

IN THE MATTER OF *THE PSYCHOLOGISTS ACT, 1997* AND BYLAWS  
AND IN THE MATTER OF A FORMAL COMPLAINT DATED OCTOBER 20, 2017  
AGAINST BONNIE FLAHR, REGISTERED PSYCHOLOGIST, OF COCHIN,  
SASKATCHEWAN

**DECISION**  
**Saskatchewan College of Psychologists**  
**DISCIPLINE COMMITTEE**

Discipline Committee Members:

Tom Robinson, Registered Doctoral Psychologist, Chair  
Crystal Gee, Public Representative  
Renee Schmidt, Registered Doctoral Psychologist, Member

Karen Prisciak, Q.C., appearing on behalf of the Professional Conduct Committee  
Toni Leedahl and Michelle Ouellette, Q.C., appearing on behalf of the Member, Bonnie Flahr  
Merrilee Rasmussen, Q.C., legal counsel for the Discipline Committee

**INTRODUCTION**

[1] The Discipline Committee convened on Thursday, October 18, 2018, at the offices of the Saskatchewan College of Psychologists to hear and determine, in accordance with *The Psychologists Act, 1997* (“the Act”), a formal complaint concerning the Member’s practice. Counsel for the Professional Conduct Committee as well as the Member and her counsel appeared by teleconference.

[2] As acknowledged in the Agreed Statement of Facts and Admissions filed by legal counsel for the Member and legal counsel for the Professional Conduct Committee, at all times material to the complaints against her, Ms Flahr was a member of the Saskatchewan College of Psychologists, 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”).

## THE FORMAL COMPLAINT

[3] The Formal Complaint against Ms Flahr contains one charge as follows:

She diagnosed a client with Dyslexia and Dyscalculia when she did not have an authorized practice endorsement contrary to Section 23 of *The Psychologists Act*, Regulatory Bylaw #13 and the *Canadian Code of Ethics for Psychologists*, 3<sup>rd</sup> ed., 2000, and more specifically Sections III.36 and IV.17

## FACTS

[4] As noted above, the parties submitted an Agreed Statement of Facts and Admissions to the Discipline Committee. The Member acknowledged that she conducted a psychological assessment of a patient in 2009 wherein she stated that the patient, “is able to achieve success in areas of weakness with academics due to gaps in her learning caused by Dyslexia (letter reversals in reading and writing) and Dyscalculia”. Diagnoses of dyslexia and dyscalculia are diagnoses of specific learning disorders under the DSM-V. At the time of making the diagnosis, the Member did not have an Authorized Practice Endorsement as required under subsection 23(1) of the Act. The Member has since retired and did not renew her licence to practice after December 31, 2017. The Member accepted the charge and pled guilty to it.

## LEGISLATION

[5] The Act defines both professional misconduct and professional incompetence for the purposes of the discipline process. In this case, it is the definition of professional misconduct that is relevant, and the Act defines it 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.

[6] Where a member is found to be guilty of professional misconduct, the Discipline Committee is authorized to make orders directed at improving the conduct. 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**

[7] The Discipline Committee accepts the guilty plea provided by Ms Flahr in the Agreed Statement of Facts in relation to the charge contained in the Formal Complaint. She has acknowledged that the conduct occurred and that the conduct constitutes professional misconduct in contravention of s. 25(c) of the Act, which states that a breach of the Act is professional misconduct. Subsection 23(2) of the Act prohibits any person from communicating a diagnosis identifying a neuropsychological disorder or a psychologically-based psychotic,

neurotic or personality disorder as the cause of a person's symptoms unless authorized by the College to do so by an Authorized Practice Endorsement. The Discipline Committee finds that Ms Flahr was in contravention of section 23 of the Act when she communicated the diagnosis of dyslexia and dyscalculia.

[8] The parties have also presented the Discipline Committee with a joint submission as to penalty, which calls for the following:

- a. a reprimand;
- b. a fine of \$2,000.00 to be paid within one year of the Discipline Committee's decision;
- c. full recovery of all costs of the Professional Conduct Committee and the Discipline Committee, including legal fees and expenses, to be paid within one year of the Discipline Committee's decision;
- d. a prohibition against assessment without an Authorized Practice Endorsement if the Member reinstates her practising status;
- e. attestation by the Member that she has notified all school divisions and First Nation school authorities that employed her as a psychologist that she carried out diagnostic assessment work without having the legal authority to communicate a diagnosis, contrary to section 23 of the Act, within three months of the Discipline Committee's decision, and that the form of the notification to be used be approved by the College in advance;
- f. an order publishing the Discipline Committee's decision and sentence on the website of the College;
- g. an order requiring a notice, in the form approved by the College, to be published in both written and online publications in North Battleford; and
- h. an order that failure to comply with any provision of the order would lead to a further charge of professional misconduct being referred to the Professional Conduct Committee.

[9] The Professional Conduct Committee also submitted that the publication referred to in clause (g) above would also be made in Saskatoon. The Member did not agree because she never worked as a psychologist in Saskatoon.

[10] In its decision in the case of *Rault v. Law Society of Saskatchewan*<sup>1</sup>, 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.<sup>2</sup> The Discipline Committee finds no good or cogent reason to depart in substance from the sentence agreed to in the joint submissions provided by the parties. However, the Discipline Committee has made some minor adjustments to the penalty as submitted in order to clarify that the costs to be paid will be certified by the Registrar. In addition, the Discipline Committee has not included two of the items as submitted in its formal order for the following reasons:

1) it is not necessary to prohibit the Member from performing an authorized practice without an Authorized Practice Endorsement because section 23 of the Act already prohibits her from doing so;

2) it is not necessary to state that any breach of its order would result in new charges of professional misconduct, as section 25 of the Act already provides that a breach of any order the Discipline Committee makes is professional misconduct.

[11] With respect to publication in Saskatoon, the Discipline Committee accepts the Member's submission that, as she performed no work as a psychologist there, publication in Saskatoon is not required.

## **ORDER**

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

1. Bonnie Flahr is hereby reprimanded;

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<sup>1</sup> 2009 SKCA 81.

<sup>2</sup> *Ibid*, at paragraph 13.

2. Bonnie Flahr shall pay:
  - a) a fine of \$2,000.00 within one year of the date of this Order;
  - b) costs in an amount equal to the total amount of all costs incurred by the Professional Conduct Committee and the Discipline Committee, including expenses and legal costs, as certified by the Registrar of the College, to be paid within one year of the date of the certification of costs;
3. Bonnie Flahr shall, within three months of the date of this Order, send a written notice to all school divisions and First Nation school authorities that employed her in the capacity of psychologist, advising them that she carried out diagnostic assessment work without having the legal authority to communicate diagnoses as required under section 23 of *The Psychologists Act, 1997*, and shall obtain the prior approval of the Saskatchewan College of Psychologists to the form of the written notice to be provided before sending it;
4. Bonnie Flahr shall, within one month of the date of this Order, publish a written and online notice in North Battleford that she did not have an Authorized Practice Endorsement, and shall obtain the prior approval of the Saskatchewan College of Psychologists to the form of the notice to be provided before publishing it;
5. in addition to any other penalties or consequences to which she may be liable, if Bonnie Flahr fails to comply with any of the provisions of paragraphs 2, 3 or 4, her licence to practice, if she has one, shall be suspended until she does so; and
6. the Discipline Committee's decision and Order shall be published on the website of the College.

Dated at Regina, Saskatchewan this 23rd day of October 2018.

SASKATCHEWAN COLLEGE OF PSYCHOLOGISTS,  
DISCIPLINE COMMITTEE



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Tom Robinson,  
Registered Doctoral Psychologist, Chair