

**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. Saxton*, 2024 ONCRPO 6

Date: May 14, 2024

File No.: 24-004-RP

BETWEEN:

College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario

College

- and -

Christopher Saxton

Registrant

FINDING AND PENALTY REASONS

Heard: April 17, 2024, by videoconference

Panel:

Shayne Kert (Chair)

Sherine Fahmy (public)

Michael Machan (registered psychotherapist)

David Keast (public)

Radhika Sundar (registered psychotherapist)

Appearances:

Justine Wong, for the College

Christopher Saxton, self-represented

Introduction

[1] As the regulator for registered psychotherapists in Ontario, the CRPO is responsible for ensuring that its registrants provide quality care to the public on an ongoing basis. To that end, the College's Quality Assurance Program (QAP) requires registrants to maintain and enhance their knowledge and skills on a regular basis. Members must participate fully in all mandatory aspects of the College's QAP, which assists in ensuring that registrants practise safely, effectively, and competently.

[2] Mr. Saxton, the registrant, did not comply with two aspects of the College's QAP, and he failed to respond to multiple inquiries from the College's Quality Assurance Team (the Team) seeking to bring him into compliance. At the hearing before us, he admitted this misconduct. The parties jointly submitted that the penalty should be a four-month suspension with the possibility of a two-month remission, a reprimand, and a term requiring that Mr. Saxton respond within 15 days to any College communication requiring a response.

[3] Our role in assessing a joint penalty submission is limited. Unless the panel finds that imposing the proposed penalty would bring the College's system of professional regulation into disrepute, the joint submission should be accepted. Applying that test, we accepted the joint submission on penalty. We also ordered the registrant to pay costs to the College of \$3,027.50, as agreed by the parties.

Misconduct

[4] The facts of the misconduct are straightforward. As part of the College's QAP, all registrants are responsible for completing and reporting their professional development activities to the College every two years. This is necessary to ensure that registrants maintain the knowledge, skill and judgement required to practise the profession. As such, failure to comply fully with all mandatory aspects of the College's QAP amounts to misconduct.

[5] In mid-November 2021, the College wrote to Mr. Saxton informing him that he was due to report his professional development requirements for the reporting cycle starting December 1, 2019, and ending December 31, 2021. The letter advised Mr. Saxton that, using his CRPO user account, by no later than January 15, 2022, he was required to: i) complete and submit a self-assessment; and ii) submit an attestation form

reporting whether he had completed the professional development requirements during the reporting cycle.

[6] Mr. Saxton did not submit his self-assessment or his attestation form by the first deadline. In February, March, May, and July 2022, the Team e-mailed Mr. Saxton reminding him of his outstanding QAP requirements. In an e-mail dated October 28, 2022, the College again reminded Mr. Saxton of his professional obligations as a registrant of the CRPO, including the obligation to participate fully in the QAP. Between November 15, 2021 and October 28, 2022, Mr. Saxton did not respond to any of the Team's communications addressing the two outstanding QAP requirements.

[7] The Professional Misconduct Regulation, O. Reg. 317/12 made under the *Psychotherapy Act, 2007*, SO 2007, c. 10, Sched. R, includes the following among the listed acts of professional misconduct:

- Contravening a standard of practice of the profession (in this case, the standard requiring registrants to accept the authority of the College).
- Contravening a provision of the *Psychotherapy Act*, the *Regulated Health Professions Act, 1991* or the regulations under either of those Acts (in this case, the Quality Assurance Program Regulation requiring that upon request, members must provide accurate information about their self-assessment and professional development activities).
- Failing to reply appropriately and within 30 days to a written inquiry or request from the College.
- Engaging in conduct that would reasonably be regarded by [registrants] as conduct unbecoming a member of the profession.

[8] The College, other members of the profession and the public justifiably expect that registrants will follow the obligations imposed on them by their regulator. Mr. Saxton had ample time to comply with the Team's request for disclosure of his self-assessment and professional development information, and to respond to the Team's repeated reminders to complete his QAP requirements, but he did neither over a period of more than 11 months. By failing to do so, Mr. Saxton engaged in acts that fall under the

categories of professional misconduct outlined above. We therefore found misconduct as alleged and admitted.

Penalty and Costs

[9] As this was a joint submission on penalty, the “undeniably high threshold” of the public interest test established by the Supreme Court of Canada in *R. v. Anthony-Cook*, 2016 SCC 43 applies: *Bradley v. Ontario College of Teachers*, 2021 ONSC 2303 at para. 11; *Ontario College of Teachers v. Merolle*, 2023 ONSC 3453.

[10] While joint positions are not immutable, the public interest test requires that the College and the registrant’s agreement on penalty should be accepted unless the proposed penalty is so “unhinged from the circumstances” of the case that implementing it would bring the administration of the College’s professional discipline system into disrepute: *Bradley* at para. 14; *Anthony-Cook* at para. 34. The question for the panel is not whether the joint position results in a fit penalty. Instead, “[t]here must be something completely unacceptable, unusual or unconscionable [about a joint submission] to reject it”: *College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario v. Muscat*, 2023 ONCRPO 5 at para. 14.

[11] We are satisfied that the proposed resolution – a reprimand, a term requiring that Mr. Saxton respond within 15 days to all College communications that require a response, and a four-month suspension with two months remitted if Mr. Saxton complies with the recommended term for the balance of the calendar year – is not contrary to the public interest and achieves the relevant penalty goals in this case. We reached this conclusion for several reasons.

[12] First, the proposed penalty underlines the importance of registrants accepting the authority of the College. To ensure effective self-governance, each member of a regulated profession must respond to their regulator and participate fully in all mandatory professional development. Mr. Saxton’s failure to complete his obligations under the QAP and respond appropriately and within a reasonable time (30 days) to the inquiries of the Team demonstrated a disregard for his professional obligations, which undermines public confidence in the College’s ability to regulate the profession and protect the public.

[13] Second, while every discipline case involves somewhat different facts and/or variations in the aggravating and mitigating circumstances, the penalty proposed falls

within a reasonable range of penalties imposed in matters dealing with broadly similar types of misconduct. Specifically, each of the cases provided to us by the College involved a joint submission on penalty where the registrant failed to comply with obligations imposed by their regulator.

[14] In *College of Massage Therapists of Ontario v. Demore*, 2022 ONCMTO 7, the registrant failed to comply with a decision of the ICRC requiring completion of a Specified Continuing Education or Remediation Program (SCERP) and failed to respond to calls and e-mails from the College about the decision over a two-year period. The panel followed the joint submission and ordered a reprimand and a two-month suspension. In *College of Dental Hygienists of Ontario v. Aarons*, 2018 ONCDHO 6, the registrant's failure to comply with an order of the ICRC to complete a SCERP also resulted in a two-month suspension and a reprimand. In both *College of Massage Therapists of Ontario v. Cumberbatch*, 2022 ONCMTO 8 and *College of Opticians of Ontario v. Truong*, 2021, unpublished, the penalties included a four-month suspension and a reprimand where the registrants failed to comply with an order from the ICRC (including a SCERP requirement), having earlier also failed to comply with their QAP requirements. In *Truong*, as in the case before us, two months of the four-month suspension would be remitted if the registrant complied with specified terms and conditions.

[15] Third, the parties' joint submission takes into account important mitigating considerations. Mr. Saxton cooperated with the College in the presentation of this hearing. He admitted the College's allegations, signed an agreed statement of facts with respect to liability and made a joint submission on penalty and costs, all of which significantly shortened the discipline proceeding.

[16] Fourth, the suggested penalty achieves the goals of specific deterrence, remediation and rehabilitation. Mr. Saxton has acknowledged the inappropriateness of his actions and admitted his misconduct. His co-operation with the College through the discipline process suggests his willingness to accept and comply with the regulatory authority of the College going forward. The requirement that he respond to any College communications within 15 days of receipt will reinforce the necessity of responding promptly to his regulator.

[17] Finally, the proposed penalty addresses the goal of general deterrence by reinforcing that the College takes seriously the obligation of every registrant to respond

to their regulator and participate fully in the requisite QAP. It reminds all registrants that the privilege of practising as a member of the profession comes with its obligations and responsibilities not only toward their clients, but also toward the regulator, and that the College will take steps to address the misconduct where they fail to comply with those obligations.

[18] Balancing the relevant factors and considering the caselaw, we find that the proposed penalty is appropriate and not contrary to the stringent public interest test. The costs proposed are also reasonable and in accordance with Tariff A in the Discipline Committee's Rules of Procedure.

Order

[19] At the conclusion of the hearing, we ordered the penalty and costs jointly recommended by the College and the registrant, including: i) a reprimand that was administered at the conclusion of the hearing; ii) a term requiring that between the date of the order and December 31, 2024, Mr. Saxton respond within 15 days to all College communications requiring a response; iii) a four-month suspension with the first two months to commence one month from the date of the order and the latter two months to be remitted on December 31, 2024, if Mr. Saxton complies fully with the term outlined above, failing which the remaining two-month suspension will start on January 1, 2025; and iv) costs of \$3,027.50 to be paid in five monthly installments. The full text of the order is available on the College Public Register.