

**DISCIPLINE COMMITTEE
OF THE COLLEGE OF MIDWIVES OF ONTARIO**

PANEL:

Edan Thomas, RM, Chair
Judith Murray
Marianna Kaminska

BETWEEN:

COLLEGE OF MIDWIVES OF ONTARIO)	ERICA RICHLER for
)	College of Midwives of Ontario
- and -)	
)	MICHAEL MANDARINO for
)	Sandra Knight
)	
SANDRA KNIGHT)	
)	Heard: July 22, 2020
)	

DECISION AND REASONS

This matter came on for hearing before a panel of the Discipline Committee of the College of Midwives of Ontario (“the College”) on July 22, 2020. This matter was heard via video conference.

Publication Ban

At the request of the College and with the consent of the Member, the Panel made an order that no person shall publish, broadcast or in any manner disclose the name of the Client [REDACTED] or the baby referred to during the hearing or in documents filed at the hearing, held July 22, 2020, or any information that would disclose the identity of the Client or the baby. The publication ban applies to the exhibits filed and to these decision and reasons.

The Allegations

The allegations against (the “Member) as stated in the Notice of Hearing dated October 16, 2019 (Exhibit #1) are as follows:

IT IS ALLEGED THAT:

The Member

1. At the material times, Sandra Knight (the “Member”) was a duly registered member of the College of Midwives of Ontario practising midwifery at Niagara Midwifery Practice (the “Practice”).

The Client

2. On or about October 2, 2018, the Client contacted the Practice through the Practice’s online intake form. The Client indicated on the form that she recently learned she was ■ weeks pregnant and she needed help. The Client referred to wanting to terminate the pregnancy and indicated that she was unable to get the necessary procedure.
3. The Member contacted the Client and they arranged to meet.
4. It is alleged that the Member ■ at this initial meeting.
5. On or about October 12, 2018, the Member and the Client met for several hours at a coffee shop. During this meeting, the Member and the Client discussed the possibilities of ■, as well the options of midwifery care, obstetric care, and a caesarean section. It is alleged that during this discussion, ■
■

Midwifery Care provided by the Member to the Client

6. On or about October 12, 2018, the Member agreed to stay on call for the Client as a midwife while the Client contemplated her options. The Member documented this in a narrative note in the Client’s midwifery chart on or about October 13, 2018.
7. On or about October 13, 2018, the Client contacted the Member and complained of pain. It is alleged that the Member picked the Client up and drove her to the hospital where the Member took the Client’s history, completed documentation relating to the Client’s care, ordered lab work, and prescribed medication to the Client.
8. On or about October 15, 2018, the Member documented in the Client’s midwifery chart that ■ and that the Member would no longer be involved clinically in the Client’s care. Thereafter, the Client was cared for by a different midwife at the Practice.
9. ■
■

Professional Misconduct Alleged

10. It is alleged that the above conduct constitutes professional misconduct pursuant to clause 51(1)(c) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991*, and as defined in one or more of

the following paragraphs of section 1 of Ontario Regulation 388/09, made under the *Midwifery Act, 1991*:

- a. *Allegation Withdrawn*; and/or
- b. Paragraph 12 (Practising the profession while the member is in a conflict of interest); and/or
- c. Paragraph 45 (Engaging in conduct that would reasonably be regarded by members as conduct unbecoming a midwife); and/or
- d. Paragraph 47 (Engaging in conduct or performing an act or omission 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).

Member's Plea

The Member admitted the allegations as set out in the Notice of Hearing at paragraphs 10(b)-(d). With respect to the allegation at paragraph 10(d), the Member admitted that her conduct would reasonably be regarded by members as unprofessional.

The Panel conducted a plea inquiry and was satisfied that the Member's admissions were voluntary, informed and unequivocal.

Withdrawal of Allegations

The College sought to withdraw the allegation at paragraph 10(a) and the allegations of "disgraceful" and "dishonourable" conduct listed at paragraph 10(d). The Member consented to the request.

The Panel was satisfied that a withdrawal of the allegations as requested was appropriate.

Agreed Statement of Facts

Counsel for the College advised the Panel that agreement had been reached on the facts and introduced an Agreed Statement of Facts (Exhibit #2) which provided as follows.

The Member

1. At the material times, Sandra Knight (the "Member") was a duly registered member of the College of Midwives of Ontario practising midwifery at Niagara Midwifery Practice (the "Practice").
2. At the material times, the Member was the sole proprietor of the Practice.

The Client

3. On October 2, 2018, ■■■ (the "Client") contacted the Practice through the Practice's online intake form. The intake form was forwarded to the Member by the Practice's administrator. The Client advised that she had recently learned that she was ■■■ weeks

pregnant. The Client wanted to terminate the pregnancy but given how far along she was in her pregnancy, she was advised by other healthcare practitioners that she would not be able to do so. She indicated the efforts she undertook to try to have the pregnancy terminated but without success. She stated she was desperate and would “take matters into her own hands” because she had no other options. The Client sent this email to other local midwifery practices as well. It is agreed that the Client was in a vulnerable position.

- 4. A copy of the intake form dated October 2, 2018 is attached as Exhibit “A”.
- 5. If the Member were to testify, she would state the reason she contacted the Client was because she was worried that the Client may self-harm.
- 6. The Member contacted the Client and arranged to meet her at a local Tim Horton’s coffee shop.

7. [REDACTED]

8. [REDACTED]

[REDACTED] Furthermore, the Member would testify that the intention was to provide this option as a last resort in an effort to prevent the Client from moving forward with self-harm.

9. The Member offered to meet the client at the clinic, at the client’s home or at another location the client preferred. They subsequently agreed to meet at a Tim Horton’s on October 12, 2018. At the meeting, the Member informed the client she was not there as a midwife but rather, a woman wanting to help another woman in a time of need. The Member informed the Client she read her intake form and wanted to be a support for the Client who seemed to be in a dire situation. The Client and the Member spoke for approximately 5 hours about many things but mostly about the Client’s life and her current situation. During their conversation, the Client informed the Member she was in an abusive relationship and did not want to continue with the pregnancy due to concerns about the baby’s safety. During this meeting the Member outlined various options for the Client to consider. The Member advised the Client that she could do any of the following:

- a. [REDACTED]
- b. [REDACTED]
- c. [REDACTED]

d. [REDACTED]
[REDACTED]

e. [REDACTED]
[REDACTED]

10. The Client told the Member that she was not agreeable to options a. through d. for a variety of reasons [REDACTED]
[REDACTED]
[REDACTED]

11. [REDACTED]
[REDACTED]
[REDACTED] The Member would also testify that no decision was made at this time, and she specifically advised the Client to take a few days to contemplate all the options that the Member had outlined. The Client agreed to do so.

12. During the meeting on October 12, 2018, the Member also discussed the options of midwifery care, obstetric care and a Caesarean section with the Client.

13. During this discussion, the Client appeared to have warmed to the thought of proceeding with the pregnancy, and indicated a preference towards midwifery care. The Member advised the Client that another midwife in her practice could assume primary care if the Client [REDACTED] so that the Member would not be involved in the Client's care. The Member also offered other midwifery practices as options for care.

14. The Member documented that she offered to stay on call for the Client as a midwife in the event anything urgent occurred since the Client had not had prenatal care since early September.

15. The Member summarized this meeting in the Client's midwifery chart. The Member documented her intentions as well as the discussion at the initial meeting on October 12, 2018 meeting in a narrative note in the Client's midwifery chart. A copy of the Member's narrative note dated October 13, 2018 is attached as Exhibit "C" and outlined that the Member's intention for this meeting was to:

- a. Inform the Client that the Practice does not offer abortion services;
- b. Inform the Client of other options [REDACTED]
[REDACTED]
- c. Offer the Client a Caesarean section (with an OB) if the Client did not want to deliver vaginally; and
- d. [REDACTED].

16. The Member also documented that her intention was that if [REDACTED]
[REDACTED], a different midwife in the Practice would

- become the primary midwife and the Member would cease providing care to the Client.
17. The Member admits that it was unprofessional to meet the Client at a coffee shop and to discuss the Client's pregnancy and care options in these circumstances.

Midwifery Care provided by the Member to the Client

18. On October 13, 2018, the Client contacted the Member and complained of pain. The Member advised her to go to the hospital, but the Client refused to go due to past negative experiences. The Member then offered to pick her up and take her to the hospital, and the Client agreed.
19. While at the hospital, the Member introduced the Client to the other midwife at the practice who would act as the primary midwife if the Client decided to enter midwifery care. The Client indicated that she would like to become a patient of that midwife. That midwife was assisting another patient in active labour and was therefore unable to provide care to the Client at that time.
20. The Member provided midwifery care to the Client including:
- a. taking the Client's history;
 - b. completing documentation relating to the Client's care, including the Ontario Perinatal Record;
 - c. ordering lab work;
 - d. prescribing medication to the Client; and
 - e. speaking to the obstetrician about the Client delivering the baby by planned Caesarean section.
21. If the Member were to testify, she would state that she provided care to the Client at the hospital on October 13, 2018 so that her health issues could be addressed and rectified expediently, that this was the extent of care provided over the entire duration of the Client's pregnancy, [REDACTED]
22. When the Member completed the Perinatal Record on October 13, 2018 she documented that the Client had a history of mental health issues and substance use, as well as a history of having been assaulted.
23. The Member also noted on the Perinatal Record that the midwife the client met in hospital that day was "to assume MRP [most responsible provider] in primary MW role". The Client consented to this, obtained the other midwife's contact details and arranged to have a follow up appointment with the other midwife.
24. A copy of the relevant hospital records from October 13, 2018 are attached as Exhibit "D".

25. On October 15, 2018, the Member documented in the Client's midwifery chart that [REDACTED] and that the Member would no longer be involved clinically in the Client's care. Thereafter, the Client was cared for by a different midwife at the Practice. A copy of the October 15, 2018 narrative note is attached as Exhibit "E".
26. [REDACTED]
[REDACTED]
[REDACTED].
27. If the Member were to testify, she would state that she believes the decision [REDACTED] was made by the Client on her own volition. The Client, herself, noted in her interview with the College appointed Investigator that she did not feel any pressure or coercion from the Member at any point [REDACTED]
[REDACTED]
[REDACTED]. Nonetheless, the Member acknowledges that it was unprofessional to [REDACTED] a person in a vulnerable position who was requesting pregnancy-related care from the Practice and to later provide care, even if limited, to that Client.
28. [REDACTED]
[REDACTED].

Admission of Professional Misconduct

29. It is agreed that the Member engaged in professional misconduct by:
- a. Meeting a potential client at a public coffee shop to discuss the Client's pregnancy and care options;
 - b. [REDACTED]; and
 - c. Providing midwifery care to a Client at a time when the Member had [REDACTED], thereby practising midwifery while in a conflict of interest.
30. More particularly, it is agreed that the above conduct constitutes professional misconduct pursuant to clause 51(1)(c) of the Health Professions Procedural Code, being Schedule 2 to the Regulated Health Professions Act, 1991, and as defined in the following paragraphs of section 1 of Ontario Regulation 388/09, made under the Midwifery Act, 1991:
- a. Paragraph 12 (Practising the profession while the member is in a conflict of interest);
 - b. Paragraph 45 (Engaging in conduct that would reasonably be regarded by members as conduct unbecoming a midwife); and

- c. Paragraph 47 (Engaging in conduct or performing an act or omission relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded by members unprofessional).
31. By this document, the Member admits to the truth of the facts referred to in paragraphs 1 to 28 above (the “Agreed Facts”).
32. By this document, the Member states that:
- a. She understands fully the nature of the allegations made against her;
 - b. She has no questions with respect to the allegations against her;
 - c. She admits to the truth of the facts contained in this Agreed Statement of Facts and Admission of Professional Misconduct and that the admitted facts constitute professional misconduct;
 - d. She understands that by signing this document she is consenting to the evidence as set out in the Agreed Statement of Facts and Admission of Professional Misconduct being presented to the Discipline Committee;
 - e. She understands that by admitting the allegations, she is waiving her right to require the College to prove the allegations against her at a contested hearing;
 - f. She understands that the decision of the Committee and a summary of its reasons, including reference to her name, will be published in the College’s annual report and any other publication or website of the College;
 - g. She understands that any agreement between her and the College with respect to the penalty proposed does not bind the Discipline Committee; and
 - h. She understands and acknowledges that she is executing this document voluntarily, unequivocally, free of duress, free of bribe, and that she has been advised of her right to seek legal advice.
33. In light of the Agreed Facts and Admission of Professional Misconduct, the College and the Member submit that the Discipline Committee should find that the Member has committed professional misconduct.

Decision and Reasons

The Panel considered the Agreed Statement of Facts and finds that the facts support a finding of professional misconduct and, in particular, finds that the Member committed an act of professional misconduct as set out in the Notice of Hearing at paragraphs 10(b) through 10(d).

As laid out in the Agreed Statement of Facts, the Panel found that the Member was a practicing midwife at the time of the events for which they were brought before the Panel. As such the Member problematically blurred the line between acting as an individual and acting as a midwife in a professional capacity.

Firstly, had it not been for the Member being a midwife and working within a midwifery practice at the time, the Member would never have had access to the client nor would they have been

aware of the client at all. In this respect, when the Member contacted the client, the client might have reasonably interpreted that the Member was acting as a midwife responding to her email and not as an individual. The Panel found this problematic and felt that the Member could have reasonably anticipated that this involvement could cross boundaries since their involvement with the client came through their practice in the first place. The Panel also felt that the Member themselves understood that this could be problematic by initially attempting to clarify to the Client that they were not acting as a midwife.

The Panel agreed that the Member acted unprofessionally in choosing to meet the Client at a Tim Horton's on October 12 2018, rather than in their clinic or a more professional setting. While the Member believed that this more casual and public setting was for the Client's comfort and that this would also reinforce the idea that the Member was acting as an individual rather than as a midwife, the discussion that took place in the Tim Horton's was of a professional and private nature and should have been conducted in a suitable environment to protect the Client's privacy and health information. In discussing health care options with the Client at this time the Panel concluded that the Member blurred the lines between being a private individual who only wanted to help, and being a member of a healthcare profession. Not only did the Member discuss options for caregiver with the Client but also discussed options for care, [REDACTED] [REDACTED]

The nature of these discussions have the appearance of the type of discussion between a healthcare professional and their Client or between a social worker and their Client, rather than the type of discussion between two people who have just met. Adding into this discussion the mention of [REDACTED] puts the Member in a conflict of interest right away. The Member's actions resulted in a conflict of interest and would reasonably be regarded by the membership and the public at large as unprofessional. [REDACTED]

[REDACTED], the appearance to the public may be one of the Member taking advantage of a vulnerable Client. The Panel was concerned that these actions leads to the perception by the public that midwives are unprofessional or untrustworthy.

With respect to the care provided by the Member to the Client on October 13th 2018, the Panel concluded that this was in conflict of interest and thus constituted professional misconduct. The Panel determined that when the Member agreed to be on call for the Client subsequent to their meeting at the Tim Horton's, the Member was already in conflict of interest as midwifery community standard is that midwives are on call for people who are already in their professional care. Thus the Member offering to be on call for the Client in this case would be perceived by the professional community and midwifery clients that the Member had taken on the professional role for this Client while both parties were [REDACTED]. It would have been more appropriate for the Member at this time to have provided the Client with another midwife from the practice. It was this on-call provision that led to the Member providing care to this Client on October 13th 2018. Once the Member met the Client at the hospital and the Client decided to come into care, the Member should have recused herself and called in another midwife from the practice since the midwife who would ultimately take over care was unavailable at that time.

The fact that the Member had access to the Client's chart on more than one occasion – documenting on the hospital chart and on the antenatal record on October 13th, and including two other narrative notes in the midwifery dated October 13th and October 15th is problematic. An individual without a professional relationship with this Client would not have had access to the private healthcare information of the Client, nor would they be charting on the record. If the Member has access to the chart they must have permission from the Client themselves explicitly or they have access as part of the Client's circle of care; either way this placed the Member in a conflict of interest.

The Panel did believe that the Member was trying to act in an altruistic and caring manner and was not trying to take advantage of the situation. The Panel acknowledges that once the Client had decided to officially come into midwifery care and [REDACTED], the Member did take steps to remove themselves from the Client's care and to ensure that the Client was taken care of by others within their practice. However while this was appropriate to do, the Panel found that the Member should have been more aware of the potential conflicts of interest and the blurring of the boundaries that could and in fact did take place.

Penalty

Counsel for the College advised the panel that a Joint Submission as to Penalty (Exhibit #3) had been agreed upon. The Joint Submission as to Penalty provides as follows:

The College of Midwives of Ontario (the "College") and Sandra Knight agree and jointly submit that the Discipline Committee should make the following order as to penalty and costs:

1. Ms. Knight is required to appear before a panel of the Discipline Committee to be reprimanded, with the fact of the reprimand to appear on the public register of the College;
2. The Registrar is directed to impose the following terms, conditions and limitations on Ms. Knight's certificate of registration:
 - a. Within six months of the date of the Discipline Committee's Order, Ms. Knight is required to successfully complete, at her own expense and to the Registrar's satisfaction, an individualized ethics and professionalism course that is pre-approved by the Registrar; and
 - b. Within two months of the date of the completion of the above-noted ethics and professionalism course, Ms. Knight is required to prepare and submit a 1,500-word paper, to the satisfaction of the Registrar, in which Ms. Knight demonstrates her reflection on the importance of establishing and maintaining professional boundaries with persons in a vulnerable position; and
3. Ms. Knight is required to pay to the College costs in the amount of \$2,500 within 12 months of the date of the Discipline Committee's Order.

Penalty Decision

The Panel accepts the Joint Submission as to Penalty and accordingly orders:

1. Ms. Knight is required to appear before a panel of the Discipline Committee to be reprimanded, with the fact of the reprimand to appear on the public register of the College;
2. The Registrar is directed to impose the following terms, conditions and limitations on Ms. Knight's certificate of registration:
 - a. Within six months of the date of the Discipline Committee's Order, Ms. Knight is required to successfully complete, at her own expense and to the Registrar's satisfaction, an individualized ethics and professionalism course that is pre-approved by the Registrar; and
 - b. Within two months of the date of the completion of the above-noted ethics and professionalism course, Ms. Knight is required to prepare and submit a 1,500-word paper, to the satisfaction of the Registrar, in which Ms. Knight demonstrates her reflection on the importance of establishing and maintaining professional boundaries with persons in a vulnerable position; and
3. Ms. Knight is required to pay to the College costs in the amount of \$2,500 within 12 months of the date of the Discipline Committee's Order.

Reasons for Penalty Decision

The Panel concluded that the proposed penalty is reasonable and in the public interest. The Member has co-operated with the College and, by agreeing to the facts and a proposed penalty, has accepted responsibility for her actions.

In accepting the Joint Submission, the panel was mindful of its obligations when reviewing a joint proposal. The case law makes clear that the panel should not depart from a joint submission on penalty unless it finds that accepting the submission would bring the administration of justice into disrepute or otherwise be contrary to the public interest.

The panel found that the agreed upon is appropriate, for the following reasons:

1. The reprimand delivered to the Member by the Discipline committee, an individualized Ethics Course and a reflective paper serve the goal of Specific deterrence and is rehabilitatory in nature; The reprimand being posted on the Public Register of the Member protects Public Interest and serves as General deterrence to the membership.
2. The Member had no prior discipline issues at the College; the Member has acknowledged her behaviour amounted to Professional Misconduct and accepted the responsibility; from the Agreed Statement of Facts, her intentions were perceived by the Panel as altruistic.

At the conclusion of the hearing, the Member confirmed that she had waived her right of appeal and so the Panel administered the reprimand, a copy of which is set at Schedule A.

I, Edan Thomas, sign this decision and reasons for the decision as Chairperson of this Discipline panel and on behalf of the members of the Discipline panel as listed below:



August 5, 2020

Edan Thomas, Chair

Date

Judith Murray
Marianna Kaminska

Schedule A

COLLEGE OF MIDWIVES OF ONTARIO and SANDRA KNIGHT

As you know, Ms. Knight, as part of its penalty order this Discipline panel has ordered that you be given an oral reprimand. You agreed to this term of order as part of your joint submission on penalty filed during the course of the hearing.

The fact that you have received this reprimand will be part of the public portion of the Register and, as such, part of your record with the College.

The panel has found that you have engaged in professional misconduct as follows:

- A) Acting in a conflict of interest
- B) Engaging in conduct which would reasonably be regarded as unprofessional
- C) Engaging in conduct unbecoming a midwife

It is a matter of profound concern to this Panel that you have engaged in these forms of professional misconduct.

Moreover, the result of your misconduct is that you have let down the public, the profession, and yourself.

We need to make it clear to you that your conduct is unacceptable.

Of special concern to us is the fact that the professional misconduct in which you engaged has involved:

1. A vulnerable client where your clear conflict of interest could have led to public perception that you were taking advantage.
2. We think is it extremely important that midwives understand how easy it can be to blur the boundaries between personal actions and acting as a midwife. This can lead to a public perception of midwives as being unprofessional or untrustworthy.

Consequently, it is necessary for us to take steps to impress upon you the seriousness of the misconduct in which you have engaged.

We also want to make it clear to you that while the penalty that this Panel has imposed upon you is a fair penalty, a more significant penalty will be imposed by another Discipline Panel in the event that you are ever found to have engaged in professional misconduct again.