

Discipline Hearing Summary

Hearing Date: January 12, 2004

Member: Freda Seddon, R.M. (Registration #1043)

The College received a mandatory report from the member's practice in compliance with Section 85.5 of the *Health Professions Procedural Code*.

The Executive Committee appointed an investigator and, as a result of the information gathered during the investigation, the Executive Committee referred the member to Discipline for allegations of professional misconduct.

The Member entered a plea of guilty to breaching the standards of practice and disgraceful, dishonourable and unprofessional conduct with respect to her actions in circumstances concerning eight of the ten clients identified in the Notice of Hearing. She also pleaded guilty to one of the allegations concerning second attendants and one of the allegations concerning medication.

The facts as agreed to by the College and the Member in the Agreed Statements of Facts were as follows:

1. The Member did not stop performing a vaginal examination of client A during labour despite the client asking her to stop.
2. The Member failed to call emergency medical services for client B who was delivering a breech baby at home.
3. The Member failed to call the second midwife to return to the home of client C in time for the birth.
4. The Member failed to identify late entries properly in client D's chart. The Member failed to request a consultation regarding a recto-vaginal fistula that occurred at the home birth of client E and attempted to repair it herself.
5. The Member's conduct was unacceptable in relation to her provision of information to client E regarding the recto-vaginal fistula that the client suffered.
6. The Member failed to assess, or arrange for the appropriate caregiver to assess client E and her baby until 6 days postpartum.
7. The Member failed to provide proper breastfeeding support for client E.
8. The Member did not initiate a pediatric consultation in a timely manner for the baby of client F who had not regained its birth weight by 3 weeks postpartum.
9. The Member attempted a manual removal of the placenta of client G at the client's home.
10. The Member's conduct towards and comments to client H were inappropriate.
11. The Member failed to obtain approval of Temporary Alternate Practice Arrangements relating to a second attendant prior to her beginning to act as a second birth attendant.
12. The Member made inappropriate comments regarding the amount of medication she was taking.

The Panel requested additional information regarding some of the facts agreed to by the College and the Member in order to determine whether the facts presented supported a finding of guilt for each of the allegations. The Panel requested information regarding the following:

- Client C and failure to call second midwife;
- Client E and repair of a recto-vaginal fistula;
- Client G and attempted manual removal of the placenta; and,
- The Member's comments regarding the medication she was taking.

The College's Counsel and the Member's Counsel conferred and presented additional agreed upon facts to the Panel.

- Client C: Both Counsel provided the additional fact that client C was a multiparous woman with a history of fast births and the Panel was satisfied that the Member failed to meet the standard of practice regarding calling a second midwife.
- Client E: With additional facts the Panel was satisfied that the Member acted outside the midwifery scope of practice and provided inadequate client care regarding the repair of a recto-vaginal fistula.
- Client G: Both Counsel agreed that when the attempt at manual removal of the placenta was made the situation was not urgent.
- Comments regarding medication: no additional information was provided, however, College Counsel assured the Panel that case law exists that supports a finding of professional misconduct. The Member's Counsel did not contest this and the Member agreed that her comment was unprofessional.

In addition, the Member's conduct towards, and comments to, client H were clarified. A letter from client H was filed as an item for review and the Member's Counsel admitted that the Member's comment was inappropriate and culturally insensitive.

The Member admitted the facts outlined above and pleaded guilty to professional misconduct. The Panel accepted the Member's guilty plea.

Two and one half years before the hearing date the Member voluntarily withdrew from active midwifery practice and had not returned to active practice at the time of the hearing. The member must comply with the terms and conditions set out in the penalty described below, some of which must be met before returning to active practice.

The College and the Member submitted a Joint Submission as to Penalty. Remedial aspects of the penalty include successful completion of clinical courses addressing risk management (for example ALARM, STABLE) and breastfeeding, and attendance at obstetric and pediatric educational rounds. In addition, she must complete courses in ethics and communication. The Member is also required to address stress and health related issues, which may have contributed to the events. The Member was also given an oral reprimand by the Discipline Panel.

The Penalty includes the following:

1. Oral reprimand, the fact of which is to be recorded on the public register.
2. Before returning to practice the Member must successfully complete several educational courses, including ethics and communication courses.
3. Once she has returned to active practice the Member must complete a work placement and participate in educational rounds within a specified timeframe.
4. Once she has returned to active practice the Member must practice while under supervision for a period of two years.
5. Once she has returned to active practice the Member may not supervise any midwifery students for two years.
6. Once she has returned to practice the Member may not be a partner in, or owner of, a midwifery practice for two years.
7. Once she has returned to practice the Member must undergo a Quality Assurance practice audit within a specified period after the period of supervision has ended.
8. The Member must attend a physician for stress management and her migraine headaches. The Member must have the physician(s) provide the College with written reports regarding her management of stress and migraines and any medications she is taking.
9. The Member was ordered to pay a fine in the amount of \$500.00.
10. The Member must also pay the College \$5,000.00 toward costs within a specified period.
11. The provisions of the Agreed Statement of Facts and the Committee's order regarding penalty, and the Joint Submission as to penalty shall be placed on the public register.

The Panel took into consideration the fact that the Member voluntarily withdrew from active midwifery practice for a period of two and a half years before the hearing date and is satisfied with the terms of the Joint Submission. Approximately fifteen of the twenty conditions are directly rehabilitative and others relate to a substantial level of supervision which will ensure both that the public is protected and that a midwife of considerable experience and historic skill will be returned to practice in a safe and effective manner. The Panel anticipates that the extensive requirements of the penalty will serve as a deterrent to all members of the profession.

Statement of Agreed Facts:

(definition from Federation of Health Regulatory Colleges of Ontario Discipline Committee Orientation Manual)

The Statement of Agreed Facts outlines the facts agreed on by both the College and the member. The statement is always the product of negotiation between the prosecution (the College) and the defense (the member) and tendered for a number of reasons: to reduce the time and expense of calling witnesses to testify on matters not in dispute, and as part of the negotiations that result in an agreement to admit some or all of the allegations.

Joint Submission on Penalty:

(definition from Federation of Health Regulatory Colleges of Ontario Discipline Committee Orientation Manual)

When the member has admitted to allegations of misconduct, College counsel and the member's counsel may provide the Discipline panel with a Joint Submission on Penalty, i.e. a single submission which both counsel agree on the appropriate penalty.