



## DECISION AND REASONS FOR DECISION

[1] This matter came before a panel of the Discipline Committee (the "Panel") of the College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario ("the College") on March 7, 2017 at the offices of Victory Verbatim in Toronto.

### THE ALLEGATIONS

[2] The allegations against Wisam Al-Dabbagh ("the Member"), are set out in the Notice of Hearing, dated August 23, 2016, which was filed as Exhibit #1, and provides as follows:

1. Mr. Al-Dabbagh became a registered psychotherapist and a member of the College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario on or about November 17, 2015.
2. Mr. Al-Dabbagh also practises or operates under the first name "Sam".
3. Mr. Al-Dabbagh does not practise or operate under any other names.
4. It is alleged that, from about July 2014 until about December 2015, Mr. Al-Dabbagh practised psychotherapy and/or counselling at a clinic in Hamilton, Ontario ("the Clinic").
5. It is alleged that, on or about November 2014, Mr. Al-Dabbagh told one or more employees at the Clinic the following:
  - His supervisor was Mr. X who is a Registered Social Worker.
  - As a result of having Mr. X as a supervisor, Mr. Al-Dabbagh's clients could be reimbursed by their respective insurance companies.
6. It is alleged that, on or about November 2014, Mr. Al-Dabbagh:

- Gave a stamp (“the Stamp”) to an employee or employees of the Clinic. The Stamp contained the name of Mr. Al-Dabbagh and that he was “under the supervision of” Mr. X, Mr. X’s credential of MSW, Mr. X’s designation of RSW, and Mr. X’s Ontario College of Social Workers and Social Service Workers registration number.
  - Instructed an employee or employees of the Clinic to imprint the Stamp on Mr. Al-Dabbagh’s clients’ receipts.
7. As a result of paragraphs 5 and 6, an employee or employees of the Clinic did issue approximately 145 receipts between approximately November 2014 and approximately December 2015 to Mr. Al-Dabbagh’s clients with the imprint of the Stamp.
  8. It is alleged that Mr. X was not, at any material time, the supervisor of Mr. Al-Dabbagh and that Mr. X did not, at any material time, grant permission to Mr. Al-Dabbagh to use the Stamp or to tell others that Mr. Al-Dabbagh was being supervised by Mr. X.
  9. Pursuant to s. 380(1) of the Criminal Code, it is a criminal offence to defraud the public or any person of any property, money or valuable security or any service by deceit, falsehood or other fraudulent means.
  10. For each of these reasons, it is alleged that Mr. Al-Dabbagh engaged in professional misconduct pursuant to the following paragraphs of section 1 of Ontario Regulation 317/12 under the Psychotherapy Act, 2007: paragraph 1 (contravening, by act or omission, a standard of practice of the profession or failing to maintain the standard of practice of the profession); and/or paragraph 17 (issuing a false or misleading invoice, bill or receipt); and/or paragraph 43 (contravening a law in Canada relevant to the Member’s suitability to practise); and/or paragraph 52 (engaging in disgraceful, dishonourable or unprofessional conduct); and/or paragraph 53 (conduct unbecoming a psychotherapist).

11. It is alleged that Mr. Al-Dabbagh did not disclose the facts of paragraphs 5-8 when he completed his application for registration with the College, and that in response to the questions “Have you ever had a finding of professional negligence or malpractice made against you in any jurisdiction? Or is there anything else currently or in the past, including actions or findings related to your membership in any professional association, that would call into question your ability to practise psychotherapy safely and professionally?”, he responded with “I know of no other actions or findings, current or past, that would call into question my ability to practise psychotherapy safely and professionally”.
12. For each of these reasons, it is alleged that Mr. Al-Dabbagh contravened subsection 3(2) of Ontario Regulation 67/15 under the Psychotherapy Act, 2007 (false or misleading statement on application), and engaged in professional misconduct pursuant to paragraph 42 of Ontario Regulation 317/12 under the Psychotherapy Act, 2007 (contravening the Psychotherapy Act, 2007, the Regulated Health Professions Act, 1991, or a regulation under either of those acts).

### **MEMBER’S PLEA**

[3] The Member admitted to the allegations set out in the Notice of Hearing.

[4] The Panel conducted an oral plea inquiry and was satisfied that the Member’s admission was voluntary, informed and unequivocal.

## **AGREED STATEMENT OF FACTS**

[5] The Panel was presented with an Agreed Statement of Facts, which was filed as Exhibit #2, and provides as follows:

### **The Member**

1. The Member has been registered with the College since November 18, 2015. The Member also practices under the first name “Sam”.
2. The Member was cooperative with the College throughout the investigation.

### **Fraudulent Use of the Stamp to Obtain Insurance Coverage and issuing false or misleading receipt**

3. From July 2014 to December 2015, the Member had a counselling/psychotherapy practice at a clinic in Hamilton (the “Clinic”).
4. When the Member began practicing at the Clinic he instructed staff that clients should be told that his services are not covered by health insurance.
5. On or about November 11, 2014, however, the Member sent an e-mail to Witness 1 (Vice President, Operations and Business Development) and Witness 2 (Clinic Manager) that he had a supervisor who was a Registered Social Worker who was willing to supervise the Member. The Member stated that this would allow clients to claim his services through their insurance companies. Attached as Exhibit “A” is a copy of this email.<sup>1</sup>
6. The Member met with Witness 1 and Witness 2 to discuss this proposal on or about November 17, 2014. Approximately one week later, the Member provided a stamp to Clinic staff (the “Stamp”). The Stamp stated as follows:

This patient was seen on the dates listed above by

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<sup>1</sup> The Exhibits to the Agreed Statement of Facts have not been reproduced.

Sam Al-Dabbagh, MA, MSC  
under the supervision of  
[Witness 3], MSW, RSW  
Ontario College of Social Workers and Social Service Workers  
Registration #[]

7. The Member told Clinic staff to imprint the stamp on the Member's client receipts. Attached as Exhibit "B" is a copy of a receipt with the Stamp imprint.

**Witness 3 was Unaware of the Stamp and Did Not Supervise the Member**

8. If Witness 3 testified, he would say that he had been close friends with the Member and that they had discussed starting a practice together at the Clinic. In November 2014, Witness 3 drafted a supervision agreement, which was provided to the Member, wherein Witness 3 would supervise the Member enabling clients to be covered by insurance or qualify for an income tax deduction. This agreement, however, was never signed.
9. During the ensuing months after November 2014, when Witness 3 asked the Member if he had followed up with the Clinic regarding opening a practice there, the Member stated that he had not. Witness 3 was later surprised to learn that the Member had been practicing at the Clinic since July 2014.

**Disclosure by the Member Regarding the Fraudulent Use of the Stamp**

10. On or about November 25, 2015 the Member sent an e-mail to Witness 1 telling her that he was now registered with the College and that staff could now use this information for clients to submit their claims to insurance companies.
11. On or about December 1, 2015, during a telephone conversation between the Member and Witness 3, the Member admitted to Witness 3 that some of

the Member's clients may have been given Witness 3's information for the purposes of obtaining insurance coverage. The Member and Witness 3 agreed to meet the following morning to discuss the matter.

12. On or about December 2, 2015, Witness 3 met with the Member and was told about the Stamp. Witness 3 was under the impression, however, that the Clinic made the Stamp. He did not know that the Member had created the Stamp.
13. The Member told Witness 3 that "the odd person got the stamp on their receipt." When asked how many clients were involved, the Member stated "not many, hardly any at all." When asked why the Clinic would use the Stamp, the Member stated "I must have told them it was okay to do this."
14. The Member and the College agree that at least 115 receipts were issued between November 2014 and November 2015 with the stamp imprint.
15. Witness 3 did not supervise the Member nor did Witness 3 grant permission to the Member to tell others that he was being supervised by him. Witness 3 did not know about the Stamp and did not grant the Member permission to use it.
16. Witness 3 consulted a lawyer later the same day and personally delivered a cease and desist letter to the Clinic to prevent continued unauthorized use of the stamp. On the following days Witness 3 contacted the various insurance companies to explain the Member's fraudulent conduct and to explain that he was not involved.
17. The staff at the Clinic, including Witness 1 and Witness 2, were unaware that the Member was falsely representing that he was supervised by Witness 3 and that this was being done without the knowledge or consent of Witness 3. The Member was informed by Witness 2 on or about December 2, 2015 that he was no longer permitted to practice at the Clinic.

## Contravention of a standard of practice of the profession

18. The College has professional practice standards that state the following (all of which are attached in Exhibit “C”):
  - a. **General Conduct** – Members refrain from illegal conduct related to the practice of the profession .... In addition, Members at all times refrain from conduct that, having regard to all the circumstances, would reasonably be regarded by Members as disgraceful, dishonourable, unprofessional, or unbecoming a Member of the profession.
  - b. **Consent** – The Member ensures that informed consent is obtained from the client or his/her authorized representative on an ongoing basis. Consent may be verbal, written or implied and is documented in the client record. In addition, the therapist ensures that the consent is voluntary, specific and does not involve misrepresentation or fraud.
  - c. **Practicing with Clinical Supervision** – Members required to practice with clinical supervision participate meaningfully in the supervisory relationship and process.
  - d. **Issuing Accurate Documents** – Members ensure that documents they sign or transmit in a professional capacity contain accurate and complete information...
  - e. **Record-Keeping – Financial Records** – Members ensure that a financial record is kept for every client to whom a fee is charged for therapeutic services...
  - f. **Advertising and Representing Yourself and Your Services** – Members provide truthful and accurate information to clients and the public, and are transparent in representing themselves and their services.

19. The Member and College agree that the standards of practice of the profession, as set out in paragraph 18, were contravened by the Member.

### **Contravention of the *Criminal Code***

20. It was determined that the Member allowed the Stamp to be used on approximately 115 receipts issued between November 2014 and November 2015. This constitutes the offence of Fraud, contrary to s. 380(1) of the *Criminal Code* which states as follows:

**380 (1)** *Every one who, by deceit, falsehood or other fraudulent means, whether or not it is a false pretence within the meaning of this Act, defrauds the public or any person, whether ascertained or not, of any property, money or valuable security or any service,*

*(a) is guilty of an indictable offence and liable to a term of imprisonment not exceeding fourteen years, where the subject-matter of the offence is a testamentary instrument or the value of the subject-matter of the offence exceeds five thousand dollars; or*

*(b) is guilty*

- *(i) of an indictable offence and is liable to imprisonment for a term not exceeding two years, or*
- *(ii) of an offence punishable on summary conviction,*

*where the value of the subject-matter of the offence does not exceed five thousand dollars.*

21. Attached as Exhibit "D" is a copy of one of the receipts with the Stamp imprint.

### **Contravention of the Regulations under the *Psychotherapy Act***

22. In the Member's application for registration with the College in 2015 he was required to answer the question, "is there anything else currently or in the past, including actions or findings related to your membership in any professional association that would call into question your ability to practice psychotherapy safely and professionally?"
23. The Member responded that "I know of no other actions or findings, current or past that would call into question my ability to practise psychotherapy safely and professionally." Attached as Exhibit "E" is a copy of the Member's application.
24. The Member failed to disclose the conduct outlined above, contrary to s. 3(2) of Ontario Regulation 67/15, which prohibits false or misleading statements or representations on an application for registration.

### **Professional Misconduct**

25. Based on the above facts, it is agreed that the Member engaged in the following acts of professional misconduct as set out in Ontario Regulation 317/12, section 1:
  - a. He contravened, by act or omission, a standard of practice of the profession or failed to maintain the standard of practice of the profession (paragraph 1);
  - b. He issued a false or misleading invoice, bill or receipt (paragraph 17);
  - c. He contravened a provision of the regulations under the *Psychotherapy Act* (paragraph 42);
  - d. He contravened in a law in Canada relevant to the Member's suitability to practice (paragraph 43);

- e. He engaged in disgraceful, dishonourable or unprofessional conduct (paragraph 52); and
  - f. His conduct was unbecoming of a psychotherapist (paragraph 53);
26. The Member acknowledges and understands that the Agreed Statement of Facts is not binding upon the Discipline Committee.
27. The Member acknowledges that he has had the opportunity to receive independent legal advice.

## **DECISION**

[6] The Panel accepted as true all of the facts set out in the Agreed Statement of Facts. Having regard to these facts, and the Member's admissions, the Panel finds that the Member committed the acts of professional misconduct alleged in the Notice of Hearing and, specifically, that the Member:

- a. contravened, by act or omission, a standard of practice of the profession or failed to maintain the standard of practice of the profession;
- b. issued a false or misleading invoice, bill or receipt standards;
- c. contravened a law in Canada relevant to the Member's suitability to practice;
- d. engaged in disgraceful, dishonourable or unprofessional conduct; and
- e. engaged in conduct unbecoming a psychotherapist.

## **REASONS FOR DECISION**

[7] The Panel concluded that the Member had committed the acts of professional misconduct admitted to in the Agreed Statement of Facts. The Member did not dispute any of the allegations and based on his plea inquiry, the Panel was satisfied that the Member's admissions were voluntary and unequivocal and that he understood the nature of the allegations against him and the consequences of admitting to them.

## **THE JOINT SUBMISSION ON ORDER AND COSTS**

[8] Counsel for the College and Counsel for the Member provided the Panel with a Joint Submission on Order and Costs, which was filed as Exhibit #3, and provides as follows:

The [College] and [the Member] agree and jointly submit that the Panel should make an Order:

1. Requiring the Member to appear before the Panel to be reprimanded within 30 days of the date of this order.
2. Suspending the Member's certificate of registration for a period of two (2) months, one (1) month of which shall be suspended if the Member complies with the provisions of paragraph 3 of the Joint Submission as to Penalty and Costs by no later than August 31, 2017.
3. Imposing a term, condition and limitation on the Member's certificate of registration requiring the Member to successfully complete by August 31, 2017, to the satisfaction of the Registrar and at his own expense, a course in ethics and/or jurisprudence that has been pre-approved by the Registrar.
4. For greater certainty, the Member's obligation to comply with the proposed terms, conditions and limitations on his certificate of registration contained in

paragraph 3 is not relieved by serving the entire suspension referred to in paragraph 2 above.

5. The Member shall pay the College's costs fixed in the amount of \$3000.00 according to the following schedule:
  - a. The first payment shall be due on March 15<sup>th</sup> and each subsequent payment of \$500 is due on the 15<sup>th</sup> of each subsequent month until paid in full.
6. The Member acknowledges that this Joint Submission as to Penalty and Costs is not binding upon the Discipline Committee.
7. The Member acknowledges that he has had the opportunity to receive, and has in fact received, independent legal advice.

#### **DECISION ON ORDER**

[9] The Panel accepted the Joint Submission on Penalty and Costs as presented by the parties and made an Order in accordance with the terms set out above.

#### **REASONS FOR DECISION ON ORDER**

[10] In arriving at its decision, the Panel considered the aggravating and mitigating factors in this case.

[11] With respect to the mitigating factors, the Panel noted that this is the first time the Member has appeared before the Discipline Committee and he has been cooperative with the College from the beginning of the discipline process. In addition, the Member has accepted full responsibility for his actions, thereby saving the College the time and expense of a contested hearing.

[12] However, the Panel also considered the need for the Order to uphold the integrity of the profession and to protect the public. Facilitating the submission of false insurance claims not only undermines the integrity of the profession of

psychotherapy, it compromises the trust and respect of both the public who seek psychotherapy services and the insurance companies who reimburse psychotherapy costs.

[13] The Panel notes that a joint submission should be accepted unless to do so would bring the administration of justice into disrepute or otherwise not be in the public interest. The Panel considered this high standard for departing from a joint submission and recognizes the benefits that such submissions bring to the discipline process by promoting certainty in resolutions and ensuring the judicious use of College resources.

[14] The Panel also considered the case law it was directed to by Counsel for the College. Those cases, which were factually similar to the matter before the Panel, supported the proposed Order. However, although the Panel was satisfied that the joint submission is consistent with the Orders imposed in other cases where patients/clients were misled by false documentation issued in a professional capacity, the Panel notes that it would have been inclined to order a lengthier period of suspension if all of the Member's conduct had post-dated the Member's registration.

I, Shikha Kasal, sign this Decision and Reasons for Decision as Chair of this Panel and on behalf of the panel members of the Discipline Committee listed below:

Date: November 2, 2017

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Shikha Kasal  
Chair, Discipline Panel

Panel:

Mary Kardos Burton  
Keith Marlowe  
Malcolm MacFarlane  
Pat Rayman

Wisam Al-Dabbagh  
Registration # 003744