

ONTARIO REGISTERED PSYCHOTHERAPISTS DISCIPLINE TRIBUNAL

Citation: *College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario v. Becker*, 2024 ONRPDT 7

Date: May 31, 2024

File No.: 24-005-RP

BETWEEN:

College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario

College

- and -

Lindsay Becker

Registrant

FINDING AND PENALTY REASONS

Heard: In writing

Panel:

Sophie Martel (panel chair)

Kali Hewitt-Blackie (registered psychotherapist)

David Keast (public)

Michael Machan (registered psychotherapist)

Henry Pateman (public)

Appearances:

Justine Wong, for the College

Lindsay Becker, not present or represented

Introduction

[1] Lindsay Becker, the registrant, registered with the College of Registered Psychotherapists of Ontario (College) in April 2022 and resigned a year later. She was in the College's Qualifying class, which requires, among other things, that she practise with ongoing clinical supervision. She inappropriately identified herself as a registered psychotherapist rather than a registered psychotherapist (qualifying) on various platforms.

[2] Furthermore, while identifying herself as a registered psychotherapist, the registrant posted and shared information on social media platforms that discredited and attacked public health requirements regarding COVID-19 and the COVID-19 vaccine. She also shared information and posted comments that were transphobic, homophobic and racist in nature.

[3] The registrant did not participate in these proceedings despite having been properly notified. Given her non-participation, to make the process more efficient, the Discipline Committee held the hearing in writing under the *Hearings in Tribunal Proceedings (Temporary Measures Act), 2020*, SO 2020, c. 5, Sched. 3 and the Case Management Direction (CMD) dated January 22, 2024. The College presented its evidence by way of its Briefs of Documents and made submissions in writing. At the panel's request, the College provided clarifications and additional submissions in response to our CMD dated February 26, 2024.

[4] We conclude that the registrant committed professional misconduct by:

- contravening a standard of practice of the profession and published standards of the College;
- inappropriately using a term, title or designation in respect of the registrant's practice;
- contravening, by act or omission, a term, condition or limitation on the registrant's certification of registration;
- engaging in disgraceful, dishonourable or unprofessional conduct; and,
- engaging in conduct unbecoming a member of the profession.

[5] We considered the registrant's right to freedom of expression under s. 2(b) of the *Canadian Charter of Rights and Freedoms (Charter)*. We conclude that our findings of professional misconduct proportionately balance the College's statutory objectives with the registrant's expressive rights.

[6] The registrant did not participate in the College's investigation nor in the disciplinary proceedings despite many opportunities to do so. As a result, we find her to be ungovernable. We, therefore, revoke the registrant's certificate of registration.

Registrant's non-participation

[7] In September and November 2023, the College sent the Notice of Hearing to the registrant by email and mail at the registrant's addresses on file with the College. The College received confirmation of the mail delivery in November 2023. The College and its counsel also sent numerous other unanswered emails to the registrant seeking confirmation of delivery of the Notice of Hearing, sending her the disclosure documents, informing her about her right to independent legal advice, seeking her availability for a case management conference, and asking her to respond to proposed settlement documents.

[8] Despite being properly notified, the registrant did not attend the case management conference held on January 22, 2024. The CMD of January 22, 2024, stipulated that unless the registrant advised the Hearings Office no later than January 29, 2024, that she wished to have an oral (videoconference) hearing, this matter would be heard in writing pursuant to s. 3(1) of the *Hearings in Tribunal Proceedings (Temporary Measures) Act*. The CMD also advised the registrant that the case would be decided without her if she did not participate.

[9] The Hearings Office and College counsel sent the CMD to the registrant by email. In an email dated February 18, 2024, College counsel also notified the registrant of the penalty and costs order the College would be seeking if she was found to have engaged in professional misconduct, including revocation of her certificate of registration.

[10] The College confirmed that the registrant had repeatedly accessed the College's investigation disclosure through the registrant's TitanFile¹ communication platform account with the College.

[11] We are satisfied that the registrant received notice of the proceedings via email and mail. She did not attend the case management conference nor advise the College or the Hearings Office that she wished to have an oral (videoconference) hearing. Despite accessing the College's investigation disclosure, the registrant never responded to any communications from the College or the Hearings Office. In these circumstances, we proceeded in writing without the registrant's participation.

Inappropriate use of registered psychotherapist title

[12] The registrant registered with the College on or about April 5, 2022, and resigned from the College on or about April 13, 2023. During this time, she was in the College's Qualifying class. She never exited the Qualifying class to become a registered psychotherapist.

[13] Between November 2022 and March 2023, the registrant inappropriately identified herself as a "registered psychotherapist." She identified herself and offered her services as a registered psychotherapist on a website listed as her name together with the word "psychotherapy." She also identified herself as a "registered psychotherapist" on her public Twitter (now X) and GETTR accounts.

[14] Section 5 of Ontario Regulation 67/15 made under the *Psychotherapy Act, 2007*, SO 2007, c. 10, Sched. R states that a registrant:

shall only use titles and abbreviations of titles respecting psychotherapy in accordance with the following rules: A [registrant] who holds a Qualifying certificate registration may only use one or more of the titles "Registered Psychotherapist (Qualifying)..." and may only use the abbreviation "RP (Qualifying)."

[15] Standard 1.2 of the Professional Practice Standards also sets out the titles that registrants are to use in accordance with their registration class. The title associated

¹ A platform used by the College for sharing confidential information.

with the Qualifying class is “Registered Psychotherapist (Qualifying)” or “RP (Qualifying).”² The Standard further states that the use of false or misleading titles or designations may lead to disciplinary action.

[16] Furthermore, s. 1 of the Professional Misconduct Regulation, O. Reg. 317/12, made under the *Psychotherapy Act* includes the following among the listed acts of professional misconduct:

- Paragraph 33: Inappropriately using a term, title or designation in respect of the member’s practice.
- Paragraph 44: Contravening, by act or omission, a term, condition or limitation on the member’s certificate of registration.

[17] By inappropriately identifying herself as a registered psychotherapist when she was in the Qualifying class, the registrant contravened paragraphs 33 and 44 of the Professional Misconduct Regulation in addition to Standard 1.2.

COVID-19 posts and comments on Twitter

Registrant’s communications

[18] As noted earlier, the registrant was active on some social media platforms including Twitter, where she inappropriately identified herself as a registered psychotherapist on her publicly accessible profile page.

[19] From around September 2022 to March 2023, the registrant posted comments and shared information online that disregarded and attacked public health requirements regarding COVID-19 and the COVID-19 vaccine. She denied the existence of COVID-19, attacked testing and masking mandates, and made many comments against vaccination, which she often referred to as the “jab.” We outline some examples of these comments, which at times also included references to the registrant’s clients and her work as a “psychotherapist.” All typographical errors are in the original.

² Or its equivalent French titles.

- She denied the existence of COVID-19, posting, “Covid never even existed. Stop making up lies and murdering.”
- In response to a post stating that COVID-19 tests gave an up to 97% false positive rate, she wrote, “Yeah anyone who does a [COVID-19] test is a moron!”
- With respect to teenagers masking, she posted, “Groomed by the government and already slaves.”
- She shared a post, which stated that it was horrific for the College of Physicians and Surgeons of Ontario to allegedly tell doctors to prescribe drugs or refer patients to a psychiatrist if they do not want the vaccine, which was another reason for lowered trust in the health care system. She then commented, “Hahaha let’s hope they all come to me for their psychotherapy (laughing emoji).”
- In respect of her young clients, she posted, “According to my pre teen clients they don’t even want the jabs, they think it’s stupid for something that is like a cold. These parents need to be held accountable.”
- Also, in respect of her young clients, she posted, “Yea so wild. All my youth clients are jabbed. Happy I only do in person once a week.”
- Responding to a tweeter stating that COVID-19 had destroyed her child’s immune system, she wrote, “If you’re jabbed they’re probably getting sick off of you. It’s called shedding.”
- In another post about her vaccinated clients shedding, she wrote, “Just can’t get away from these shedders, my 11 year old client today was freshly juiced. Ottawa is a messed up place.”
- In response to an Ontario Ministry of Health post advertising COVID-19 vaccine booster shots, she wrote, “Ontario still pushing it. Get the body bags.”
- In another post about the perils of vaccination, she wrote: “If you’re jabbed you won’t be around that long...”

- In response to a tweeter who indicated he would never take the vaccine and that he would have to be killed first, she wrote, “Same same. Come get me fuckers. I have much better place awaiting anyways.”

Disgraceful, dishonourable or unprofessional conduct and conduct unbecoming

[20] The Professional Misconduct Regulation includes the following among the listed acts of professional misconduct:

- Paragraph 52: Engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.
- Paragraph 53: Engaging in conduct that would reasonably be regarded by members as conduct unbecoming a member of the profession.

[21] The General Conduct Standard, Standard 1.5 of the Professional Practice Standards, also addresses disgraceful, dishonourable or unprofessional conduct and conduct unbecoming a member of the profession. It states that disgraceful, dishonourable or unprofessional conduct is conduct that has not been foreseen by specific definitions of professional misconduct articulated by the College. It captures behaviour that goes beyond legitimate professional discretion or errors in judgement. Conduct unbecoming a member of the profession generally refers to actions outside the practice of psychotherapy. Such actions are ones that reflect poorly on the registrant’s integrity and the profession as a whole.

[22] During the relevant time, the College regularly posted COVID-19 related information on its website, including a COVID-19 FAQ for registrants and links to provincial and federal government notices and resources. These resources communicated how COVID-19 is spread, the need for infection prevention and control measures such as masking and social distancing, and the safety and effectiveness of vaccines. The posted information included hyperlinks to the various governmental emergency orders and public health notices.

[23] Included in the information posted on its FAQ page were the following two questions and responses:

Can CRPO registrants advise clients about COVID-19 vaccines?

It is important to note that providing advice or specific recommendations to clients about medications, including vaccines, is not within an RP's scope of practice. If a client wanted to explore the topic of whether or not to vaccinate or what type of vaccination to obtain during a session, an RP would need to consider referring the client to their nurse practitioner, family physician or other qualified professional for advice (See Standard 1.9).

An RP might be personally opposed to vaccination. In all situations, CRPO Standards require RPs to ensure their influence does not affect the personal decision-making of a client. In other words, RPs may not use their position to promote personal opinions or causes with clients.

Is it acceptable for RPs who are opposed to vaccines, vaccine mandates or vaccine passports to make public statements or post on social media about their opposition?

An RP might be personally opposed to vaccination or particular public health measures. People are free to express themselves politically. However, if an RP is actively spreading misinformation, especially while referring to their psychotherapy credentials or expertise, contravening legally required public health measures, or if they are involved in violence or harassment at a protest, they run the risk of contravening CRPO's General Conduct Standard.

[24] The College's FAQ answer on psychotherapists advising about vaccinations reflects the fact that vaccination is a controlled act (under paragraph 5 of s. 27 (2) of the *Regulated Health Professions Act, 1991*, SO 1991, c. 18 and is not within the scope of practice of psychotherapy as per the *Psychotherapy Act*. Sections 3 and 4 of the *Psychotherapy Act* outline the scope of practice of the practice of psychotherapy and the authorized controlled act that registrants can engage in:

Scope of practice

3 The practice of psychotherapy is the assessment and treatment of cognitive, emotional or behavioural disturbances by psychotherapeutic means, delivered through a therapeutic

relationship based primarily on verbal or non-verbal communication.

Authorized Act

4 In the course of engaging in the practice of psychotherapy, a member is authorized, subject to terms, conditions and limitations imposed on [their] certificate of registration, to treat, by means of psychotherapy technique delivered through a therapeutic relationship, an individual's serious disorder of thought, cognition, mood, emotional regulation, perception or memory that may seriously impair the individual's judgment, insight, behaviour, communication or social functioning.

[25] We note that the College does not need to prove the existence of the pandemic and the safety of COVID-19 vaccines. In *J.N. v. C.V.*, 2023 ONCA 77, the Ontario Court of Appeal held that judicial notice can be taken of the safety and efficacy of vaccines and other related public health claims absent contrary expert evidence. The registrant, who did not participate in these proceedings, presented no defence nor any contrary evidence on these matters.

[26] In our view, the above information supports the College's expectations that a registrant's communications do not give information or advice about controlled acts that cannot be carried out by psychotherapists, be professional rather than harassing in nature, not actively spread misinformation, and not contravene legally required public health measures. As regulated health professionals, registrants must not abuse the trust placed in them by the public by posting inflammatory and misleading information.

Application of the Charter

[27] The registrant did not participate in these proceedings and did not raise her *Charter* rights in this hearing. Nevertheless, the College agrees that as an administrative tribunal, the Panel's exercise of discretion should consider the registrant's *Charter* rights, as held in *Lauzon v. Ontario (Justices of the Peace Review Council)*, 2023 ONCA 425 at para. 140, which stated:

It is axiomatic that '[a]ll law and law-makers that touch the people must conform to' the *Charter*. The Charter applies in assessing the constitutional validity of both laws and of decisions made by

officials and statutory tribunal discharging statutory mandates, including the Hearing Panel.

[28] We are of the view that we should consider the registrant's *Charter* rights in this context where a finding of professional misconduct arising out of the registrant's communications clearly impacts her right to freedom of expression under section 2(b) of the *Charter*.

[29] The Supreme Court of Canada has set out the proportionality analysis that is required in balancing the *Charter* protection to ensure that they are limited no more than is necessary given the applicable statutory objectives at issue: *Doré v. Barreau du Québec*, 2012 SCC 12 and *Loyola High School v. Quebec (Attorney General)*, 2015 SCC 12.

Freedom of expression

[30] Freedom of expression is an important right in a democratic society. In *R. v. Zundel*, 1992 CanLII 75 at p. 752, the Court described the purpose of this *Charter* right:

The purpose of the guarantee is to permit free expression to the end of promoting truth, political or social participation, and self-fulfilment. That purpose extends to the protection of minority beliefs which the majority regard as wrong or false: *Irwin Toy, supra*, at p. 968. Tests of free expression frequently involve a contest between the majoritarian view of what is true or right and an unpopular minority view.

[31] Even the deliberate publication of falsehoods is protected by the s.2(b) right, as stated in *Zundel* at p. 758:

Applying the broad, purposive interpretation of the freedom of expression guaranteed by s. 2(b) hitherto adhered to by this Court, I cannot accede to the argument that those who deliberately publish falsehoods are for that reason alone precluded from claiming the benefit of the constitutional guarantees of free speech. I would rather hold that such speech is protected by s. 2(b), leaving arguments relating to its value in relation to its prejudicial effect to be dealt with under s. 1.

[32] The registrant's right to express her views on COVID-19 and to make disparaging remarks relating to gender, sexuality and ethnicity is protected by the *Charter*, however distasteful, wrong, or hateful others may find those views. A finding of professional

misconduct affects her right to freedom of expression. The impact on this fundamental right must be considered in deciding whether a finding of professional misconduct arising out of her expressive activity is justified.

Statutory objectives

[33] The College is entrusted with regulating the psychotherapy profession in the public interest. The Supreme Court of Canada discussed the importance of this responsibility in the context of another publicly regulated health profession, the pharmaceutical field in *Pharmascience Inc. v. Binet*, 2006 SCC 48 at para. 36:

The general public's lack of knowledge of the pharmaceutical field and high level of dependence on the advice of competent professionals means that pharmacists are another profession in which the public places great trust. I have no hesitation in applying the comments I wrote for this Court in *Finney*, at para 16, generally to the health field to emphasize the importance of the obligations imposed by the state on the professional orders that are responsible for overseeing the competence and honesty of their members:

The primary objective of those orders is not to provide services to their member or represent their collective interests. They are created to protect the public, as s. 23 of the *Professional Code* makes clear...

The privilege of professional self-regulation therefore places the individuals responsible for enforcing professional discipline under an onerous obligation. The delegation of powers by the state comes with the responsibility for providing adequate protection for the public. *Finney* confirms the importance of properly discharging this obligation and the seriousness of the consequences of failing to do so.

[34] In *College of Physicians and Surgeons of Ontario v. Trozzi*, 2023 ONPSDT 22, a decision that considered misleading COVID-19 communications by a physician, the panel relied on *Binet* and highlighted the context in which the allegations of professional misconduct arose - during a public health emergency caused by a global pandemic. It held at para. 78:

In upholding the College's overriding duty to regulate the profession in the public interest, a finding of professional misconduct based on the member's communications to the public

about COVID-19 furthers at least two important statutory objectives:

- protecting the public interest in the context of the pandemic, by preventing the spread of harmful misinformation;
- maintaining the integrity and reputation of the profession and promoting trust in the profession by rejecting unprofessional and uncivil discourse.

[35] The panel also noted that an important consideration in cases about professional communications in the health care field, “is the inherent vulnerability of patients with respect to health professionals” (at para. 81). The panel concluded that the objective of preventing the spread of misleading information is even more compelling when the misinformation is about public health measures during a pandemic and contributes to real harm to the public’s health.

Findings

[36] In our view, the registrant’s Twitter communications were disgraceful, dishonourable or unprofessional. To the extent that some of them were not made in respect of the registrant’s practice of psychotherapy, they also constitute conduct unbecoming. We arrive at this conclusion after having balanced the College’s statutory objectives with the registrant’s expressive rights. We conclude that a finding of misconduct in respect of the registrant’s misleading COVID-19 and COVID-19 vaccination posts furthers the two objectives outlined in *Trozzi*.

[37] Firstly, it lets the registrant and other registrants know that spreading harmful, non-scientific and misleading information during a public health crisis or shortly thereafter in its aftermath is not condoned. The College’s online resource materials, which it continues to update and maintain relating to COVID-19, set out the registrants’ responsibilities to act in ways that promote the health and well-being of the public.

[38] Secondly, a finding of professional misconduct furthers the objective of promoting trust in the profession considering the inherent vulnerability of patients, clients and the general public with respect to health professionals. For this reason, it is important that registrants maintain their professionalism in their communications by providing verifiable

information within their scope of practice rather than being irresponsible by providing misleading information outside their scope of practice.

[39] As noted earlier, the registrant identified herself as a registered psychotherapist on the profile page of her publicly accessible Twitter account. Furthermore, some of her posts specifically referred to her clients and to her work as a registered psychotherapist. The comments were not only outside the scope of a psychotherapist's practice, but they were also contrary to public health notices and orders. The registrant communicated that the pandemic did not exist, that testing and masking were not effective, that COVID-19 vaccines (which she referred to as the "jab") were dangerous, and that those who obtained the vaccine were shedders. Her communications were problematic not only in respect of their content but also in their use of inflammatory terms, which included the words "fuckers," "slaves," "body bags," "moron," "murdering," and the "jab."

[40] While we accept that there can be reasonable differences of opinion during a time of crisis, communications made in a deliberately inflammatory manner, which also reference the writer's credentials as a regulated health professional, undermine public health measures during a pandemic.

[41] We note and rely on a similar finding made by the College of Homeopaths in *College of Homeopaths of Ontario v. Kooner*, 2022. In that case, the registrant had advertised his services for the "treatment and prevention of COVID-19," also stating that "vaccines for COVID-19 are one of the number one killers." Furthermore, the registrant disregarded the College's request that he remove his advertisement. In finding that the registrant's conduct was disgraceful, dishonourable, unprofessional and unbecoming, the discipline panel stated (at p. 13):

The registrant intentionally posted the Sign, which is contrary to the Standards and played on the fears of his patients and the general public during an unprecedented global pandemic. Posting the Sign reflected badly on the entire profession. As regulated professionals, homeopaths have an obligation to ensure their communications with the public and patients are within scope, are verifiable and not contrary to standards. The Panel finds that by deliberately posting this misinformation, the registrant abused his power as a regulated health professional, in whom the public places their trust. Providing false and misleading information regarding vaccines to patients and the public, a topic that he is explicitly not permitted to discuss with patients in any event, demonstrates a disregard for the welfare and safety of such individuals. The registrant demonstrated no insight into why the

Sign was problematic. Even when he was contacted by the College and was requested to remove it, he refused. The Panel was particularly concerned that as a member of the College's Council, the registrant should have known better and had an enhanced duty to comply with the requirements of the College and to represent the profession.

Paragraph 28

[42] The College also submits that the registrant's COVID-19 communications were contrary to paragraph 28 of s. 1 of the Professional Misconduct Regulation, which provides that it is professional misconduct to, "[make] a claim about a therapeutic approach, modality, remedy, treatment, device or procedure other than a claim that can be supported as reasonable professional opinion."

[43] The College's submission in this respect was one of the matters on which we requested additional submissions. In particular, we asked the College if paragraph 28 applies to a claim that is outside the scope of practice of registered psychotherapy. The College submits that paragraph 28 would apply to a claim outside the scope of practice of registered psychotherapists but acknowledges that it had found no jurisprudence in respect of paragraph 28. The College submits that the registrant had relied on non-governmental and non-official health sources, such as rumble.com,³ in her claims that COVID-19 was a hoax and that COVID-19 vaccinations were harmful. It submits that such claims were contrary to paragraph 28.

[44] The College was not able to direct us to any case law on paragraph 28 and we did not have the benefit of fulsome submissions from two participating parties on this issue. In these circumstances and noting our findings that the conduct is disgraceful, dishonourable, unprofessional and unbecoming, we do not feel it necessary to also determine whether the registrant's Twitter posts contravene paragraph 28 of the Professional Misconduct Regulation.

³ Rumble.com is an online video-sharing and social media platform.

Transphobic, homophobic and racist posts

Registrant's communications

[45] On her Twitter account, the registrant also posted comments and shared information that the College submits is transphobic, homophobic and racist in nature.

[46] We set out some examples:

a. Alleged transphobic posts

- In response to a tweet equating support for Justin Trudeau to being a pedophile, the registrant posted, "Pedophile, lizard, alien, trans freak."
- In response to a news article stating that an Irish teacher had been imprisoned for refusing to use a student's "they/them" pronouns, the registrant posted, "This would have been my future staying in teaching."
- The registrant retweeted a post stating, "These are not equal. And I'm not apologizing to anyone, ever, over it." The posts showed a photograph of a woman breastfeeding juxtaposed with a photograph of a transgender woman.
- On gender identity, the registrant posted, "If this gender identity bs happened when I grew up, we would get a kicking and be told to grow up."
- She retweeted a post stating, "Marriage can only be between a man + woman.... There are only two genders – man and woman. People who think that they can change their sex should be locked up in an insane asylum."
- She retweeted a post stating, "There's not a 'wide variety of genders' there's 2 genders and a wide variety of mental disorders."
- In response to a post asking what to do if you pull up to the school and your child's teacher is wearing a "Protect Trans Kid" shirt, the registrant responded, "Homeschool."

b. Alleged homophobic posts

- Regarding a therapy session with a client, the registrant posted, “Was just midway through a therapy session and googling “demi lesbian” and some other crazy term (laughing emoji) oh boy! Not much surprises me anymore.”
 - The registrant retweeted a post stating, “Gay guys are so annoying even gay guys don’t like gay guys.” The same user also posted the following reply, “We need to stop all gay guys until we figure out what’s going on.”
- c. Alleged racist posts
- In response to a post stating that her husband thought it terrible that she kissed her dog on the head, the registrant replied, “He must be A Muslim.”
 - In response to a post stating, “Hey white people stop apologizing for being white... there’s no other race that is apologizing for being who they are at this point.” The registrant replied, “I’ve never apologized for being white.”

[47] We agree with the College that the above posts make disparaging and scornful comments about gender, sexuality and ethnicity.

[48] The College also alleges that the registrant posted comments that were xenophobic. Given the multitude of other disparaging comments made by the registrant that were either transphobic, homophobic, or racist, we have not felt it necessary to address the alleged xenophobic posts.

Standard of Conduct

[49] As noted earlier, Standard 1.5 sets out the College’s expectations regarding registrants’ general conduct. It states that registrants must refrain from conduct that would reasonably be regarded by registrants as disgraceful, dishonourable, unprofessional or unbecoming a registrant of the profession. It also states that a registrant demonstrates compliance with the standard by, among others, practising the profession with integrity and professionalism and considering the impact of their actions on the profession as a whole.

[50] The College submits that the above transphobic, homophobic and racist tweets are contrary to the standards of the profession and to Standard 1.5. It further submits

that an expert witness is not required to prove this submission because the conduct is so notorious that it is well known that such comments would contravene the standards of the profession. The College relies on *Ontario College of Teachers v. Kaprusiak*, 2022 ONOCT 28 at para. 57, where the College of Teachers, relying on the Ontario Divisional Court case of *Novick v. Ontario College of Teachers*, 2016 ONSC 508, concluded that expert evidence was not required to prove that the standards of the profession were breached. It found that a reasonable person would consider conduct that included directing racial slurs towards public members or making disparaging comments about their ethnicity or sexual orientation was clearly at odds with the expected behaviour of a teachers.

[51] The College further submits that transphobic, homophobic and racist remarks are of particular concern in this profession, given that psychotherapy is defined as the assessment and treatment of cognitive, emotional or behaviour disturbances by psychotherapeutic means, delivered through a therapeutic relationship based primarily on verbal or non-verbal communication.

Findings

[52] In our view, the registrant's transphobic, homophobic and racist communications are contrary to the general standards of the profession, are contrary to Standard 1.5, are disgraceful, dishonourable or unprofessional and, are conduct unbecoming. We arrive at this conclusion after having balanced the College's statutory objectives with the registrant's freedom of expression.

[53] Registrants, as with all regulated health professionals, should ensure that they are promoting a safe, supporting and welcoming environment to all members of the public. Regulated health professionals, including the registrant, should not make comments that are discriminatory against potential or actual clients. Rather, as stated in Standard 1.5, a registrant demonstrates compliance with the general conduct standard by practising the profession with integrity and professionalism and considering the impact of their actions on the profession as a whole.

[54] Given, among other things, the nature of the practice of psychotherapy and the importance of communications in the therapeutic relationship, it is essential that registrants use language that conveys respect for the dignity of all persons. Making disparaging comments about gender, sexuality and ethnicity of the public, as the College

submits, is behaviour that reflects poorly on the registrant's integrity, professionalism and competence, particularly as a professional who treats mental health and emotional issues. Degrading, demeaning, and unprofessional communications can undermine public trust in the profession and the College's ability to regulate it.

[55] Such communications also raise questions about the registrant's ability to carry out her responsibilities as a registered psychotherapist. For example, a racialized member of the public may not feel welcome or safe attending her office. Clients may not feel safe discussing sexuality and gender identification concerns when the registrant has publicly made demeaning comments about some sexual orientations. As noted earlier, in at least one communication, the registrant publicly ridiculed an expression ("demi lesbian") used by one of her clients during a therapy session. How does this client feel and react if reading such a post after a session? While this communication raises confidentiality concerns in addition to discriminatory ones, the College did not raise any confidentiality issues. We are, therefore, not addressing the potential confidentiality breach of the client's statement.

[56] As with our earlier comments relating to the registrant's COVID-19 posts, an important statutory objective is to maintain the integrity and reputation of the profession and promote trust in the profession by rejecting unprofessional and uncivil discourse. While recognizing the importance of the registrant's freedom of expression, we are satisfied that a finding of professional misconduct is a proportionate response to the impact on her freedom of expression.

Penalty

[57] Having made findings of professional misconduct, we now turn to the appropriate penalty. The College submits that the registrant is ungovernable such that her certificate of registration should be revoked. But for a finding of ungovernability, the College submits that an appropriate penalty would be a reprimand, a suspension of five months, and the imposition of terms, conditions and limitations on her certificate of registration relating to the successful completion of various courses.

[58] The proven misconduct was serious. The registrant inappropriately publicly identified herself as a registered psychotherapist when she was in the Qualifying class. She also made misleading and inflammatory posts about COVID-19 and posted or retweeted comments that were transphobic, homophobic and racist. Nevertheless, the

registrant was a new member of the profession such that she was likely inexperienced. Rehabilitation may have been possible. Her lack of engagement in the process, however, has made that impossible.

[59] The registrant did not participate in the investigation and disciplinary process:

- She did not respond to any of the College's correspondence, including its requests for a response to the investigation documentation.
- She did not respond to any of the correspondence sent by College counsel relating to the disciplinary process.
- She did not respond to the Hearings Office for available dates.
- She did not attend the case management conference.
- She did not participate in the discipline hearing.

[60] The registrant was clearly aware of the allegations against her since she repeatedly accessed the College's disclosure of its investigation documents. However, despite multiple letters sent to her by email and post, the registrant never responded to the College, its counsel, or the Hearings Office. She was also put on notice that if she did not attend the hearing and if findings of professional misconduct were made against her, the College would seek revocation of her certificate of registration.

[61] The primary purpose of the College and of a penalty order is the protection of the public. A penalty order must demonstrate to the public that the profession can and will address misconduct appropriately and that it can regulate its registrants effectively. The registrant's failure to respond to her regulator demonstrates that she is not willing to be governed by the College's rules, which are put in place to protect the public, particularly those who seek registered psychotherapy services from registrants.

[62] In this case, the registrant's failure to participate was repetitive in nature. This is not a case of a registrant participating at some points in the process and not at others. On the contrary, she repeatedly failed to participate at all stages of the investigation and discipline process despite evidence that she was clearly aware of the allegations against her. She never tendered or even alluded to any possible mitigating factors or other evidence that may explain the misconduct and her failure to participate. Her failure to

cooperate or to engage the College or its counsel suggests that the likelihood of future misconduct is high absent revocation.

[63] Ungovernability in the context of a regulated health professional has been defined as a “pattern of conduct that demonstrates that the member is unprepared to recognize his or her professional obligations and the regulator’s role.” It does not just relate to a prior disciplinary record but occurs, “when the member’s present attitude to his or her governing body makes it clear that the member is unlikely to cooperate with the College in the future.” (*College of Physicians and Surgeons of Ontario v. Sweet*, 2017 ONCPSD 40 at p. 17).

[64] Recently, in *College of Registered Psychotherapists v. Kravetsky*, 2023 ONCRPO 3, a panel considered the appropriate penalty in a case where the registrant failed to provide adequate service, repeatedly sent inappropriate and threatening communications to his client, failed to maintain records and ignored repeated requests from his client for a copy of his therapy file. He had not participated in the investigation and prosecution of the complaint against him. The panel noted, at para. 53, that while the registrant’s conduct during the investigation and disciplinary processes was not the subject of a separate allegation of misconduct, it was important evidence in the consideration of a penalty that will adequately protect the public, maintain confidence in the profession and the College’s ability to govern the profession in the public interest. The panel found that the registrant had refused to accept the authority of his regulator such that he was ungovernable. Given his non-participation, but for the absence of a prior discipline history, there was no evidence of any mitigating circumstances.

[65] We arrive at the same conclusion in this case. The registrant is ungovernable. We order the revocation of her certificate of registration.

[66] In the event of revocation, the College did not request that we also order a reprimand. Given the registrant’s lack of participation in this proceeding, in our view, a reprimand would not serve any useful purpose to supplement the revocation order.

Costs

[67] We accept the College's submission and order costs of \$6,055, which is commensurate with Tariff A to the Discipline Committee Rules of Procedure, regarding the costs and expenses of a day of hearing.