

**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. Saxton*, 2023 ONCRPO 4

**Date:** August 23, 2023

**File No.:** R2122-50

**BETWEEN:**

College of Registered Psychotherapists and Registered Mental Health Therapists of  
Ontario

- and -

Christopher Saxton

**FINDING AND PENALTY REASONS**

**Heard:** June 27, 2023, by videoconference

**Panel:**

Shayne Kert (Chair)  
Michael Machan, RP  
Radhika Sundar, RP  
David Keast

**Appearances:**

Justine Wong, for the College  
Registrant, self-represented

## **Introduction**

- [1] The role of the College is to regulate the profession of psychotherapy in the public interest by ensuring that its registrants provide health services in a safe, professional and ethical manner. To ensure that the College is able to fulfil this mandate, the privilege of practising as a registered psychotherapist comes with certain obligations, including responding promptly to College inquiries and complying with College directions. When registrants ignore these requirements, they put in jeopardy the protection of the public and public confidence in the profession. As such, this is viewed as serious professional misconduct.
- [2] In this case, Mr. Saxton, the registrant, did not comply with an order made by a College committee. He also failed to respond to multiple inquiries from the College seeking to enforce that order. At the hearing before us, he admitted this misconduct. The parties jointly submitted that the penalty should be a two-month suspension, a reprimand, and further terms, conditions and limitations on his certificate of registration.
- [3] 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 \$3,027.50, as agreed by the parties.

## **Misconduct**

- [4] The facts of the misconduct are straightforward. In February 2021, after a previous investigation, the College's Inquiries, Complaints and Reports Committee (ICRC) ordered Mr. Saxton to complete a specified continuing education and remediation program (SCERP) at his own expense and by no later than September 30, 2021. In March, April, May and July 2021, the College e-mailed and/or left voicemail messages for Mr. Saxton regarding the outstanding requirement to complete the SCERP course. Mr. Saxton did not respond.
- [5] In November 2021, the College e-mailed Mr. Saxton to inform him that he was in breach of the ICRC order. Mr. Saxton responded to say that due to the negative impact of the pandemic, he had been unable to complete the course but expected

to be able to do so by February or March 2022. The College told Mr. Saxton that his explanation was insufficient as he had failed to communicate his concerns to the College prior to the deadline in September 2021. However, the Registrar also provided Mr. Saxton with another opportunity to complete the SCERP, this time by no later than the end of February 2022, and asked him to notify the College once he had registered for the course. Mr. Saxton did not respond to that e-mail or to the e-mail and voicemail message that followed.

[6] The Professional Misconduct Regulation, O. Reg. 317/12 made under the *Psychotherapy Act, 2007*, SO 2007, c. 10, Sched. R, s. 1, includes the following among the listed acts of professional misconduct:

- Failing to comply with an order of a panel of the College
- Failing to reply appropriately and within 30 days to a written inquiry or request from the College
- Engaging in conduct that would reasonably be regarded by [registrants] as conduct unbecoming a member of the profession.

[7] The College, other members of the profession and the public justifiably expect that registrants will comply with the obligations imposed on them by their regulator. Mr. Saxton had ample opportunity to complete the SCERP and respond to the College's requests, but he did neither. By failing to complete the SCERP as ordered by the ICRC and failing to respond to multiple inquiries from the College for information about his registration in the course, Mr. Saxton engaged in acts that fall under all three categories of professional misconduct outlined above. We therefore found misconduct as alleged and admitted.

### **Penalty and Costs**

[8] As this was a joint submission on penalty, the "undeniably high threshold" of the public interest test established by the Supreme Court of Canada in *R. v. Anthony-Cook*, 2016 SCC 43 applies: *Bradley v. Ontario College of Teachers*, 2021 ONSC 2303 at para. 11; *Ontario College of Teachers v. Merolle*, 2023 ONSC 3453.

[9] While joint positions are not immutable, the public interest test requires that a joint submission be accepted unless "the proposed penalty is so 'unhinged' from the

circumstances of the case that it must be rejected”: *Bradley* at para. 14; *Anthony-Cook* at para. 34. The question for the panel is not whether the joint position results in a fit penalty. Rather, a joint submission will only be contrary to the public interest if it is “so markedly out of line with expectations of reasonable persons aware of the circumstances of the case that they would view it as a break down in the proper functioning” of the College’s professional discipline process: *Anthony-Cook* at para. 33; *College of Physicians and Surgeons of Ontario v. Bahrgard Nikoo, 2022 ONPSDT 15* at para. 34. Put simply, “[t]here must be something completely unacceptable, unusual or unconscionable about [a joint submission] to reject it”: *College of Physicians and Surgeons of Ontario v. Matheson, 2022 ONPSDT 27* at para. 17.

[10] We are satisfied that, in the circumstances, the proposed resolution is: i) not contrary to the public interest; and ii) achieves the relevant penalty goals in this case. This is so for several reasons.

[11] First, the proposed penalty recognizes the seriousness of the misconduct. Every registrant is required to reply appropriately and within a reasonable time (30 days) to written inquiries from the College, and to comply with orders made by College panels. These are not mere technical or bureaucratic requirements – they are a fundamental part of the responsibility of belonging to an independent, self-regulating body. To ensure effective self-governance in the public interest, each member of a regulated profession must respond to their regulator and comply with its orders. Mr. Saxton’s failure to do so demonstrated a disregard for his professional obligations, which undermines public confidence in the College’s ability to regulate the profession and protect the public.

[12] Second, the suggested penalty addresses the very issues that resulted in the finding of misconduct, thus achieving the goals of specific deterrence, remediation and rehabilitation. Mr. Saxton has acknowledged the inappropriateness of his actions and admitted his misconduct. He has committed to successfully completing the SCERP that was ordered by the ICRC, and our order will ensure that occurs before he is permitted to return to practice. He will also complete the College e-learning module on justice, which addresses the professional and legal obligations of registered psychotherapists. The requirement that he respond to any College

communications within 15 days of receipt will reinforce for him the necessity of responding promptly to his regulator.

- [13] Third, the proposed penalty is in line with the range of penalties in comparable cases, albeit from other Colleges. Each of the cases provided to us involved a joint submission on penalty. In *College of Massage Therapists of Ontario v. Demore*, 2022 ONCMTO 7, the registrant admitted that she failed to comply with a decision of the ICRC (requiring completion of a SCERP) and failed to respond to calls and e-mails from the College about the decision over a two-year period. The panel followed the joint submission and ordered a reprimand, a two-month suspension and terms, conditions and limitations (TCLs) similar to those recommended in this case. In *College of Dental Hygienists of Ontario v. Aarons*, 2018 ONCDHO 6, the registrant failed to comply with an order of the ICRC to complete a SCERP and to attend for a caution, conduct that was also determined to be disgraceful, dishonourable or unprofessional. A two-month suspension, a reprimand and similar TCLs were ordered as a penalty. In both *College of Massage Therapists of Ontario v. Cumberbatch*, 2022 ONCMTO 8 and *College of Opticians of Ontario v. Truong*, 2021, unpublished, the penalties included a four-month suspension, a reprimand and similar TCLs where the registrants failed to comply with an order from the ICRC (which included a SCERP requirement), having earlier also failed to comply with their Quality Assurance Program (QAP) requirements.
- [14] Finally, the proposed penalty addresses the goal of general deterrence by reinforcing that the College takes seriously the obligation of every registrant to respond to their regulator and comply with its orders. It reminds all registrants that the privilege of practising as a member of the profession comes with its obligations and responsibilities not only toward their clients, but also toward the regulator, and that the College will take steps to address the misconduct where they fail to comply with those obligations.
- [15] Balancing the relevant factors in light of the caselaw, we find that the proposed penalty is appropriate and not contrary to the stringent public interest test. The costs proposed are also reasonable and in accordance with Tariff A in the Discipline Committee's Rules of Procedure.

## Order

[16] At the conclusion of the hearing, we ordered the penalty and costs jointly recommended by the College and the registrant, including (but not limited to): i) a reprimand that was administered at the conclusion of the hearing; ii) a two-month suspension to commence the day of the hearing and continue until such time as Mr. Saxton complies with the outstanding order of the ICRC by completing the SCERP course; iii) a requirement that Mr. Saxton also complete the College's Jurisprudence e-learning module within six months and iv) a requirement that Mr. Saxton respond to all College communications within fifteen days. The full text of the order is available on the College Register.

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Shayne Kert, on behalf of  
the panel