DISCIPLINE COMMITTEE
OF THE COLLEGE OF AUDIOLOGISTS AND
SPEECH-LANGUAGE PATHOLOGISTS OF ONTARIO

BETWEEN:

COLLEGE OF AUDIOLOGISTS AND
SPEECH-LANGUAGE PATHOLOGISTS OF ONTARIO

-and-

SYLVIA D’ONOFRIO

Panel Members: Karen Bright Chair, Speech-Language Pathologist, Professional Member of Council
Ruth Ann Penny Public Member of Council
Satpaul Singh Johal Public Member of Council

Present: Ms. Natasha Danson Counsel for the College
Mr. Bernard LeBlanc Counsel for the College
Ms. Colleen Hoey Counsel for the Member
Ms. Shauna Cant Counsel for the Member
Ms. Alexandra Wilbee Independent Legal Counsel to the Panel

Hearing Date: February 8, 2018

DECISION AND REASONS
This matter was heard before a panel of the Discipline Committee (“Panel”) on February 8, 2018 at Victory Verbatim, 222 Bay Street, Toronto Ontario.

A. PRELIMINARY MOTION – PUBLICATION BAN

Counsel for the College brought a preliminary motion, with the consent of Counsel for the Member, pursuant to subsection 45(3) of the Health Professions Procedural Code, that is Schedule 2 to the Regulated Health Professions Act, 1991, S.O. 1991, c. 18. Counsel requested a limited publication ban on identity of the Complainant. Given the nature and location of the allegations, the Panel was satisfied that personal or other matters may be disclosed at the hearing of such a nature that the harm created
by disclosure of the identity of the Complainant would outweigh the desirability of adhering to the
principle of public disclosure of the identity of the Complainant. Accordingly, the Panel made an order that
there be a ban on the publication or broadcasting of any information identifying the Complainant in this
matter, or information that may reasonably identify the Complainant in this matter, pursuant to
subsection 45(3) of the Health Professions Procedural Code being Schedule 2 to the Regulated Health

B. ALLEGATIONS OF PROFESSIONAL MISCONDUCT

Notice of Hearing
The allegations as referred to the Discipline Committee against Sylvia D’Onofrio, Speech-Language
Pathologist (“Member”), as stated in the Notice of Hearing (Exhibit #1) were as follows:

1. Silvia D’Onofrio was, at all material times, a speech-language pathologist and member of the
College of Audiologists and Speech-Language Pathologists of Ontario ("College"). Ms.
D’Onofrio practised at Glengarry Memorial Hospital ("GMH") in Alexandria, Ontario.

Summary of the Facts

2. On or about November 22, 2014, [the Complainant] suffered an intracranial hemorrhage
("ICH") as a result of which he required, among other things, speech-language therapy.

Ms. D’Onofrio subsequently treated [the Complainant] on approximately twelve occasions
between December 19, 2014 and January 28, 2015, when [the Complainant] was discharged
from GMH. Ms. D’Onofrio did not provide professional services to [the Complainant] after his
discharge from GMH.

4. Following his discharge from GMH, [the Complainant] continued to receive care from another
speech-language pathologist. He also continued requiring care for a number of significant
health issues, some of which may have pre-dated the ICH.

5. Sometime between early February, 2015 and early March, 2015, a sexual relationship began
between Ms. D’Onofrio and [the Complainant] which, by late March or early April, 2015,
included sexual intercourse.

6. Ms. D’Onofrio ended the relationship in or around September, 2015.

Allegation of Professional Misconduct

7. Ms. D’Onofrio engaged in professional misconduct in that she became involved in a personal
and sexual relationship with [the Complainant] so soon after her therapeutic relationship with
[the Complainant] ended.
8. Ms. D’Onofrio thereby engaged in professional misconduct within the meaning of paragraphs 2 (failing to maintain a standard of practice of the profession) and 37 (engaging in conduct or performing an act, 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) of section 1 of Ontario Regulation 749/93 under the Audiology and Speech-Language Pathology Act, 1991.

Counsel for the College advised the Panel that the allegation that the Member engaged in professional misconduct within the meaning of paragraph 2 (failing to maintain a standard of practice of the profession) was withdrawn. The Panel accepted the withdrawal of this allegation.

Agreed Statement of Facts

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

1. Silvia D’Onofrio was, at all material times, a speech-language pathologist and member of the College of Audiologists and Speech-Language Pathologists of Ontario (the “College”). Ms. D’Onofrio practised at Glengarry Memorial Hospital (“GMH”) in Alexandria, Ontario.

Summary of the Facts

2. On or about November 22, 2014, [the Complainant] suffered an intracranial hemorrhage (“ICH”) as a result of which he required, among other things, speech-language therapy.

3. Ms. D’Onofrio first assessed and treated [the Complainant] on or about December 19, 2014. Ms. D’Onofrio subsequently treated [the Complainant] on approximately twelve occasions between December 19, 2014 and January 28, 2015, when [the Complainant] was discharged from GMH. Ms. D’Onofrio did not provide professional services to [the Complainant] after his discharge from GMH.

4. Following his discharge from GMH, [the Complainant] continued to receive care from another speech-language pathologist. He also continued requiring care for a number of significant health issues, some of which may have predated the ICH.

5. Sometime between mid-February, 2015 and mid-March, 2015, a sexual relationship began between Ms. D’Onofrio and [the Complainant].

6. Ms. D’Onofrio ended the relationship in or around September, 2015.

7. Approximately fourteen months later, in December, 2016, [the Complainant] filed a complaint with the College alleging that Ms. D’Onofrio engaged in misconduct.

8. Shortly before the hearing in this matter on December 1, 2017, [the Complainant] notified the College that he wished to withdraw his complaint.

9. Attached hereto at Tab “A” is a copy of Ms. D’Onofrio’s curriculum vitae and additional background information.
10. A redacted copy of Ms. D’Onofrio’s Discharge Report for [the Complainant] dated January 28, 2015 is attached hereto at Tab “B”.

11. A copy of the College’s Position Statement on Professional Relationships and Boundaries approved in 2001 and revised in 2013 is attached hereto at Tab “C”.

Admission of Professional Misconduct

12. Ms. D’Onofrio engaged in professional misconduct in that she became involved in a personal and sexual relationship with [the Complainant] soon after her therapeutic relationship with [the Complainant] ended.

13. Ms. D’Onofrio thereby engaged in professional misconduct within the meaning of paragraph 37 (engaging in conduct or performing an act, 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) of section 1 of Ontario Regulation 749/93 under the Audiology and Speech-Language Pathology Act, 1991.

Member’s Plea

The Member admitted to the allegations in the Agreed Statement of Facts (Exhibit #2). The Panel conducted a plea inquiry and was satisfied that the Member’s admission was voluntary, informed and unequivocal. A signed Plea Inquiry was included as part of the Agreed Statement of Facts.

Decision on Allegations of Professional Misconduct

The Panel considered the Agreed Statement of Facts (Exhibit #2) and found the Member to have engaged in professional misconduct with the meaning of paragraph 37 (engaging in conduct or performing an act, 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) of section 1 of Ontario Regulation 749/93 under the Audiology and Speech-Language Pathology Act, 1991. In particular, the Panel found that the Member engaged in professional misconduct in that she became involved in a personal and sexual relationship with the Complainant soon after her therapeutic relationship with the Complainant had ended.

Reasons for Decision

The Panel deliberated and after due consideration of all the facts and the Member’s admission to the allegations within the Agreed Statement of Facts, unanimously decided to accept the Agreed Statement of Facts as presented which substantiated the findings of professional misconduct made by the Panel.

The Panel found that Member had failed to exercise good judgement and follow guidelines set out in the Position Statement Professional Relationships and Boundaries (Exhibit #2, Tab C) in making the decision to become involved in a sexual relationship with the Complainant shortly after the therapeutic relationship between them had ended. Failure to recognize the impact of the potential continued power imbalance in such a relationship and the continued vulnerability of the Complainant were key factors noted. The Panel accepted that the Complainant would continue to be vulnerable after the therapeutic relationship ended with the Member. The Member’s discharge report for the Complainant
(Exhibit #2, Tab B) documented a premorbid history of anxiety and mood difficulties and residual deficits resulting from his acquired brain injury that were significant enough to require referral for continued treatment on discharge to “support the psychocognitive aspects of his recovery”.

C. PENALTY AND COSTS

Counsel for the College advised the Panel that a Joint Submission as to Penalty and Costs (“JSP”) had been agreed upon and requested that the Panel make the following Order:

1. The Member is required to appear before a panel of the Discipline Committee immediately following the hearing of this matter to be reprimanded, with the fact of the reprimand and the text of the reprimand to appear on the College’s public register.

2. The Registrar is directed to suspend the Member’s certificate of registration for a period of four (4) months, three (3) months of which shall be suspended if the Member complies with the provisions of paragraph 3 of this Joint Submission as to Penalty and Costs by no later than March 31, 2018. The Member’s certificate of registration shall be suspended as of March 1, 2018, but the length of the suspension shall depend upon the Member successfully complying with the provisions of paragraph 3. In the event that the Member fails to successfully comply with paragraph 3, the balance of the suspension shall be served in its entirety immediately following the first month of the suspension. The suspension shall be served consecutively.

3. The Registrar is directed to impose a term, condition and limitation on the Member’s certificate of registration requiring that the Member successfully complete by March 31, 2018, to the satisfaction of the Registrar and at the Member’s own expense, an ethics and boundaries remediation program that addresses the issues raised in this case.

4. For greater certainty, the Member’s obligation to comply with the proposed term, condition and limitation on her certificate of registration contained in paragraph 3 is not relieved by serving the entire suspension referred to in paragraph 2.

5. The Registrar is directed to impose a further term, condition and limitation on the Member’s certificate of registration requiring that the Member, for a two-year period following her return to practice, be monitored by someone satisfactory to the Registrar, to be approved in advance (the “Monitor”), by attending hour-long sessions with the Monitor on a quarterly basis and submitting to the Registrar, within two (2) weeks of each session, a report to be no less than 250 words in length, to be prepared by the Monitor, setting out what was discussed in the session and the Monitor’s assessment of the Member’s understanding of the issues discussed. The reports shall also review how the Member is incorporating the principles from the remediation program in paragraph 3 into her practice of speech-language pathology and must be satisfactory to the Registrar. The costs to the Member associated with this term, condition or limitation shall be capped at $200 per monitoring session/report.

6. The Member is required to pay to the College costs in the amount of $5,000.00, payable over five (5) months from the date of this Order in equal monthly installments of $1,000.00 (in the form of post-dated cheques which shall be provided to the College on the date of the hearing).
7. The Member acknowledges that the decision of the Discipline Committee and a summary of its reasons, including reference to her name, may be published in the College’s annual report and any other publication of the College and will be posted on the College’s website.

8. The Member acknowledges that any agreement between her and the College with respect to the penalty proposed does not bind the Discipline Committee.

9. The Member acknowledges that she is executing this document voluntarily, unequivocally, free of duress, free of inducement or bribe, and that she has been advised of her right to seek legal advice.

10. The College acknowledges that the Member has been cooperative throughout the investigation and disciplinary process.

11. The College acknowledges that the Member voluntarily commenced an ethics and boundaries remediation program as described in paragraph 3 above prior to the hearing in this matter.

Counsel for the College advised the Panel that the JSP was appropriate to the case and outlined how the components of the JSP met the requirement that penalties provide both specific and general deterrence, protection for the public and rehabilitation for the member. Counsel highlighted the rehabilitative value of the terms, conditions and limitations on the Member’s certificate of registration requiring completion of a course on ethics and boundaries and follow up monitoring.

In addition, the following mitigating factors were noted:

- The Member had been cooperative throughout the entire disciplinary process;
- The Member admitted to the allegations;
- The time and expense of a contested hearing is saved;
- The Member has no prior history of complaints made to the College;
- The Member had sought out and completed the ethics and boundaries course prior to the hearing;

The JSP was in keeping with past decisions made by other Colleges governed by the Regulated Health Professions Act. A Brief of Authorities was submitted, and the eight cases were briefly reviewed by Counsel for the College.

Counsel for the Member confirmed their support for the JSP and reminded the Panel that the Member fully acknowledged her mistake and sought to cooperate with the College completely enabling an expeditious execution of the process. Counsel also highlighted the fact that the Member had no prior history of discipline with the College and that her curriculum vitae (Exhibit #2, Tab A) demonstrated active commitment to ongoing education and professional development making her an asset to the profession. The Panel was advised that the Member had successfully completed the ethics and boundaries course prior to the hearing. A report from the course provider was presented (Exhibit #4) documenting the Member’s full participation in and demonstration of course learning objectives.

Counsel for the Member advised the Panel of the importance of noting the absence of the following aggravating factors:

- The treatment provided to the Complainant was not for psychological or counselling purposes, reducing the extent of vulnerability of the Complainant within the post discharge relationship;
• The Member had no power to diagnose or to prescribe medications (which if present, could contribute to more significant power imbalance in the relationship);
• The time in treatment was relatively short (12 sessions over 1.5 months) thereby reducing the likelihood of dependency on the Member;
• The doctor-patient relationship is more susceptible to a power imbalance than other health professional relationships, as noted in *Melunsky v College of Physiotherapists of Ontario*, [1999] O.J. No. 148 (Brief of Authorities, Tab 8);
• There is no clear language in the College Position Statement on Professional Relationships and Boundaries on a specific time frame required before initiating a relationship with a patient following discharge.

Counsel for the Member advised the Panel that the Member had no current contact with the Complainant. She also noted that the punitive aspects of the proposed penalty did not need to be strengthened as the proposal represented a significant financial impact on the Member in addition to possible impact on her ability to find work.

**Decision on Penalty and Costs**

The Panel deliberated and unanimously accepted the proposed penalty and order for costs. As such, the Panel ordered:

1. The Member is required to appear before a panel of the Discipline Committee immediately following the hearing of this matter to be reprimanded, with the fact of the reprimand and the text of the reprimand to appear on the College’s public register.

2. The Registrar is directed to suspend the Member’s certificate of registration for a period of four (4) months, three (3) months of which shall be suspended if the Member complies with the provisions of paragraph 3 by no later than March 31, 2018. The Member’s certificate of registration shall be suspended as of March 1, 2018, but the length of the suspension shall depend upon the Member successfully complying with the provisions of paragraph 3. In the event that the Member fails to successfully comply with paragraph 3, the balance of the suspension shall be served in its entirety immediately following the first month of the suspension. The suspension shall be served consecutively.

3. The Registrar is directed to impose a term, condition and limitation on the Member’s certificate of registration requiring that the Member successfully complete by March 31, 2018, to the satisfaction of the Registrar and at the Member’s own expense, an ethics and boundaries remediation program that addresses the issues raised in this case.

4. For greater certainty, the Member’s obligation to comply with the proposed term, condition and limitation on her certificate of registration contained in paragraph 3 is not relieved by serving the entire suspension referred to in paragraph 2.

5. The Registrar is directed to impose a further term, condition and limitation on the Member’s certificate of registration requiring that the Member, for a two (2) year period following her return to practice, be monitored by someone satisfactory to the Registrar, to be approved in advance (the
“Monitor”), by attending hour-long sessions with the Monitor on a quarterly basis and submitting to the Registrar, within two (2) weeks of each session, a report to be no less than 250 words in length, to be prepared by the Monitor, setting out what was discussed in the session and the Monitor’s assessment of the Member’s understanding of the issues discussed. The reports shall also review how the Member is incorporating the principles from the remediation program in paragraph 3 into her practice of speech-language pathology and must be satisfactory to the Registrar. The costs to the Member associated with this term, condition or limitation shall be capped at $200 per monitoring session/report.

6. The Member is required to pay to the College costs in the amount of $5,000.00, payable over five (5) months from the date of this Order in equal monthly installments of $1,000.00 (in the form of post-dated cheques which shall be provided to the College on February 8, 2018).

Reasons for Decision on Penalty and Costs

The Panel considered the submissions made by Counsel for the College and Counsel for the Member on the Joint Submission as to Penalty and Costs. The Panel believed that the submission was within the range set out by the precedent cases put before them and therefore believed the order would not bring the administration of justice into disrepute and would not otherwise be contrary to the public interest.

The Panel believed the main purpose of the penalty decision was to protect the public by ensuring that the high professional standards as set out by the College of Audiologists and Speech-Language Pathologists of Ontario are met and maintained by the professional membership. The Panel agreed that:

- The reprimand component serves both as a specific and general deterrent;
- The four-month suspension of the Member’s certificate of registration is within the range of precedents presented and serves as both specific and general deterrence as well as protection of the public. The three-month remitted suspension acknowledges the Member’s cooperation throughout the proceedings and serves to protect the public;
- The term, conditions and limitations in the penalty serve both as public protection and rehabilitation of the Member. The Panel believed the remedial component and follow up monitoring was essential and addressed both the need to ensure the Member continued to demonstrate knowledge of current issues in professional ethics and boundaries and to further ensure the safety of the public;
- The costs ordered are within the range of precedents presented and acknowledge the level of cooperation by Member and the costs saved by having an uncontested hearing. The Panel also recognized the cooperation of the Member and her commitment to the profession as demonstrated by the agreement to a relatively aggressive payment schedule;
- The oral reprimand, and the publication of the reprimand and the decision of the Discipline Committee is consistent with current legislative requirements and served as general and specific deterrents in addition to protection of the public.

Accordingly, the Panel accepted the Joint Submission as to Penalty and Costs.

The Member waived her right of appeal and the public reprimand was delivered by the Panel Chair on February 8, 2018.
I, Karen Bright, Speech-Language Pathologist, sign this Decision as Chairperson of this Discipline Panel and on behalf of the Panel Members.

Date: __March 25, 2018__  Signed: ____________________________

Chair, Panel of the Discipline Committee