

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 KELSEY BROWN, A MEMBER OF THE ALBERTA COLLEGE OF SOCIAL WORKERS;

AND IN THE MATTER OF A PROFESSIONAL CONDUCT HEARING REGARDING THE CONDUCT OF KELSEY BROWN UNDERTAKEN VIRTUALLY

DECISION OF THE HEARING TRIBUNAL

I. INTRODUCTION

1. A hearing was held virtually on July 18, 2024 concerning allegations of unprofessional conduct against Kelsey Brown (the “**Member**”), a regulated member of the Alberta College of Social Workers (“**ACSW**”). The hearing occurred by consent via a virtual 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 July 18, 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:

Vince Paniak (Chair - Public Member)
Barbara Rocchio (Public Member)
Barbara Artzen (RSW)
Jacquie Mastenbrook (RSW)

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

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 June 28, 2024 (the “**Notice of Hearing**”).

8. Pursuant to s. 70(1) of the Act, the Member provided a written admission of unprofessional conduct to the Hearing Tribunal dated June 26, 2024 stating that the Member admitted that her actions constituted unprofessional conduct for the following allegations:

Professionalism

2. That I recorded a meeting on November 16th, 2022, for the purposes of impugning the conduct of DW.
3. That I recorded the meeting on November 16th, 2022, for personal purposes.
4. That I undertook the recording of the meeting on November 16th, 2022, without the consent or knowledge of the other parties to the meeting.

Such conduct constitutes a contravention of B.4, D.2(e) and D.5(a) of the Standards of Practice 2019 and Value 4 and 5 of the Code of Ethics 2005 and constitutes unprofessional conduct pursuant to s.(1)(pp)(i)(ii) and (xii) of the *Health Professions Act*, RSA, 2000, c-H-7, as amended.

9. The following documents were entered as Exhibits at the Hearing with the consent of both parties:

Exhibit 1: Notice of Hearing

Exhibit 2: Amended Notice to Attend

Exhibit 3: Admission of Unprofessional Conduct (the “**Admission**”).

Exhibit 4: Consent Order (the “**Consent Order**”).

Exhibit 5: Investigation Report

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. Pursuant to s. 70(1) of the Act, the Member provided a written admission of unprofessional conduct to the Hearing Tribunal dated June 26, 2024 stating that the Member admitted that her actions constituted unprofessional conduct for the following allegations:
12. The Consent Order contained agreed upon “Agreed Statement of Facts”, “Agreed Findings”, “Acknowledgment of Responsibility” and “No Right to Appeal” sections.
13. The Consent Order also contained an “Orders as to Sanctions” section.

A. Agreed Statement of Facts

14. The facts in this matter are not in dispute and are described in the Agreed Statement of Facts as follows:
 1. Ms. Kelsey Brown ("Ms. Brown") has been a Registered Social Worker with the Alberta College of Social Workers ("ACSW").
 2. At all material times, Ms. Brown was the Family School Liaison ("FSL") employed by a school district in Alberta.
 3. There was an initial meeting between Ms. Brown and DW on October 5th, 2022.
 4. During a subsequent meeting on November 16th, 2022, in Ms. Brown's capacity as FSL, Ms. Brown recorded a conversation with DW, without her consent. A student was also present who was not aware she was being recorded.
 5. Confidential client information was discussed at this meeting.
 6. Ms. Brown used this recording to file a Human Resources complaint against DW.
 7. Ms. Brown provided a copy of the recording to Human Resources at a school district in Alberta, who was the employer of both Ms. Brown and DW.

B. Acknowledgment of Responsibility and Unprofessional Conduct

15. 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

16. 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

17. 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.
18. The Hearing Tribunal sees protection of the public and maintaining the integrity of the profession in the eyes of the public as the primary considerations in this matter.
19. 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.

20. The factual basis for the three admitted allegations was proven as the result of uncontradicted evidence presented to the Hearing Tribunal. Bearing in mind the Admission of Unprofessional Conduct 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.
21. The actions of the Member were deliberate and inappropriate and involved confidential client information.

V. REASONS FOR DECISION: SANCTIONS

A. The Joint Sanctions Proposal

22. 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 Ms. Brown.
 2. Ms. Brown shall be suspended from the practice of social work for a period of 7 days from the date of this Order.
 3. Upon her return to the practice of social work, Ms. Brown's permit to practice social work shall be subject to supervision for a period of one (1) year from the date of returning to the practice of social work. The costs of this supervision will be the responsibility of Ms. Brown. This supervision may be within or outside the context of Ms. Brown'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.
 4. Ms. Brown shall be obliged to undertake four (4) consultations per year for a period of one (1) year with a senior RSW practitioner, as approved by the ACSW. The cost of these consultations shall be the responsibility of Ms. Brown. The ACSW shall be entitled to any such reporting as it deems necessary from time to time.
 5. Ms. Brown shall provide, within 60 days of the date of this Order, confirmation of fitness to practice from a medical professional confirming she is sufficiently well to provide services to the public. The confirmation letter from the treating health care professional shall be provided to the Complaints Director.
 6. Ms. Brown 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.
 7. The Complaints Director shall maintain the discretion to suspend Ms. Brown's permit to practice pending a Hearing should the Complaints director, in his/her sole discretion, conclude that Ms. Brown has breached this Order.

8. There shall be publication of this Decision and the Reasons on a “with names” basis given the aforementioned suspension.

B. The Sanction Orders and the Public Interest Test

23. 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.
24. 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.
25. For the reasons discussed during the hearing and as set out in this decision, the Hearing Tribunal found that the public interest test for accepting the Sanction Orders was met.
26. The Hearing Tribunal is satisfied that the Member, in carrying out her responsibilities as a Family School Liaison clearly disclosed a lack of ethics and judgment particularly since her actions were deliberate and deceptive. The Member’s actions clearly demonstrated unprofessional conduct.
27. A written reprimand serves as a deterrent to the Member and serves to protect the public. A reprimand is appropriate given the nature of the Member’s unprofessional conduct.
28. Protection of the public and preserving the integrity of the profession in the eyes of the public are paramount to the ACSW in the regulation of the social work profession in Alberta. Remediation is an important process in the rehabilitation of a member found guilty of unprofessional conduct. As a result, the Member has been ordered to engage in supervised practice, undergo consultations and provide a fitness to practice letter. The Hearing Tribunal finds that these orders are remedial and will assist in facilitating safe and competent practice by the Member.
29. For Order 6, the Hearing Tribunal understands a regulated member of the ACSW should pay a portion of costs upon findings of unprofessional conduct. A costs order of \$1,000.00 is fair and reasonable. This money goes towards the expenses incurred by the ACSW and its members for the unprofessional conduct investigation and hearing. Without recovery of these costs, a professional organization could not maintain its self-regulated responsibilities.
30. In terms of Order 7, oversight by the Complaints Director is necessary to ensure the guilty member has satisfied the requirement if the consent negotiation.
31. The publication of the Order on a “with names” basis serves as a deterrent to the Member and other ACSW members, protects the public and supports the integrity of the profession.

32. Ultimately, the Hearing Tribunal concluded that the sanctions set out in this decision are fair, reasonable and appropriate and reflect the seriousness of the Member's conduct as well as her acceptance of responsibility for those actions. They also reflect her efforts in resolving these matters by way of a consent hearing.
33. 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 Ms. Brown.
 2. Ms. Brown shall be suspended from the practice of social work for a period of 7 days from the date of this Order.
 3. Upon her return to the practice of social work, Ms. Brown's permit to practice social work shall be subject to supervision for a period of one (1) year from the date of returning to the practice of social work. The costs of this supervision will be the responsibility of Ms. Brown. This supervision may be within or outside the context of Ms. Brown'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.
 4. Ms. Brown shall be obliged to undertake four (4) consultations per year for a period of one (1) year with a senior RSW practitioner, as approved by the ACSW. The cost of these consultations shall be the responsibility of Ms. Brown. The ACSW shall be entitled to any such reporting as it deems necessary from time to time.
 5. Ms. Brown shall provide, within 60 days of the date of this Order, confirmation of fitness to practice from a medical professional confirming she is sufficiently well to provide services to the public. The confirmation letter from the treating health care professional shall be provided to the Complaints Director.
 6. Ms. Brown 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.
 7. The Complaints Director shall maintain the discretion to suspend Ms. Brown's permit to practice pending a Hearing should the Complaints director, in his/her sole discretion, conclude that Ms. Brown has breached this Order.
 8. There shall be publication of this Decision and the Reasons on a "with names" basis given the aforementioned suspension.

Dated this 22nd day of August, 2024.



Vince Paniak
Chair on behalf of the Hearing Tribunal