

IN THE MATTER OF *THE PSYCHOLOGISTS ACT, 1997* AND BYLAWS
AND IN THE MATTER OF A COMPLAINT AGAINST RUPAL BONLI,
A PSYCHOLOGIST, OF SASKATOON, SASKATCHEWAN

DECISION
Saskatchewan College of Psychologists
DISCIPLINE COMMITTEE

Discipline Committee Members:

Tom Robinson, Registered Doctoral Psychologist, Chair
Christel Gee, Public Representative
Kristin Bellows, Registered Psychologist, Member

Avery Layh, appearing on behalf of the Professional Conduct Committee
Michelle Ouellette, Q.C., appearing on behalf of the Member, Rupal Bonli
Jaime Carlson, legal counsel for the Discipline Committee

INTRODUCTION

[1] The Discipline Committee convened on Tuesday, May 7, 2019, via conference call as agreed by the parties, to hear and determine the formal complaint against the Member dated April 3, 2018, in accordance with *The Psychologists Act, 1997* [“the Act”].

[2] As acknowledged in the Agreed Statement of Facts and Admissions filed by legal counsel for Dr. Bonli and legal counsel for the Professional Conduct Committee, at all times material to the complaints against her, Dr. Bonli was a member of the Saskatchewan College of Psychologists (“the College”), licensed to practise in the Province of Saskatchewan subject to the Act, the regulatory bylaws of the College, and the *Canadian Code of Ethics for Psychologists* (“the Code”) and related Saskatchewan College of Psychologists Practice Guidelines (“the Guidelines”).

[3] Although the charges and the Agreed Statement of Facts and Admissions both use initials to identify the complainant, in the interests of privacy we refer to the complainant only as the

complainant. In addition, any other names or identifying materials have also been removed from this decision.

THE FORMAL COMPLAINT

[4] The Formal Complaint contains the following two charges alleging that Dr. Rupal Bonli is guilty of professional misconduct or professional incompetence, in that:

“Charge 1: she, during her professional relationship with [the complainant], participated in a meeting with [the complainant’s] employer on February 26, 2015, without obtaining [the complainant’s] written or informed consent to the meeting, in violation of the *Canadian Code of Ethics for Psychologists*, 3rd ed. 2000, and more specifically Sections I.19, I.21, I.23, I.24, and, contrary to the Professional Practice Guidelines 4.2 and 4.3.

Charge 2: she disclosed an alleged diagnosis that was never discussed with [the complainant] to [the complainant’s] employer, without [the complainant’s] consent, in a meeting with [the complainant’s] employer on February 26, 2015 during her professional relationship with [the complainant] and subsequently, in a written letter to [the complainant’s] employer dated September 14, 2015, after the termination of their professional relationship, in violation of the *Canadian Code of Ethics for Psychologists*, 3rd ed. 2000, and more specifically Section I.45, and, contrary to the Professional Practice Guidelines 5.2 and 6.2.”

FACTS

[5] As noted above, the parties submitted an Agreed Statement of Facts and Admissions to the Discipline Committee, the relevant text of which (excluding headings and repetition of the charges) is set out below with respect to each of the charges contained in the formal complaint.

2. The complainant, [omitted], was a patient of Dr. Bonli’s from December 2012 until February 2015.

3. During the course of her treatment, Dr. Bonli learned that [the complainant] had been terminated twice from her employment with [the complainant’s employer] in 2007 and 2008, but had been later reinstated through proceedings at the Human Rights Commission.

4. Dr. Bonli provided psychological services to [the complainant], primarily relating to the impact of the termination of her employment, workplace bullying and harassment, and ongoing workplace conflict.
5. In the course of providing psychological services to [the complainant], Dr. Bonli had referred [the complainant] to a psychiatrist to assist with medication management. The psychiatrist indicated to Dr. Bonli that firing is not considered to be traumatic enough to actually cause Post-Traumatic Stress Disorder (“PTSD”), but concluded that [the complainant], had other identifiable mental health diagnoses including a “PTSD like syndrome” relating to her employment history.
6. Given [the complainant’s] precarious mental health, Dr. Bonli did not discuss with [the complainant] that she agreed with the psychiatrist’s assessment that [the complainant] did not have PTSD, and felt that [the complainant] likely had a related mental health condition.
7. [The complainant] also had some difficult childhood experiences, of which Dr. Bonli was aware.
8. [Omitted] is the Executive Director of [the complainant’s employer], and was dealing with concerns about [the complainant’s] position in the workplace.
9. In the course of trying to address her workplace harassment concerns, [the complainant] and/or her partner [omitted] had disclosed to [the E.D. of the complainant’s employer] that [the complainant] suffered from PTSD, and that she had experienced a difficult childhood. [The complainant] and/or [the complainant’s partner] informed Dr. Bonli that this information had been communicated to [the E.D. of the complainant’s employer].
10. During the period of time from the summer of 2014 through to February 2015, Dr. Bonli was growing increasingly concerned about [the complainant’s] mental health, especially related to her employment situation. Dr. Bonli offered to assist in any way she could.
11. Dr. Bonli sat for several years on the Saskatoon Health Region’s Leadership Team for Healthy Workplaces, and has attended conferences designed to address Healthy Workplaces.
12. [The complainant] and [the complainant’s partner] discussed with Dr. Bonli the possibility of Dr. Bonli meeting with [the E.D. of the complainant’s employer] to try to facilitate improved relations between [the complainant] and her workplace. Between August 2014 and February 2015, [the complainant’s partner], on behalf of [the complainant], exchanged a number of e-mails with Dr. Bonli regarding a potential meeting between Dr. Bonli and [the E.D. of the complainant’s employer].

13. On February 11, 2015 [the complainant] asked to meet with Dr. Bonli because of new allegations of workplace harassment. Dr. Bonli met with [the complainant] outside of her usual office hours to accommodate her. As a result, she did not have her file on [the complainant] with her and could not have [the complainant] endorse her consent to the meeting on the existing consent form in the file. [The complainant] did not provide written consent to Dr. Bonli to meet with [the E.D. of the complainant's employer].

14. At that time, [the complainant] verbally confirmed to Dr. Bonli that she wished Dr. Bonli to meet with [the E.D. of the complainant's employer]. They agreed that in the meeting with [the E.D. of the complainant's employer] Dr. Bonli would discuss concerns that [the complainant] had identified and try to arrange for a second meeting, which [the complainant] would attend, to address those concerns with [the E.D. of the complainant's employer] and possibly others from the management of [the complainant's employer].

15. Dr. Bonli created a clinical note after her meeting with [the complainant] on February 11, 2015, indicating that [the complainant] had provided consent for Dr. Bonli to contact [the E.D. of the complainant's employer]. The clinical note does not state the parameters [the complainant] and Dr. Bonli discussed respecting Dr. Bonli's meeting with [the E.D. of the complainant's employer].

16. Dr. Bonli made several attempts to contact [the E.D. of the complainant's employer] and advised [the complainant] by e-mail on February 19 and February 20, 2015 that she was having trouble connecting with him.

17. Dr. Bonli met with [the E.D. of the complainant's employer] on February 26, 2015 at Dr. Bonli's office.

18. The purpose of the meeting between Dr. Bonli and [the E.D. of the complainant's employer] was to discuss healthy workplace practices. In particular, [the complainant] and Dr. Bonli had discussed on multiple occasions three things that [the complainant] wanted Dr. Bonli to try and address with [the E.D. of the complainant's employer]:

- a. What are the measures that could be suggested to the employer to work towards a positive workplace environment?
- b. What are the responsibilities of the workplace?
- c. What information would be helpful to the manager for best handling a healthy work environment?

These were the only issues that Dr. Bonli was authorized to discuss with [the E.D. of the complainant's employer].

19. At the meeting on February 26, 2015, [the E.D. of the complainant's employer] commented that he understood from [the complainant] and [the complainant's partner] that [the complainant] suffered from PTSD; he believed it was related to her traumatic personal history. In response, Dr. Bonli indicated that she did not have permission to discuss [the

complainant's] personal history, and could only discuss her concerns with the workplace environment and the experiences that [the complainant] had been through, especially the termination of employment on two occasions. Dr. Bonli felt it was important that [the E.D. of the complainant's employer] understand that [the complainant's] current struggles were related to the terminations. She indicated to [the E.D. of the complainant's employer] that she believed [the complainant] was more accurately described as having an Adjustment Disorder, that it was related to her history of twice being dismissed by her employer, and that it gave rise to the need for workplace conflicts to be addressed in a subsequent meeting. Adjustment disorder is closely related to PTSD in many respects.

20. Dr. Bonli and [the complainant] had not previously discussed a diagnosis of Adjustment Disorder.

21. The second meeting that was to take place was scheduled for March 15, 2015, and Dr. Bonli was scheduled to attend with [the complainant]. On the day of the meeting, [the complainant] advised Dr. Bonli that she had cancelled the meeting.

22. [The complainant] terminated the relationship with Dr. Bonli in May 2015.

23. On September 11, 2015, [the complainant] and [the complainant's partner], sent an email to Dr. Bonli directing Dr. Bonli to write a letter to [the E.D. of the complainant's employer] and directing the contents of the letter. She requested that it be sent within one week, and that she be copied on it, failing which she had been advised to file a formal complaint.

24. Dr. Bonli wrote a letter to [the E.D. of the complainant's employer] on September 14, 2015 as requested by [the complainant].

25. Dr. Bonli admits that she did not obtain written consent, nor did she properly document the oral consent she received from [the complainant], respecting the meeting with [the E.D. of the complainant's employer].

26. Dr. Bonli admits to discussing a diagnosis with [the E.D. of the complainant's employer] that [the complainant] was unaware of and, necessarily, she did not have [the complainant's] consent to disclose it.

LEGISLATION

[6] The Act defines professional misconduct as follows:

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.

[7] Section 14 of *The Saskatchewan College of Psychologists Regulatory Bylaws, 2004* requires members to comply with the Code of Ethics of the College. The *Regulatory Bylaws* of the College also contain provisions relating to what constitutes professional misconduct and professional incompetence:

6(2) For the purposes of sections 25 and 26 of the Act, the committee may find a psychologist guilty of professional incompetence and/or professional misconduct where the member:

- (a) abused a client physically, sexually, verbally, or psychologically;
- (b) wilfully endangered the safety of a client;
- (c) influenced a client to change the client's last will and testament;
- (d) wrongfully abandoned a client;
- (e) misappropriated property belonging to a client, employer or fellow employee;
- (f) failed to exercise discretion with respect to the disclosure of confidential information about a client;
- (g) failed to maintain or falsified any client record;
- (h) failed to inform any employer or any client of the psychologist's inability to accept specific responsibility in areas where special training is required or where the psychologist does not feel competent to function without supervision;
- (i) failed to report the incompetence or misconduct of a member or colleague;
- (j) failed to comply with the Code of Ethics of the college or failed to comply with established standards of practice;
- (k) failed without reasonable cause to respond to inquiries from the college regarding alleged professional misconduct or professional incompetence;
- (l) conspired to participate in any act of misconduct or counselled a participant in any act of misconduct;
- (m) obtained registration by misrepresentation or fraud; or
- (n) contravened any provision of the Act or these bylaws.

[8] The Ethical Standards for Psychologists are set out in the *Canadian Code of Ethics for Psychologists*. The relevant sections of the Code are:

- I.19 Obtain informed consent from all independent and partially dependent persons for any psychological services provided to them except in circumstances of urgent need (e.g., disaster or other crisis). In urgent circumstances, psychologists would proceed with the assent of such persons, but fully informed consent would be obtained as soon as possible. (Also see Standard I.29.)
- I.21 Establish and use signed consent forms that specify the dimensions of informed consent or that acknowledge that such dimensions have been explained and are understood, if such forms are required by law or if such forms are desired by the psychologist, the person(s) giving consent, or the organization for whom the psychologist works.
- I.23 Provide, in obtaining informed consent, as much information as reasonable or prudent persons would want to know before making a decision or consenting to the activity. The psychologist would relay this information in language that the persons understand (including providing translation into another language, if necessary) and would take whatever reasonable steps are needed to ensure that the information was, in fact, understood.
- I.24 Ensure, in the process of obtaining informed consent, that at least the following points are understood: purpose and nature of the activity; mutual responsibilities; confidentiality protections and limitations; likely benefits and risks; alternatives; the likely consequences of non-action; the option to refuse or withdraw at any time, without prejudice; over what period of time the consent applies; and, how to rescind consent if desired. (Also see Standards III.23-30.)
- I.45 Share confidential information with others only with the informed consent of those involved, or in a manner that the persons involved cannot be identified, except as required or justified by law, or in circumstances of actual or possible serious physical harm or death. (Also see Standards II.39, IV.17, and IV.18.)

[9] Where a member is found to be guilty of professional misconduct, the Discipline Committee is authorized to make orders directed at improving the conduct or competence. Section 32 of the Act provides the Discipline Committee with the following authority:

Disciplinary powers

32(1) Where the discipline committee finds a member guilty of professional incompetence or professional misconduct, it may make one or more of the following orders:

- (a) an order that the member be expelled from the college and that the member's name be struck from the register;
- (b) an order that the member be suspended from the college for a specified period;
- (c) an order that the member be suspended from the college pending the satisfaction and completion of any conditions specified in the order;

- (d) an order that the member may continue to practise only under conditions specified in the order, which may include, but are not restricted to, an order that the member:
 - (i) not do specified types of work;
 - (ii) successfully complete specified classes or courses of instruction;
 - (iii) obtain treatment, counselling or both;
 - (e) an order that reprimands the member; or
 - (f) any other order that to it seems just.
- (2) In addition to any order made pursuant to subsection (1), the discipline committee may order:
- (a) that the member pay to the college within a fixed period:
 - (i) a fine in a specified amount not to exceed \$5,000; and
 - (ii) the costs of the investigation and hearing into the member's conduct and related costs, including the expenses of the professional conduct committee and the discipline committee and the costs of legal services and witnesses; and
 - (b) where a member fails to make payment in accordance with an order pursuant to clause (a), that the member be suspended from the college.

ANALYSIS AND DECISION

[10] The Discipline Committee accepts the guilty plea provided by Dr. Bonli in the Agreed Statement of Facts and Admissions in relation to the charges contained in the Formal Complaint. She has acknowledged that the conduct occurred and that the conduct constitutes failures to comply with the Code. A failure to comply with the Code is a breach of section 14 of the Regulatory Bylaws, which requires all members to comply with the Code. A breach of a bylaw is professional misconduct, as set out in clause 25(c) of the Act. The Discipline Committee therefore finds that Dr. Bonli is guilty of professional misconduct as a result of her guilty plea and the admissions contained in the Agreed Statement of Facts and Admissions.

[11] The Discipline Committee must therefore determine the appropriate consequence to follow as a result of its findings. Section 32 of the Act sets out the powers of the Discipline Committee where it finds a member guilty of professional incompetence or professional misconduct. The range of powers available to the Discipline Committee runs from reprimand to expulsion. The list is apparently designed to give the Discipline Committee as broad a discretion as possible to tailor

its order to the needs of the situation, so as to ensure that the disposition of the complaint will accomplish the goal of protecting the public while respecting the interests of members. The list concludes with a broad power to make any order that the Discipline Committee thinks is “just”.

[12] The parties have also presented the Discipline Committee with a Joint Submission on Penalty, which states as follows:

In accordance with the Agreed Statement of Facts and Admissions, Rupal Bonli admits the charges against her, as qualified by the Agreed Statement of Facts and Admissions, and accepts the following penalty:

1. A reprimand;
2. A payment of the Costs incurred by the College of Psychologists in this matter, in the amount of \$9,750, payable within one year from the date of the Discipline Committee’s decision in this matter; if not paid within one year then the Member will be charged with failing to comply and referred back to Discipline.
3. Dr. Bonli will, within one month of the date of this decision, create and provide the following for the College’s approval:
 - a. Informed consent form;
 - b. Release of confidential information form;
 - c. Outline of assessment and diagnosis process (with a statement regarding feedback).

She will complete an attestation to the effect that she has implemented the forms.

4. A fine in the amount of \$2,000.00 to be paid within one year of the Discipline Committee’s decision

OR (to be determined by the Discipline Committee)

Attendance at a course on professionalism, as may be approved by the PCC, in which Dr. Bonli should be registered within a year from the date of this Order. Dr. Bonli should provide a Certificate of Completion or other proof of attendance to the PCC.

5. An order that the Discipline Committee’s decision and penalty shall be posted on the website of the College.

[13] In its decision in the case of *Rault v. Law Society of Saskatchewan*¹, the Saskatchewan Court of Appeal made it clear that a discipline committee must give serious consideration to a joint submission on sentencing that has been agreed to unless the sentence is unfit or unreasonable, or contrary to the public interest, and it should not be departed from unless there are good or cogent reasons for doing so.² The Court went on to say, in relation to the discipline process applicable to members of the Law Society of Saskatchewan (which is similar to the process applicable to psychologists):

The discipline process in the Act has many similarities to the criminal process and as such the bargaining process is undermined if a joint submission, the product of compromise, is readily rejected by the Discipline Committee. There is a formal process for the handling of complaints, including the appointment of an Investigation Committee, which may set out a Formal Complaint outlining the allegations which may constitute a finding of guilt as to conduct unbecoming a lawyer. This can lead to the appointment of a Hearing Committee, which determines if the allegations in the Formal Complaint are well-founded and, if so, the matter is referred to the Discipline Committee for sentencing on the charges.

This process can be time-consuming for Benchers involved in the various stages leading to the final penalty imposed by the Discipline Committee and can involve significant costs for both the member and the Law Society. Therefore, all members and the Law Society have a vested interest in ensuring that matters proceed expeditiously. If the member co-operates with the investigation and hearing process and, as happened in the instant case, pleads guilty, and puts an Agreed Statement of Facts before the Hearing Committee, the Law Society is relieved of the burden of proving the allegations in what could, in some instances, be a complicated and protracted hearing with the usual risks and vagaries that may occur in the course of such hearings. If the parties negotiating compromise agreements cannot expect their efforts will be respected, there is little incentive to attempt to negotiate a resolution. For this reason, joint submissions on sentence should be considered by the Discipline Committee in a principled way similar to the jurisprudence in criminal matters and as applied by discipline committees in the provinces noted above.

[14] As a result, it is only in a situation where the Discipline Committee is persuaded that the sentence agreed to in a joint submission is unfit or unreasonable or contrary to the public interest that the Discipline Committee would not accept the joint submission. The Discipline Committee is also mindful of the fact that the objective of professional discipline proceedings is not punishment, but correction or improvement of conduct or competence to ensure, to the extent that

¹ 2009 SKCA 81.

² *Ibid*, at paragraph 13.

it is reasonably practicable to do so, that the public is protected from substandard conduct or competence on the part of psychologists who are members of the College. The Discipline Committee found no good or cogent reason to depart in substance from the sentence agreed to in the joint submissions provided by the parties.

[15] The parties did leave one aspect of the penalty at the discretion of the Discipline Committee. Legal counsel for the Professional Conduct Committee submitted that a fine was appropriate in situations of professional misconduct and proposed a fine of \$2,000, at the lower end of the spectrum. Legal counsel for the Member submitted that a course on professionalism would be a more appropriate penalty, especially considering the mandate of the College to ensure protection of the public.

[16] The Discipline Committee agrees that a course on professionalism, to be approved by the Professional Conduct Committee, is an appropriate penalty based on the circumstances of this case. In looking at the guidance provided by the courts around the factors that a self-governing profession should consider when determining an appropriate penalty,³ the Discipline Committee was struck by its duty on the facts of this case to ensure that its penalty will protect the public and ensure the safe and proper practice of psychology as well as the need to maintain the public's confidence in the integrity of the College's ability to properly supervise the professional conduct of its members. The Discipline Committee feels that having Dr. Bonli attend a course on professionalism will best meet the goal of remediation of the Member, while also fairly considering the mitigating circumstances and Dr. Bonli's long record of practice with no former misconduct allegations.

ORDER

[16] For all of the reasons set out above, the Discipline Committee of the Saskatchewan College of Psychologists therefore finds Dr. Rupal Bonli guilty of professional misconduct and, pursuant to section 32 of *The Psychologists Act, 1997*, orders that:

³ *Camgoz v College of Physicians and Surgeons (Sask)*, 1993 CanLII 8952 (SK QB) at para 49, 114 Sask R 161.

1. Dr. Bonli is hereby reprimanded.
2. Dr. Bonli shall pay costs to the College of Psychologists in this matter, in the amount of \$9,750, payable within one year from the date of the Discipline Committee's decision in this matter. If costs are not paid within one year then the Member will be charged with failing to comply and referred back to the Discipline Committee.
3. Dr. Bonli shall, within one month of the date of this decision, create and provide the following for the College's approval:
 - a. Informed consent form;
 - b. Release of confidential information form;
 - c. Outline of assessment and diagnosis process (with a statement regarding feedback).

Once the forms have been developed and approved, Dr. Bonli shall provide the College with an attestation that she has implemented the forms.

4. Dr. Bonli shall register to attend a course on professionalism, that has been approved by the Professional Conduct Committee, within one year from the date of this Order. Dr. Bonli shall also provide a Certificate of Completion or other proof of attendance to the Professional Conduct Committee after she has attended the course.
5. The Discipline Committee's decision and penalty shall be published on the website of the College.

Dated at Regina, Saskatchewan this 8th day of August 2019.

SASKATCHEWAN COLLEGE OF PSYCHOLOGISTS,
DISCIPLINE COMMITTEE

A handwritten signature in black ink, appearing to read 'Tom Robinson', is written over a solid horizontal line.

Tom Robinson,
Registered Doctoral Psychologist, Chair