

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

Citation: *College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario v. Haramic*, 2024 ONCRPO 5

Date: May 13, 2024

File No.: 24-001-RP

BETWEEN:

College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario

College

- and -

Elisabeth Haramic

Registrant

FINDING AND PENALTY REASONS

Heard: April 30, 2024, by videoconference

Panel:

David A. Wright (Committee Chair)

David Keast (public)

Henry Pateman (public)

Kafui Sawyer (registered psychotherapist)

Radhika Sundar (registered psychotherapist)

Appearances:

Rebecca Durcan, for the College

Amanda Ross, for the registrant

Introduction

[1] A vulnerable client sought therapy from the registrant, Elisabeth Haramic, which continued for nearly two years. Ms. Haramic betrayed his trust by sexually abusing him. She engaged in sexual touching and sexual texting with him beginning less than two weeks after their active treatment relationship ended. The only appropriate penalty for this misconduct is revocation, which the parties agreed upon. We accepted their joint submission at the hearing, revoked Ms. Haramic's certificate of registration, reprimanded her and ordered her to pay costs and reimburse funding for counselling for the client. These are the reasons for our decision.

[2] Ms. Haramic did not attend the hearing itself, although she joined the video call at the end to receive the reprimand. Her lawyer confirmed that she had provided counsel with instructions to plead no contest and not contest the facts in the Statement of Uncontested Facts and Joint Submission on Penalty.

Factual Background

[3] Ms. Haramic treated the client from December 2016 to September 13, 2018. Between September 22, 2018, and November 16, 2018, she sent explicit sexual texts to him, including saying she wanted to have sex with him. Between September 29, 2018, and November 15, 2018 they engaged in sexual touching.

On April 2, 2019, the College's Inquiries, Complaints and Reports Committee (ICRC) suspended Ms. Haramic's certificate of registration under s. 25.4 of the Health Professions Procedural Code, schedule 2 to the *Regulated Health Professions Act*, SO 1991, c. 18 (Code). She resigned her certificate of registration on March 16, 2020. The College referred these allegations to the Discipline Committee on May 1, 2020. On July 21, 2021, Ms. Haramic and the College reached agreement on the facts and joint submission on penalty and agreed that the hearing would not take place until after related criminal charges concluded. The public was protected during this time because the registrant was not permitted to practise, having resigned following the imposition of an interim suspension.

Analysis

[4] Although Ms. Haramic has resigned, she remains subject to the jurisdiction of the College for professional misconduct that happened while she was a registrant: Code, s. 14(1); *College of Nurses of Ontario v. Mark Dumchin*, 2016 ONSC 626.

[5] Although her active treatment of the client had ended, under s. 1(6) of the Code he remained a client for the purpose of the sexual abuse provisions for at least one year. That is not to say that a psychotherapist can engage in sexual activities with their client after one year, but in this case we do not need to consider anything other than the one-year period in the Code, given that the sexual abuse happened within that time.

[6] Sexual abuse is defined in s. 1(3) of the Code to include touching, of a sexual nature, of a client by the registrant and behaviour or remarks of a sexual nature by the registrant towards the client. The registrant engaged in sexual abuse.

[7] These same actions also constitute other types of misconduct. She contravened and failed to maintain the standards of practice of the profession. The College's Professional Practice Standard 1.5, General Conduct, requires registrants to conduct themselves in accordance with the standards of the psychotherapy profession. Standard 1.7 deals with dual or multiple relationships and says the following about relationships with former clients:

The College urges members in the strongest possible terms to avoid romantic or sexual relationships with former clients. In most cases, relationships with former clients are inappropriate, inadvisable, and potentially damaging to the parties concerned.

Despite this proscription, the experience of some regulatory colleges is that an outright prohibition of such relationships is unworkable, especially where a relationship may develop many years later, and the original client-therapist relationship was relatively brief.

Members must, therefore, carefully consider the following factors before entering into such a relationship with a former client:

- the nature and length of the former client-therapist relationship;
- the issues presented by the client in therapy;
- the length of time since the client-therapist relationship ended; and
- the vulnerability of the client.

Members should understand that it may never be appropriate to enter into a romantic or sexual relationship with a former client, e.g. where the therapeutic relationship was long or intense, or if a power imbalance continues to exist between the member and the former client.

Ultimately, a member may be called upon to defend his/her actions before a panel of peers, if a complaint is made against the member.

Romantic relationships with current clients are totally unacceptable. Any sexual relationship with a client is considered sexual abuse and can lead to revocation of a member's Certificate of Registration.

[8] In addition to sexual abuse and a violation of practice standards, we also find that this sexual relationship with a client was conduct that would be reasonably regarded by members of the profession as disgraceful, dishonourable and unprofessional and conduct unbecoming a member of the profession.

Penalty and Costs

[9] The parties' joint submission provided for the revocation of Ms. Haramic's certificate of registration, a reprimand, that Ms. Haramic reimburse the College for the costs of therapy for the client and that she post security of \$5,000 to guarantee payment of therapy costs. They also agreed on costs of \$6,827, which reflects the tariff rate.

[10] Our role is limited when the parties have made a joint submission. As explained in *College of Registered Psychotherapists and Registered Mental Health Therapists v. Muscat*, 2023 ONCRPO 5 at paras. 13-14 and 18-19:

The College and the registrant's agreement on penalty must be implemented unless it is so "unhinged from the circumstances" that implementing it would bring the administration of the College's professional discipline system into disrepute: *Bradley v. Ontario College of Teachers*, 2021 ONSC 2303 at paras. 9-12; *Ontario College of Teachers v. Merolle*, 2023 ONSC 3452. The test is adapted from the Supreme Court's analysis in the criminal law context in *R. v. Anthony-Cook*, 2016 SCC 43. While criminal law approaches should not be automatically imported into professional regulation, courts and discipline committees have found that on the issue of joint submissions, the test is the same.

The Committee must accept and implement a joint submission in all but the most exceptional circumstances. There must be something completely unacceptable, unusual or unconscionable to reject it, not just a disagreement or belief that a different outcome

would better serve the public interest or be a more fit penalty. Just because the joint submission is not the penalty the Committee would have ordered had the case been contested does not mean that the proposed resolution would bring the administration of the discipline system into disrepute.

....

The Committee must consider a joint submission with humility and confidence that negotiations by the parties have resulted in both the public interest and the registrant's interest being balanced. As the Supreme Court said in *Anthony-Cook* at para. 44, the College and the member together "are entirely capable of arriving at resolutions that are fair and consistent with the public interest."

Deciding whether a penalty meets the test is about the forest, not the trees. Neither the parties' arguments nor the panel's reasons need identify every consideration that a panel would apply if it were deciding what penalty to impose without an agreement. What is important are the key penalty factors that place this misconduct at a general point along the spectrum of potential penalties.

Comparing the penalty factors with those in other cases and their results helps the panel determine if the penalty is so far removed from what would be expected that it meets the high bar to consider rejection of the joint submission.

[11] In this case, the most important factor is the seriousness of the misconduct. The Code emphasizes the gravity of sexual abuse; s. 1.1 provides that among the purposes of the Code are to encourage reporting of sexual abuse and eradicate sexual abuse in the health professions. Sexual abuse in psychotherapy causes particular harms. Clients trust psychotherapists with their most private thoughts, experiences and emotions. There is an imbalance of power between the psychotherapist and the client, which makes the client incapable of consenting and vulnerable to being influenced by the therapeutic relationship.

[12] The harm of sexual abuse can be profound for the client involved, those close to them, and the confidence of the public in psychotherapists. For those directly affected, the harm can be lifelong. The public must be confident that when they go to a psychotherapist, the professional will not put their own interests and desires ahead of the well-being of the client. For these reasons and others, the strongest penalties are imposed for sexual abuse, to deter misconduct and protect the public.

[13] While the seriousness of the misconduct would have made revocation the appropriate penalty on its own, we note that Ms. Haramic also has a discipline history. In January 2018, she was found to have failed to disclose information that should have

been included in her application for registration, illegally used the title “doctor” and communicated with an individual in an unprofessional, threatening or abusive manner. The Committee ordered various remedial measures, including the PROBE ethics and boundaries program, practice monitoring and psychotherapy. Nevertheless, Ms. Haramic committed this sexual abuse within months.

[14] The penalty of revocation and a reprimand proposed by the parties would not bring the professional discipline system into disrepute. On the contrary, implementing it protects the public interest and ensures public safety. The repayment of funding for therapy and the costs, which reflect the tariff in the Rules of Procedure, are also appropriate.

Order

[15] Our order provides:

- 1) The Registrant is required to appear before a panel of the Discipline Committee to be reprimanded immediately following the hearing by videoconference.
- 2) The Registrar is directed to revoke the Registrant’s certificate of registration immediately following the hearing.
- 3) The Registrant is required to reimburse the College for funding provided to the Client under the program required under section 85.7 of the Health Professions Procedural Code being Schedule 2 to the *Regulated Health Professions Act, 1991*.
- 4) The Registrant is required to, within one month of the date of this Order, post security acceptable to the Registrar, in the amount of \$5,000.00, to guarantee the payment of any amounts she may be required to reimburse the College pursuant to paragraph 3.
- 5) The Registrant is required to pay to the College costs in the amount of \$6,827.00 payable on a schedule to be determined by the Registrar.