

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 EVERETT (RANDY) HAMILTON, A MEMBER OF THE ALBERTA COLLEGE OF SOCIAL WORKERS;

AND IN THE MATTER OF A PROFESSIONAL CONDUCT HEARING REGARDING THE CONDUCT OF EVERETT (RANDY) HAMILTON UNDERTAKEN IN PERSON;

AND INTO THE MATTER OF A COMPLAINT INTO THE CONDUCT OF EVERETT (RANDY) HAMILTON PURSUANT TO S. 77(a) OF THE *HEALTH PROFESSIONS ACT*

DECISION OF THE HEARING TRIBUNAL

I. INTRODUCTION

1. A hearing was held virtually on April 26, 2024 concerning allegations of unprofessional conduct against Everett (Randy) Hamilton (the “**Member**”), a regulated member of the Alberta College of Social Workers (“**ACSW**”). The hearing occurred by consent via a virtual WebEx platform through the Edmonton office of Parlee McLaws.
2. This decision sets out the findings, reasons and penalty orders of the Hearing Tribunal concerning the hearing.
3. The Hearing Tribunal was assisted by Blair E. Maxston, K.C. as independent legal counsel in the drafting of this decision.

II. THE HEARING GENERALLY

4. The April 26, 2024 hearing was held pursuant to the *Health Professions Act*, R.S.A. 2000, c.H-7 as amended (the “**Act**”).
5. The members of the Hearing Tribunal were:

Barbara Rocchio, (Chair, Public Member)
Andrew Ottway (Public Member)
Dr. Dorothy Badry (RSW)
Jacquie Mastenbroek (RSW)

Also participating in the hearing were Karen Smith K.C. (legal counsel for the ACSW Complaints Director) and Sheryl Pearson (ACSW Complaints Director).

Finally, the Member participated in the hearing. The Member acknowledged he was aware of his right to be represented by legal counsel but was proceeding with the hearing without legal representation.

6. The hearing was a public hearing pursuant to s. 78 of the Act. There were no objections regarding the timeliness of service of the Notice of Hearing and no objections regarding the composition or jurisdiction of the Hearing Tribunal. As well, there were no preliminary applications.
7. The allegations were set out in a Notice of Hearing dated March 7, 2024 (the “**Notice of Hearing**”). The allegations in the Notice of Hearing arise from the Member’s lack of disclosure to an employer and misrepresentation concerning his prior registration with the Ontario College of Social Workers (“OCSW”) and his discipline history with the OCSW. The allegations are as follows:

1. That you were not candid in your initial interview with Alberta Health Services (AHS) when you failed to disclose your previous registration and discipline by another Provincial Regulatory Body (Ontario) despite being asked a question about the matter directly.

2. That you failed to disclose your previous registration and/or discipline history to the ACSW at the time of registration.

Such conduct contravenes ss. B.1(g), G.5(a)(i)(i), G.4(a) and G.8(a)(i) of the Standards of Practice 2019, Values 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 “Allegations”)

8. Pursuant to s. 70(1) of the Act, the Member provided a written admission of unprofessional conduct to the Hearing Tribunal dated April 22, 2024 stating that the Member admitted that the Allegations constituted unprofessional conduct.
9. The following documents were entered as Exhibits at the Hearing with the consent of both parties:

Exhibit 1: Notice of Hearing.

Exhibit 2: Notice to Attend.

Exhibit 3: Investigation Report.

Exhibit 4: Statutory Declaration of Service

Exhibit 5: Admission of Unprofessional Conduct (the “**Admission**”).

Exhibit 6: Consent Order (the “**Consent Order**”).

10. 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

11. The Consent Order contained a “Agreed Statement of Facts”, “Agreed Findings”, “Acknowledgment of Responsibility” and “No Right to Appeal” sections.
12. The Consent Order also contained a “Orders as to Sanctions” section (the “**Sanction Orders**”).

A. Agreed Statement of Facts

13. The facts in this matter are not in dispute and are described in the Agreed Statement of Facts as follows:

“1. Mr. Everett (Randy) Hamilton (“Mr. Hamilton”) has been a Registered Social Worker with the Alberta College of Social Workers (“ACSW”).

2. At all material times, Mr. Hamilton was employed at Alberta Health Services.

3. From April 2009 through to May 2013, Mr. Hamilton was employed as a social worker and registered in Ontario with the Ontario College of Social Workers (“OCSW”). He was employed in a secure custody and detention facility for youth.

4. As a result of a complaint provided to Mr. Hamilton subsequent to the conclusion of his employment in 2013, the OCSW initiated Professional Conduct Proceedings against Mr. Hamilton in which he engaged and entered into a Consent Agreement with an Agreed Statement of Facts and a joint submission on sanction. The Discipline Committee rendered a decision on April 13, 2015 orally and with written reasons which followed on July 13, 2015.

5. Subsequently, Mr. Hamilton was employed in the Province of New Brunswick and practising in scope of practice although not registered with the New Brunswick College of Social Workers.

6. In 2018, Mr. Hamilton applied to the ACSW for registration and did not disclose that he had been registered with the OCSW, had practiced in scope in New Brunswick, and had been subject to disciplinary proceedings in 2015 with the OCSW. Further, Mr. Hamilton specifically failed to accurately answer questions regarding prior registration or disciplinary history on the ACSW application form.

7. In 2018 Mr. Hamilton moved to High Prairie Alberta and started a job with AHS. In February 2022 he transferred to Edmonton to work in Access 24/7, an adult mental health program.

8. Subsequently, in 2022, Mr. Hamilton was interviewed for a new position at AHS with the Children's Crisis Team at the Stollery Children's Hospital, and notwithstanding being asked directly, he did not disclose that he had been previously registered with the OCSW, nor did he disclose the prior professional conduct matter for the Discipline Committee of the OCSW in 2015."

B. Acknowledgment of Responsibility and Unprofessional Conduct

14. It was acknowledged by the Member and the ACSW Complaints Director that the Member's conduct as described in the Agreed Statement of Facts constitutes unprofessional conduct.

C. No Right to Appeal

15. The ACSW and the Member agreed that there shall be no appeal from the Consent Order notwithstanding s. 87 of the Act.

IV. REASONS FOR DECISION: THE ALLEGATIONS

A. Generally

16. 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.
17. The Hearing Tribunal sees protection of the public as the primary consideration in this matter.
18. 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 the Member.
19. The factual basis for the three Allegations was proven as the result of uncontradicted evidence presented to the Hearing Tribunal. Bearing in mind the Admission signed by the Member, the Hearing Tribunal also concluded that the proven actions of the Member constituted unprofessional conduct as they were a clear breach of the Member's ethical and professional obligations.

B. Analysis

20. The Hearing Tribunal agrees with the Complaints Director that truthfulness and candor from regulated members is essential at all times including with employers and colleagues. Just as importantly, candor and truthfulness is critical for applicants seeking registration with the ACSW.

21. Being registered by the ACSW as a regulated member is accepted by the public as confirmation that the regulated member can practice safely, competently, ethically and honestly. Members of the public, employers and healthcare colleagues rely on registration with the ACSW as an important indicator of a regulated member's skills and good character and reputation.
22. In terms of Allegation 1, the evidence before the Hearing Tribunal is clear that the Member was not candid in his initial interview with Alberta Health Services in that he failed to disclose his previous registration and discipline by the OCSW even though he was asked a direct question about those matters. The Member made a deliberate decision to be dishonest and untruthful in terms of his representations to AHS concerning a new position at the Stollery Childrens Hospital with that institution's "Children's Crisis Team".
23. The Member's lack of candor with his employer was entirely inconsistent with his obligations as a professional and was inconsistent with the fiduciary duties that he owed to his employer.
24. In terms of Allegation 2, the Member engaged in misrepresentations and a lack of candor. When the Member applied to the ACSW for registration he made a deliberate choice to not disclose that he had been registered with the OCSW, had practiced in scope in New Brunswick and was the subject of 2015 discipline proceedings with the OCSW. This included the Member's failure to accurately answer questions regarding prior registration or discipline history on the ACSW application form, all of which was inconsistent with his ethical and professional obligations.
25. The Member's actions were clearly unprofessional conduct. This was not a "grey area". Instead, the Member's choices were deliberate and were a marked departure from the professional and ethical obligations of an applicant for registration and of a Social Worker.
26. Based on this evidence, the Hearing Tribunal finds the Allegations factually proven and that the allegations constitute unprofessional conduct.

V. REASONS FOR DECISION: SANCTIONS

A. The Joint Sanctions Proposal

27. As part of the Consent Order, the parties also jointly presented an Orders as to Sanctions (the "Sanction Orders") recommendation as follows:
 1. A Reprimand shall be issued as against Mr. Hamilton.
 2. Mr. Hamilton shall be suspended from the practice of Social Work for a period of twelve (12) weeks with a commence date to be approved by the Complaints Director but within the next ninety (90) days. Mr. Hamilton shall be required to serve a two week suspension wherein he will be removed from all activities and responsibilities relating to social work practice, including his present employment for a two (2) week period. The subsequent 10 weeks of suspension shall be held in abeyance pending a completion of the remaining outstanding sanctions included herein. This suspension period held in abeyance shall be for a period of two (2) years. In the event that Mr. Hamilton fails to satisfy the sanctions herein, or is subject to a further complaint which is referred to a hearing within the

subsequent two (2) years, Mr. Hamilton shall be required to complete the remaining 10 weeks of suspension at the Complaints Director's discretion.

3. Mr. Hamilton shall undertake 12 consultations with a senior social work practitioner (as approved by the ACSW Complaints Director) over the next 12 months, specifically with Consultations being required once per month for the full calendar year. Reporting shall be permitted and required to the ACSW Complaints Director, and all costs associated with the Consultations shall be the responsibility of Mr. Hamilton.

4. Mr. Hamilton shall be obliged to contact the Ontario College of Social Workers and Social Work Services ("OCSW") to ascertain any and all outstanding sanctions with respect to the oral Decision and Written Reasons of the Discipline Committee of 2015. Mr. Hamilton shall be required to complete all outstanding OCSW sanctions to the satisfaction of OCSW such that Mr. Hamilton shall be eligible to commence a reinstatement application. The costs of completing the OCSW sanctions shall be the sole responsibility of Mr. Hamilton and shall be completed within one year from the date of this Order. Mr. Hamilton shall have the responsibility of reporting the successful completion of the OCSW sanctions with verification to the ACSW Complaints Director within one year of the date of this Order.

5. Mr. Hamilton shall successfully complete an ethics course, specifically, PHIL333 at Athabasca University (or an approved substitution as approved by the Complaints Director) within one (1) year of the date of this order. The cost of the course shall be Mr. Hamilton's responsibility.

6. Mr. Hamilton shall provide, on an annual basis (once per year), confirmation that he is maintaining treatment with a medical practitioner with respect to his wellness, or that he has been appropriately discharged from treatment. The confirmation letter from the treating health care professional shall be provided to the Complaints Director for a period of two (2) years from the date of this Order.

7. Mr. Hamilton shall provide proof of providing the Reasons for Decisions and Orders of this hearing before the ACSW Hearing Tribunal to his present employer, Alberta Health Services. Mr. Hamilton shall provide to the Complaints Director verification of disclosure to his employer within ninety (90) days from the date of this Order and within thirty (30) days of the Reasons for Decision being issued to the Complaints Director.

8. Mr. Hamilton shall pay costs of this matter in the amount of One Thousand Dollars (\$1,000.00) within one year of the date of this Order.

9. The Complaints Director shall maintain the discretion to suspend Mr. Hamilton's permit to practice pending a Hearing should the Complaints Director, in his/her sole discretion, conclude that Mr. Hamilton has breached this Order.

10. There shall be publication of this Decision and the Reasons on a “with names” basis given the aforementioned suspension.
28. After considering submissions from the parties, the Hearing Tribunal confirmed that it was accepting the Sanction Orders for the reasons described below.

B. The Sanction Orders and the Public Interest Test

29. 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.
30. Although the Hearing Tribunal retains ultimate discretion in terms of making 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.
31. For the reasons set out in this decision, the Hearing Tribunal finds that the public interest test for accepting the Sanction Orders was met.
32. The proposed penalty orders must and do convey to the Member, the profession and the public that this conduct will not be tolerated by the ACSW in terms of its public protection mandate and its obligation to uphold the integrity of the profession of social work in the eyes of the public.
33. Ultimately, the Hearing Tribunal concludes that the proposed sanctions are reasonable and appropriate and reflect the serious nature of the Member’s conduct, the rehabilitation of the Member and his clear acceptance of responsibility for his actions. Very importantly, by the Member admitting unprofessional conduct and agreeing to the terms of a consent hearing, both parties avoided the time, cost and uncertainty associated with a contested hearing which could have been very lengthy.
34. The twelve consultations will ensure that the Member has the knowledge, skill and judgment to provide social work services to clients and will have a significant financial impact on the Member.
35. The requirement to complete any outstanding OCSW discipline orders also sends a clear message to the Member that the findings of unprofessional conduct in any jurisdiction are serious.
36. Completion of the ethics course is appropriate given that it is remedial and will address the issue of not complying with the professional and ethical obligations of a regulated member of the ACSW.

37. Publishing this decision with the Member's name is a serious but proportionate consequence for the Member having regard to the nature of the unprofessional conduct. Publication with name in concert with the other penalty orders will serve as a specific deterrent to the Member as well as a general deterrent to other social workers that this type of conduct will not be tolerated and will result in significant penalty orders. Publication of the decision with name will also inform employers of the seriousness of the Member's unprofessional conduct.
38. The overall costs to the Member (including the costs order itself, the effect of suspension, the cost of the twelve consultations, the cost of the ethics course and compliance with the OCSW orders if they relate to monetary matters) represent a significant financial impact on the Member but are fair and reasonable having regard to his deliberate actions.
39. Very importantly, the annual requirement to provide confirmation that the Member is maintaining treatment with a medical practitioner is rehabilitative and proactive that will hopefully facilitate healthy and ethical practice by the Member in the social work profession.
40. In summary, the Hearing Tribunal concludes that the sanctions recommended by both parties are fair, reasonable and appropriate and reflect the seriousness of the Member's conduct as well as his acceptance of responsibility for those actions. They also reflect his efforts in resolving these matters by way of a consent hearing.
41. In summary, the Hearing Tribunal makes the following orders in accordance with s. 82 of the Act:
 1. A Reprimand shall be issued as against Mr. Hamilton.
 2. Mr. Hamilton shall be suspended from the practice of Social Work for a period of twelve (12) weeks with a commence date to be approved by the Complaints Director but within the next ninety (90) days. Mr. Hamilton shall be required to serve a two week suspension wherein he will be removed from all activities and responsibilities relating to social work practice, including his present employment for a two (2) week period. The subsequent 10 weeks of suspension shall be held in abeyance pending a completion of the remaining outstanding sanctions included herein. This suspension period held in abeyance shall be for a period of two (2) years. In the event that Mr. Hamilton fails to satisfy the sanctions herein, or is subject to a further complaint which is referred to a hearing within the subsequent two (2) years, Mr. Hamilton shall be required to complete the remaining 10 weeks of suspension at the Complaints Director's discretion.
 3. Mr. Hamilton shall undertake 12 consultations with a senior social work practitioner (as approved by the ACSW Complaints Director) over the next 12 months, specifically with Consultations being required once per month for the full calendar year. Reporting shall be permitted and required to the ACSW Complaints Director, and all costs associated with the Consultations shall be the responsibility of Mr. Hamilton.

4. Mr. Hamilton shall be obliged to contact the Ontario College of Social Workers and Social Work Services ("OCSW") to ascertain any and all outstanding sanctions with respect to the oral Decision and Written Reasons of the Discipline Committee of 2015. Mr. Hamilton shall be required to complete all outstanding OCSW sanctions to the satisfaction of OCSW such that Mr. Hamilton shall be eligible to commence a reinstatement application. The costs of completing the OCSW sanctions shall be the sole responsibility of Mr. Hamilton and shall be completed within one year from the date of this Order. Mr. Hamilton shall have the responsibility of reporting the successful completion of the OCSW sanctions with verification to the ACSW Complaints Director within one year of the date of this Order.

5. Mr. Hamilton shall successfully complete an ethics course, specifically, PHIL333 at Athabasca University (or an approved substitution as approved by the Complaints Director) within one (1) year of the date of this order. The cost of the course shall be Mr. Hamilton's responsibility.

6. Mr. Hamilton shall provide, on an annual basis (once per year), confirmation that he is maintaining treatment with a medical practitioner with respect to his wellness, or that he has been appropriately discharged from treatment. The confirmation letter from the treating health care professional shall be provided to the Complaints Director for a period of two (2) years from the date of this Order.

7. Mr. Hamilton shall provide proof of providing the Reasons for Decisions and Orders of this hearing before the ACSW Hearing Tribunal to his present employer, Alberta Health Services. Mr. Hamilton shall provide to the Complaints Director verification of disclosure to his employer within ninety (90) days from the date of this Order and within thirty (30) days of the Reasons for Decision being issued to the Complaints Director.

8. Mr. Hamilton shall pay costs of this matter in the amount of One Thousand Dollars (\$1,000.00) within one year of the date of this Order.

9. The Complaints Director shall maintain the discretion to suspend Mr. Hamilton's permit to practice pending a Hearing should the Complaints Director, in his/her sole discretion, conclude that Mr. Hamilton has breached this Order.

10. There shall be publication of this Decision and the Reasons on a "with names" basis given the aforementioned suspension.

Dated this 11 day of September, 2024



Barbara Rocchio
Chair on behalf of the Hearing Tribunal