

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 RAMONE KINDRAT, A
REGULATED MEMBER OF THE ALBERTA COLLEGE OF SOCIAL WORKERS (the “ACSW”);

AND INTO THE MATTER OF A COMPLAINT BY NEDRA HUFFEY PURSUANT TO S. 77(a) OF
THE HEALTH PROFESSIONS ACT (the “HPA”);

DECISION OF THE HEARING TRIBUNAL

1. Hearing

A Hearing Tribunal was held virtually using Zoom on July 19, 2021 regarding this matter. Those participating in the hearing were:

Members of the Hearing Tribunal:

James Lees, Chair, Public Member
June MacGregor, Public Member
Barbara Artzen, RSW
Mary Berube, RSW

Others Attending:

Bruce Llewellyn, Complaints Director, ACSW
Karen Smith Q.C., Counsel to Complaints Director
Ramone Kindrat, Investigated Member
Shamsher Kothari, Counsel to Ms. Kindrat
Nedra Huffey, Complainant
Lara Swift
Annake Baker
Hann Dewit
Suzanne Mackinnon, ACSW

The Hearing Tribunal was assisted by Blair Maxston Q.C., Independent Legal Counsel in the drafting of its decision.

2. Preliminary Matters

The Parties acknowledged that the Hearing Tribunal is properly constituted, and is being convened in accordance with the Health Professions Act (the “HPA”). There were no objections to the jurisdiction or the composition of the Hearing Tribunal, no objections to the use of Zoom technology, and no preliminary applications or objections filed.

All members of the Hearing Tribunal confirmed that they are unaware of any bias or conflict of interest with respect to this matter. There were no requests to hold this hearing or a portion of it in camera (closed to the public). All present were reminded that the use of any unauthorized video and/or recording devices is not allowed during this hearing.

The hearing proceeded by way of an Admission of Unprofessional Conduct document (“Admission of Unprofessional Conduct”) pursuant to section 70(1) of the HPA and a Consent Order (“Consent Order”), including an Agreed Statement of Facts (the “Agreed Statement of Facts”) and proposed Orders as to Sanctions.

3. Allegations

The initial Notice of Hearing was amended jointly by the Parties to reflect the withdrawal of certain allegations agreed to through a series of discussions. The following list of allegations retains the original numbering from the initial Notice of Hearing. The Amended Notice of Hearing dated July 19, 2021 contained the following allegations but retains the original numbering from the initial Notice of Hearing dated April 7, 2021:

Fraudulent Billing:

1. That Ms. Kindrat knowingly billed Blue Cross and clients for services pursuant to a vendor number and/or identification that did not belong to her.

Such conduct constitutes a contravention of G.4, G.5, G.6 and G.8 of the Standards of Practice 2019 and value 4 of the Code of Ethics 2005 and constitutes unprofessional conduct pursuant to s. (1)(pp)(i)(ii) and (xii) of the HPA.

Misrepresentation to the Public:

- 4 That Ms. Kindrat misrepresented her qualifications and/or her credentials.
6. That Ms. Kindrat requested to use other registered members' RSW numbers when she was not eligible for such authentication (EM, TB, NH and JS).

Such conduct constitutes a contravention of G.5 and G.6 of the Standards of Practice 2019 and value 4 of the Code of Ethics 2005 and constitutes unprofessional conduct pursuant to s. (1)(pp)(i)(ii) and (xii) of the HPA.

Professionalism

9. That in her roles in Adoptions By Choice ("ABC"), Ms. Kindrat created a stressful work environment that had a detrimental impact on all employees, staff and/or consultants, including JLK and NH.

Such conduct constitutes a contravention of F.2 and F.3 of the Standards of Practice 2019 and value 4 of the Code of Ethics 2005 and constitutes unprofessional conduct pursuant to s. (1)(pp)(i)(ii) and (xii) of the HPA.

Financial Management

10. That Ms. Kindrat inappropriately or improperly transferred monies belonging to ABC for her own personal use.
12. That Ms. Kindrat failed to provide appropriate corporate leadership and/or direction to the Board of Directors of ABC. Ms. Kindrat failed to provide detailed information to the Board of Directors with respect to monies paid to herself and personal expenditures.

Such conduct constitutes a contravention of B.3(a) and F.3(b)(c) of the Standards of Practice 2019 and value 4 of the Code of Ethics 2005 and constitutes unprofessional conduct pursuant to s. (1)(pp)(i)(ii) and (xii) of the HPA.

Qualifications/Credentials to practice

14. That Ms. Kindrat failed to ensure that she had a proper supervisor for her EMDR training notwithstanding the lack of supervision she continued to provide EMDR services to the public (clients).
17. That Ms. Kindrat practiced psychosocial interventions when she was not approved by the ACSW to perform these services.
18. That Ms. Kindrat failed to apply for permission from the ACSW to undertake psychosocial interventions when advised to do so by colleagues.

Such conduct constitutes a contravention of E.4(b)(c)(d), G.4 and G.6 of the Standards of Practice 2019 and value 4 of the Code of Ethics 2005 and constitutes unprofessional conduct pursuant to s. (1)(pp)(i)(ii) and (xii) of the HPA.

Conflict of Interest

21. That Ms. Kindrat placed herself in a conflict of interest with respect to her roles at ABC including:
 - Executive Director of ABC;
 - Shareholders of ABC;
 - Chairperson of the Board of Directors of ABC;
 - Owner of RMTK (consulting).

Such conduct constitutes a contravention of B.3(a) F.3(b) and G.3(c) of the Standards of Practice 2019 and value 4 of the Code of Ethics 2005 and constitutes unprofessional conduct pursuant to s. (1)(pp)(i)(ii) and (xii) of the HPA.

Misrepresentation to the ACSW

22. That Ms. Kindrat misrepresented in an email dated March 15th, 2021, that the charges with respect to matters relating to her financial responsibilities to ABC were “dropped”. This was not true in that agreed to a guilty plea and sentencing against her with respect to an offense under the *Consumer Protection Act*.

Such conduct constitutes a contravention of G.3(a) and G.6(c) of the Standards of Practice 2019 and value 4 of the Code of Ethics 2005 and constitutes unprofessional conduct pursuant to (1)(pp)(i)(ii) and (xii) of the HPA.

Regulatory Conviction

23. That Ms. Kindrat was convicted of an offense pursuant to s.6(4)(d) of the *Consumer Protection Act*.

Such conduct constitutes a contravention of G.1(a)(b) of the Standards of Practice 2019 and value 4 of the Code of Ethics 2005 and constitutes unprofessional conduct pursuant to s. (1)(pp)(i)(ii) and (xii) of the HPA.

4. Background

Counsel for the Complaints Director, Ms. Smith, opened the hearing by noting that the hearing would proceed by way of a consent order, and no witnesses would be called to give evidence through testimony. Ms. Smith submitted a number of documents to be entered into evidence as exhibits. These included:

Exhibit #1 – Amended Notice of Hearing (dated July 19, 2021)

Exhibit #2 - Notice To Attend

Exhibit #3 – Investigation Report, including Complaint Form

Exhibit #4 – Statutory Declaration

Exhibit #5 – Admission of Unprofessional Conduct

Exhibit #6 – Proposed Consent Order including an Admission of Unprofessional Conduct by Ms. Kindrat, and a Proposed Submission on Sanction.

Exhibit #7 – Letter dated March 31, 2021 from Mr. Kothari to Ms. Kindrat

Exhibit #8 – Letter dated October 30, 2020 from ACSW to Ms. Kindrat

The exhibits were entered with the consent of Mr. Kothari.

Ms. Smith then provided background as to the conduct leading to the complaint and charges against Ms. Kindrat, the investigation conducted by ACSW, and discussions leading to the Admission of Unprofessional Conduct and the Consent Order. These facts were not in dispute and are as found in Exhibit #6 Consent Order – Agreed Statement of Facts:

1. Ms. Kindrat has been a Registered Social Worker with the Alberta College of Social Workers (“ACSW”) since 2003.
2. At all material times, Ms. Kindrat operated RMK, a company providing social worker services to the public.
3. Adoptions By Choice (“ABC”) was a registered non-profit corporation.
4. ABC’s business was the facilitation of the adoption of children by families in the province of Alberta.
5. Ms. Kindrat undertook various roles at ABC including Executive Director, Chair of the Board of Directors of ABC, shareholder of ABC, and owner of RMTK Consulting. This placed Ms. Kindrat in a conflict of interest.
6. Ms. Kindrat made specific requests of staff, specifically EM, TB, NH and JS requesting use of their RSW numbers when Ms. Kindrat was not eligible for such authentication.
7. That while Executive Director and/or Chair Person of the Board of Directors, Ms. Kindrat knowingly billed Blue Cross and clients for services pursuant to a vendor number or identification that did not belong to her.
8. As such, Ms. Kindrat misrepresented her qualifications and credentials to vendors and clients.

9. Further, while Chair of the Board of Directors of ABC, Ms. Kindrat created a stressful work environment that had a detrimental impact on all employees, staff and/or consultants, specifically including JLD and NH.
10. In Ms. Kindrat's role as Executive Director and Chairperson of the Board of Directors, she inappropriately and improperly transferred monies belonging to ABC for her own personal use. She facilitated this transfer by failing to provide appropriate corporate leadership to the Board of Directors and by failing to provide complete information to the Board of Directors.
11. While Ms. Kindrat was providing consulting services at ABC, she failed to ensure a proper supervisor for her EMDR training; notwithstanding she continued to provide services to the public and represented that she had the appropriate supervision in place for the purposes of providing EMDR.
12. Ms. Kindrat was not approved to practice psychosocial interventions by the ACSW.
13. Ms. Kindrat failed to obtain the appropriate permission from the ACSW to undertake psychosocial interventions even after being advised by colleagues that it was appropriate to do so.
14. Ms. Kindrat, in an email dated March 15, 2021, while the hearing of this matter was pending, misrepresented in an email to the Registrar that charges with respect to matters relating to her financial responsibilities to ABC were "dropped". This was not true in that Ms. Kindrat had agreed to a guilty plea and sentencing with respect to an offense under the *Consumer Protection Act*.
15. Ms. Kindrat was convicted of an offense pursuant to s.6(4)(d) of the *Consumer Protection Act*.

5. Submission by Ms. Smith Counsel for the Complaints Director

Ms. Smith noted that this matter is proceeding by way of a Consent Order, and Ms. Kindrat has agreed to an Admission of Unprofessional Conduct and a Consent Order which includes agreed facts, an acknowledgment of her conduct, and proposed orders on sanction.

Ms. Smith provided a summary of the events leading up to this Hearing Tribunal today.

- In July, 2019 and May 2020, the ACSW received complaints with respect to Ms. Ramone Kindrat's conduct, including one from Nedra Huffey. Subsequently, three additional complaints were received by the ACSW regarding the professional conduct of Ms. Kindrat.
- As a result, the ACSW Complaints Director appointed an Investigator, Ms. Tracey Black to undertake an investigation of the complaint under s. 57 of the HPA;
- The Investigation Report was completed on November 26, 2020 and submitted to the Complaints Director (Exhibit #3);
- The Complaints Director made his statutory decision under s.66 of the HPA to refer this matter to a hearing;
- A Notice of Hearing was issued to Ms. Kindrat, along with full disclosure of information and documents;
- Ms. Kindrat was provided with an opportunity to meet and discuss responsibility with the Complaints Director accompanied by her counsel, Mr. Kothari and counsel for the Complaints Director, Ms. Smith. This meeting took place on June 16, 2021.
- Initially, the Notice of Hearing contained 23 allegations of unprofessional conduct. As a result of discussions between the parties, allegations #2, 3, 5, 7, 8, 11, 13, 15, 16, 19 and

20 were withdrawn, and allegations #10, 12 and 21 were amended. The remaining allegations retain their original numbering from the original Notice of Hearing in order to minimize confusion.

- These allegations were categorized under sub-headings including:
 - Fraudulent Billing – Allegation #1
 - Misrepresentation to the Public – Allegations #4 & 6
 - Professionalism – Allegation #9
 - Financial Management – Allegations #10 & 12 (both were amended)
 - Qualifications/Credentials to Practice – Allegations #14, 17 & 18
 - Conflict of Interest -Allegation #21 (amended)
 - Misrepresentation to the ACSW – Allegation #22
 - Regulatory Conviction – Allegation #23 (heading was changed)
- The Notice of Hearing was therefore amended on July 19, 2021 to reflect these changes.
- Agreement was reached by the parties on an Agreed Statement of Facts, and an Admission of Unprofessional Conduct and proposed Joint Submission on Sanction, which together form the Consent Order (Exhibit #6).

Ms. Smith stated that the Hearing Tribunal's responsibilities are:

- To consider the facts of this matter, and determine whether the allegations are proven;
- If factually proven, to consider whether the conduct rises to the level of unprofessional conduct as defined in s. 1(1)(pp) of the HPA;
- If the finding is unprofessional conduct, to determine what sanctions are appropriate under s. 82 of the Act.
- Under s.70 of the HPA, prior to the end of a hearing, a Hearing Tribunal may receive an admission of unprofessional conduct, in which case it is the responsibility of the Hearing Tribunal to decide whether or not to accept such admission.

This is the case before the Hearing Tribunal today – Ms. Kindrat has submitted an Admission of Unprofessional Conduct, and the Hearing Tribunal must decide whether or not to accept it, based on the following requirements:

- do the agreed facts support the admission(s) of Ms. Kindrat; and,
- does the agreed conduct rise to the level of unprofessional conduct as defined in the HPA?

Ms. Smith then referred to the Agreed Findings, which are part of the Consent Order (Exhibit #6):

Fraudulent Billing: Ms. Kindrat knowingly billed Blue Cross and clients for services pursuant to a vendor number and/or identification that did not belong to her.

Misrepresentation to the Public: Ms. Kindrat misrepresented her qualifications and/or her credentials. Ms. Kindrat requested to use other registered members' numbers when she was not eligible for such authentication (EM, TB, NH and JS).

Professionalism: In her roles at ABC, Ms. Kindrat created a stressful work environment that had a detrimental impact on all employees, staff and/or consultants, including JLD and NH.

Financial Management: Ms. Kindrat inappropriately or improperly transferred monies belonging to ABC for her own personal use. Ms. Kindrat failed to provide appropriate corporate leadership and/or direction to the Board of Directors of ABC. Ms. Kindrat failed to provide detailed information to the Board of Directors with respect to monies paid to herself and personal expenditures.

Qualifications/Credentials to Practice: Ms. Kindrat failed to ensure that she had a proper supervisor for [my] EMDR training, notwithstanding the lack of supervision she continued to provide EMDR services to the public (clients). Ms. Kindrat practiced psychosocial interventions when she was not approved by the ACSW to perform those services. Ms. Kindrat failed to apply for permission from the ACSW to undertake psychosocial interventions when advised to do so by colleagues.

Conflict of Interest: Ms. Kindrat placed herself in a conflict of interest with respect to her roles at ABC including Executive Director of ABC, Shareholders of ABC, Chairperson of the Board of Directors of ABC, and Owner of RMTK (consulting).

Misrepresentation to the ACSW: Ms. Kindrat misrepresented in an email dated March 15th, 2021 that the charges with respect to matters relating to her financial responsibilities to ABC were “dropped”. This was not true in that she agreed to a guilty plea and sentencing against her with respect to an offense under the *Consumer Protection Act*.

Regulatory Conviction: Ms. Kindrat was convicted of an offense pursuant to s.6(4)(d) of the *Consumer Protection Act*.

Ms. Smith noted that the Agreed facts and the Agreed Findings may be taken as true and accurate regarding the conduct of Ms. Kindrat. The Investigation Report by Ms. Black does provide factual background and information; however, the contents are unchallenged and untested, and must not be taken as sworn evidence.

The definition of unprofessional conduct is found in the Health Professions Act, s.1(1)(pp) and states in part:

“unprofessional conduct” means one or more of the following, whether or not it is disgraceful or dishonorable:

- (i) displaying a lack of knowledge of or lack of skill or judgment in the provision of professional services;
- (ii) contravention of this Act, a code of ethics or standards of practice;
- (xii) conduct that harms the integrity of the regulated profession

Ms. Smith stated that the facts relating to Ms. Kindrat’s conduct have been proven as noted in the Consent Order – Agreed Findings (Exhibit #6). In addition, Ms. Kindrat has acknowledged her unprofessional conduct as described in Exhibit #5 – Admission of Unprofessional Conduct, which Ms. Smith urged the Hearing Tribunal to accept.

6. Submissions by Mr. Kothari, Counsel for Ramone Kindrat

Mr. Kothari spoke briefly, noting that starting on June 16, 2021 several meetings and discussions were held with the College, and these progressed very quickly, resulting in the Consent Order. Initially there was a total of 23 allegations, however during discussions, some were withdrawn, and a few others were amended, leaving 12 allegations which were admitted to by Ms. Kindrat. A contested hearing was avoided through this process, and Ms. Kindrat’s willingness to participate in the process reflects her willingness to accept responsibility for her actions. This should be recognized as a mitigating factor when considering sanctions.

By way of background, Ms. Kindrat is turning 60 years of age, and is married with three children. She is originally from Saskatchewan and obtained her BSW degree in 1987. Ms. Kindrat has worked in several different areas of the field of social work.

7. Decision and Reasons

The Hearing Tribunal has considered the Agreed Facts in the Consent Order related to the conduct of Ms. Kindrat and noted that Ms. Kindrat has agreed to these facts. The Hearing

Tribunal accepts the facts as described in the Consent Order and finds that the allegations as submitted are proven.

The Hearing Tribunal then considered whether the proven allegations regarding Ms. Kindrat's conduct rise to the level of unprofessional conduct pursuant to s. 1(1)(pp) of the HPA, specifically:

- (i) displaying a lack of knowledge of or lack of skill or judgment in the provision of professional services;
- (ii) contravention of this Act, a code of ethics or standards of practice;
- (xii) conduct that harms the integrity of the regulated profession.

After reviewing the proven allegations and the definition of unprofessional conduct in the HPA, the Hearing Tribunal finds that the conduct of Ms. Kindrat does meet the definition of unprofessional conduct as outlined in (i), (ii) and (xii) above. Ms. Kindrat's conduct reflects a lack of judgment in providing professional services to her clients. Her conduct contravened the ASCW Code of Ethics, Value 4, and the Standards of Practice, sections B.3, E.4, F.2 & 3, and G.1,3,4,5,6 & 8. Her conduct also resulted in a criminal conviction under the Consumer Protection Act, as described above in the Section 3 Allegations. Through her actions, Ms. Kindrat has harmed the integrity of the profession of Social Work.

Section 70(1) of the HPA permits an investigated member to make an admission of unprofessional conduct. An admission under section 70(1) of the HPA must be acceptable in whole or in part to the Hearing Tribunal. In the Admission of Unprofessional Conduct, Ms. Kindrat acknowledged that her conduct in the allegations constituted unprofessional conduct. As well, in the Consent Order, Ms. Kindrat acknowledged that she has accepted responsibility for her conduct. The Hearing Tribunal accepts her admission and in doing so, agrees that her conduct in this matter meets the definition of unprofessional conduct.

The Parties were then asked to present submission(s) on sanctions. Ms. Smith advised the hearing that agreement was reached on a Joint Submission on Sanction, which she presented to the hearing (Exhibit #6 Orders As To Sanctions).

8. Joint Submission on Proposed Orders as to Sanctions

Submission by Counsel For the Complaints Director

Ms. Smith addressed the hearing, noting that once a Hearing Tribunal makes a finding that a member's actions amount to unprofessional conduct, the Hearing Tribunal must then determine the appropriate sanction or orders pursuant to s.82 of the HPA.

The five principal objectives in sanctioning are as follows:

1. Protection of the Public – is the most important principle. As a self-governing body established under the HPA, the College is responsible for regulating the profession in the public interest. This extends to ensuring that practitioners practice their profession in a manner that protects the public and their clients.
2. Deterrence – The purposes of deterrence are to prevent a reoccurrence of the unprofessional conduct by the Investigated Member (specific deterrence), and to communicate to other practitioners that such conduct is unprofessional, will be dealt with by the College in accordance with the HPA, and sanctioned (general deterrence).
3. Rehabilitation – to support and to improve the practice of the Investigated Member.

4. Fairness – means, in part, comparable consequences for comparable conduct. The Hearing Tribunal should impose sanctions that are fair consequences for the unprofessional conduct admitted to by the Investigated Member. Some orders in a consent hearing may be lower than in a contested hearing to take into account the Investigated Member's acceptance of accountability for their actions.

5. Integrity of the Profession – the College must properly regulate itself, or it may lose the privilege to do so. As a self-regulated college, the College has an important responsibility to ensure that the Standards of Practice and Code of Ethics are upheld by regulated members and that appropriate disciplinary action is taken in cases of unprofessional conduct. Failure by the College to maintain high standards would undermine public confidence in the profession.

Ms. Smith next referred to *Jaswal v Newfoundland Medical Board [1986]*, a court decision which identifies a number of factors that may be considered in terms of assessing the proper sanctions to impose against a member who has been found to have conducted themselves unprofessionally. These include the following:

1. The nature and gravity of the proven allegations;
2. The age and experience of the investigated member;
3. The previous character of the investigated member and in particular the presence or absence of any prior complaints or convictions;
4. The age and mental condition of the patient, if any;
5. The number of times the offending conduct was proven to have occurred;
6. The role of the investigated member in acknowledging what occurred;
7. Whether the investigated member has 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 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;
11. The need to maintain the public's confidence in the integrity of the profession' and,
12. The range of sentences/sanctions in other similar cases.

Ms. Smith then commented on those *Jaswal* factors applicable to this case:

1. Nature and Gravity – this case involves very serious admissions of unprofessional conduct, at the serious end of the spectrum;
2. Age and Experience – in this case, the member is experienced and seasoned, a senior practitioner who was not new to the profession;
3. Previous Character – there is no prior history of complaints regarding Ms. Kindrat;
4. Age and Mental Condition – this case involves clients who were impacted by some of the actions of Ms. Kindrat; this is considered to be an aggravating factor;
5. Number of Times Offense Occurred – in this case there are a series and a number of different categories of unprofessional conduct admitted to over a period of time;
6. Role of the Member – Ms. Kindrat has stepped forward and accepted her responsibility by way of her admission;
7. Other Impacts – Ms. Kindrat's ability to practice was restricted due to conditions placed on her practice permit in October 2020, and this has had financial consequences on her;
8. Impact on the Patient(s) – the actions of Ms. Kindrat have impacted a number of patients, and this should be viewed as an aggravating factor;
9. Mitigating Circumstances – the role of the member in accepting responsibility for her actions is a factor.

Ms. Smith then presented the jointly proposed orders as to sanctions from the Consent Order (Exhibit #6):

"The Hearing Tribunal orders that the appropriate sanctions in the circumstances of this matter are as follows:

1. A reprimand shall be issued as against Ms. Kindrat.
2. Ms. Kindrat's permit to practice shall be suspended for a period of 2 years as follows:
 - a) A one-year suspension to be served commencing on the date of the Order of the Hearing Tribunal; and,
 - b) The second year of suspension shall be held in abeyance pending Ms. Kindrat's compliance with the Orders of the Hearing Tribunal and there being no further new complaints subsequent to the date of the Order for the Hearing Tribunal, for a period of two years.
3. Ms. Kindrat shall be obliged to undertake four (4) consultations per year for a period of two (2) years with a senior RSW practitioner, as approved by the ACSW. The cost of these consultations shall be the responsibility of Ms. Kindrat. The ACSW shall be entitled to any such reporting as it deems necessary from time to time. The first four of these consultations must be completed before the second year of the suspension is held in abeyance.
4. Ms. Kindrat shall successfully complete the ProBe ethics course within one (1) year of the date of this Order, at her own cost, with verification to be provided to the Complaints Director.
5. Upon her return to the practice of social work, Ms. Kindrat's permit to practice social work shall be subject to supervision for a period of two (2) years from the date of returning to the practice of social work. The costs of this supervision will be the responsibility of Ms. Kindrat. This supervision may be within or outside the context of Ms. Kindrat's employment. 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; and,
 - i) Ms. Kindrat's social work practice must be performed as part of a group practice with a supervision agreement in place relating to the aforementioned suspension; and,
 - ii) Ms. Kindrat shall submit a 5-year competence portfolio to the Complaints Director for review and approval within 6 months of her return to practice.
6. Ms. Kindrat shall pay a fine in the amount of ONE THOUSAND (\$1,000) DOLLARS within one (1) year of the date of this Order.
7. Ms. Kindrat shall pay costs in the sum of TWO THOUSAND FIVE HUNDRED (\$2,500) DOLLARS within one (1) year of the date of this Order.
8. The Complaints Director shall maintain the discretion to suspend Ms. Kindrat's permit to practice pending a Hearing should the Complaints Director, in his/her sole discretion, conclude that Ms. Kindrat has breached this Order.
9. There shall be publication of this Consent Order on a "names" basis on the ACSW website.

In terms of the proposed sanctions, serious consideration was given to cancellation of Ms. Kindrat's permit, however given her willingness to accept responsibility it was felt that a serious suspension would be appropriate, as described in Order #1. Order #2 outlines remedial actions that will need to take place in order for Ms. Kindrat to return to practice. This objective continues into Order #3, with the provision for Ms. Kindrat to undertake four supervisory consultations in each of two (2) years to facilitate ethical grounding with senior practitioners. Order #4 requires Ms. Kindrat to complete an established ethics program, the ProBe Ethics Course, also intended to give her a full understanding of her breaches and how to correct them. Order #5 identifies the requirement and conditions for supervision once Ms. Kindrat returns to practice. Order #6 imposes a penalty in the form of a fine, which is a monetary consequence of her actions. Order #7 is also monetary in that Ms. Kindrat is required to pay partial costs for the investigation and hearing arising from her unprofessional conduct. Order #8 is a discretionary provision which would only be enforced if Ms. Kindrat fails to abide by the other Orders in the proposed sanction. Order #9 is a requirement under the College by-laws calling for the publication of disciplinary actions taken.

The authority for a Hearing Tribunal to make orders is based on s. 82 of the *HPA*, which gives the Hearing Tribunal wide discretion in terms of the kinds of orders that it may impose. The orders proposed in the joint submission are based on the provisions of s. 82. In this matter, the Parties have agreed to proposed Orders as to Sanction in the Consent Order (Exhibit #6). While the Parties have agreed to a joint submission on penalty, the Hearing Tribunal is not strictly bound by this submission. Nonetheless, as the decision-maker on penalty, the Hearing Tribunal should give significant deference to a joint submission unless the proposed sanction is contrary to the public interest or brings the administration of justice into disrepute (*R. vs Anthony Cook*). Joint submissions make for a better process and engage the member in considering the outcome. A rejection of a carefully crafted agreement would undermine the goal of fostering cooperation through joint submissions and may significantly impair the Complaints Director's ability to enter into such agreements in the future.

Ms. Smith stated that the College urges the Hearing Tribunal to accept this joint submission. It satisfies the powers within s. 82 of the *HPA*, satisfies the five principle objectives of sanctioning, properly considers the Jaswal factors, and relies on and abides by the principles set out in the Anthony Cook decision.

In response to questions from the Hearing Tribunal, Ms. Smith clarified that at such time as Ms. Kindrat's permit is reinstated, the restrictions that would be in place are those that are contained in the proposed Consent Order. With respect to Order #5, the two-year period of supervision would start from the date of her return to work. With respect to the consultations, the first year of those consultations has to be completed before Ms. Kindrat returns to work, and the suspension for the second year in Order #2 won't be lifted unless these Orders are completed. When she does return to practice, Ms. Kindrat will only practice in areas in which she has the professional qualifications or meets the criteria for.

b) Submission by Mr. Kothari For Ms. Kindrat

Mr. Kothari addressed the Hearing Tribunal, noting that there are a number of other additional sanctions that are in place with respect to Ms. Kindrat, and that these essentially complement this proceeding. For instance, her regulatory conviction under the Consumer Protection Act requires that she comply with the requirements of the ACSW. Non-compliance by Ms. Kindrat could result in a criminal charge, and if convicted, lead to very serious penalties. There is also an order in place from the Provincial Court of Alberta that is relevant and requires compliance by Ms. Kindrat. Mr. Kothari made reference to a letter (Exhibit #7) outlining the disposition of the charge against Ms. Kindrat, including the conditions imposed on her by the Court.

Mr. Kothari next spoke to the Anthony Cook decision and the principle of deference to decision makers. He noted that discussions with the College which resulted in this consent hearing, dealt

with a number of complex issues which would have resulted in a very complicated contested hearing if agreement could not be reached. All of this has been avoided by Ms. Kindrat agreeing to the consent order and accepting responsibility for her conduct. This should be viewed as a mitigating factor in terms of sentencing.

Mr. Kothari briefly described Ms. Kindrat's background, noting his understanding that she completed her Master's degree in May 2021. Ms. Kindrat has recognized the issues raised and has acknowledged her conduct was unprofessional. The Sanction jointly proposed is punitive, covers denunciation and deterrence, and has a rehabilitative element to it. These Orders will allow Ms. Kindrat to return her practice and be in compliance with ASCW Ethics and Standards, and Ms. Kindrat is a person who will comply with the various conditions imposed. She will be faced with having her name published with the hearing decision, and while not punitive, this will be difficult for her to overcome. Ms. Kindrat has not been active on the ACSW Registry since October 2020 after conditions were placed on her practice permit as outlined in a letter to her from ACSW dated October 20, 2020. Mr. Kothari urged the Hearing Tribunal to accept the proposed sanctions in the Joint Submission.

8. Decision and Reasons for Sanctions

The Hearing Tribunal recognizes that its orders with respect to penalty must be fair, reasonable and proportionate, taking into account the facts of the case. The Hearing Tribunal heard evidence in the admission made by Ms. Kindrat that she:

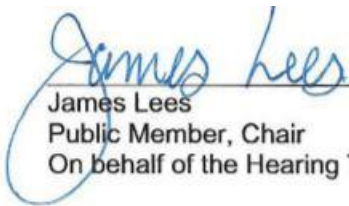
- i) admitted to using colleagues' billing numbers in Blue Cross claims for services that she was not eligible to provide, e.g., psychosocial interventions;
- ii) misrepresented her professional qualifications;
- iii) created a stressful work environment which impacted employees and colleagues;
- iv) failed to meet her fiduciary responsibilities in her leadership roles, and used corporate funds for personal use;
- v) placed herself in a conflict of interest with respect to her various roles; and
- vi) misled the ACSW with respect to the outcome of her charge under the Consumer Protection Act which ultimately led to a conviction.

Having considered all of the evidence and findings, the Parties' submissions on penalty, and the various sanctions in the Consent Order, the Hearing Tribunal has accepted the Orders As To Sanction in the Joint Submission from the Parties. These Orders meet the five objectives for sentencing, including protecting the public from similar conduct in the future. Publication of the sanctions will serve as a general deterrent to other members of the profession, communicate that the College takes such misconduct very seriously, and reinforcing that the College will pursue disciplinary action when members engage in unprofessional misconduct.

The Hearing Tribunal therefore makes the following Order pursuant to s. 82 of the Act:

1. A reprimand shall be issued as against Ms. Kindrat.
2. Ms. Kindrat's permit to practice shall be suspended for a period of 2 years as follows:
 - a) A one-year suspension to be served commencing on the date of the Order of the Hearing Tribunal; and,

- b) The second year of suspension shall be held in abeyance pending Ms. Kindrat's compliance with the Orders of the Hearing Tribunal and there being no further new complaints subsequent to the date of the Order of the Hearing Tribunal for a period of two years.
3. Ms. Kindrat shall be obliged to undertake four (4) consultations per year for a period of two (2) years with a senior RSW practitioner, as approved by the ACSW. The cost of these consultations shall be the responsibility of Ms. Kindrat. The ACSW shall be entitled to any such reporting as it deems necessary from time to time. The first four of these consultations must be completed before the second year of the suspension is held in abeyance.
4. Ms. Kindrat shall successfully complete the ProBe ethics course within one (1) year of the date of this Order, at her own cost, with verification to be provided to the Complaints Director.
5. Upon her return to the practice of social work, Ms. Kindrat's permit to practice social work shall be subject to supervision for a period of two (2) years from the date of returning to the practice of social work. The costs of this supervision will be the responsibility of Ms. Kindrat. This supervision may be within or outside the context of Ms. Kindrat's employment. 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; and,
- i) Ms. Kindrat's social work practice must be performed as part of a group practice with a supervision agreement in place relating to the aforementioned suspension; and,
- ii) Ms. Kindrat shall submit a 5-year competence portfolio to the Complaints Director for review and approval within 6 months of her return to practice.
6. Ms. Kindrat shall pay a fine in the amount of ONE THOUSAND (\$1,000) DOLLARS within one (1) year of the date of this Order.
7. Ms. Kindrat shall pay costs in the sum of TWO THOUSAND FIVE HUNDRED (\$2,500) DOLLARS within one (1) year of the date of this Order.
8. The Complaints Director shall maintain the discretion to suspend Ms. Kindrat's permit to practice pending a Hearing should the Complaints Director, in his/her sole discretion, conclude that Ms. Kindrat has breached this Order.
9. There shall be publication of this Consent Order on a "names" basis on the ACSW website.


James Lees
Public Member, Chair
On behalf of the Hearing Tribunal