

**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. Hynes, 2024 ONCRPO 1*

Date: January 9, 2024

File No.: C2021-12

BETWEEN:

College of Registered Psychotherapists and Registered Mental Health Therapists of
Ontario

- and -

Michael Hynes

PENALTY AND COSTS REASONS

Heard: December 8, 2023, by videoconference

Panel:

Sophie Martel (Chair)
Heidi Ahonen, RP
Carol Cowan-Levine, RP
Henry Pateman
Jeffrey Vincent

Appearances:

Ahmad Mozaffari, for the College
Jeinis Patel, for the Registrant

Introduction

- [1] For reasons reported at *College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario v. Hynes*, 2023 ONCRPO 8, we found that Michael Hynes, the registrant, engaged in professional misconduct. We concluded that the registrant committed sexual abuse, physically abused the client, failed to maintain clinical records, contravened standards of practice of the profession, engaged in disgraceful, dishonourable or unprofessional conduct, and engaged in conduct unbecoming a member of the profession. The sexual abuse included touching of a sexual nature of the client's genitals, breasts and buttocks.
- [2] These reasons address penalty and costs. The parties made a joint submission on penalty and costs, which we accepted. We ordered that the registrant be reprimanded, that his certificate of registration be revoked, that he reimburse the College for the client's therapy and counselling expenses up to \$7,000, and that he post security for this funding. Furthermore, we ordered costs of \$30,000. We delivered the reprimand immediately following the hearing.

Penalty and Costs

Penalty

- [3] The parties jointly proposed that the registrant be reprimanded, that his certificate of registration be revoked, that he reimburse the College for funding provided to the client for therapy and counselling up to a maximum of \$7,000 (provided under the program established by section 85.7 of the Health Professions Procedural Code, Schedule 2 to the *Regulated Health Professions Act*, SO 1991, c. 18), and that he post security for the funding in the amount of \$3,000.
- [4] To depart from a joint submission would require a finding that the proposed penalty would bring the administration of justice into disrepute or is otherwise not in the public interest, *R. v. Anthony-Cook*, 2016 SCC 43. A disciplinary body that rejects a joint submission on penalty must show why the proposed penalty is so unhinged from the circumstances of the case that it must be rejected: *Bradley v. Ontario College of Teachers*, 2021 ONSC 2303.
- [5] We are satisfied that the proposed penalty is not contrary to the public interest and achieves the relevant penalty goals.

- [6] Since the sexual abuse included touching of a sexual nature of the client's genitals, anus, breasts or buttocks, s. 51(5) of the *Regulated Health Professions Act* requires that the penalty include a reprimand and a revocation of the registrant's certificate of registration. The joint penalty proposal includes these mandatory penalty provisions. The revocation of the registrant's certificate of registration protects the public and deters other psychotherapists from engaging in this type of conduct.
- [7] Penalty terms regarding the client's therapy and counselling under s. 85.7 of the Code are discretionary provisions that a discipline committee may order. The client testified at the hearing on the merits of the misconduct allegations, and she read an impact statement at the penalty hearing. Her evidence and the victim statement outline the significant impact of the sexual abuse on her mental health and in her personal and professional life. It is reasonable to conclude that the client may require therapy and counselling. The proposed amounts for funding reimbursement and security reflect this reality as well as the registrant's own personal circumstances. The registrant has not practised psychotherapy since at least April 21, 2022. He provided testimony at the merits hearing regarding his financial circumstances, which included minimal income and depleted savings.

Costs

- [8] Similarly, the joint costs submission of \$30,000 appropriately reflects the complexity of these proceedings and the registrant's personal circumstances. While the parties entered into a partial Agreed Statement of Facts, it was necessary to hear evidence from the client and the registrant. The hearing on the merits was scheduled to occur over the course of four days although it was ultimately completed in three days. Another half day was required for the penalty hearing. The severity of the allegations, including those of sexual abuse, made it necessary for the College to expend resources to investigate the allegations and pursue a contested discipline hearing, in which it successfully proved the allegations. We see no reason to reject the joint costs submission.

Order

- [9] We ordered:
- a. The registrant is required to appear before a panel of the Discipline Committee to be reprimanded;

- b. The Registrar is directed to revoke the registrant's certificate of registration, effective immediately;
- c. The registrant is required to reimburse the College up to a maximum of \$7,000 for funding provided to the client under the program established by section 85.7 of the Health Professions Procedural Code;
- d. The registrant is required to post security acceptable to the College in the amount of \$3,000 to guarantee the payment of any amounts he may be required to reimburse the College under paragraph "c." of this Order within one month of the date of this Order; and,
- e. The registrant is required to pay the College costs in the amount of \$30,000.

Sophie Martel, chair, on
behalf of the panel