

IN THE MATTER OF *THE PSYCHOLOGISTS ACT, 1997* AND BYLAWS AND IN THE
MATTER OF A COMPLAINT AGAINST VESPER ADAMS OF PRINCE ALBERT,
SASKATCHEWAN

DECISION

of

Saskatchewan College of Psychologists

DISCIPLINE COMMITTEE

Discipline Committee Members:

Mary Hampton, EdD, Chair
Wayne Schlapkohl, PhD
Angelina M. Baydala, PhD
Patricia Crassweller, MA

Darcia Schirr, Q.C., legal counsel for the Professional Conduct Committee
Merrilee Rasmussen, Q.C., legal counsel for the Discipline Committee
Vesper Adams did not appear.

INTRODUCTION:

The Discipline Committee convened on July 11, 2006 at Royal Reporting Services, 300, 2010 -11th Avenue, Regina, Saskatchewan, being the location and date set out in the Notice of Hearing served on Vesper Adams on May 19, 2006. Ms Adams advised the Registrar of the Saskatchewan College of Psychologists (hereinafter referred to as the College) by letter dated July 7, 2006 and faxed to the Registrar at the College offices on July 10, 2006, that she would not be attending the discipline hearing.¹ The hearing proceeded in her absence, as authorized pursuant to subsection 31(10) of *The Psychologists Act, 1997*.

Vesper Adams is a Member of the College and at all times material to the complaints against her was a Psychologist registered and licensed to practice in the Province of Saskatchewan. The Notice of Hearing alleged that Ms Adams was guilty of professional misconduct, within the meaning of *The Psychologists Act, 1997*, based on the following particulars:

¹The letter was entered in evidence as Exhibit P-2.

1. That she did, in a written report entitled “Learning Profile Report” dated May 28, 2003, communicate a diagnosis of a disorder and did so without the authorization of Council and specifically, without an authorized practice endorsement.
2. That on numerous and various occasions she identified herself by the title “Registered Doctoral Psychologist” when she did not hold a doctoral degree in psychology.

While Ms Adams chose not to attend the hearing, the letter that she sent to the Registrar already referred to stated the following:

I hereby waive my right to be present at the Discipline Hearing set for July 11, 2006. Contrary to a letter dated April 3, 2006 and signed by Lawrence J. Zatlyn Q.C., I wish to indicate that I do not contest the essential facts of this matter. I regret the need for delay and wish to indicate that I understand and accept the objection by the Saskatchewan College of Psychologists. I can assure you that I have taken measures, for some time now, to adhere to the regulations respecting advertising of my credentials. I now am quite clear about the regulations governing assessment and diagnosis.

The Committee did not interpret this letter as a guilty plea and proceeded to hear the evidence in the normal course. Legal Counsel for the Professional Conduct Committee, acting as prosecutor as required by the Act, called three witnesses to testify: Dr. David Randall, former Registrar of the College; Mr. A, of the provincial department of Corrections and Public Safety; and Ms B, of the same department. An affidavit from Dr. Tom Hengen, a practising member of the College with an authorized practice endorsement was also tendered in evidence, in addition to the following documents:

P-1 - Notice of Discipline Hearing together with Affidavit of Personal Service

P-2 - July 7, 2006 letter from Vesper Adams to the Registrar of the College

P-3 - Exhibit Book containing:

1. August 26, 2002 Application of Vesper Adams for registration
2. October 9 and 21, 2002 Registration Committee memoranda
3. November 1, 2002 letter from Registrar to Vesper Adams
4. Registration Certificate signed February 15, 2003
5. January 9, 2004 memorandum from Dr. Glenn Pancyr to Registrar
6. January 9, 2004 fax from Vesper Adams to Registrar
7. January 15, 2004 letter from Registrar to Vesper Adams
8. Registration Certificate signed January 15, 2004
9. January 26, 2004 fax from Vesper Adams to Registrar
10. January 27, 2004 Authorized Practice Endorsement (APE) application of Vesper Adams
11. February 6, 2004 APE application of Vesper Adams

12. February 10, 2004 APE application cover letter and further application material from Vesper Adams to Registrar
13. March 11, 2004 Registration Committee memorandum
14. March 17, 2004 letter from Registrar to Vesper Adams
15. September 23, 2004 letter from Professional Conduct Committee to Vesper Adams
16. July 5, 2005 letter from Registrar to Vesper Adams
17. October 18, 2004 newspaper ad, learning profile report and invoice
18. November 30, 2004 fax from Vesper Adams to Registrar containing November 26, 2004 letter from Vesper Adams to Registrar and December 7, 2004 letter from Registrar to Vesper Adams
19. May 23, 2003 letter from Mr. D to Vesper Adams
20. May 28, 2003 Learning Profile Report
21. College Guidelines relating to APE
22. Extract from DSM-IV-TR
23. CV of Dr. Tom Hengen
24. Printout from College Register

P-4 - November 15, 2004 letter from Registrar to Vesper Adams

P-5 - July 2, 2003 Adams Institute for Learning Medical/Functional Examination Form

P-6 - July 11, 2006 Affidavit of Dr. Tom Hengen

Also provided to the Committee was a letter dated January 15, 2006 from Vesper Adams to Lynn Corbett, a member of the Professional Conduct Committee. This letter was produced for the Committee and marked as Exhibit DC - 1.

FACTS:

Re: Allegation of Performing an Authorized Practice without Authorization

The evidence establishes the following facts:

1. On May 23, 2003, Mr. D wrote to Ms Adams to request that she perform a “functional assessment” of a staff person whose behaviour had been causing concerns for the employer.² The purpose of the assessment was to determine his “fitness to perform the functions of his job”. Mr. A testified that he had been involved in this case as a Human Resources Consultant. The idea of a functional analysis was raised in meetings with the union about how properly to deal with the behavioural concerns with this employee. It was agreed that a psychologist would be contracted to perform this functional analysis and to provide advice to all parties about how best to proceed.

²Exhibit P-3 at Tab 19.

2. Ms Adams met with the employee and had him complete various tests. She prepared a formal report, entitled a “Learning Profile Report,”³ which was submitted directly to the employer and which was subsequently discussed by the employer and the union together with the employee and his spouse. The report described the tests that were administered to the employee and the results. She concluded that he had a “Nonverbal Learning Disorder” and recommended that he be placed on long-term disability and receive counselling. She said that his “prognosis for recovery is poor”.
3. Mr. A described the report as “bleak” and “shocking”. He said that the employer’s assessment of the report results indicated that the employee was only capable of doing janitorial work, when the position he had held for some 18 years was at a much higher level than that. Oddly, according to Mr. A, Ms Adams had discussed with the employee in a positive manner the possibility of accommodating him into a position even more demanding than the one he held. This seemed to contradict the findings stated in the report.
5. Ultimately, a second opinion was requested in January 2004 and obtained in March 2004. The report resulting from the second assessment was quite different. It stated that the employee suffered from no functional impairment and that no accommodation of a disability was required. Mr. A said that the report prepared by Ms Adams resulted in a dozen grievances, an expedited third-party dispute resolution process and a lot of work for a large number of people. As he characterized it, the report that Ms Adams provided made the process “more complex and convoluted”.
6. Ms B also testified about the significant negative impact the report prepared by Ms Adams had in the workplace. She pointed out that the report resulted in significant monetary cost to the employer, as well as to creating a difficult situation for all parties, perhaps especially the employee in question. She also said that her impression of psychologists had been impacted by these events and that she would be more cautious as a consumer of such services in the future. The second opinion made reference to Ms Adams’ report and raised concerns about her credentials.
7. On January 9, 2004, Ms Adams sent a faxed note⁴ to the Registrar to inquire about obtaining an Authorized Practice Endorsement (APE), which she required in order to perform SGI assessments. An APE is required by virtue of section 23 of *The Psychologists Act, 1997*, which prohibits any person who is not authorized by the College from communicating a diagnosis identifying “a neuropsychological disorder or a psychologically-based psychotic,

³Exhibit P-3 at Tab 20.

⁴Exhibit P-3 at Tab 6.

neurotic or personality disorder” as “the cause of a person’s symptoms”. The Registrar replied to her inquiry with information about the application process on January 15, 2004.⁵

8. On February 10, 2004, Ms Adams submitted a number of documents to the Registrar comprising her application to obtain the APE.⁶
9. The Registration Committee reviewed her application on March 11, 2004 and rejected it.⁷ The Registrar communicated this decision to Ms Adams in a letter dated March 17, 2004, which also provided some information about how Ms Adams might have revised her application to have it reconsidered in a favourable light.⁸ No further information was provided.
10. On September 23, 2004, Lynn Corbett, a member of the Professional Conduct Committee advised Ms Adams that the College had received a complaint from Ms B relating to the Learning Profile Report prepared by Ms Adams as described above, and requested Ms Adams to respond to the complaint.⁹ While a response was requested prior to October 31, 2004, no response was received until January 15, 2006.¹⁰ In her response letter, Ms Adams states that, When the [Learning Profile Report] was issued I was a registered psychologist . . . but did not possess the APE”. The Registrar testified that Ms Adams had never possessed an APE at that time or any other.¹¹

Re: Allegation of Improper use of Title

The evidence establishes the following facts:

1. Ms Adams applied for admission to the College on August 26, 2002 and was admitted as a member on November 1, 2002. Her initial application for membership was made in respect

⁵Exhibit P-3 at Tab 7.

⁶Exhibit P-3 at Tabs 10, 11 and 12.

⁷Exhibit P-3 at Tab 13.

⁸Exhibit P-3 at Tab 14.

⁹Exhibit P-3 at Tab 15.

¹⁰Exhibit DC-1.

¹¹See also Exhibit P-3 at Tabs 10 to 12, APE application submitted February 10, 2004 and its rejection by the Registration Committee at Tab 13, as well as print-outs from the membership register at Tab 24.

of her doctoral degree, but this application was rejected as her doctoral degree was not in a program that consisted primarily of psychology classes, as required by section 20 of *the Psychologists Act, 1997*. She was subsequently admitted to the College on the basis of her master's degree, which is a degree in psychology.

2. The Registrar communicated this decision to Ms Adams by letter dated November 1, 2002.¹² That letter contained the following information concerning the manner in which she was able to describe herself to the public:

Please note that the registration committee's review of your transcript from the University of Oregon found no substantiation of 'psychology classes' to support the recognition of your doctoral degree in your registration title. You are therefore required to use the title: 'registered psychologist', but not 'registered doctoral psychologist'. The committee recommends also that you review, in particular, By-law 47(3) in consideration of your representation of your credentials. SCP by-laws may be found on our website: www.skcp.ca.

3. A Certificate of Registration was signed on February 15, 2003 and was provided to Ms Adams by the College, but it incorrectly recorded that she was registered as a doctoral psychologist.¹³
4. On January 9, 2004, Dr. Glenn Pancyr, a member of the College and a consultant for SGI, drew the Registrar's attention to a discrepancy between the registration information on the College's website and the CV of Ms Adams. In her CV she described herself as a 'registered doctoral psychologist'.¹⁴
5. As a result of this information, the Registrar discovered that the Certificate of Registration signed on February 15, 2003 had been issued in error describing Ms Adams as a 'registered doctoral psychologist'. He ordered a new certificate¹⁵ to be prepared and wrote a letter to Ms Adams on January 15, 2004¹⁶ to advise her of the concerns that had been raised. In that letter he referred to the November 1, 2002 letter that had been sent to Ms Adams, reminding her of the applicable restrictions on her use of titles, and also pointed out that her reference to herself as 'Dr.' on her letterhead was a matter of concern:

¹²Exhibit P-3 at Tab 3.

¹³Exhibit P-3 at Tab 4.

¹⁴Exhibit P-3 at Tab 5.

¹⁵Exhibit P-3 at Tab 8.

¹⁶Exhibit P-3 at Tab 7.

You also report yourself in your letterhead as Dr. Vesper Adams. This is likely to mislead the public. We do not object to your use of an earned degree in contexts where it is relevant. We do object strongly to using a degree not in psychology in a context in which it is likely to lead to misidentification of a qualification, suggesting a degree in psychology which you do not possess. I recognize that you were sent a certificate inappropriately which lists you as a registered doctoral psychologist. **Please destroy it.** I have ordered a revised and corrected version printed which will shortly be sent to you. The legal record is your listing in the register, not the certificate. That lists you as a registered psychologist. Therefore, please make your public communication consistent with your licence status. [emphasis in original]

6. In response, Ms Adams replied, in a note faxed to the Registrar at the College offices, and dated January 26, 2004:

This is a brief note to inform you that I have begun an immediate compliance with the directives as per the registered letter dated January 14, 2004 [sic]. This fax will be followed by a formal letter indicating the above. Rest assured that I will be zealous in meeting all the requirement necessary to remain a member in good standing with the Saskatchewan College of Psychologists. Thank you for including the APE forms. Also, I appreciated your sensitivity in addressing this issue.¹⁷

7. No “formal letter” as described in this note was subsequently received by the Registrar.
8. On October 22, 2004 the Registrar received a copy of an ad from a flyer celebrating education week that was circulated in Prince Albert, which referred to “Vesper Adams, PhD. . . . Registered Psychologist,” as well as a copy of a Learning Profile Report prepared by “Vesper Adams PhD., Registered Psychologist,” which was dated January 29, 2004, and an invoice prepared by Dr. Vesper Adams, Registered Doctoral Psychologist,” which was dated January 31, 2004.¹⁸

LEGISLATION:

The following provisions of *The Psychologists Act, 1997* apply to a consideration of this case:

¹⁷Exhibit P-3 at Tab 9.

¹⁸Exhibit P-3 at Tab 17.

Professional misconduct

25 Professional misconduct is a question of fact, but any matter, conduct or thing, whether or not disgraceful or dishonourable, that:

- (a) is harmful to the best interests of the public or the members of the college;
- (b) tends to harm the standing of the profession;
- (c) is a breach of this Act or the bylaws; or
- (d) is a failure to comply with an order of the professional conduct committee, the discipline committee or the council;

is professional misconduct within the meaning of this Act.

Authorized practices

23(1) An authorized practice is the communication of a diagnosis identifying, as the cause of a person's symptoms, a neuropsychological disorder or a psychologically-based psychotic, neurotic or personality disorder.

(2) No person shall perform an authorized practice described in subsection (1) in the course of providing services to an individual unless the person is a practising member authorized by council pursuant to his or her licence or the bylaws to perform that authorized practice.

(3) Prior to authorizing a member to perform an authorized practice, the council may require that member to successfully complete any examinations as may be prescribed in the bylaws.

(4) This section does not apply to a duly qualified medical practitioner.

Protected title

24(1) Subject to subsection (3), no person other than a member shall use the title "psychologist" or any word, title or designation, abbreviated or otherwise, to imply that the person is a member.

(2) No person other than a member who is registered and licensed pursuant to section 20 or 21 and who holds a doctoral degree may use the title "doctoral psychologist" or any word, title or designation, abbreviated or otherwise, to imply that the person is a member who is registered and who holds a doctoral degree.

ANALYSIS:

Professional misconduct, as defined in the Act, exists where a member engages in conduct that is harmful to the best interests of the public or the members of the college, or may harm the standing of the profession, or is a breach of the Act or the bylaws. The allegations in this case raise two distinct issues, but each of them is to the effect that Ms Adams has breached the Act and is therefore guilty of professional misconduct. Each of these issues is separately addressed below.

Performing an Authorized Practice without Authorization

Subsection 23(2) of the Act prohibits any person who does not possess an Authorized Practice Endorsement from performing an authorized practice as defined in subsection 23(1). The evidence clearly establishes that Ms Adams has never had an APE. The issue is, therefore, whether the Learning Profile Report she prepared for the Department of Corrections and Public Safety falls with the definition of authorized practice and is therefore an act that she is prohibited to perform.

The statutory definition of authorized practice can be broken down in the following manner:

- it must involve the making of a “diagnosis”
- that is “communicated” and
- that identifies neuropsychological disorder or a psychologically-based psychotic, neurotic or personality disorder
- as the cause of a person’s symptoms

The Canadian Oxford dictionary defines a “diagnosis” as “the identification of an illness or disease by means of a patient’s symptoms”. Thus, to diagnose is to determine that the symptoms a person experiences result from a specific illness or disease. The diagnosis regulated by section 23 is one that identifies a psychological “illness or disease” as the cause of the symptoms. And to constitute an authorized practice, the diagnosis must be communicated.

In this case, Ms Adams identified “Nonverbal Learning Disorder” as the cause of the employee’s unacceptable behaviour in the workplace. The DSM-IV-TR, the Diagnostic and Statistical Manual of Mental Disorders (fourth edition, text revision)¹⁹ does not specifically refer to a “Nonverbal Learning Disorder”. Nevertheless, Ms Adams, in her report, stated:

... this syndrome is a neurological condition that may have resulted from an insult or damage to the white-matter connections in the right-hemisphere.

She also stated in her report that:

¹⁹See Extract contained in Exhibit P-3 at Tab 22.

Any disruption to the efficient processing of the right hemisphere may produce emotional instability; impaired interpersonal skills; and inconsistent achievement in arithmetic and written expression.

Dr. Tom Hengen, whose expert opinion was provided in evidence, states that Ms Adams has described conditions and used terminology from the DSM-IV, as referred to above. He states also that throughout her Learning Profile report she has outlined diagnostic features of disorders described in the DSM-IV. In his expert opinion, she has communicated a diagnosis as described in the definition of authorized practice contained in subsection 23(1) of the Act.²⁰

The Committee agrees with Dr. Hengen's conclusion and with the reasons why he came to it.

Improper use of Title

Although Ms Adams applied for admission to the College based on her doctoral degree in curriculum development, the Registration Committee rejected her application for the reason that the program was not one that consisted primarily of psychology classes as section 20 of the Act requires. However, she was admitted on the basis of her master's degree in psychology, and the Registrar's letter informing her of that decision made it explicitly clear that she was not entitled to refer to herself as a "doctoral" psychologist because her doctoral degree was not in psychology.

The matter is perhaps complicated by the fact that the initial registration certificate sent to her referred to her as a "doctoral psychologist" in error. However, when the Registrar wrote to her on January 15, 2004 he made it very clear that the certificate was in error, he directed her to destroy it, and advised her that a corrected one would be provided to her. He also at that time advised her in very explicit language that she should not use her PhD designation or the title "Dr." in the course of her psychology practice because to do so was misleading and suggested, as he stated, "a degree in psychology which you do not possess".

In fact, Ms Adams acknowledged his advice and direction and advised in her faxed note that she had "begun immediate compliance with the directives" in his letter. However, within a few days, on January 31, 2003, she rendered an account and identified herself as a "registered doctoral psychologist".

The Committee concludes that Ms Adams did in fact improperly describe herself as a "registered doctoral psychologist" and continued to use the PhD and "Dr" designations in conjunction with her psychology practice contrary to subsection 24(2) of the Act, which prohibits a person other than one who is registered as a member of the College with a doctoral degree in psychology from using the

²⁰See Exhibit P-6.

title doctoral psychologist, or from using any other words, titles or designations to imply that the person is such a member.

DECISION:

Therefore, in light of its analysis and based on the reasons set out above, the Discipline Committee finds that Vesper Adams, a member of the Saskatchewan College of Psychologists, is guilty of professional misconduct in that she has breached subsection 23(2) and subsection 24(2) of *The Psychologists Act 1997* contrary to clause 25(c) of that Act.

As a result of this conclusion, it is necessary for the hearing in this case to be resumed to receive any evidence and argument from the parties with respect to the appropriate disciplinary order or orders that should be made pursuant to section 32 of the Act.

The Committee directs the Registrar to make the necessary arrangements with the parties to resume the hearing as required.

Dated at Regina, Saskatchewan this day of July, 2006.

SASKATCHEWAN COLLEGE OF
PSYCHOLOGISTS, DISCIPLINE COMMITTEE

Dr. Mary Hampton, Chairperson