

**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. McLean*, 2024 ONCRPO 3

Date: April 16, 2024

File No.: 24-003-RP

BETWEEN:

College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario

College

- and -

Patricia McLean

Registrant

FINDING AND PENALTY REASONS

Heard: March 22, 2024, by videoconference

Panel:

Sherry Liang (Chair)

Carol Cowan-Levine (registered psychotherapist)

David Keast (public)

Henry Pateman (public)

Radhika Sundar (registered psychotherapist)

Appearances:

Rebecca Durcan and Erin MacQuarrie, for the College

Saad Gaya and Alexi Wood, for the registrant

Introduction

[1] The registrant, Patricia McLean, admits that she engaged in professional misconduct in her interactions with two clients, spouses to whom she provided couples' therapy and, in the case of one spouse, individual therapy. Based on an Agreed Statement of Facts, the panel concluded that the registrant engaged in professional misconduct.

[2] The parties jointly submitted that the penalty should be a six-month suspension, a reprimand, and terms, conditions and limitations on her certificate of registration. Our role in assessing a joint penalty submission is limited. Unless the panel finds that imposing the proposed penalty would bring the College's system of professional regulation into disrepute, the joint submission should be accepted. Applying that test, we accepted the joint submission on penalty. We also ordered the registrant to pay costs to the College of \$6,055, as agreed by the parties.

Facts

[3] The registrant provided couples' therapy to Clients 1 and 2 for about two months in 2018. Following this, she provided individual therapy to Client 1 for about one and half years. During the treatment relationship with Client 1, the registrant communicated with this client on social media, texted with her and became friends with her. The registrant shared personal details of her life with the client including details about her family, dating history, sexual history, personal health and emotional status. The registrant accepted the extensive assistance of this client to set up a new clinic and asked the client if she would ask her spouse (Client 2) if he could assist with technology matters and take photographs for the clinic website.

[4] The registrant paid for a marketing course for Client 1 so that Client 1 could assist the registrant and told the client that the registrant would hire her. She also hugged Client 1 and touched her hand during at least one therapy session. The parties agreed that if she were to testify, Client 1 would say that after certain personal disclosures by the registrant, Client 1 became worried about the registrant and would follow up with the registrant to make sure she was safe. They also agree that Client 1 would testify she felt confused about the boundaries between herself and the registrant.

[5] As of late 2019, the registrant was aware she had blurred the professional boundary with Client 1 but did not take enough measures to correct or address the situation. The parties agree Client 1 would testify that she felt like she and the Registrant had “broken up” after the registrant ended the relationship. She would also say that the registrant texted Client 1 and said she was jealous of the relationship Client 1 had with her husband, children and in-laws. After the couples’ therapy terminated, the registrant hired Client 2 to take photographs of the registrant and her staff for the clinic website.

Findings

[6] Under s. 51(1)(c) of the Health Professions Procedural Code (Code), Schedule 2 to the *Regulated Health Professional Act, 1991*, SO 1991, c. 18, acts of professional misconduct may be defined in the regulations. Section 1 of Ontario Regulation 317/12 (the Regulation) made under the *Psychotherapy Act, 2007*, SO 2007, c. 10, Sched. R sets out acts of professional misconduct including:

- 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. These standards of practice include:
 - i. 1.5 – General Conduct: This standard requires registrants to refrain from conduct that, having regard to all the circumstances, would reasonably be regarded by registrants as disgraceful, dishonourable, unprofessional, or unbecoming a registrant of the profession;
 - ii. 1.6 – Conflict of Interest: This standard requires registrants to avoid any arrangement or relationship where the exercise of their professional expertise or judgment may be compromised or influenced inappropriately by the arrangement or relationship;
 - iii. 1.7 – Dual or Multiple Relationships: This standard requires registrants, whenever possible, to avoid dual or multiple relationships with clients since multiple relationships are prone to cause confusion for both the registrant and client, may place undue pressure on the client and may affect the registrant’s professional judgement; and
 - iv. 1.8 – Undue Influence or Abuse: This standard requires that registrants not inflict any form of verbal, physical, psychological and/or emotional abuse on clients, recognizing that clients may be emotionally and otherwise vulnerable and at the same time, may be particularly influenced by the views or suggestions of their psychotherapist.

- b. Paragraph 2 – Abusing a client or a client’s representative verbally, physically, psychologically or emotionally;
- c. Paragraph 16 – Acting in a professional capacity while in a conflict of interest or being in a conflict of interest when acting in a professional capacity;
- d. Paragraph 52 – 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 disgraceful, dishonourable or unprofessional; and
- e. Paragraph 53 – Engaging in conduct that would reasonably be regarded by members as conduct unbecoming a member of the profession.

[7] The College, other members of the profession and the public rightfully expect that registrants will conduct themselves in a professional manner in their relationships with their clients and avoid crossing professional boundaries, using their position of authority for personal gain, and putting undue pressure on clients. In entering into a close personal relationship with Client 1, including engaging with her through social media and by text, making intimate disclosures about her own life to the client and promising her employment, the registrant engaged in acts which contravene the standards referred to above. Her actions had a serious emotional impact on Client 1. The registrant’s conduct in asking for, giving and receiving favours from the clients also contravened standards of practice.

[8] We find the registrant engaged in professional misconduct under paragraphs 1, 2, 16, 52 and 53 as alleged and admitted. Paragraph 53 speaks to conduct of a registrant, outside of the treatment context, that the general public would find inappropriate. We are satisfied that the registrant’s conduct as described above falls under this ground of misconduct.

Penalty and Costs

[9] The parties jointly proposed a reprimand, six-month suspension of the registrant’s certification of registration, and the following terms, conditions and limitations, all to be fulfilled at the registrant’s expense:

- a. The registrant shall complete, and unconditionally pass, the Professional/Problem Based Ethics Program (“PROBE”);
- b. The registrant shall participate in clinical supervision, by a supervisor, pre-approved by the Registrar, to address boundaries with clients for one year

immediately following the registrant's suspension as described above.
Specifically:

- i. Before the supervision commences, the registrant shall provide the supervisor a copy of the Agreed Statement of Facts, the Joint Submission on Penalty and Costs, and the reasons of the panel;
- ii. The registrant shall co-operate with the supervisor and abide by all the terms of the clinical supervision agreement put into place by the supervisor and the College; and
- iii. Within thirty days of the completion of the supervision, the registrant shall ensure that the supervisor submits a written report to the Registrar which confirms that the registrant co-operated and complied with the supervision, incorporated advice from the supervisor, and which sets out the position of the supervisor as to the registrant's client boundaries skills.

[10] The parties also agree that the registrant will pay the College \$6,055 in costs.

[11] To depart from a joint submission would require a finding that the proposed penalty would bring the administration of justice into disrepute or is otherwise not in the public interest: *R. v. Anthony-Cook*, 2016 SCC 43. A disciplinary body that rejects a joint submission on penalty must show why the proposed penalty is so unhinged from the circumstances of the case that it must be rejected: *Bradley v. Ontario College of Teachers*, 2021 ONSC 2303. We are satisfied that the proposed penalty is not contrary to the public interest and achieves the relevant penalty goals.

[12] The suspension serves as specific and general deterrence, sending a message to the profession that serious sanctions will follow on this kind of misconduct. It supports public confidence in the College's ability to regulate the profession. The terms, conditions and limitations imposed on the registrant's certificate serve the purpose of remediation and ensure that the registrant has the tools to return to ethical practice at a higher standard.

[13] The length of the suspension satisfies the principle of proportionality. The College relies on certain decisions of this Committee and others, involving similar circumstances. They demonstrate that crossing professional boundaries with patients is treated as serious misconduct. The suspensions ordered in those cases range from three months to eight months, while one panel would have ordered revocation of a certificate had the registrant not voluntarily resigned. While the cases are not binding on

us and the result in each rest on its specific facts, we are satisfied that the six-month suspension proposed here is within a reasonable range for similar misconduct.

[14] The penalty takes into account mitigating factors. This is the registrant's first appearance before this Committee. By admitting to the misconduct, she has shown insight and regret and spared the parties and the Committee the time and expense of having a contested hearing. On the other hand, she engaged in protracted and serious boundaries violations, warranting a significant suspension.

[15] Having regard to the relevant penalty principles as well as the caselaw, we are satisfied that the penalty proposed is not contrary to the public interest.

[16] We also accept the joint submission on costs, which is the tariff rate to conduct a day of hearing.

Order

[17] At the conclusion of the hearing, we ordered the penalty proposed by the parties and set out above, as well as costs of \$6,055 to be paid by the registrant to the College over five months in monthly installments of \$1,211, starting one month after the date of our order. The full text of the order is available on the College Register.