

Discipline Committee of the College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario

Citation: ONCRPO v. DURANT, 2021 ONCRPO 3

Date of written reasons: June 15, 2021

Docket: R1920-35

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

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 Sarah Durant, a Registrant 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 -

SARAH DURANT (REGISTRATION #003518)

Before: Panel

**Heidi Ahonen (Chair)
Kali Hewitt-Blackie
Carol Cowan-Levine
David Keast
Keri Selkirk**

Date of hearing:

March 30, 2021

Appearances:

Maya Pearlston,

Counsel for College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario

Jennifer Hunter,

Independent Legal Counsel

Sarah Durant, Registrant/Member

Self-represented

DECISION AND REASONS

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 March 30, 2021. The hearing proceeded via videoconference on consent of the parties.

The hearing was uncontested. It proceeded by way of an Agreed Statement of Facts ("ASF") and a Joint Submission on Penalty and Costs, which were jointly proposed by the counsel for the College and the Registrant, Sarah Durant (the "Registrant").

At the conclusion of the hearing, the Panel delivered its finding and penalty order orally, with written reasons to follow. These are those reasons.

THE ALLEGATIONS

The allegations of professional misconduct against the Registrant were listed on the Notice of Hearing, dated January 4, 2021, which was filed as Exhibit 1, and read as follows:

The Registrant

1. Sarah Durant (the "Registrant") has been a registrant of the College of Registered Psychotherapists of Ontario (the "College") since approximately September 15, 2015.
2. The Registrant works at North Simcoe Therapy Network, located in Tiny, Ontario.
3. The Registrant is not a member of the College of Physicians and Surgeons of Ontario.

Conduct and Criminal Conviction

4. It is alleged that on or about February 26, 2020, the Registrant attended a restaurant and consumed alcohol and/or became intoxicated. It is alleged that the Registrant began harassing staff and/or customers and/or was making inappropriate comments and/or advances towards the staff and/or customers, including, but not limited to:
 - a. [Withdrawn];
 - b. [Withdrawn];
 - c. [Withdrawn]; and/or
 - d. [Withdrawn].
5. It is alleged that the Registrant:
 - a. Left the restaurant without paying; and/or

- b. Operated her vehicle while under the influence of alcohol.
6. It is alleged that the Registrant hit a curb, drove into a ditch and/or then drove into oncoming traffic.
 7. It is alleged that the police subsequently found the Registrant asleep in her car in her driveway.
 8. On or about February 27, 2020, the Registrant was criminally charged with:
 - a. Operation while Impaired by drugs or alcohol (s. 320.14(1)(a) of the Criminal Code)
 - b. Operation while Impaired – blood alcohol concentration over 80 (s. 320.14(1)(b) of the Criminal Code)
 - c. Dangerous Operation of a motor vehicle (s. 320.13(1) of the Criminal Code); and/or
 - d. Fraudulently obtaining food, beverage or accommodation (s. 364 of the Criminal Code).
 9. On or about April 23, 2020, the Registrant pled guilty to the charge identified at paragraph 8(a). It is alleged that the Registrant was ordered to pay a fine of \$2,600.00 within 9 months and was prohibited from operating a motor vehicle for one year commencing on April 23, 2020.

Allegations of Professional Misconduct

10. It is alleged that the above conduct constitutes professional misconduct pursuant to one or more of the following:
 - a. Section 51(1)(a) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991* (the “Code”) (the member has been found guilty of an offence that is relevant to the member’s suitability to practise); and/or
 - b. Section 51(1)(c) of the *Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991* as set out in one or more of the following paragraphs of section 1 of Ontario Regulation 317/12 made under the *Psychotherapy Act, 2007*:
 - i. **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, including but not limited to:
 - 1. 1.5 – General Conduct; and/or

- ii. [Withdrawn]; and/or
- iii. **Paragraph 53** – Engaging in conduct that would reasonably be regarded by members as conduct unbecoming a member of the profession.

At the outset of the hearing, counsel for the College advised the panel that the College sought to withdraw the following paragraphs of Notice of Hearing (Exhibit 1): a portion of 4, specifically, ‘It is alleged that the Registrant began harassing staff and/or customers and/or was making inappropriate comments and/or advances towards the staff and/or customers, including, but not limited to’, 4 (a), 4 (b), 4 (c), 4 (d) and 10 (b) (ii). The Registrant advised the panel that she consented to the College’s request to withdraw the noted allegations.

The panel made an order at the hearing, orally, granting leave for the allegations contained in a portion of paragraph 4, specifically, ‘It is alleged that the Registrant began harassing staff and/or customers and/or was making inappropriate comments and/or advances towards the staff and/or customers, including, but not limited to’, and within paragraphs 4 (a), 4 (b), 4 (c), 4 (d) and 10 (b) (ii), to be withdrawn.

AGREED STATEMENT OF FACTS

The Agreed Statement of Facts was filed as Exhibit 2 and provides (without attachments) as follows:

The Registrant

1. Sarah Durant (the “Registrant”) has been a registrant of the College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario (the “College”) since September 15, 2015. Attached at Tab “A” is a copy of the Registrant’s Public Register Profile.
2. The Registrant works at North Simcoe Therapy Network, located in Tiny, Ontario.
3. The Registrant is not a member of the College of Physicians and Surgeons of Ontario.
4. The Registrant has co-operated with the College and has actively participated in resolving this matter in an expeditious and cost-effective manner.
5. This is the first time the Registrant has been referred to the Discipline Committee.

Conduct and Criminal Conviction

6. On February 26, 2020, the Registrant attended a restaurant, consumed alcohol and became intoxicated. The Registrant began making inappropriate comments and behaving inappropriately towards the staff and customers.
7. As a result of her intoxication, the Registrant then:
 - a. Left the restaurant without paying; and
 - b. Operated her vehicle while under the influence of alcohol.
8. The Registrant hit a curb, drove into a ditch and then drove into oncoming traffic.
9. The police subsequently found the Registrant asleep in her car in her driveway.
10. On or about February 27, 2020, the Registrant was criminally charged with:
 - a. Operation of a motor vehicle while impaired by drugs or alcohol (subsection 320.14(1)(a) of the *Criminal Code*);
 - b. Operation of a motor vehicle while impaired with a blood alcohol concentration over 80 mg of alcohol in 100 mL of blood (subsection 320.14(1)(b) of the *Criminal Code*);
 - c. Dangerous operation of a motor vehicle (subsection 320.13(1) of the *Criminal Code*); and
 - d. Fraudulently obtaining food, beverage or accommodation (section 364 of the *Criminal Code*).

A copy of the Undertaking detailing the Registrant's criminal charges is attached at Exhibit "B".

11. On April 23, 2020, the Registrant pleaded guilty to the charge identified at paragraph 10(a). The Registrant was ordered to pay a fine of \$2,600.00 within nine months and was prohibited from operating a motor vehicle for one year commencing on April 23, 2020. All of the other charges were withdrawn by the Crown. Attached at Exhibit "C" are copies of the Fine Order and Prohibition Order.
12. It is agreed that the finding of guilt as set out in paragraph 11 is relevant to the Registrant's suitability to practise.
13. If the Registrant was to testify, she would advise the Discipline Committee that she was undergoing significant personal challenges at the relevant time. The Registrant is aware that this is not an excuse for her conduct and that she is expected to act professionally at all times.

Contravening a Standard of Practice of the Profession

14. The College has published *Professional Practice Standards for Registered Psychotherapists* that states the following:

- a. **1.5 – General Conduct** – Registrants at all times refrain from conduct that, having regard to all the circumstances, would reasonably be regarded by registrants as disgraceful, dishonourable, unprofessional, or unbecoming a member of the profession.

Attached at **Tab “D”** is a copy of the relevant Standards.

15. The Registrant breached this standard of practice of the profession by engaging in the conduct described in this Agreed Statement of Facts.

Acknowledgement and Undertaking

16. On February 17, 2021, the Registrant entered into an Acknowledgment and Undertaking with the College, in which she acknowledged that she suffers from alcoholism and agreed to, among other things, receive ongoing treatment from physicians and maintain complete abstinence from alcohol and all illegal substances. A copy of the Acknowledgment and Undertaking of the Registrant dated February 17, 2021 is attached at Tab “E”.

Admission of Professional Misconduct

17. By this document, the Registrant admits to the truth of the facts referred to in paragraphs 1 to 15 above (the “Agreed Facts”).

18. The above conduct constitutes professional misconduct pursuant to the following:

- a. Subsection 51(1)(a) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991* (the “Code”) (the member has been found guilty of an offence that is relevant to the member’s suitability to practise); and
- b. Subsection 51(1)(c) of the Code, as set out in the following paragraphs of section 1 of Ontario Regulation 317/12 made under the *Psychotherapy Act, 2007*:
 - i. 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, namely, 1.5 – General Conduct; and

- ii. Paragraph 53 – Engaging in conduct that would reasonably be regarded by members as conduct unbecoming a member of the profession.

19. By this document, the Registrant states that:

- a. She understands fully the nature of the allegations against her;
- b. She has no questions with respect to the allegations against her;
- c. She understands that by signing this document she is consenting to the evidence as set out in the Agreed Facts being presented to the Discipline Committee;
- d. She understands that by admitting the allegations, she is waiving her right to require the College to prove the case against her and the right to have a hearing;
- e. She understands that the decision of the Discipline Committee and a summary of its reasons, including reference to her name, may be published in the College's annual report and any other publication or website of the College;
- f. She understands that any agreement between her and the College with respect to any penalty proposed does not bind the Discipline Committee; and
- g. She understands and acknowledges that she is executing this document voluntarily, unequivocally, free of duress, free of inducement or bribe, and that she has been advised of her right to seek legal advice and that she has had the opportunity to receive such advice.

20. In light of the Agreed Facts and Admission of Professional Misconduct, the College and the Registrant submit that the Discipline Committee should find that the Registrant has committed professional misconduct.

REGISTRANT'S PLEA

The Registrant admitted the acts of professional misconduct as set out in the Agreed Statement of Fact.

The Panel conducted an oral plea inquiry and was satisfied that the Registrant's admissions were voluntary, informed, and unequivocal.

SUBMISSIONS OF THE PARTIES ON FINDING

Counsel for the College submitted that the facts and admissions contained in the Agreed Statement of Facts made out all of the acts of professional misconduct admitted to by the Registrant.

The Registrant provided a statement which echoed College Counsel's submissions, namely that the facts admitted in the Agreed Statement of Facts support a finding of professional misconduct as set out therein.

DECISION

On reading the Notice of Hearing, considering the Agreed Statement of Facts, and on hearing the submissions of counsel and counsel for the Registrant. The Panel finds that the Registrant has committed acts of professional misconduct pursuant to:

1. Subsection 51(1)(a) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991* (the "Code") (the member has been found guilty of an offence that is relevant to the member's suitability to practise); and
2. Subsection 51(1)(c) of the Code, as set out in the following paragraphs of section 1 of Ontario Regulation 317/12 made under the *Psychotherapy Act, 2007*:
 - a. 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, namely, 1.5 – General Conduct; and
 - b. Paragraph 53 – Engaging in conduct that would reasonably be regarded by members as conduct unbecoming a member of the profession.

REASONS FOR DECISION

Having considered the Registrant's admission of professional misconduct and the facts contained in the Agreed Statement of Facts, the Panel concluded the Registrant had committed the acts of professional misconduct. The Panel was satisfied the Registrant's admission was voluntary, informed, and unequivocal.

THE JOINT SUBMISSION ON PENALTY AND COSTS

The Joint Submission on Penalty and Costs was filed as Exhibit 3. Counsel for the College and the Registrant agreed and jointly submitted that the following would be an appropriate order as to penalty and costs in the matter:

1. The Registrant is required to appear before the panel of the Discipline Committee to be reprimanded following the hearing.
2. The Registrar is directed to immediately impose the following specified term, condition or limitation on the Registrant's Certificate of Registration:
 - a. Requiring the Registrant to successfully complete, at her own expense, the College's Professional Practice & Jurisprudence (JRP) e-Learning Module, within two (2) months of the date of the Order.
3. The Registrant is required to pay to the College the costs in the amount of \$2,500.00, payable on a schedule determined by the Registrar.

DECISION ON ORDER

The Panel accepted the Joint Submission on Penalty and Costs as submitted by the parties and makes an Order in accordance with the terms set out above.

REASONS FOR DECISION ON ORDER

The Panel recognizes that the Registrant has cooperated with the College and has actively participated in resolving this matter in an expeditious and cost-effective manner. The Panel also notes that this is the first time the Registrant has been referred to the Discipline Committee.

The Panel concluded that the parties' joint submission is both reasonable and in the public interest. It provides for both specific and general deterrence. With respect to specific deterrence, this will be achieved via the oral reprimand, while remediation will be achieved through the specified terms, conditions and limitations as set out in paragraph 2 above. The penalty provides general deterrence in that it demonstrates to the profession that such conduct will not to be tolerated. The order on costs was appropriate.

REPRIMAND

At the conclusion of the hearing, having confirmed that the Registrant waived any right to appeal, the panel delivered its oral reprimand. A copy of the reprimand is attached at Schedule "A" of these reasons.

I, Heidi Ahonen, sign this Decision and Reasons for the decision as Chairperson of this Discipline panel and on behalf of the Registrants of the Discipline panel as listed below:

Heidi Ahonen, RP Chair, Discipline Panel

June 15, 2021

Kali Hewitt-Blackie, RP, Professional Member
Carol Cowan-Levine, RP, Professional Member
David Keast, Public Member
Keri Selkirk, Public Member

Schedule "A"**Oral Reprimand**

The practice of psychotherapy is both a privilege and a responsibility that carries with it significant obligations, to the public, the profession and to oneself. In not maintaining your own sobriety as a registered psychotherapist, you put the profession, and yourself at significant risk of harm.

We wish to clarify with you that although the Order we imposed is appropriate in relation to our findings, a more significant Order would likely be imposed by another Discipline panel in the event you are ever found to have engaged in similar professional misconduct.

Although the panel recognizes your full cooperation with the College's investigation, we want to impress upon you the necessity of using the gravity of this hearing as an opportunity to pause and reflect on the absolute importance of maintaining your own wellness going forward. We trust that the undertaking that you have entered in to with the College will support you in this regard.

Discipline Panel:

Heidi Ahonen, Chair

Kali Hewitt-Blackie, RP

Carol Cowan-Levine, RP

David Keast

Keri Selkirk

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