Stoyan does constitute failure to be candid.

Based on the investigation report, admission of unprofessional conduct on the part of Mr. Stoyan and the Hearing Tribunal process, the members of the Hearing Tribunal have reasonable and probable ground to believe and accept the finding of failure to be candid

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

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 Mr. Stoyan.
2. Mr. Stoyan shall be suspended from the practice of social work for a period of one (1) month, retroactive to June 17, 2019.
3. Mr. Stoyan shall provide to the ACSW, on a semi-annual basis (January 1st and July 1st of each year), verification from both by his family practitioner and his psychiatrist that he is approved to continue in the practice of social work. This obligation shall continue for two (2) years from the date of this Order and shall be at the cost of Mr. Stoyan.
4. Mr. Stoyan shall be obliged to undertake two (2) consultations with a senior RSW practitioner, as approved by the ACSW within one (1) year of the date of this Order. The costs of these consultations shall be the responsibility of Mr. Stoyan. The ACSW shall be entitled to any such reporting as it deems necessary from time to time.
5. Mr. Stoyan shall pay costs in the sum of One Thousand Dollars (\$1,000.00) within one (1) year of the date of this Order.
6. The Complaints Director shall maintain the discretion to suspend Mr. Stoyan's permit to practice pending a Hearing should the Complaints Director, in his/her sole discretion, conclude that Mr. Stoyan has breached this Order.
7. There shall be publication of this Consent Order on a "with names" basis on the ACSW website.

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

In deciding whether to accept the Joint Submission as to Sanction, the Hearing Tribunal was guided by *R. v Anthony-Cook*, 2016 SCC 43, where the Court determined that a joint submission should not be departed from unless the proposed sentence would bring the administration of justice into disrepute, or is otherwise not in the public interest. To assess whether the joint submission will bring the administration of justice into disrepute the Hearing Tribunal examined the five objectives in sanctioning principles, namely:

- The protection of the public
- Deterrence, both specific to the individual and generally
- Rehabilitation
- Fairness to the member
- The integrity of the profession

As part of the joint submission on sanctions, a reprimand shall be issued against the investigated member and he was suspended for 1 month. In addition he shall provide to the ACSW, on a semi-annual basis with verification from both by his family practitioner and his psychiatrist that he is approved to continue in the practice of social work for 2 years from the date of this Order at Mr. Stoyan's financial cost. Mr. Stoyan will undertake two consultations with a senior RSW practitioner. Additionally, the investigated member must pay costs in the amount of \$1,000. The Complaints Director shall maintain the discretion to suspend Mr. Stoyan's permit to practice in his/her sole discretion if he concludes that Mr. Stoyan has breached this Order. Finally, the Order will be published on a names basis. These sanctions do meet the five objectives of sanctioning.

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 the regulation of the profession in the public interest. The Hearing Tribunal sees the protection of the public as primary consideration, and found the Mr. Stoyan had exercised poor judgment when he engaged in an inappropriate intimate relationship with a co-worker. The consultations that Mr. Stoyan must undergo will assist Mr. Stoyan in realizing the extent and scope of his professional responsibilities as a social worker within his employment.

Deterrence; to ensure that recurrence of unprofessional practice is prevented. The object is to reinforce the requirement that the regulated member not engage in further unprofessional conduct in the future. The sanctions posed on Mr. Stoyan will guide Mr. Stoyan in the future when practicing as a social worker that unprofessional conduct has consequences which he 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 the ACSW in accordance with the Act. This objective is reinforced by publishing decisions of Hearing Tribunals involving findings of unprofessional conduct for all members and the public to read.

Rehabilitation; in order to improve the practice of and to support the social worker. The Hearing Tribunal noted Mr. Stoyan understands why his actions were unprofessional and the impact this had on others, and believes that a period of 2 consultations with a senior RSW practitioner will serve Mr. Stoyan 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 related to the unprofessional conduct Mr. Stoyan has admitted to. The written reprimand and assigned costs and the one month suspension are comparable with the impacts of Mr. Stoyan's actions could have on others.

Integrity of the profession; is upheld and protected with the sanctions. With this joint submission, the ACWS demonstrates 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.

Accordingly, the Hearing Tribunal finds that the Joint Submission as to sanctions meets the five objectives of sanctions and does not put the administration of justice into disrepute, or is otherwise not in the public interest.

Also when considering the proposed sanctions in relation to the unprofessional conduct by Mr. Stoyan, the Hearing Tribunal also took into consideration factors relevant to determining appropriate sanctions as found in *Jaswal v Medical Board (Newfoundland)* 36 (1-13):

1. *The nature and gravity of the proven allegations*
2. *The age and experience of the offending physician*
3. *The previous character of the physician and in particular the presence or absence of any prior complaints or convictions*
4. *The age and mental condition of the offended patient*
5. *The number of times the offence was proven to have occurred*
6. *The role of the physician in acknowledging what had occurred*
7. *Whether the offending physician had already suffered other serious financial or other penalties as a result of the allegations having been made*
8. *The impact of the incident on the offended patient*
9. *The presence or absence of any mitigating circumstances*
10. *The need to promote specific and general deterrence and, thereby, to protect the public and ensure the safe and proper practice of medicine*
11. *The need to maintain the public's confidence in the integrity of the medical profession*
12. *The degree to which the offensive conduct that was found to have occurred was clearly regarded, by consensus, as being the type of conduct that would fall outside the range of permitted conduct*
13. *The range of sentence in other similar cases*

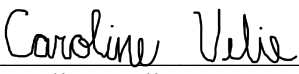
The Hearing Tribunal considered:

- That the inappropriate intimate act was with a consensual professional, however the acts occurred while both professionals were employed, were observed by other parties and Mr. Stoyan was in a senior role.
- Mr. Stoyan has been a registered professional for 20 years and this was the first offence proven to have occurred.
- Mr. Stoyan acknowledging what had occurred.
- Mr. Stoyan has suffered financial penalties associated to that allegations.
- The other professional identifies the actions as consensual.
- Mr. Stoyan acknowledges some mental health issues that he has suffered within his past playing a part in these actions and his willingness to address treatment to alleviate these concerns.

- The publication of names will act as a deterrent to other professionals
- The sanctions and publication of names will support the public's confidence in the integrity of the profession.
- The actions of an inappropriate intimate relationship with a colleague during employment hours was deemed to fall outside the range of permitted conduct.
- The range of sanctions is similar to other cases of unprofessional conduct administered by the ACSW.

Therefore, this Hearing Tribunal has determined that the proposed Joint Submission on the Sanctions would not bring the administration of justice into disrepute and are not contrary to the public interest. The Hearing Panel accepts the Joint Submission on Sanctions agreed to by the parties as proposed.

Signed on behalf of the Hearing Tribunal by the Chair on the 9th day of November, 2020



Caroline Velie, RSW