

# Inquiry Committee of the

MANITOBA COLLEGE OF SOCIAL WORKERS



Decision Date: July 5, 2019

---

## IN THE MATTER OF:

**CHARLES GREGOIRE**  
**Complaint 17-02**

-and-

## IN THE MATTER OF:

**THE SOCIAL WORK PROFESSION ACT**

### **Inquiry Committee Panel:**

Mary Heard, Chair, RSW Member  
Meeka Kiersgaard, RSW Member  
Meredith Mitchell, Public Member

### **Appearances:**

Steve Vincent, counsel for the Manitoba College of Social Workers  
Greg Bartel, counsel for Mr. Charles Gregoire  
Ian Scarth, counsel for the Inquiry Panel

### **Heard:**

May 29, 2019

## BACKGROUND

1. The Complaints Committee of the Manitoba College of Social Workers (“MCSW”) referred a complaint regarding the conduct of Charles Gregoire (“the Member”) to the Inquiry Committee of MCSW on February 7, 2018 and subsequently a Notice of Hearing dated May 3, 2018 (“Notice of Hearing”) was served upon the Member on May 3, 2018, which set out the following charges of professional misconduct (“Charges”):

- a. Mr. Gregoire failed to place client health information in the electronic medical record despite being directed to do so by his employer, and he failed to use workplace software to check on the arrival status of clients;
- b. Mr. Gregoire compromised client care by withholding medical and mental health information from the team intake process, failing to do proper intake assessments, failing to provide follow-up consistently with clients engaged in care, lacked organizational and time management skills and current knowledge of clients and demonstrated a lack of clinical judgement in his care of clients;
- c. Mr. Gregoire practiced incompetently by failing to do a suicide risk assessment or care plan, by failing to follow-up on a client identified as high risk and by recommending Melatonin to a client;
- d. Mr. Gregoire failed to return calls from parents, guardians, schools and child and family services agencies and he gave no notification of upcoming appointments contrary to Standard 4 – Social Work Practice Methods, specifically 4.3;
- e. Mr. Gregoire failed to obtain informed consent for care and services in 101 cases where it was required contrary to Standard 6 – Confidentiality, particularly 6.1;
- f. Mr. Gregoire failed to review or apply the limits of confidentiality as he was found in possession of personal health information of patients not assigned to him contrary to Standard 5 – Social Work File Records, particularly 5.9;

2. The Charges were referred to the Inquiry Committee of MCSW pursuant to s.31(1)(a) of The Social

Work Profession Act, C.C.S.M.c.S169 (the "Act") on February 7, 2018 whereupon the Chair of the Inquiry Committee selected a Panel for the hearing of the complaint pursuant to s.42(1) of the Act.

3. The Notice of Hearing was returnable before the Panel on Thursday June 7, 2018 and May 29, 2019. At a hearing on May 29, 2019, in the presence of the Member, who appeared by telephone, the Member's legal counsel who was present at the hearing, the Complaints Committee and its legal counsel, the Panel was advised that the Member had plead guilty to the Charges and the Member and the Complaints Committee have provided the Panel with a Statement of Agreed Facts and Joint Submissions on Penalty dated March 12, 2019 ("Joint Submission").

4. The Panel has unanimously accepted the Joint Submission. These are the Panel's Reasons.

#### Statement of Facts

5. The Member and the Complaints Committee have provided the Panel with a Joint Submission, which details the following facts that have been accepted by the Panel:

- a. The Member was registered with MCSW at the City of Winnipeg, in the Province of Manitoba on June 30, 2015, under the provision of the Act.
- b. At all material times hereto the Member was registered with MCSW and employed by the Northern Regional Health Authority in the position of Child Mental Health Clinician.
- c. During the Member's employment the Member failed, in 184 of 205 of his cases, to ensure that contact notes became part of the electronic medical record.
- d. The Member left health information of 228 clients in various formats in his office and loose papers with handwritten notes on 100 clients in his office.
- e. The Member failed to end paper charting despite his employer's directives.
- f. The Member failed to document either on paper or electronically 110 of 156 intake assessments and 184 interactions.

- g. The Member did not use available workplace software to check on the arrival status of clients.
- h. The Member withheld medical and mental health information from the team intake process, by maintaining paper files in his office, retaining 21 referrals in his office that he did not submit to the team intake process for proper triage and assignment and those 21 individuals did not receive services as they remained unknown to the mental health system.
- i. The Member failed to do proper intake assessments in 110 of 156 cases where it was clearly required.
- j. The Member failed to provide consistent follow-up with clients engaged in care and clients went months without an appointment or contact.
- k. The Member demonstrated a lack of clinical judgement by failing to complete a suicide or risk assessment in the specific case of a female child and he failed to refer clients to a psychiatrist in 93 of 103 cases where it was deemed necessary by his employer to do so.
- l. The Member wrote a letter to a child and family services agency recommending the return of a child to the care of the mother when he had no contact with this mother.
- m. The Member failed to do proper suicide assessments on at-risk clients when it was necessary to do so.
- n. The Member failed to return calls from parents, guardians, schools and child and family services agencies and he gave no notification of upcoming appointments.
- o. The Member failed to obtain informed consent for care and services in 101 cases where it was required.
- p. The Member failed to review or apply the limits of confidentiality as he was found in possession of personal health information of patients not assigned to him.
- q. On June 1, 2018, the Complaints Committee of the College held an urgent meeting pursuant to subsection 31(1) of the Act on notice to the Member. The Member attended the hearing

personally by telephone without counsel. At the end of the meeting, the Complaints Committee directed that formal conditions be placed on Mr. Gregoire's Certificate of Practise as follows:

- i. The Member will not engage in social work practice with individuals under the age of 18;
- ii. THE Member will engage in supervision with an RSW supervisor approved by MCSW;
- iii. Supervision to occur at a minimum of weekly, which may occur via telephone or other electronic means, for a minimum of 45 minutes per supervision session;
- iv. At a minimum, in person supervision will occur every 6 months which will include:
  - Three random file audits as selected by the supervisor to be chosen at the time of the audit;
  - Session observation with feedback by the supervisor;
  - First in-person supervision session to occur no later than August 1, 2018;
- v. The Member will ensure submission of quarterly supervisory reports, to be forwarded to MCSW;
- vi. The Member will provide additional information/reports as requested by MCSW within 10 working days;
- vii. The first supervisor report is due no later than three months later than August 31, 2018;
- viii. The Member is responsible for all costs associated with the supervision requirements, including fees charged by the supervisor;
- ix. The Member is required to advise the College of any changes to his employment status;
- x. The Member shall advise all clients that he sees that he is practicing under supervision as required by the College.

6. The Member withdrew his registration with MCSW on December 19, 2018.

#### Analysis

7. A Joint Submission on penalty has been provided to the Panel for consideration. The Member has acknowledged to the Panel that he knows the charges to which he is entering his guilty plea and both he and the Committee are represented by counsel. The Panel accepts that he has entered his plea freely.

8. It is a well-established principle that Joint Submissions of this nature are to be adopted by decision makers both in the Courts and in administrative tribunals. MCSW and the Member have provided multiple sources of case law on this point. Of particular relevance to this committee are the considerations of the Supreme Court in *R. v. Anthony-Cook*, 2016 SCC43, wherein Justice Moldaver wrote:

[31] Having considered the various options, I believe that the public interest test, as amplified in these reasons, is the proper test. It is more stringent than the other tests proposed and it best reflects the many benefits that joint submission bring to the criminal justice system and the corresponding need for a high degree of certainty in them.

[32] Under the public interest test, a trial judge should not depart from a joint submission on sentence unless the proposed sentence would bring the administration of justice into disrepute or is otherwise contrary to the public interest.

...

[34] In my view, these powerful statements capture the essence of the public interest tests developed by the Martin Committee. They emphasize that a joint submission should not be rejected lightly, a conclusion with which I agree. Rejection denotes a submission so unhinged from the circumstances of the offence the offender that its acceptance would lead reasonably and informed persons, aware of all the relevant circumstances, including the importance of promoting certainty in resolution discussions, to believe that the proper functioning of the justice system had broken down. This is an undeniably high threshold – and for good reason...

9. Joint Recommendations on Penalty, such as the one before this Panel are held to a high standard and ought not be interfered with because doing so interferes with the importance of promoting certainty to litigants and promoting resolution.

10. The public interest test is adopted for administrative tribunals and professional regulators in *Pankiw v. Board of Chiropractors' Association of Saskatchewan*, [2009] S.J. No. 404 by Justice Gabrielson at paragraph 34 wherein it is stated:

[34] Joint submission are to be encouraged, not ignored. If joint submission are ignored, plea bargains such as occurred here will be much less likely to occur. Lengthy discipline hearings and increased costs to be borne initially by members of the profession and perhaps ultimately by the public they serve will result. Joint submissions are in the public interest and should be followed by administrative tribunals in the same fashion as is done by the Courts unless it can be clearly demonstrated they are unfit, unreasonable or contrary to the public interest.

11. In considering any penalty the Panel is cognizant of the importance of denunciation, deterrence, rehabilitation, remediation and the maintenance of high professional standards. The Panel has considered equally important factors in this decision such as the need to preserve the public confidence in the ability of MCSW to regulate its members and, above all, the protection of the public.

12. The Penalty contained in the Joint Submission reviewed by the Panel enforces the message to the Member that the maintenance of professional standards is an objective of the Act. The proposed conditions placed upon his membership in MCSW protect the public and provide opportunities for supervision and mentorship of the member who has committed the misconduct. The penalty addresses specific performance and professional oversight needed in order to maintain accountability to MCSW of its' membership. In doing so, the penalty presented preserves the public confidence the ability of MCSW to regulate its' members and in doing so the penalty adequately protects the public.

13. The Panel has no jurisprudence of MCSW to date in Manitoba to consider in comparing the penalty to similar cases given that MCSW has no reported discipline hearings to date. The Panel has considered cases provided<sup>1</sup> to them from other jurisdictions to ensure that the penalty contained in the Joint

---

<sup>1</sup> The Panel was provided the following cases to consider:

Discipline Committee of the Ontario College of Social Workers and Social Service Workers (OCSWSSW), Decision and Reasons for Decision between OCSWSSW v. Shana Barnim, hearing date June 6, 2017.

Submission is within a similar range for similar misconduct. The Panel has reviewed the cases provided and determined that the penalty in the Joint Submission is within the range of appropriate penalty for similar acts of misconduct.

14. The Panel has considered the test described in *Anthony-Cook* that a joint submission on penalty should be accepted unless it is contrary to the public interest and would bring the administration of justice into disrepute. There is no evidence that the penalty recommended by Joint Submission would have that result. The Joint Submission is therefore accepted in full.

### Conclusion

15. For the above-mentioned reasons, the Panel has accepted the Joint Submission that the Member has committed professional misconduct, has breached MCSW's Standards of Practice and has breached MCSW's Code of Ethics as set out in the Notice of Hearing. The penalty to the Member is as follows:

16. There are eleven conditions imposed on the Member's entitlement to practice social work including:
- i. The Member will not engage in social work practice with individuals under the age of 18;
  - ii. The Member will engage in supervision with an RSW supervisor approved by MCSW;
  - iii. Supervision to occur at a minimum of weekly, which may occur via telephone or other electronic means, for a minimum of 45 minutes per supervision session;
  - iv. At a minimum, in person supervision will occur every 6 months which will include:
    - Three random file audits as selected by the supervisor to be chosen at the time of the audit;

---

Discipline Committee of the Ontario College of Social Workers and Social Service Workers (OCSWSSW), Decision and Reasons for Decision between OCSWSSW v. Lisa Bukart, hearing date November 76, 2018.

Reasons for Decision in the matter of a hearing into the conduct of Ms. ACSW Member, member of the Alberta College of Social Workers dated April 16, 2013.

Reasons for Decision in the matter of a hearing into the conduct of a member of the Alberta College of Social Workers, hearing date December 2, 2015.

Reasons for Decision in the matter of a hearing into the conduct of a member of the Alberta College of Social Workers dated December 19, 2016.



- Session observation with feedback by the supervisor;
  - First in-person supervision session to occur no later than two months from the date of the Panel's decision;
- v. The Member will ensure submission of quarterly supervisory reports, to be forwarded to MCSW;
  - vi. The Member will provide additional information/reports as requested by MCSW within 10 working days;
  - vii. The first supervisor report is due no later than three months from the date of this decision;
  - viii. The Member is responsible for all costs associated with the supervision requirements, including fees charged by the supervisor;
  - ix. The Member is required to advise the College of any changes to his employment status;
  - x. The Member shall advise all clients that he sees that he is practicing under supervision as required by the College;
  - xi. The Member shall not engage in the private practice of social work.

17. As to the issue of cost, it is accepted by the terms of the Joint Submission that the Member shall pay to the College costs in the sum of \$13125.00 to defray part of its costs in investigating the complaint and conducting the prosecution for professional misconduct. The Member shall make his first payment of \$3125.00 within 30 days from the release of this decision and the remaining \$10,000 shall be payable in monthly instalments of \$350.00 commencing on or before 60 days after the release of this decision.