

DISCIPLINARY DECISIONS FOR 2006-07 AND THE NATURE OF CONCILIATION AGREEMENTS

■ Judicial Bodies Concerned with Disciplinary Matters

■ Decisions ■ Conciliations

JUDICIAL BODIES CONCERNED

The jurisprudence in disciplinary matters consists mainly of decisions rendered by the Disciplinary Committee. This committee consists of a member of the Quebec Bar, who is appointed by the Quebec government, and two psychologists chosen from the Order's roll of members. Whenever a complaint is lodged, the Disciplinary Committee secretary establishes a committee, taking care to select, to the extent possible, members who have knowledge in the field in question.

This information is important, as it defines the scope of certain ethical rules applying to psychologists in different situations.

The decision of the Disciplinary Committee can be appealed by either party to the Professions Tribunal, which is made up of judges of the Court of Quebec.

DECISIONS

For ease of understanding, we present the decisions by subject.

PSYCHOTHERAPY

Sexual misconduct

No 33-05-00322

A psychologist was struck from the Order's roll of members for six months

and obliged to pay costs, including the costs of publication of the notice of striking-off in a daily newspaper, for having had sexual relations with a female client in his consulting room. The complaint cited events that occurred while the patient was in therapy in 2001. The psychologist also placed himself in a conflict of roles and conflict of interest situation and was penalized for neglecting to refer his client to another professional considering his intimate relationship with the client. In its decision, the Disciplinary Committee emphasized the seriousness of this type of offence and recommended to the Bureau of the Order the imposition of a weekly supervision on the psychologist, after the expiry of the striking-off period, for all his cases, in particular, with regard to early identification of situations entailing a risk of transference and counter-transference.

No. 33-06-00332

A complaint giving rise to three charges was submitted to the Order's Disciplinary Committee on the grounds that the psychologist had neglected to show conduct above reproach by making gestures of a sexual nature towards his client. The events occurred in 2004-2005. The psychologist was also charged with putting himself in a conflict of roles and conflict of interest, having failed to make a referral to another professional considering the intimate relationship created. The psychologist pleaded guilty and the Disciplinary Committee imposed a striking

from the roll for 14 months, as well as payment of costs, including the costs of publication of the notice of striking-off in a newspaper having general circulation in the locality of the psychologist's professional domicile.

Conflict of roles and conflict of interest; confidentiality and adherence to the standards of professional practice

No. 33-05-00325

Between May 1996 and November 2002, a psychologist providing psychotherapy had placed himself in a conflict of interest by maintaining a social and friendly relationship with his client involving exchanges of gifts. In addition, the psychologist repeatedly visited and had meals at his client's home, thereby failing to respect the boundaries of the therapeutic relationship. In addition, the psychologist was charged with providing professional services to other members of his client's family, when he should have referred them to another therapist. The psychologist admitted his guilt and was ordered to pay a \$600 fine for the two counts, as well as half the costs. The Disciplinary Committee also recommended to the Bureau of the Order the imposition of supervision on the psychologist, consisting of five to eight sessions, to help him consolidate his understanding of the framework of the professional therapeutic relationship

and the notions of conflict of interest and conflict of roles in the clinical context.

No. 33-06-00326

The psychologist in this case was charged with one offence. After providing treatment to a client, the psychologist placed herself in a conflict of roles and conflict of interest by forming a close personal relationship with the client and lodging her in her home. The psychologist pleaded guilty to the charge. In determining the penalty, the Disciplinary Committee took account of the psychologist's lack of a disciplinary record and her limited professional experience, as she had been in practice for only two years, while adding that this was not an acceptable excuse for her failure to exercise professional judgment. The defendant was ordered to pay a \$600 fine plus costs. The Disciplinary Committee also recommended to the Bureau of the Order the imposition of a one-hour weekly supervision on the psychologist for all her cases, for a period between 10 and 15 weeks, depending on the supervisor's evaluation. The Disciplinary Committee also recommended that the psychologist be obliged to take and pass the "Ethics and Professionalism" course given by the Order of Psychologists.

No. 33-06-00327

After two inquiries regarding the same psychologist, several charges were brought against her concerning similar behaviour, which failed to comply with the ethical requirements, in separate interventions. While providing psychotherapy to minor children, the psychologist showed a lack of objectivity and caution in writing her reports. Without having sufficient scientific and professional information, she took a position on the child's custody arrangements, although she had not collected sufficient data for this purpose. In making recommendations on custody, the psychologist overstepped her mandate, thus putting herself in a conflict of roles and conflict of interest situation. Further, the psychologist breached her obligation of professional secrecy by disclosing confidential information about the father of a child without having obtained his prior authorization. The psychologist pleaded

guilty to the four charges. For three, she was penalized with a reprimand and for the fourth, had to pay a \$600 fine, plus the costs except the expert's fee. The Disciplinary Committee also recommended to the Bureau of the Order that the psychologist be obliged to take the "Ethics and Professionalism" course given by the Order and undergo 10 hours of supervision in psychotherapy. The purpose of the supervision was to help the psychologist better manage counter-transference in cases where her personal values are tested by situations where children are endangered, develop a critical approach so as to avoid placing herself in a conflict of roles and conflict of interest, and acquire the necessary knowledge to keep records in compliance with the Order's regulations.

Inappropriate and disproportionate treatment; incomplete assessment of the client's problem; failure to inform the client of the scope of the mandate given

No. 33-03-00336

While treating a client suffering from post-traumatic shock, the psychologist neglected to collect all the data needed to be able to inform the client about the scope of the mandate she was giving him. The psychologist was also charged with performing acts that were inappropriate and disproportionate to the client's needs, in particular, using deep tissue bodywork and "eye movement integration" techniques that were not part of a more general scientifically proven approach.

The Committee found the psychologist guilty; it imposed a \$600 fine and recommended to the Bureau of the Order the imposition of supervision for the psychologist's next 10 cases to improve his ability to evaluate problems presented by his clients and identify the elements influencing the choice of a specific, scientifically compliant treatment, and ensure that he obtains the client's free and informed consent to the proposed treatment plan. The psychologist was also obliged to pay costs, except for the costs of the expert assessment.

Interference in the personal affairs of a client; breach of confidentiality; conflict of roles and conflict of interest; failure to abide by the principles of our non profession

No. 33-04-00308

The complaints made against the psychologist in this case concern her treatment of a client between 1994 and 2000. The psychologist was found guilty of interfering in her client's personal affairs, placing herself in a conflict of roles and conflict of interest situation and failing to maintain a relationship of trust with the client. The psychologist was also penalized for inviting the client's spouse to participate in certain psychotherapy sessions without informing the client in advance or obtaining her consent. In addition, the psychologist was found guilty of disclosing confidential information without her client's authorization. The Disciplinary Committee ordered the psychologist to pay fines totalling \$2,250, as well as half the costs and the expert's fees up to a limit of \$1,000. The Disciplinary Committee also recommended to the Bureau of the Order that the psychologist be obliged to take and pass the "Ethics and Professionalism" course given by the Order.

EXPERT ASSESSMENT

Non-compliance with scientific principles; failure to show caution and objectivity

No. 33-05-00313

The psychologist was found guilty of neglecting to show caution, objectivity and moderation when acting as an expert performing an assessment in a family case. Moreover, the psychologist failed to comply with the scientific principles generally recognized in psychology as she did not have all the elements needed to support her recommendations concerning placement of the assessed children in a foster family. The Disciplinary Committee imposed a \$600 fine on the psychologist for the first count arising from the complaint and a reprimand for the second. The Committee also recom-

mended to the Bureau of the Order the imposition of supervision for the psychologist's next five expert assessment cases in order to check the conformity of her practice with the ethical requirements concerning expert assessments.

No. 33-05-00318

The psychologist was found guilty of neglecting to show caution, objectivity and moderation when acting as an expert in a child custody case, as she neglected to clearly define her mandate and included in her report raw data derived from administered tests. She also failed to comply with the scientific principles generally recognized in psychology by administering an English version of an intelligence test, which she translated freely while administering it. In addition, she was charged with deficient record-keeping. Found guilty by the Disciplinary Committee, she was ordered to pay a \$1,000 fine plus half the costs and half the expert's fee; she was also reprimanded for her deficient record-keeping. Furthermore, the psychologist will be obliged to undergo supervision for her next five expert assessment cases relating to child custody. The Disciplinary Committee also recommended to the Bureau of the Order that the psychologist be obliged to take and pass the "Ethics and Professionalism" course given by the Order.

No. 33-05-00311

In the framework of an expert assessment, the psychologist, who was asked to give his opinion of a psychosocial assessment produced by another psychologist in a family case, produced a report that failed to comply with the scientific principles generally recognized in psychology. He had neglected to show caution, objectivity and moderation by criticizing his colleague's findings and recommendations, in particular, by expressing a different opinion on the parties' parenting abilities and making his own recommendations concerning the child custody arrangements without having met or assessed the parties to the dispute. Finding him guilty, the Disciplinary Committee emphasized the seriousness of the offences committed by a psychologist with many years of experience, and ordered him to pay a \$600 fine plus costs. Because the psychologist expressed his intention to retire

soon, the Committee recommended to the Bureau of the Order that, if he was still a member of the Order on April 1, 2007, or became a member again at a future time, the psychologist be obliged to take the "Ethics and Professionalism" course given by the Order.

*Nos. 33-01-00257
and 33-02-00272*

These two complaints made against a psychologist dated from 2001 and 2002. By a reasoned decision in June 2002, the Disciplinary Committee agreed to process the two complaints, stemming from two related cases, together based on the same evidence. The higher courts then made their determinations on the different actions brought by the psychologist. He challenged, unsuccessfully, before the Professions Tribunal, the Superior Court and the Court of Appeal of Quebec, the merits of these complaints, the inquiry concerning him and the decisions made. After these proceedings, the Disciplinary Committee called a hearing in June 2006. The psychologist admitted his guilt. It was determined that, as part of a mandate where he acted as an expert, he had neglected to show caution by providing testimony that was not expressed with all the objectivity and moderation required in the circumstances. The psychologist had also, while acting as expert, made recommendations concerning a person who was party to the dispute based on insufficient scientific and professional information, as he had not assessed that person. The defendant pleaded guilty and was ordered to pay a \$1,000 fine in each case, plus costs.

No. 33-05-00319

In 2002-03, a psychologist produced an assessment report that did not conform to the required methodology and failed to meet the report writing standards. While testifying in court as part of the same mandate, the psychologist failed to comply with the scientific principles generally recognized in psychology and neglected to show caution, objectivity and moderation by expressing his opinion on parental alienation and custody of the children when he did not have all the required scientific and professional information for this purpose. The psychologist

pleaded guilty and the Disciplinary Committee imposed a \$600 fine for the two counts arising from the complaint, plus payment of the costs including the expert's fees. As the psychologist had not been a member of the Order since 2005, the Disciplinary Committee ordered that if he were to re-enrol, his right to engage in professional activities for psycho-legal assessments before any type of tribunal be restricted until such time as he proved to the Order that he had acquired the necessary knowledge for the practice of this activity.

No. 33-05-00321

A psychologist conducted a psycho-legal assessment in 2004 and the report she submitted to the court failed to comply with the scientific principles generally recognized in psychology. The psychologist neglected to show caution, objectivity and moderation when she failed to check the truthfulness of her client's facts and allegations regarding all the parties to the dispute, in particular, by failing to meet with the client's spouse. Moreover, the psychologist neglected to show caution in interpreting a psychometric test by making a causal link that was not supported by the results obtained. The Disciplinary Committee found the psychologist guilty and issued a reprimand and ordered her to pay the costs. The Committee also recommended to the Bureau of the Order that the psychologist be obliged to take the "Ethics and Professionalism" course given by the Order.

No. 33-05-00315

In October, 2005, the Disciplinary Committee held hearings on five charges made in a complaint against a psychologist and rendered its decision in September 2006, although the penalties have not yet been determined. The psychologist admitted her guilt on four of the five counts. The offences with which she was charged concerned the performance of a mandate for an expert assessment in 2001, in which she failed to comply with the scientific principles generally recognized in psychology by recommending a change in child custody when it had not been possible to complete the expert assessment process with the

mother. The psychologist also neglected to show caution, objectivity and moderation by expressing an opinion on the mother's marital relationship without having completed the assessment of her. The last charge in the complaint was that the psychologist's record-keeping did not comply with the applicable regulations, but the Disciplinary Committee acquitted her on this charge.

MISCELLANEOUS

Obstructing the Syndic's Work

No. 33-05-00317

The Disciplinary Committee penalized a psychologist who had systematically impeded the Syndic's inquiry with a striking from the Order's roll of members for six months. The Committee noted that the Syndic's inquiry is the foundation underpinning professional law. The Committee also mentioned that the psychologist could reduce the period of striking off if she provided the required information to the Syndic. The Committee also ordered the publication of this decision in a newspaper having general circulation in the locality of the psychologist's professional domicile.

No. 33-06-00329

During an inquiry by the Office of the Syndic, the psychologist systematically ignored, for a very long time period, the Ad Hoc Syndic's requests that she provide him with the needed record. As this behaviour constituted obstruction of the Syndic's work, the psychologist was issued a severe reprimand. In delivering its decision, the Disciplinary Committee took account of the fact that, in a recent decision concerning two other cases, the psychologist had been ordered to pay fines totalling \$5,400 and costs of \$4,600 and was made subject to a two-year supervision.

Plagiarism

No. 33-06-00330

In producing a pre-release risk assessment report on an inmate, a psychologist borrowed from a report produced by a colleague three years earlier, going so far as to plagiarize several parts of this report and giving the impression that he was the author. He also gave

the impression that he had personally administered tests to the defendant and collected his remarks, which were identical to those found in the report produced three years earlier by his colleague.

The psychologist pleaded guilty to the charge and the Disciplinary Committee imposed a striking from the roll for 30 days and a \$1,000 fine, plus pay-

ment of all costs except the expert's fees. In addition, the psychologist, already under supervision at his place of employment, will have to continue the supervision for an additional four months. Moreover, a notice of this decision will be published, at the psychologist's expense, in a newspaper having general circulation in the locality of his professional domicile.

CONCILIATIONS

Following is a brief summary of the conciliations effected by the members of the Syndic's Office upon the conclusion of inquiries, indicating the nature of the offences and the measures agreed on in different cases.

EXPERT ASSESSMENT (9 cases)

VIOLATIONS

- Report or testimony based on insufficient professional and scientific information
- Non-conforming expert assessment report
- Conflit de rôles et conflit d'intérêts / Conflict of roles and conflict of interest
- Breach relating to consent

AGREED-ON MEASURES

- Apology
- Amended report
- "Ethics and Professionalism" course
- Referral to professional inspection

Psychotherapy (17 cases) and other interventions (16 cases)

VIOLATIONS

- Breach of confidentiality
- Inappropriate remarks by the psychologist in psychotherapy
- Conflict of roles and/or conflict of interest
- Breach relating to consent
- Attitude or behaviour problem
- Lack of diligence in providing a report
- Conflict concerning fees
- Inappropriate intervention/failure to adhere to scientific principles
- Non-conforming report

AGREED-ON MEASURES

- Apology
- Voluntary withdrawal from the membership roll
- Repayment of a portion of the fees
- "Ethics and Professionalism" course
- Submission of an amended report
- Referral to professional inspection
- Undertaking by the psychologist to improve his/her practice
- Free mediation session between the psychologist and his/her clients



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