

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

Citation: ONCRPO v. PARKER, 2020 ONCRPO 3

Date of written reasons: March 31, 2021

Docket: C1718-13

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 Carol-Jane Parker, 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 -

CAROL-JANE PARKER (REGISTRATION #003544)

Before: Panel **Gary Cockman (Chair)**
Andrew Benedetto
Steven Boychyn

Date of hearing: **September 10, 2020**

Appearances:

Rebecca Durcan, **Counsel for College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario**

Carol-Jane Parker, Registrant/Member **Lisa Hamilton, Counsel for Carol-Jane Parker**

Jennifer Hunter, **Independent Legal Counsel**

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 September 10, 2020. 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 on behalf of the College and the Registrant, Carol-Jane Parker (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 February 11, 2019, which was filed as Exhibit 1, and read as follows:

The Member

1. Carole Jane Parker (the "Member") has been a member of the College of Registered Psychotherapists of Ontario (the "College") since October 7, 2015.
2. At all relevant times, the Member worked at a Clinic owned by her husband.
3. In or around June 2015, the Member was jointly retained by Client A and Client B pursuant to a consent court order to assist the Clients and their child.

Parenting Plan

4. It is alleged that the Member was to deliver a parenting plan to Client A and/or Client B by approximately October 2015.
5. It is alleged that the Member did not meet with Client A and/or Client B until early February 2016 to discuss what should be included in the parenting plan.
6. It is alleged that the Member failed to deliver a parenting plan to Client A and/or Client B until February 2016.
7. It is alleged that this lengthened the court process and incurred additional legal fees for Client A and/or Client B.
8. It is alleged that the above conduct constitutes professional misconduct pursuant to section 51(1)(c) of the Health Professions Procedural Code, being Schedule 2 to the

Regulated Health Professions Act, 1991 (the “Code”) 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*:

- a. [Withdrawn];
- b. [Withdrawn];
- c. **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.

Testing

9. It is alleged that the Member conducted testing on Client A and/or Client B in approximately September and/or October 2015.
10. It is alleged that the Member reviewed the results of the testing shortly thereafter and noted odd results for Client B, namely that there was a possibility that she suffered from a schizophrenia spectrum disorder.
11. It is alleged that the Member did not follow up on the odd results or note them in her summary of Client B’s results.
12. [Withdrawn]

Disclosing records

13. It is alleged that the lawyer for Client A asked the Member in approximately April 2016 for her session notes and results of the testing.
14. It is alleged that the Member disclosed some of the requested documentation in May 2016.
15. It is alleged that the Member failed to disclose all of the requested documentation to the lawyer for Client A.
16. It is alleged that the above conduct constitutes professional misconduct pursuant to section 51(1)(c) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991* (the “Code”) 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*:
 - 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,
 - i. [Withdrawn];

- ii. 5 – Record Keeping and Documentation;
- b. [Withdrawn]; and/or
- c. **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.

Billing

- 17. It is alleged that the Member failed to promptly bill entries to Client A and/or Client B in a timely manner, including the following:
 - a. Charging February 2016 entries in July 2016; and/or
 - b. Charging March 2016 entries in September 2016.
- 18. It is alleged that the above conduct constitutes professional misconduct pursuant to section 51(1)(c) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991* (the “Code”) 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*:
 - 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,
 - i. [Withdrawn];
 - ii. [Withdrawn];
 - iii. 6 – Business Practices
 - b. [Withdrawn]; and/or
 - c. **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.

Opining Outside Expertise

- 19. On or about June 17 and/or 18, 2016, the Member attended an arbitration proceeding involving Client A and Client B and provided an opinion in an area she lacked sufficient expertise and/or an area she lacked a sufficient factual basis.
- 20. [Withdrawn]

At the outset of the hearing, counsel for the College advised the panel that the College sought to withdraw the allegations contained in the following paragraphs of Exhibit 1: 8 (a), 8 (b), 12, 16

(a)(i), 16 (b), 18 (a) (ii), 18 (b) and 20. The Registrant, through her counsel, 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, that the allegations contained within paragraphs 8 (a), 8 (b), 12, 16 (a)(i), 16 (b), 18 (a) (ii), 18 (b) and 20, 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. Carol-Jane Parker (the "Registrant") has been a registrant of the College of Registered Psychotherapists of Ontario (the "College") since October 7, 2015. Attached at Tab "A" is a copy of the Registrant's entry on the Public Register of the College.
2. At all relevant times, the Registrant worked at a private practice psychology and psychotherapy clinic that was co-founded by the Registrant and her husband, a psychologist, in 1999.

Retainer and Original Mandate

3. The Registrant first met Clients A and B (former spouses of each other), in the spring of 2015. They explained that they had been involved in litigation for over a year in relation to custody and access of their daughter, who was not yet two years old. Clients A and B informed her that in January 2015, the court had recommended that they seek professional advice to assist them with their dispute, and the Registrant's name had been proposed as someone to contact.

The Registrant agreed to provide parental education and assistance in improving communication between Client A and Client B in relation to their child, and the Clients obtained a court order on June 16, 2015 endorsing the retainer. The order stipulated information to be given to the Registrant regarding the motion in January 2015, and also required that the Registrant observe a transfer of the child between the parents. A copy of the court order is attached at Tab "B".

4. After meeting with the Clients and considering the differing perspectives that each of them provided, and taking into account the reasons from the motion in January 2015, the Registrant recommended psychological testing to assist in meeting the objectives of providing parental education and assistance in improving

communication. The Clients agreed as per terms of a Memorandum of Agreement attached at Tab "C".

5. The parents further agreed that the Registrant would conduct a brief focused assessment and would then make recommendations for a Parenting Plan. This agreement was filed with the court on August 26, 2015 (attached at Tab "D"), and provided that the Parenting Plan recommendations would be released "at the earliest possible date."
6. The psychological testing of Clients A and B commenced near the end of August and was completed by the end of September 2015.
7. On August 29, 2015, the Registrant observed the transfer of the child from Client B to Client A at her office, and then observed the child in the care of Client A. On October 4, 2015, the Registrant observed the child at the home of Client A as well as a transfer of the child from Client A to Client B at a subway station, and then travelled by subway to Client B's apartment where the child was observed in the care of Client B. If she were to testify, the Registrant would state that she was very concerned on both occasions. The Registrant would testify that she observed the child go into what appeared to be a dissociative state, while neither parent demonstrated any insight regarding the child's need for help with the transition.
8. Over the next several weeks, the Registrant worked with Client A and Client B to sort out a parenting time schedule for the Christmas holidays and a new schedule that would begin in January 2016, including discussion of the changes to the schedule that each of them proposed.
9. The Registrant further introduced the prospect of some parent-child psychotherapy as a means of assisting the child with her distress. The Registrant further informed Clients A and B that she would be out of the country for the month of January 2016, during which time they could have the support of another therapist who would provide the parent-child psychotherapy.
10. Although the Registrant recommended 8-12 weeks of parent-child psychotherapy, followed by a review, Client A attended only 4 sessions (from January 14, 2016 to March 3, 2016) and Client B attended only 6 sessions (from January 7, 2016 to April 1, 2016).
11. It was the Registrant's intention that completion of 8-12 weeks of parent-child psychotherapy would assist the parents in better understanding the needs of their

child which in turn would assist them in reaching agreement with each other on the terms for a Parenting Plan. The lawyers for Clients A and B also made an effort to assist the Clients in reaching agreement so that further litigation could be avoided.

Parenting Plan

12. At the beginning of February 2016, the Registrant met with each of Clients A and B to discuss their perspectives on what should be included in a Parenting Plan, and then a first draft was submitted to each of them on February 16th. The Clients reviewed it with their respective lawyers and on March 1, 2016, a meeting of the Clients and their lawyers was convened at the Registrant's office. When the meeting concluded, the Registrant was informed that agreement had been reached. Subsequently she was informed that the agreement had fallen apart and the lawyers and Clients would be attending a pre-trial settlement conference. The Registrant was thereafter informed that there was partial agreement reached but some issues would be subject to arbitration.
13. On March 7, 2016, the Registrant provided her views and recommendations on the transfer of the child from parent-to-parent in the form of an Affidavit for the arbitration hearing. The Registrant also testified at the arbitration. The decision of the arbitrator was consistent with the opinion of the Registrant (attached at Tab "E"). This decision was upheld on appeal (attached at Tab "F").
14. It is agreed that despite the efforts of the Registrant to help the Clients reach an agreement on a parenting plan, the parenting plan was not delivered until February 2016, and the Clients incurred additional legal fees in relation to the repeated requests for the record. The Registrant did not intend to delay the delivery of the parenting plan. She believed that her suggested steps were necessary in order to discharge her mandate.
15. It is agreed that the above conduct constitutes professional misconduct pursuant to section 51(1)(c) of the Health Professions Procedural Code, being Schedule 2 to the Regulated Health Professions Act, 1991 (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 52** - Engaging in conduct performing an act relevant to the practice of the profession that, having regard to all the circumstances would reasonably

be regarded by Registrants as unprofessional.

Disclosing records

16. The lawyer for Client A asked the Registrant in approximately February 2016 for her clinical notes and records. The Registrant did not immediately disclose them as it had been agreed (see Tab "C") that the results of the assessment would remain private and confidential. The Registrant was also concerned about how the information contained in her file would be used.
17. The Registrant's clinical notes and records were not provided until May 2016, after Client A retained a new lawyer who insisted (in April 2016) that all information contained in the Registrant's file must be produced in order to be "brought up to speed" in the brief period of time before the arbitration hearing was scheduled to begin. The Registrant then released the files to the lawyers for both Clients.
18. During the Registrant's testimony at the arbitration in July 2016, it became apparent to the lawyer of Client A that the Registrant had not disclosed the complete file. In particular, the Registrant had notes of phone calls and correspondence that had not been disclosed despite the earlier request.
19. Although the Registrant did not intentionally do so, the Registrant failed to disclose all of the documentation (she was authorized to disclose) to the lawyer in a timely manner.
20. It is agreed that the above conduct constitutes professional misconduct pursuant to section 51 (1)(c) of the Code as set out in one or more of the following paragraphs of section 1 of the 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,
 - i. 5 - Record Keeping and Documentation (attached at **Tab "G"**); and
 - b. **Paragraph 52** - Engaging in conduct performing an act relevant to the practice of the profession that, having regard to all the circumstances would reasonably be regarded by Registrants as unprofessional.

Billing

21. The Registrant failed to promptly bill the Clients for services performed, i.e., services that were performed in February 2016 were not charged until July 2016,

and services that were performed in March 2016 were not charged until September 2016.

22. It is agreed that the above conduct constitutes professional misconduct pursuant to section 51 (1)(c) of the Code as set out in one or more of the following paragraphs of section 1 of the 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,
 - ii. 6-Business Practices (attached at Tab "H"); and
- b. **Paragraph 52** - Engaging in conduct performing an act relevant to the practice of the profession that, having regard to all the circumstances would reasonably be regarded by Registrants as unprofessional.

23. The College seeks the withdrawal of the allegations found at paragraph 8 (a), 8 (b), 12, 16 (a)(i), 16 (b), 18 (a)(i), 18 (a)(ii), 18 (b), and 20 of the Notice of Hearing.

REGISTRANT'S PLEA

The Registrant admitted the following acts of professional misconduct as set out in the Notice of Hearing: 8 (c), 16 (a) (ii), 16 (c), 18 (a) (iii) and 18 (c).

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.

Ms. Hamilton, counsel for the Registrant, submitted that she 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. Section 51(1)(c) of the Health Professions Procedural Code, being Schedule 2 to the Regulated Health Professions Act, 1991 (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, i. 5 - Record Keeping and Documentation and ii. 6 - Business Practices; and
 - b. **Paragraph 52** – Engaging in conduct performing an act relevant to the practice of the profession that, having regard to all the circumstances would reasonably be regarded by Registrants as unprofessional.

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

The Joint Submission on Penalty 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. Requiring the Member to appear before the panel to be reprimanded immediately following the hearing of this matter;
2. Directing the Registrar to suspend the Member's certificate of registration for one month, on a schedule to be set by the Registrar, one month of which shall be suspended if the Member complies with the provisions of paragraph 3 no later than fifteen (15) months from the date that this order becomes final;

3. Directing the Registrar to impose the following specified terms, conditions and limitations on the Member's certificate of registration:
 - a. Requiring that the Member successfully pass, to be determined by the Registrar, a course in working with high-conflict couples, pre-approved by the Registrar, at her own expense and no later than September 10, 2021.
 - b. Requiring that 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 67115, to discuss issues as identified by the Registrar, and
 - c. Requiring that 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.
4. For greater certainty, the Member's obligation to comply with the proposed terms, conditions and limitations on her certificate of registration contained in paragraph 3 is not relieved by serving the entire suspension referred to in paragraph 2 above;
5. The Member shall pay the College's costs fixed in the amount of \$6,827.00, payable on a schedule determined by the Registrar.

DECISION ON ORDER

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

REASONS FOR DECISION ON ORDER

The panel recognized the Registrant's willingness to cooperate with the College, admit that her conduct was unprofessional, and reach an agreement on a statement of facts and joint submission on penalty and costs. The Panel concluded that the parties' joint submission is both reasonable and in the public interest. It provides for both general and specific deterrence, as well as an opportunity for the Registrant to remediate her practice. The penalty provides general deterrence in that it demonstrates to the profession that such conduct will not be tolerated. 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 3 above.

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, Gary Cockman, 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:

Gary Cockman,

Chair, Discipline Panel

March 31, 2021

Andrew Benedetto, RP, Professional Member

Steven Boychyn, Public Member

Schedule "A"**Oral Reprimand**

Ms. Parker, the panel appreciates that it is a difficult process to appear before at this Discipline Hearing.

We appreciate that you chose to admit to the facts and agreed to have an uncontested hearing alleviating the need to call witnesses and require additional time and resources.

The panel recognizes the challenge of working with clients in high conflict situation in a context of acrimony and litigation. We note that your objective was to provide a parenting plan for best care for the child, a plan which you provided.

Ms. Parker, the panel is aware that at the time of these events in 2015 and 2016, the College was only recently declared into law, however, Practice Standards had been published and available for some time.

Practice Standards provide a basis for public confidence—with respect to recordkeeping and billing, the intention is to respond to a client's requests in a timely manner and therefore to be transparent.

Perhaps in future should there be delayed timelines, this detail would factor into amending expectations with a client in delivery of reports and/or billing.

The Panel trusts that the remedial activities in the Joint Submission on Order can provide an opportunity for you to integrate the impact of the aspects of your practice discussed today on your clients.

Discipline Panel:

Gary Cockman, Chair, Public Member

Andrew Benedetto, RP, Professional Member

Steven Boychyn, Public Member