

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
[CA], A FORMER REGULATED MEMBER OF THE ALBERTA
COLLEGE OF SOCIAL WORKERS;

DECISION OF THE HEARING TRIBUNAL

I. INTRODUCTION

1. A hearing was held virtually on September 1, 2021 concerning allegations of unprofessional conduct against Ms. [CA], a former regulated member of the Alberta College of Social Workers ("ACSW").
2. This decision sets out the findings, reasons and penalty orders of the Hearing Tribunal concerning the hearing.

II. THE HEARING GENERALLY

3. A hearing into the conduct of Ms. [CA] was held virtually on September 1, 2021 pursuant to the *Health Professions Act*, R.S.A. 2000, c.H-7 as amended (the "Act").
4. The members of the Hearing Tribunal were:

Stanley Haroun, RSW (Chairperson)
Tiffany Fassnidge, RSW
Anita Warnick, Public Member
Juane Priest, Public Member

Others in attendance:

Ms. [CA]
Ms. Sheryl Pearson (ACSW Complaints Director)
Ms. Karen Smith, Q.C. (ACSW Complaints Director Counsel)

[Complainant] (complainant)

5. Ms. [CA] was aware of her right to be represented by legal counsel but proceeded without legal counsel for the hearing.
6. The hearing was a public hearing pursuant to s. 78 of the Act.
7. The allegations were set out in a Notice of Hearing dated July 16, 2021 (the "Notice of Hearing").

8. The allegations in the Notice of Hearing are as follows:

Misrepresentation of Qualifications:

1. That you misrepresented your qualifications to J and S and the Courts. Specifically, you represented that you were a social worker and that you were qualified to undertake the supervised visits.

Such conduct constitutes a contravention of G.5(a)(ii) 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).

Registration:

2. That you practiced within the scope of practice when your registration status with the ACSW was inactive.

Such conduct constitutes a contravention of B.1(e) 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).

Dual Relationship:

3. That you failed to ensure the distinction between a professional and personal relationship was explicitly explained to J and S. Further and in addition, you failed to ensure that your behaviour appropriately reflected this difference.

Such conduct constitutes a contravention of F.5(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).

Such further and other allegations of unprofessional conduct as may be heard at the hearing of this matter and upon which you shall be provided notice.

9. Pursuant to s. 70(1) of the Act, Ms. **[CA]** provided a written admission of unprofessional conduct to the Hearing Tribunal dated September 1, 2021
10. The following documents were accepted as Exhibits at the Hearing:
 1. Exhibit 1: Notice of Hearing.
 2. Exhibit 2: Notice to Attend.
 3. Exhibit 3: Admission of Unprofessional Conduct (the "**Admission**").
 4. Exhibit 4: Proposed Consent Order (the "**Consent Order**").
11. Since the hearing proceeded as a consent hearing, the Hearing Tribunal heard from no witnesses at the hearing.

III. THE HEARING AND THE CONSENT ORDER

12. The Consent Order contained agreed upon “Agreed Statement of Facts”, “Agreed Findings of Unprofessional Conduct”, “Acknowledgment of Responsibility” and “No Right to Appeal” sections.
13. The Consent Order also contained a “Orders as to Sanctions” section.

A. Background Facts

14. The facts in this matter are not in dispute and are described in the Agreed Statement of Facts as follows.
15. Ms. [CA] was originally registered as a Registered Social Worker with the ACSW commencing in 2004.
16. In or about 2018, Ms. [CA]’s registration status became inactive.
17. In or about 2019, Ms. [CA] agreed to supervise visits of children whose biological parents were S (mother) and J (father).
18. S and J had a relationship with Ms. [CA] as they were the grandchildren of a friend of Ms. [CA] and in addition, were tenants.
19. Ms. [CA] undertook the supervised visits of S with the child at issue.
20. During the course of reporting on the supervised visits, and in response to emails from J, Ms. [CA] misrepresented her registration status in that she advised that she was a registered social worker without indicating her practice status was inactive. This same representation was made in a letter to legal counsel.
21. The activities of supervised visits are within the scope of practice of registered social workers.
22. As noted, Ms. [CA] had a pre-existing personal relationship with both J and S and their grandmother. Before undertaking professional services, Ms. [CA] did not specifically indicate the issues related to dual relationships to both J and S.

B. Acknowledgment of Unprofessional Conduct

22. It was acknowledged by Ms. [CA] and the ACSW that Ms. [CA]’s conduct as described in the Agreed Statement of Facts constitutes unprofessional conduct.

C. No Right to Appeal

23. The ACSW and Ms. [CA] agreed that there shall be no appeal from the proposed Consent Order notwithstanding s. 87 of the Act.

IV. **REASONS FOR DECISION AND ORDERS CONCERNING SANCTIONS**

A. **Generally**

24. In preparing this decision the Hearing Tribunal consulted with independent legal counsel, Mr. Blair Maxston, Q.C.
25. After carefully considering all of the information and evidence presented during the Hearing, the Hearing Tribunal accepts all of the admissions of unprofessional conduct by Ms. [CA]. Accordingly, the Hearing Tribunal finds that Ms. [CA] committed unprofessional conduct concerning the three (3) allegations as described in the Consent Order. The factual basis for the three charges was proven as the result of uncontradicted evidence presented to the Hearing Tribunal. The Hearing Tribunal also concluded that the proven actions of Ms. [CA] constituted unprofessional conduct as they were a clear breach of her ethical and professional obligations and involved misrepresenting her prior registration as a social worker, practicing without registration and failing to distinguish between a personal and professional relationship.
26. As mentioned above, as part of the Consent Order the parties also presented a joint Orders as to Sanctions (the "Sanction Orders") as follows:
 1. A Reprimand shall be issued as against Ms. [CA].
 2. Ms. [CA] shall be obliged to undertake two (2) consultations within six (6) months with a senior RSW practitioner, as approved by the ACSW. The cost of these consultations shall be the responsibility of Ms. [CA]. The ACSW shall be entitled to any such reporting as it deems necessary from time to time.
 3. Ms. [CA] shall pay costs in the sum of FIVE HUNDRED (\$500.00) within one (1) year of the date of this Order.
 4. The Complaints Director shall maintain the discretion to suspend Ms. [CA]'s permit to practice pending a Hearing should the Complaints Director, in his/her sole discretion, conclude that Ms. [CA] has breached this Order.
 5. There shall be publication of this Consent Order on a "no names" basis on the ACSW website.
27. After considering submissions from the parties, the Hearing Tribunal confirmed that it was accepting the Sanction Orders.

B. **The Sanction Orders and the Public Interest Test**

28. The Hearing Tribunal acknowledges the significant efforts of the parties in preparing the Consent Order and the Sanction Orders. The Hearing Tribunal is also aware of the well-established legal principles indicating that deference should be shown to joint submissions on penalties as they promote certainty for both the member and the

regulatory body, reduce the time and cost associated with contested hearings and are the result of careful negotiation. Although the Hearing Tribunal retains ultimate discretion in terms of the making of penalty orders, it is aware of the legal principles which establish that a decision-maker (such as this Hearing Tribunal) should not depart from a joint submission on sanction unless the joint submission is unfit, unreasonable or contrary to the public interest.

29. For the reasons discussed during the hearing and as set out in this decision, the Hearing Tribunal believed that the public interest test for accepting the Sanction Orders was met.
30. As well, in making its findings of unprofessional conduct and determining the appropriate sanctions, the Hearing Tribunal focused on four main principles:
 1. Protection of the public.
 2. Deterrence (both specific and general).
 3. Preservation of the integrity of the profession.
 4. The duty of fairness to the former member.

C. Protection of the Public

31. The ACSW is a self-governing professional body established under the Act and is responsible for regulation of the Social Work profession in the public interest. This includes ensuring that all ACSW regulated members practice their profession in a manner that protects the public from unsafe, incompetent or unethical acts.
32. Ms. [CA] 's admitted unprofessional conduct demonstrated poor judgement and complete disregard for social workers as being a regulated profession.
33. All of those actions are inconsistent with the ethical obligations of a social worker and maintaining the integrity of the profession in the eyes of the public.

D. Deterrence

34. The objective of specific deterrence is to reinforce with the investigated member the requirement to not engage in further unprofessional conduct. The Hearing Tribunal believes the sanctions imposed on Ms. [CA] result in serious consequences for her and serve that purpose.
35. General deterrence is intended to communicate to other ACSW regulated members that this type of unprofessional conduct is unacceptable. This decision confirms that the ACSW will act to address all unprofessional conduct by its regulated members by the imposition of meaningful consequences. As a result, the Hearing Tribunal concludes that the sanctions achieve general deterrence.

E. Preservation of the Integrity of the Profession

36. Ms. [CA]'s unprofessional conduct was inconsistent with her responsibilities as a former professional and as a former social worker. Among other things, misrepresenting her professional status and practicing while inactive were egregious actions.
37. The sanctions against Ms. [CA] serve to preserve the integrity of the profession.

F. The Duty of Fairness to the Former Member

38. The Hearing Tribunal recognizes the need for fairness in determining sanctions appropriate for the unprofessional conduct admitted to by Ms. [CA]. The Hearing Tribunal believes that the sanctions set out in this decision are fair, reasonable and appropriate and reflect the seriousness of Ms. [CA]'s conduct as well as her acceptance of responsibility for those actions and her efforts in resolving these matters by way of a consent hearing.
39. In summary, and as mentioned previously in this decision, the Hearing Tribunal makes the following orders in accordance with s. 82 of the Ac:
 1. A Reprimand shall be issued as against Ms. [CA].
 2. Ms. [CA] shall be obliged to undertake two (2) consultations within six (6) months with a senior RSW practitioner, as approved by the ACSW. The cost of these consultations shall be the responsibility of Ms. [CA]. The ACSW shall be entitled to any such reporting as it deems necessary from time to time.
 3. Ms. [CA] shall pay costs in the sum of FIVE HUNDRED (\$500.00) within one (1) year of the date of this Order.
 4. The Complaints Director shall maintain the discretion to suspend Ms. [CA]'s permit to practice pending a Hearing should the Complaints Director, in his/her sole discretion, conclude that Ms. [CA] has breached this Order.
 5. There shall be publication of this Consent Order on a "no names" basis on the ACSW website.

A handwritten signature in black ink, appearing to be 'HH' or similar initials, enclosed within a large, loopy oval shape.

Stanley Haroun, RSW
Chairperson on behalf of the Hearing Tribunal