

IN THE MATTER OF THE *HEALTH PROFESSIONS ACT*, RSA 2000, c.H-7

**AND IN THE MATTER OF A HEARING INTO THE CONDUCT OF [CF], A
MEMBER OF THE ALBERTA COLLEGE OF SOCIAL WORKERS**

REASONS FOR DECISION

Pursuant to a public hearing held on April 23, 2025 at Edmonton, Alberta, the Alberta College of Social Workers Hearing Tribunal (the “Hearing Tribunal”) is issuing its reasons for decision.

These reasons will review the proceedings involving the Member and then state the Hearing Tribunal’s decision. Following this, the reasons will identify the legal questions the Hearing Panel must determine with respect to each allegation. These reasons will then set out the applicable legislation, standards and codes that are relevant for these proceedings.

Finally, these reasons will set out the rulings made during the hearing, the evidence heard by the Hearing Tribunal, the legal principles that arise in this hearing and the legal questions as they relate to each of the allegations.

INTRODUCTION AND SUMMARY OF DECISION

A hearing into the conduct of [CF] (the “Member”) was held on April 23, 2025 pursuant to the *Health Professions Act*, RSA 2000, c H-7.

The Notice of Hearing listed the following citation made against the Member:

1. That on March 18, 2024, you did prepare a letter in support of ACR which contained improper information and information which was unsubstantiated, specifically:
 - You did not verify the information provided by ACR;
 - You provided an opinion when it was not warranted; and
 - You did not interview other relevant parties to provide the opinion.

It was alleged that the Member contravened ss. B.7(a), E.1(b), (ii) and (iv) of the Standards of Practice 2019, Value 6 of the Code of Ethics 2005, and that these contraventions constituted unprofessional conduct pursuant to ss. 1(1)(pp) (i), (ii) and (xii) of the *Health Professions Act*.

An Admission of Unprofessional Conduct signed by the Member on April 22, 2025 which admitted to the citation was filed with the Hearing Tribunal.

The Complaints Director and Member advised that they had agreed to a joint submission on sanctions in respect of the admitted unprofessional conduct. Accordingly, the hearing proceeded to consider whether the Hearing Tribunal should accept this joint submission on unprofessional conduct and sanction in relation to the citation.

At the conclusion of the hearing, the Hearing Tribunal advised that it accepted the joint submission on unprofessional conduct and sanction, and that it would issue a written decision with reasons in due course.

COMPOSITION OF THE HEARING TRIBUNAL

Section 12 of the Act provides:

***12(1)** Twenty-five percent of the voting members of a council, a complaint review committee and a hearing tribunal and of a panel of any of them must be public members but with the consent of the council the percentage of the public members may be greater than 25%.*

***(2)** Despite the bylaws governing quorum, the number of public members required by subsection (1) must be present at an appeal under Part 4 before a council, a ratification of a settlement and a review by a complaint review committee and a hearing by a hearing tribunal.*

***(3)** Despite subsections (1) and (2), the powers and duties of a council, complaint review committee or a hearing tribunal or a panel of any of them are not affected by a vacancy in the office of a public member for up to 6 months from the date that the schedule to this Act that governs the college comes into force.*

The members of the Hearing Tribunal were:

- Vince Paniak (Chair, Public Member)
- Georgeann Wilkin (Public Member)
- Mary Berube (Registered Member)
- Verna Wittigo (Registered Member)

Michael Swanberg attended the hearing as independent legal counsel to the Hearing Tribunal.

The hearing was a public hearing pursuant to s. 78 of the Act.

PARTIES

The parties present at the hearing were:

- **[CF]** (the Member)
- Sheryl Pearson (ACSW Complaints Director)
- Karen Smith, K.C. (Counsel for the ACSW Complaints Director)

LEGAL QUESTION

Since the parties presented a joint submission on both the admission of unprofessional conduct, and the sanction to be imposed in respect of that admitted unprofessional conduct, the Hearing Tribunal

considered whether accepting this joint submission would bring the administration of justice into disrepute, or would be contrary to the public interest, which is consistent with the direction of the Supreme Court of Canada in **R v. Anthony-Cook**, 2016 SCC 43 [**Anthony-Cook**].

As part of this analysis, the Hearing Tribunal considered whether the admissions made by the Member constitute unprofessional conduct under the *Health Professions Act* and the applicable provisions in the Standards of Practice and Code of Ethics, and whether the proposed sanction is fit, proportionate and appropriate in the circumstances.

LEGISLATION AND APPLICABLE STANDARDS AND CODES

The Act

The Notice of Hearing alleged that the Member contravened section 1(1)(pp) (i), (ii), and (xii), which are as follows:

(pp) “unprofessional conduct” means one or more of the following, whether or not it is disgraceful or dishonourable:

- (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;*

The Standards of Practice

The Notice of Hearing alleged that the Member contravened sections B.7(a), E.1(b) (ii), (iv) of the ACSW Standards of Practice, which are as follows:

B.7(a) A social worker will provide a professional opinion about a client only when it is based on sufficient and substantial information about the client.

E.1(b) A social worker will have adequate skills to meet the standard of practice requirements. This includes but is not limited to skills in the following tasks:

- ...*
- (ii) Assessment;*
- ...*
- (iv) Communication.*

The Code of Ethics

The Notice of Hearing alleged that the Member contravened Value #6 of the ACSW Code of Ethics, which is as follows:

Social workers respect a client's right to competent social worker services. Social workers analyze the nature of social needs and problems, and encourage innovative, effective strategies and techniques to meet both new and existing needs and, where possible, contribute to the knowledge base of the profession. Social workers have a responsibility to maintain professional proficiency, to continually strive to increase their professional knowledge and skills, and to apply new knowledge in practice commensurate with their level of professional education, skill and competency, seeking consultation and supervision as appropriate.

EVIDENCE RECEIVED IN THE HEARING

The Parties jointly entered the following documents into evidence at the hearing:

- Admission of Unprofessional Conduct signed by the Member on April 22, 2025;
- Consent Order and Agreed Statement of Facts signed by the Member on April 22, 2025; and
- Package of materials containing the Complaint Form and supporting documents, and the Member's written response to the Complaint Form.

No oral evidence was given at the hearing.

FINDINGS OF THE HEARING TRIBUNAL

As noted at the beginning of this decision, the Member submitted an Admission of Unprofessional Conduct which admitted to the original citation. Accordingly, the sole issue for consideration by the Hearing Tribunal was whether the Admission of Unprofessional Conduct, and the joint submission on sanction, should be accepted by the Hearing Tribunal.

Counsel for the Complaints Director referred to the Supreme Court of Canada's decision in **Anthony-Cook** to provide guidance on how a Hearing Tribunal should determine whether to accept an admission of unprofessional conduct and a joint submission on sanction. Paragraphs 32-34 of the Supreme Court of Canada's decision in **Anthony-Cook** confirm that a decision-maker should not depart from a joint submission unless doing so would bring the administration of justice into disrepute, or it would otherwise be contrary to the public interest:

Under the public interest test, a trial judge should not depart from a joint submission on sentence unless the proposed sentence would bring the administration of justice into disrepute or is otherwise contrary to the public interest. But, what does this threshold mean? Two decisions from the Newfoundland and Labrador Court of Appeal are helpful in this regard.

In Druken, at para. 29, the court held that a joint submission will bring the administration of justice into disrepute or be contrary to the public interest if, despite the public interest considerations that support imposing it, it is so "markedly out of line with the expectations of reasonable persons aware of the circumstances of the case that they would view it as a break down in the proper functioning of the criminal justice system". And, as stated by the same court in R. v. B.O.2, 2010 NLCA 19, at para. 56 (CanLII), when

assessing a joint submission, trial judges should “avoid rendering a decision that causes an informed and reasonable public to lose confidence in the institution of the courts”.

In my view, these powerful statements capture the essence of the public interest test developed by the Martin Committee. They emphasize that a joint submission should not be rejected lightly, a conclusion with which I agree. Rejection denotes a submission so unhinged from the circumstances of the offence and the offender that its acceptance would lead reasonable and informed persons, aware of all the relevant circumstances, including the importance of promoting certainty in resolution discussions, to believe that the proper functioning of the justice system had broken down. This is an undeniably high threshold — and for good reason, as I shall explain.

The Hearing Tribunal first considered whether to accept the admission of unprofessional conduct executed by the Member, and then considered whether to accept the joint submission on sanctions, being mindful that it should decline to accept these joint submissions only if doing so would bring the administration of justice into disrepute, or if it would be contrary to the public interest.

1. Admission of Unprofessional Conduct

The Consent Order contained an Agreed Statement of Facts, which set out the following facts that are considered to be proven and can be relied on by the Hearing Tribunal for the truth of their contents:

1. [The Member] has been a Registered Social Worker with the ACSW since 1999.
2. At all material times, [the Member] was employed in private practice.
3. At all material times [the Member] provided professional services to ACR commencing in or about September 2023.
4. On March 18, 2024, [the Member] prepared a letter in support of ACT which was ultimately provided to the Court of King’s Bench.
5. The letter provided by [the Member] to the Court of King’s Bench of March 18, 2024 contained information that was unsubstantiated and provided an opinion.

The Agreed Findings set out in the Consent Order further confirm that:

1. On March 18, 2024, [the Member] prepared a letter in support of ACR wherein she included information provided by ACR which was unsubstantiated, she provided an opinion when it was not warranted, and she did not interview other relevant parties to provide the opinion.

The Consent Order includes an Acknowledgment of Responsibility, whereby the Member acknowledged that her conduct as described in the Agreed Statement of Facts and Agreed Findings constitutes unprofessional conduct worthy of sanction under the *Health Professions Act*, the Standards of Practice, and the Code of Conduct.

The Hearing Tribunal accepts the Member’s Admission of Unprofessional Conduct and finds that the admitted facts in the Agreed Statement of Facts support a finding that she prepared a professional

opinion, which was later provided to the Court of King's Bench, which contained conclusions about other people who were not her clients that were unsubstantiated, and that she failed to interview key parties before providing the opinion. These all constitute unprofessional conduct worthy of sanction, given that they represent a marked departure from the relevant Standards of Practice which govern the preparation of professional opinions. Regulated Social Workers are required to provide opinions only after proper investigations have been conducted (pursuant to section B.7(a) of the Standards of Practice). The Member, in this case, failed to conduct proper due diligence in this matter, and made statements in the opinion about other individuals that were entirely unsubstantiated.

In failing to conduct proper due diligence in preparing a professional opinion that was later filed with the Court of King's Bench, the Member breached Value #6 of the ACSW Code of Ethics, sections B.7(a), E.1(b) (ii), (iv) of the ACSW Standards of Practice, and sections 1(1)(pp) (i), (ii) and (xii) of the *Health Professions Act*.

2. Joint Submission on Sanctions

The Parties jointly submitted the following Order for Sanctions to be imposed with respect to the admitted unprofessional conduct:

1. A Reprimand shall be issued as against the Member.
2. The Member shall be obliged to complete an additional five (5) hours of continuing education relating to opinion writing within six (6) months from the date of this order and at her own cost.
3. The Member will be obliged to contact counsel for ACR and indicate that the letter of March 18, 2024 has been retracted and that it must be withdrawn from the court record.
4. The Member shall pay costs in the amount of \$500.00.
5. The Complaints Director shall maintain the discretion to suspend the Member's permit to practice pending a Hearing should the Complaints Director, in his/her sole discretion, conclude that the Member has breached this Order.
6. There shall be publication of this Consent Order on a "no names" basis on the ACSW website.

In addition to the guidance provided by the Supreme Court of Canada's decision in **Anthony-Cook**, the Hearing Tribunal had regard for the factors set out in the decision of the Newfoundland and Labrador Superior Court in **Jaswal v. Newfoundland Medical Board**, 1996 CarswellNfld 32 [**Jaswal**] for determining a fit and proper sanction in professional regulatory proceedings concerning unprofessional conduct:

1. The nature and gravity of the proven allegations;
2. The age and experience of the offending member;
3. The previous character of the member and in particular, the presence of any prior complaints or convictions;

4. The age and mental condition of the patient;
5. The number of times the offence was proven to have occurred;
6. The role of the member in acknowledging what had occurred;
7. Whether the offending member had already suffered other serious financial or other penalties as a result of 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 safety and proper practice of Social Work;
11. A need to maintain the public's confidence in the integrity of the profession;
12. The degree to which the offensive conduct 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; and
13. The range of sentence in similar cases.

Two decisions of the ACSW Hearing Tribunal were provided which sanctioned other members for unprofessional conduct similar in nature to the unprofessional conduct that the Member has admitted to in this case.

In the first decision, which pertained to a hearing which occurred on October 11, 2018, the member in that case prepared an opinion letter for a client which contained unsubstantiated allegations about that client's ex-partner. That letter was later provided to the Court in the context of a custody and access court matter. The member in that case admitted to unprofessional conduct in preparing an opinion letter which contained unsubstantiated statements about his client's spouse, and which was later filed with the Court in the context of a contested family law matter. The sanctions imposed on the member in that case included a reprimand, a requirement that he practice under clinical supervision by an RSW for six months, that he complete additional continuing education focusing on the preparation of expert opinions, that he prepare a letter retracting the opinion in question, and that he pay costs in the amount of \$750.00.

In the second decision, which pertained to a hearing which occurred on November 3, 2022, the member in that case shared a post on her personal Facebook page about a former client which caused a breach of privacy for her former client, and also potentially impacted a Court Order prohibiting the publication of information about the former client's children. The context in which the post was made was also problematic, in that it associated the member with an organization that promotes vigilantism. The sanctions imposed on the member in that case included a requirement that the member practice under supervision for a period of two years within her employment, that she undertake ten consultations with

a senior practitioner over two years from the date of the order, and that she pay costs in the amount of \$500.00.

The Hearing Tribunal was also advised that this is the second time the Member has been disciplined by the ACSW Hearing Tribunal. In an earlier decision dated July 21, 2022, the Member was sanctioned for failing to obtain informed consent from the mother of a minor regarding assessment, diagnosis, or treatment, failing to record her review of other assessments of the minor client, failing to record observations of the minor client and family members in the chart notes to support the treatment plan of the minor client, failing to record her analysis disregarding a follow-up interview subsequent to the administration of the Multidimensional Inventory of Dissociation, and failing to recommend a referral for the mother of the minor client to support and foster the treatment of the minor client or otherwise document any decision for not doing so. In that case, the sanctions imposed on the Member included that she be subject to supervision for a period of one year specifically surrounding documentation practices, and that she pay costs in the amount of \$1,000.00.

Counsel for the Complaints Director submitted that the joint submission on sanctions was appropriate and proportionate, properly accounted for the *Jaswal* factors described above, and fit within the range of sanctions imposed in other, similar matters.

The Member was given an opportunity to address the Hearing Tribunal, and she confirmed that she agreed with the proposed sanctions. The Member apologized and confirmed that she took full responsibility for the admitted unprofessional conduct.

As stated above, the Hearing Tribunal had regard for the Supreme Court of Canada's decision in *Anthony-Cook*, which directs that decision-makers should not depart from joint submissions on sanctions unless the joint submission is unfit, unreasonable or contrary to the public interest. The Hearing Tribunal recognizes that a degree of deference is to be shown to joint submissions on sanctions, as this promotes certainty for both the Member and the ACSW, it reduces the time and cost associated with conduct proceedings, and it encourages negotiations and resolutions.

The unprofessional conduct in this case had serious consequences for the former spouse of the Member's client. The Member made unsubstantiated and unwarranted comments about her client's former spouse in her opinion letter, and that opinion letter was filed in contested family law proceedings before the Court of King's Bench. The opinion also contained unwarranted and unsubstantiated statements about the impartiality of an arbitrator who had rendered a decision in those contested family law proceedings. This type of misconduct brings the profession into disrepute, and also engages the ACSW's mandate to protect the public. It is important that the sanctions imposed in this case ensure that the Member does not commit similar misconduct in the future.

The Hearing Tribunal also notes that the Member has already been sanctioned once before for other breaches of professional standards arising from poor documentation practices. This is now the second time that the Member has been disciplined for failing to adhere to professional standards regarding documentation – this time concerning the inclusion of unsubstantiated and unwarranted statements in a professional opinion letter that was later filed with the Court of King's Bench. This is an aggravating factor which would suggest serious sanctions are warranted in this case.

In reviewing the agreed-to sanctions, the Hearing Tribunal noted that the sanctions did not include any requirement that the Member obtain supervision from a more senior RSW practitioner to monitor her

preparation of opinions for a period of time. The Hearing Tribunal notes that this was the core sanction arising from the Member's previous disciplinary matter.

That said, the Hearing Tribunal was satisfied that the proposed sanctions would not be contrary to the public interest or demonstrably unfit in accordance with the framework established in **Anthony-Cook**. The sanctions include a requirement that the Member complete continuing education to the satisfaction of the Associate Complaints Director, specifically in the area of preparing professional opinions. This educational requirement properly responds to the specific misconduct at issue, and would serve to rehabilitate the Member and prevent this from happening again.

The sanctions are also justified in light of the previous decisions put forward by the Associate Complaints Director, as they are similar in nature to the sanctions proposed in those other cases.

The Hearing Tribunal also notes that the Member expressed remorse, and apologized for her misconduct at the hearing. This suggests that the Member understands that her conduct fell short of the expected standard in this case, and that she will genuinely seek to improve her practice going forward.

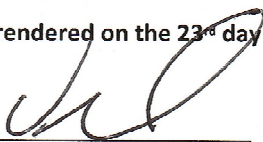
Accordingly, while the agreed-to sanctions are at the low end of what would be considered fit and appropriate in these circumstances, the Hearing Tribunal is satisfied that they are not unreasonable or demonstrably unfit. The Member is cautioned that, if she fails to adhere to professional standards in the future, and is disciplined for further unprofessional conduct, she could end up facing much more serious sanctions at that time, including a potential period of suspension, given her disciplinary history.

It is for this reason that, at the hearing, the Chair stated on the record that the Hearing Tribunal strongly encourages the Member to seek mentorship and supervision opportunities with more senior RSWs to help improve her practice going forward. For clarity, the Hearing Tribunal is not ordering this in addition to the sanctions imposed via the Consent Order. The Hearing Tribunal is hopeful that the Member will learn from this situation, and take steps to improve her practice to avoid unprofessional conduct in the future.

CONCLUSION AND NEXT STEPS

The Hearing Tribunal accepts the Member's Admission of Unprofessional Conduct, and the Parties' joint submission on sanctions, as summarized above.

This Decision rendered on the 23rd day of April, 2025.



Vince Paniak, Chair
On behalf of the Hearing Tribunal