

**IN THE MATTER OF *THE PSYCHOLOGISTS ACT, 1997* AND BYLAWS AND IN THE  
MATTER OF A COMPLAINT AGAINST DR. MARY VANDERGOOT, PhD., A  
MEMBER OF THE COLLEGE**

**DECISION**

**Saskatchewan College of Psychologists  
DISCIPLINE COMMITTEE**

**Discipline Committee Members:**

Tom Robinson, Registered Doctoral Psychologist, Chair  
Christel Gee, Public Representative  
Kristin Bellows, Registered Psychologist, Member

Karen Prisciak, Q.C., appearing on behalf of the Professional Conduct Committee  
Kelsey O'Brien, appearing on behalf of the Member Dr. Mary Vandergoot  
Merrilee Rasmussen, Q.C., legal counsel for the Discipline Committee

**INTRODUCTION**

[1] The Discipline Committee convened on June 22, 2020, via conference call, as agreed by the parties, to hear and determine the formal complaint concerning the Member dated March 5, 2019, as required by *The Psychologists Act, 1997* ["the Act"].

[2] At all times material to the complaints made against her, Dr. Mary Vandergoot was a member of the Saskatchewan College of Psychologists, licensed to practise in the Province of Saskatchewan subject to the Act, the regulatory bylaws of the College, the Canadian Code of Ethics for Psychologists ("the Code"), and related Saskatchewan College of Psychologists Practice Guidelines ("the Guidelines").

**THE FORMAL COMPLAINT**

[3] The Formal Complaint contains the following charges alleging that Dr. Mary Vandergoot is guilty of professional misconduct contrary and/or professional incompetence contrary to the provisions of sections 25 and 26 of *The Psychologists Act, 1997*, and/or Regulatory Bylaw #20, in that she:

Charge #1: In a report dated September 25, 2017, performed an inadequate assessment and failed to exercise due diligence in the capacity of [REDACTED] in that she, inter alia, failed to refer to [REDACTED] medical history, the results of a previous cognitive and functional testing completed by a geriatric assessment unit on April 20, 2017; the sources of information provided to her inter alia information from [REDACTED]'s lawyer and failed to corroborate the information provided by [REDACTED] and/or [REDACTED] resulting in a negative impact on family relationships in violation of Canadian Code of Ethics for Psychologists, 3rd Ed., 2000, and more specifically, Sections 11.13, 111.11 and contrary to Professional Practice Guideline 11.2, 11.6, 11.31, and 11.37;

Charge #2: Failed to use adequate assessment tools for the capacity assessment of [REDACTED] in her report dated September 25, 2017, relying too heavily on the MMSE-2 test for cognitive evaluation of [REDACTED] leading to her opinion and conclusions regarding [REDACTED]'s capacity in violation of Canadian Code of Ethics for Psychologists, 3rd ed., 2000, and more specifically Sections 11.13 and 111.11 and contrary to Professional Practice Guideline 3.29, 11.13, 11.31, and 11.35; and

Charge #3: Provided her professional opinion that [REDACTED] was suffering from elder abuse by [REDACTED] and [REDACTED] and stated it "and may in fact be illegal" in her report of September 25, 2017, which further damaged the familial relationship in violation of Canadian Code of Ethics for Psychologists, 3rd ed., 2000, and more specifically Sections 11.13 and 111.11 and contrary to Professional Practice Guideline 3.21, 4.8, and 11.31.

## **FACTS**

[4] The parties submitted an Agreed Statement of Facts and Joint Submissions as to Penalty to the Discipline Committee, the relevant text of which [redacted] is as follows:

### **Particulars of Complaint**

#### *Background*

4. Dr. Vandergoot met with [REDACTED] on September 5, 2017. At that time, [REDACTED] was 91 years of age.
5. [REDACTED] had named [REDACTED] son, [REDACTED] enduring power of attorney in 2013 (the "2013 EPOA").
6. [REDACTED] revoked the 2013 EPOA and named [REDACTED] niece, [REDACTED] enduring power of attorney on July 24, 2017 (the "New EPOA").

7. At the time Dr. Vandergoot met [REDACTED] the family was engaged in ongoing litigation regarding whether or not [REDACTED] had been competent to revoke the 2013 EPOA and make the New EPOA.

8. Other professionals had previously assessed [REDACTED]'s capacity to make [REDACTED] own decisions. Most recently, [REDACTED] had been assessed through the Geriatric Assessment and Management Program at Saskatoon City Hospital on April 11, 2017 (the "GAMP Assessment"). That assessment concluded that [REDACTED] was incapable of making informed decisions about [REDACTED] personal life, healthcare, or finances, except for very simple ones.

9. [REDACTED] did not agree with the results of the GAMP Assessment and sought a second opinion.

10. Dr. Vandergoot was contacted by [REDACTED]'s lawyer to provide an independent opinion on [REDACTED]'s capacity to revoke the 2013 EPOA and make the New EPOA. This was initially arranged through [REDACTED]'s lawyer, and the meeting time was subsequently changed by [REDACTED] in consultations with Dr. Vandergoot.

11. Dr. Vandergoot agreed to provide an assessment related specifically to the issue of [REDACTED]'s capacity to revoke the 2013 EPOA and execute the New EPOA.

12. Prior to meeting with [REDACTED] Dr. Vandergoot reviewed the documentation that she had been provided by [REDACTED]'s lawyer, including the GAMP Assessment. That documentation included legal documents, Affidavits of [REDACTED] and [REDACTED] and Court materials, a letter from [REDACTED] to [REDACTED] with a statement of [REDACTED]'s monthly expenses, and documents from Saskatoon City Hospital relating to [REDACTED] specifically:

- (a) An Occupational Therapy Assessment report dated December 14, 2015;
- (b) A letter of referral to GAMP by Dr. [REDACTED] dated January 15, 2016;
- (c) A letter to Dr. [REDACTED] by Dr. [REDACTED] dated April 11, 2017;
- (d) An Occupational Therapy and Physical Therapy Assessment report dated September 11, 2017; and
- (e) A letter to [REDACTED] regarding his competence dated April 11, 2017.

12.5 Dr. Vandergoot's report did not itemize the documents she reviewed prior to preparing her report with the exception of noting document 12(c) above.

### *Dr. Vandergoot's Assessment*

13. Dr. Vandergoot met with [REDACTED] at [REDACTED] home for approximately 3 hours. In doing so, she interviewed [REDACTED] independently and also interviewed [REDACTED] briefly together with [REDACTED] partner.
14. Dr. Vandergoot did not obtain other collateral information to corroborate [REDACTED]'s reported level of functioning or the facts [REDACTED] reported about his life.
15. Dr. Vandergoot administered the MMSE-2-EV to [REDACTED] an assessment tool that is limited in scope. The limitation was not explained in the report. No other formal testing was administered.
16. Based on Dr. Vandergoot's impressions of [REDACTED]'s clinical status and the limited collateral information she obtained, Dr. Vandergoot concluded that [REDACTED] did have capacity to revoke the 2013 EPOA and execute the New EPOA.

### *The Report*

17. Dr. Vandergoot provided a written opinion to this effect dated September 25, 2017 (the "Report").
18. In the Report, Dr. Vandergoot also opined that [REDACTED] was suffering from "some elder abuse" by [REDACTED] and noted that this is a form of "mental abuse and may in fact be illegal." The level of testing and assessment done did not provide a sufficient foundation for these statements.
19. The Report summarized the results of the GAMP Assessment.
20. Dr. Vandergoot verbally advised [REDACTED]'s lawyer that further formal assessment would be required to provide a more definitive determination of capacity, particularly in light of the GAMP Assessment. The Report did not refer to this.
21. Dr. Vandergoot did not clearly outline the limitations of her opinion in the Report. She also did not provide recommendations to resolve the discrepancy between her opinion and the GAMP Assessment.
22. The Report caused distress among the family and further damaged familial relationships.

### **Dr. Vandergoot's Education and Background**

23. Dr. Vandergoot is a clinical doctoral psychologist licensed to practice in the province of Saskatchewan. Her license includes the Authorized Practice Endorsement (APE). Her declared areas of practice are clinical psychology,

educational psychology, and forensic psychology. She is a member of the Saskatchewan College of Psychologists, the Canadian Psychological Association, the Psychology Association of Saskatchewan, and the Canadian Registry of Health Service Psychologists.

24. Dr. Vandergoot has been practicing as a psychologist since 1989.

## LEGISLATION

[5] The Act defines professional misconduct and professional incompetence as follows:

### **Professional misconduct**

25 Professional misconduct is a question of fact, but any matter, conduct or thing, whether or not disgraceful or dishonourable, that:

- (a) is harmful to the best interests of the public or the members of the college;
- (b) tends to harm the standing of the profession;
- (c) is a breach of this Act or the bylaws; or
- (d) is a failure to comply with an order of the professional conduct committee, the discipline committee or the council;

is professional misconduct within the meaning of this Act [emphasis added].

### **Professional incompetence**

26 Professional incompetence is a question of fact, but the display by a member of a lack of knowledge, skill or judgment, or a disregard for the welfare of a member of the public served by the profession of a nature or to an extent that demonstrates that the member is unfit to:

- (a) continue in the practice of the profession; or
- (b) provide one or more services ordinarily provided as a part of the practice of the profession;

is professional incompetence within the meaning of this Act.

[6] Where a member is found to be guilty of professional misconduct or professional incompetence, the Discipline Committee is authorized to make orders directed at improving the conduct or competence. Section 32 of the Act provides the Discipline Committee with the following authority:

**Disciplinary powers**

32(1) Where the discipline committee finds a member guilty of professional incompetence or professional misconduct, it may make one or more of the following orders:

- (a) an order that the member be expelled from the college and that the member's name be struck from the register;
- (b) an order that the member be suspended from the college for a specified period;
- (c) an order that the member be suspended from the college pending the satisfaction and completion of any conditions specified in the order;
- (d) an order that the member may continue to practise only under conditions specified in the order, which may include, but are not restricted to, an order that the member:

- (i) not do specified types of work;
- (ii) successfully complete specified classes or courses of instruction;
- (iii) obtain treatment, counselling or both;

- (e) an order that reprimands the member; or
- (f) any other order that to it seems just.

(2) In addition to any order made pursuant to subsection (1), the discipline committee may order:

- (a) that the member pay to the college within a fixed period:
  - (i) a fine in a specified amount not to exceed \$5,000; and
  - (ii) the costs of the investigation and hearing into the member's conduct and related costs, including the expenses of the professional conduct committee and the discipline committee and the costs of legal services and witnesses; and
- (b) where a member fails to make payment in accordance with an order pursuant to clause (a), that the member be suspended from the college.

## ANALYSIS AND DECISION

[7] The Discipline Committee accepts the guilty plea, which Dr. Vandergoot provided in the Agreed Statement of Facts in relation to the charges contained in the Formal Complaint. She has acknowledged that she violated the *Canadian Code of Ethics for Psychologists*, contrary to section 20 of *The Saskatchewan College of Psychologists Regulatory Bylaws, 2016*. The Discipline Committee therefore finds that Dr. Vandergoot is guilty of professional misconduct as defined in clause 25(c) of *The Psychologists Act, 1997*. The Discipline Committee must therefore determine the appropriate consequence to follow as a result of this finding.

[8] As noted above, the parties submitted Joint Submissions as to Penalty to the Discipline Committee, as follows:

Dr. Mary Vandergoot pleads guilty to the charges against her and accepts the following sentence:

1. That the member be reprimanded.
2. Full cost recovery of all PCC expenses, legal fees and Discipline Committee expenses & legal fees, payable within one year from date of Order; if not paid within one year of the date of the Order the member will be removed from the Register of the College. The member cannot return to the Register until all conditions of the Order have been met in full.
3. The member must provide apology letters to the complainant and the client. The member must first send the letters to the Professional Conduct Committee for approval within one month from date of Order. Letters to be sent to the complainant and client must occur within two weeks of PCC's approval of the letters. The member must then send an attestation to the PCC within one week of sending the letters to the complainant and the client indicating that the letters have been sent. If these conditions are not met within the stated timelines, then the member will be sent back to Discipline for non-compliance.
4. From the date of the Order, the member will be prohibited from conducting Assessments of decision making capacity unless she obtains supervision for this work from a member of the College approved by the Registration Committee who claims competency in this area of practice. Supervision must consist of 6 hours of face-to-face for every 160 hours of work for a total of 750 hours of work and be approved prior to commencing any assessment in this area. Upon completion of supervision, the Supervising Psychologist must provide a successful summary report to the Registration Committee in regard to the member's skill in this area of practice before the member can conduct assessments independently.

5. A fine of \$1000.00 payable within one year from date of Order; if the fine is not paid within one year from the date of the order the member will be removed from Register of the College. The member cannot return to the Register until all conditions of the order have been met in full.
6. The Discipline Order will be posted on the SCP website.

[9] In its decision in the case of *Rault v. Law Society of Saskatchewan*<sup>1</sup>, the Saskatchewan Court of Appeal made it clear that a discipline committee must give serious consideration to a joint submission on sentencing that has been agreed to unless the sentence is unfit or unreasonable, or contrary to the public interest, and it should not be departed from unless there are good or cogent reasons for doing so<sup>2</sup>. The Court went on to say, in relation to the discipline process applicable to members of the Law Society of Saskatchewan (which is similar to the process applicable to psychologists):

The discipline process in the Act has many similarities to the criminal process and as such the bargaining process is undermined if a joint submission, the product of compromise, is readily rejected by the Discipline Committee. There is a formal process for the handling of complaints, including the appointment of an Investigation Committee, which may set out a Formal Complaint outlining the allegations which may constitute a finding of guilt as to conduct unbecoming a lawyer. This can lead to the appointment of a Hearing Committee, which determines if the allegations in the Formal Complaint are well founded and, if so, the matter is referred to the Discipline Committee for sentencing on the charges.

This process can be time consuming for Benchers involved in the various stages leading to the final penalty imposed by the Discipline Committee and can involve significant costs for both the member and the Law Society. Therefore, all members and the Law Society have a vested interest in ensuring that matters proceed expeditiously. If the member co-operates with the investigation and hearing process and, as happened in the instant case, pleads guilty, and puts an Agreed Statement of Facts before the Hearing Committee, the Law Society is relieved of the burden of proving the allegations in what could, in some instances, be a complicated and protracted hearing with the usual risks and vagaries that may occur in the course of such hearings. If the parties negotiating compromise agreements cannot expect their efforts will be respected, there is little incentive to attempt to negotiate a resolution. For this reason, joint submissions on sentence should be considered by the Discipline Committee in a

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<sup>1</sup> 2009 SKCA 81.

<sup>2</sup> *Ibid*, at paragraph 13.

principled way similar to the jurisprudence in criminal matters and as applied by discipline committees in the provinces noted above.

[12] As a result, it is only in a situation where the Discipline Committee is persuaded that the sentence agreed to in a joint submission is unfit or unreasonable or contrary to the public interest that the Discipline Committee would not accept the joint submission. The Discipline Committee is also mindful of the fact that the objective of professional discipline proceedings is not punishment, but correction or improvement of conduct or competence to ensure, to the extent that it is reasonably practicable to do so, that the public is protected from substandard conduct or competence on the part of psychologists who are members of the College. The Discipline Committee found no good or cogent reason to depart in substance from the sentence agreed to in the joint submissions provided by the parties.

## ORDER

[13] For all of the reasons set out above, the Discipline Committee of the Saskatchewan College of Psychologists therefore finds Dr. Mary Vandergoot guilty of professional misconduct and, pursuant to section 32 of *The Psychologists Act, 1997*, orders that Dr. Vandergoot:

1. is formally reprimanded;
2. shall, within one year of the date of this Order, pay the total of all expenses and legal fees incurred by the professional Conduct Committee and the Discipline Committee, as certified by the Registrar of the College;
3. shall provide apology letters to the complainant and the client, which letters are submitted to the Professional Conduct Committee within one month of the date of this order for approval and, within two weeks of their approval by the Professional Conduct Committee are sent to the complainant and the client;
4. shall, within one week of sending the apology letters to the complainant and the client send an attestation to the Professional Conduct Committee indicating that the letters have been sent;
5. is prohibited, on and from the date of this Order, from conducting assessments of decision-making capacity unless:
  - (a) she obtains supervision for this work from a member of the College approved by the Registration Committee who claims competence in this area of practice, which supervision consists of 6 hours of face-to-face for every 160 hours of work for a total of 750 hours of work and is approved prior to commencing any assessment in this area; and

(b) upon completion of the supervision the supervising psychologist provides a successful summary report to the Registration Committee in regard to her skill in this area of practice before she can conduct assessments independently;

6. shall, within one year of the date of this Order, pay to the College a fine of \$1,000;

[14] The Discipline Committee further orders that:

1. if Dr. Vandergoot fails to pay the amounts required pursuant to paragraph 13(2) or 13(6) above, her name shall thereupon be removed from the College's Register of practising members until the amounts are paid in full;
2. if Dr. Vandergoot fails to comply with any other provision of this Order, the failure will be referred to the Professional Conduct Committee as a new complaint; and
3. This Order, and the reasons for it, is to be posted on the College's website.

Dated at Regina, Saskatchewan this 21st day of August 2020.

SASKATCHEWAN COLLEGE OF PSYCHOLOGISTS, DISCIPLINE  
COMMITTEE



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Tom Robinson,  
Registered Doctoral Psychologist, Chair

On behalf of:  
Christel Gee, Public Representative  
Kristin Bellows, Registered Psychologist