

**DISCIPLINE COMMITTEE
OF THE COLLEGE OF REGISTERED PSYCHOTHERAPISTS
AND REGISTERED MENTAL HEALTH THERAPISTS OF ONTARIO**

IN THE MATTER OF the *Regulated Health Professions Act, 1991*, S.O. 1991, c. 18, as amended, and the regulations thereunder, as amended;

AND IN THE MATTER OF the *Psychotherapy Act, 2007*, S.O. 2007, c. 10, Sched. R, as amended and the regulations thereunder, as amended;

AND IN THE MATTER OF a discipline proceeding against Timothy Boulton, a Member of the College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario.

BETWEEN:

COLLEGE OF REGISTERED
PSYCHOTHERAPISTS AND
REGISTERED MENTAL HEALTH
THERAPISTS OF ONTARIO

- and -

TIMOTHY BOULTON
(REGISTRATION # 004143)

)
) Rebecca Durcan
) Counsel for the College of Registered
) Psychotherapists and Registered
) Mental Health Therapists of Ontario
)
)
)
) Lisa Hamilton
) Counsel for the Member
) Timothy Boulton
) In attendance
)
) Bonni Ellis
) Independent Legal Counsel
)
) Heard: February 27, 2019

PANEL: Gary Cockman (Chair)
Andrew Benedetto
Sheldon Kawarsky
Kevin VanDerZwet Stafford
Heidi Ahonen

DECISION AND REASONS FOR DECISION

[1] This matter came before a panel of the Discipline Committee (the "Panel") of the College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario ("the College") on February 27, 2019 at the offices of Victory Verbatim in Toronto.

THE ALLEGATIONS

[2] Counsel for the College advised the Panel that the College was requesting leave to withdraw the allegations as set out in paragraphs 8 (a), (b), (c), (e), (f) and 12 (a) of the Notice of Hearing. Counsel for the College also advised the Panel that the College was requesting leave to withdraw the words "disgraceful" and "dishonourable" from paragraph (13) of the Notice of Hearing. The Panel granted these requests.

[3] The remainder of the allegations against Timothy Boulton ("the Member") set out in the Notice of Hearing, dated February 6, 2018, which was filed as Exhibit #1, are as follows:

The member

1. Timothy Mark Boulton ("Mr. Boulton") became a registered psychotherapist and a member of the College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario (the "College") on or about March 16, 2016.

Treatment of Client A

2. From about May 2013 until about September 2016, Client A was a client of Mr. Boulton.
3. At various times in the therapeutic relationship, Client A presented to Mr. Boulton with several potential indicators of depression.
4. Client A asked Mr. Boulton if she may have depression.

5. At various times in the therapeutic relationship, Client A presented to Mr. Boulton with several risk factors of suicide.
6. On several occasions, Client A discussed with Mr. Boulton her thoughts and plans about suicide.
7. Client A emailed Mr. Boulton her thoughts and/or plans about suicide.

Alleged omissions respecting treatment of Client A

8. Respecting his treatment of Client A, Mr. Boulton did not:
 - a. *Withdrawn*
 - b. *Withdrawn*
 - c. *Withdrawn*
 - d. Develop and document a detailed plan of action for interventions directed at the prevention of suicide.
 - e. *Withdrawn*
 - f. *Withdrawn*
 - g. Include in the health record emails and details provided by Client A about her plan to end her own life.

Suicide attempt

9. On or about September 6, 2016, Mr. Boulton was aware of a risk of suicide by Client A and asked her if she would commit to attending their next scheduled session.
10. On or about September 10, 2016, Client A emailed Mr. Boulton suggesting she will end her life imminently.
11. On or about September 10, 2016, Client A attempted suicide and was hospitalized.

Alleged omissions respecting suicide attempt

12. Respecting the alleged events in or around September 2016, Mr. Boulton did not:

a. *Withdrawn*

b. Develop and document a detailed plan of action for interventions directed at the prevention of suicide.

Professional misconduct

13. For the above reasons, it is alleged that Mr. Boulton engaged in professional misconduct pursuant to section 51(1)(c) of the Health Professions Procedural Code¹ and the following paragraphs of section 1 of Ontario Regulation 317/12 under the Psychotherapy Act, 2007: paragraph 1 (contravening, by act or omission, a standard of practice of the profession or failing to maintain the standard of practice of the profession); and/or paragraph 25 (failing to keep written records in accordance with the standards of the profession) and/or paragraph 52 (engaging in unprofessional conduct); and/or paragraph 53 (conduct unbecoming a psychotherapist).

MEMBER'S PLEA

[4] The Member admitted to the allegations set out in the Notice of Hearing.

[5] The Panel conducted an oral plea inquiry and was satisfied that the Member's admission was voluntary, informed and unequivocal.

AGREED STATEMENT OF FACTS

[6] The Panel was presented with an Agreed Statement of Facts, which was filed as Exhibit #2, and provides as follows:

The Member

1. Timothy Boulton ("Mr. Boulton") lives in Guelph, Ontario.
2. Mr. Boulton has completed clinical pastoral education and holds a master's degree in divinity.

3. Mr. Boulton served as an Anglican priest for over 17 years and as a hospital chaplain for two years. He has operated a private practice providing grief and individual counselling since 2009.
4. Mr. Boulton applied for registration with the College via the grandparenting route, and became a College member on or about March 16, 2016.

Client A

5. Client A's psychologist, Dr. X, referred her to Mr. Boulton for grief counselling following the death of Client A's mother. Dr. X also served as Mr. Boulton's supervisor.
6. Client A's first appointment with Mr. Boulton was on May 2, 2013. Client A had regular appointments with Mr. Boulton when she was not travelling or away. Client A and Mr. Boulton had approximately 85 sessions together. The last one took place on September 6, 2016.
7. Client A signed a Grief Recovery Agreement on May 7, 2013, attached at Tab 1, pursuant to which Client A agreed, "I am aware that if I feel an imminent urge to hurt myself or someone else, I will contact my local emergency room immediately. I am aware that my Grief Recovery Specialist [Mr. Boulton] is not available on an emergency basis."

Assessment of and response to depression and suicidality

8. On or about May 28, 2014, Client A asked Mr. Boulton if she may be experiencing symptoms of depression. Mr. Boulton said he replied to Client A that he "did not think that she had demonstrated a debilitating depressive state, but rather the normal and natural signs of sadness; regret and longing around unrealized hopes and expectations in various aspects of her life."
9. The client record (also referred to as session notes) for May 28, 2014, states that Client A is very concerned with her medical condition and how it may impact her life. She assured Mr. Boulton that she is not suicidal.

10. In the July 2, 2014 session note, Mr. Boulton states that Client A seems to have been “sliding progressively into a malaise that could be clinical depression.” At the appointment he suggested that she call Dr. X. Following the session, Client A booked an appointment with Dr. X.
11. The July 17, 2014 session note states that Client A talked about her session with Dr. X, her sense of diminished physical capacity and the impact this is having on her psychological health, and mentioned appointments she has with neurologists and her family doctor. Mr. Boulton notes “I hope from these consultations that there may be a clear diagnosis of what it is that she’s facing the possibility of some medical support to mitigate the fatigue and subsequent depression that she’s experiencing.”
12. In the September 11, 2014 session note, it states that Client A was in very low spirits today, made an appointment to see her family doctor, hoping the doctor will help her deal with her extreme fatigue.
13. The October 20, 2014 session note states that Client A “wants to live with as much dignity and purpose as she can muster” and refers to the time when her disease “progresses beyond her abilities to do the things that give her life, such as use her hands, walk with the aid of a cane or walker but not move into a wheelchair and bathing and toilet herself.”
14. The November 12, 2014 session note states, “We also talked about her sense of how she might be intentional about her end-of-life. She is not immediately suicidal but is grateful to have someone to talk through her thoughts process her feelings around the possibility of choosing the state and time at which she would no longer desire to continue to live. We talked about the possibility of assisted end-of-life. I made it very clear to her that if she implied that she was going to take her own life immediately after we have spoken that I would be required to call 911. However, I am present for her to reflect and process her feelings around how your diseases compromising her life and to what extent

- she's willing and able to adjust her expectations around the sense of a quality-of-life at which point she may come to discerning that her quality-of-life no longer serves her."
15. The August 4, 2015 session note refers to Client A's "continuing and deepening sadness in her feeling of disconnect and even anger at her two adult children," as well as her "disconnect, isolation and rejection."
 16. The February 2, 2016 session note refers to Client A's "thoughts of ending her life." It also refers to Client A's "feeling isolated" and "deep ongoing disappointment."
 17. The March 22, 2016 session note refers to Client A's "desperate sense of disappointment."
 18. The May 5, 2016 session note refers to Client A's "sense of desperate isolation," and her feeling "she really has nothing that gives her purpose and joy in her life." It notes, "We referred to her medication around her mood and her connecting with her doctors."
 19. The June 29, 2016 session note refers to Client A's "reflections on her end of life," and her "intention and conviction around her decision."
 20. The July 21, 2016 session note refers to Client A's discussion with her children about "the possibility of ending her own life."
 21. The July 28, 2016 session note states, "We talked briefly about if there were other possibilities for her other than ending her life, how she may find it within to try in different ways, or possibly reconsider how she may detach from her dependency on their understanding how they are so important in her life. Even despite our open conversation she feels even more compelled to move toward her intended end-of-life."
 22. The August 30, 2016 session note refers to Client A's stomach cramps and eating problems, feeling depressed, down and defeated.

23. The note of Client A's last session with Mr. Boulton, on September 6, 2016, states that Client A is "going to try and follow up with her doctor" regarding her stomach, fatigue, appetite and mood.

24. A copy of relevant session notes is attached at Tab 2.

Attempted suicide by Client A

25. On or about Tuesday, September 6, 2016, Client A told Mr. Boulton she was planning to commit suicide the following Sunday (September 11) by taking pills she had stockpiled.

26. On or about Tuesday, September 6, 2016, Mr. Boulton asked Client A if she would commit to attending their next scheduled session (September 13). Mr. Boulton stated he did this "to extract a promise to commit to our scheduled session, in tandem with my need to ensure I had done my due diligence around a professional tenet of suicide prevention."

27. On or about Thursday, September 8, 2016, Client A sent Mr. Boulton an email confirming she would attend her next scheduled appointment on Tuesday, September 13, 2016. A copy of the email is attached at Tab 3.

28. On or about Saturday, September 10, 2016, Client A emailed Mr. Boulton indicating she will end her life imminently. In his response to the complaint, submitted to the College around March 2017, Mr. Boulton writes he does not recall seeing this email, as he was away from September 8-11, 2016. A copy of the email is attached at Tab 4.

29. Client A attempted suicide on or about Saturday, September 10, 2016. As a result, Client A was hospitalized, diagnosed with major depression, and spent five months recovering as an in-patient.

30. Mr. Boulton consulted with Dr. X and sought supervision regarding Client A's possible depression and suicidality. A copy of the statement of Dr. X dated June 27, 2017 is attached at Tab 5.

31. Aside from his July 2014 referral to Dr. X, Mr. Boulton did not refer Client A for additional or alternative counselling or therapy regarding depression or suicidal thoughts. Further, he did not develop and document a detailed plan of action for interventions directed at the prevention of suicide. Instead, he relied upon Client A's statements that she was obtaining treatment elsewhere (as per paragraphs 10, 11, 12, 18 and 23, above). It is agreed that these were contraventions of standards of practice of the profession..

Admission of professional misconduct

32. Based on the above facts, it is agreed that the Member engaged in the following act of professional misconduct as set out in Ontario Regulation 317/12, section 1:
- a. He contravened, by act or omission, a standard of practice of the profession or failed to maintain the standard of practice of the profession (paragraph 1).

Inadequate Record-keeping

Omissions from the record of Client A

33. Mr. Boulton and Client A discussed the circumstances surrounding the discovery of Client A's body if she decided to follow through with suicide. Mr. Boulton stated he felt discussion on this issue "was imperative in encouraging her to think about the full ramifications of any decision she may make, considering the impact on others." There is no record of discussion about discovery of Client A's body in Mr. Boulton's records for the care of Client A. It is agreed that it is a standard of practice of the profession to maintain records of such discussions in the written records.

34. Mr. Boulton admitted that Client A sent information about her thoughts of ending her own life to Mr. Boulton by email. Client A states that Mr. Boulton told her not to put details about her plan to end her own life in writing. Mr. Boulton states that he told Client A not to put any clinical or private information in emails, as it

is more appropriate to discuss these issues in sessions. These emails were not retained in Mr. Boulton's records for the care of Client A. It is agreed that it is a standard of practice of the profession to keep a record of such emails in the written records.

Admission of professional misconduct

35. Based on the above facts, it is agreed that the Member engaged in the following act of professional misconduct as set out in Ontario Regulation 317/12, section 1:

- a. He failed to keep written records in accordance with the standards of the profession (paragraph 25).

Failing to make arrangements for the safety of Client A while she was at risk of suicide

36. On or about Tuesday, September 6, 2016, Client A told Mr. Boulton she was planning to commit suicide the following Sunday by taking pills she had stockpiled. Mr. Boulton's response was to extract a promise from Client A to attend their next scheduled appointment on Tuesday, September 13, 2016. He also relied on the contractual provision as signed by Client A which states, "I am aware that if I feel an imminent urge to hurt myself or someone else, I will contact my local emergency room immediately. I am aware that my Grief Recovery Specialist is not available on an emergency basis." However, he did not specifically discuss this with Client A, and he did not inform her that he would be away and unable to read or respond to emails in the interim. It is agreed that in light of the circumstances of this case, it was a standard of the profession to advise Client A of Mr. Boulton's imminent departure.

37. On or about Saturday, September 10, 2016, Client A emailed Mr. Boulton indicating she will end her life imminently, but Mr. Boulton stated he did not see this email until he returned from vacation on September 11, 2016. In the interim, Client A attempted suicide on or about Saturday, September 10, 2016.

As a result, Client A was hospitalized, diagnosed with major depression, and spent five months recovering as an in-patient.

38. Mr. Boulton acknowledges that he ought to have set his email to provide an automated response with a reminder that email is not a secure form of communication and should be used only for the purpose of arranging appointments, and with information on how to obtain emergency services. It is agreed that in light of the circumstances of this case, it was a standard of the profession to set his email with the described automated response.

Admission of professional misconduct

39. Based on the above facts, it is agreed that the Member engaged in the following acts of professional misconduct as set out in Ontario Regulation 317/12, section 1:

- 1) He contravened, by act or omission, a standard of practice of the profession or failed to maintain the standard of practice of the profession (paragraph 1).
- 2) Engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded by members as unprofessional (paragraph 52); and
- 3) He engaged in conduct that would reasonably be regarded by members as conduct unbecoming a member of the profession (paragraph 53).

General

40. The College withdraws the particulars at paragraphs 8 a, b, c, e, f, and 12 a of the Notice of Hearing.

41. By this document Mr. Boulton states that:

- a. he understands fully the nature of the allegations against him;
- b. he has no questions with respect to the allegations against him;

- c. he understands that by signing this document he is consenting to the evidence as set out in the Agreed Facts being presented to the Discipline Committee;
- d. he understands that by admitting the allegations, he is waiving his right to require the College to prove the case against him and the right to have a hearing;
- e. he understands that the decision of the Discipline Committee and a summary of its reasons, including reference to his name, may be published in the College's annual report and any other publication or website of the College;
- f. he understands that any agreement between him and the College with respect to any penalty proposed does not bind the Discipline Committee; and;
- g. he understands and acknowledges that he is executing this document voluntarily, unequivocally, free of duress, free of inducement or bribe, and that he has been advised of his right to seek legal advice and that he has had the opportunity to receive such advice.

DECISION

[7] The Panel is making findings that the Member:

- a. Contravened, by act or omission, a standard of practice of the profession or failed to maintain the standard of practice of the profession;
- b. Failed to keep written records in accordance with the standards of the profession;
- c. Engaged in unprofessional conduct; and
- d. Engaged in conduct unbecoming a psychotherapist.

REASONS FOR DECISION

[8] The Panel accepted as true all of the facts set out in the Agreed Statement of Facts. Having regard to these facts, and the Member's admissions, the Panel finds that the Member committed the acts of professional misconduct alleged in the Notice of Hearing. .

THE JOINT SUBMISSION ON ORDER AND COSTS

[9] Counsel for the College and Counsel for the Member provided the Panel with a Joint Submission on Order and Costs, which was filed as Exhibit #3, and provides as follows:

The [College] and [the Member] agree and jointly submit that the Panel should make an Order:

1. Requiring the Member to appear before the panel to be reprimanded within 30 days of the date that this order becomes final;
2. Directing the Registrar to impose the following terms, conditions and limitations on the Member's certificate of registration:
 - a. The Member shall successfully complete, in the opinion of, and within a time frame approved by, the Registrar, a course on suicide intervention approved by the Registrar,
 - b. The Member shall, for twelve (12) consecutive months from the date that this order becomes final, meet with a clinical supervisor, pre-approved by the Registrar, for at least twelve (12) one-hour clinical supervision sessions, as defined in s. 1 of Regulation 67/15, to discuss ethics and practice issues as identified by the Registrar,
 - c. The Member shall ensure that the clinical supervisor, as described in

paragraph b, provides the Registrar with a report, in a form acceptable to the Registrar and relevant to the issues as described in paragraph b and anything else as identified by the clinical supervisor, every six months;

3. Directing the Registrar to suspend the Member's certificate of registration for a period of two (2) months, two (2) months of which shall be suspended if the Member complies with the provisions of paragraph 2 of this Joint Submission as to Penalty and Costs by no later than fifteen (15) months from the date that this order becomes final;
4. For greater certainty, the Member's obligation to comply with the proposed terms, conditions and limitations on his certificate of registration contained in paragraph 2 is not relieved by serving the suspension referred to in paragraph 3;
5. The Member shall be responsible for any and all costs associated with implementing the terms of this order;
6. The Member shall pay the College's costs fixed in the amount of \$3000.00 according to the following schedule:
 - a. The first payment of \$1000 shall be due two months following the date that this order becomes final,
 - b. The second payment of \$1000 shall be due two months following the date the first payment is due, and
 - c. The third payment of \$1000 shall be due two months following the date the second payment is due;
7. The Member acknowledges that this Joint Submission as to Penalty and Costs

is not binding upon the Discipline Committee;

8. The Member acknowledges that he has had the opportunity to receive independent legal advice.

DECISION ON ORDER

[10] The Panel accepts the Joint Submission on Penalty and Costs as presented by the parties and makes an Order in accordance with the terms set out above.

REASONS FOR DECISION ON ORDER

[11] The Panel concluded the parties' joint submission is both reasonable and in the public interest. It provides for both specific and general deterrence, as well as an opportunity for the Member to remediate his practice. With respect to specific deterrence, this will be achieved through the oral reprimand, while remediation will be achieved through the requirements of paragraph 2. The Order provides sufficient protection for the public.

[12] The Panel also notes that the Member has co-operated with the College and by agreeing to the facts and proposed Order has accepted responsibility for his actions.

Date: April 29, 2019

Gary Cockman, Chair

Discipline Panel