

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

BETWEEN:

**THE COLLEGE OF AUDIOLOGISTS AND SPEECH-LANGUAGE
PATHOLOGISTS OF ONTARIO
("College")**

- and -

**ESTELLE MAYER-LINKLATER
("Ms. Mayer-Linklater")**

Panel Members:	Robert Kroll Ann Anderson Geta Amdetsion	Chair, Professional Member Professional Member Public Member
Counsel Present:	Bernard LeBlanc Aineslie Benedict Alan Bromstein	Counsel for the College Counsel for Ms. Mayer-Linklater Independent Legal Counsel to Panel
Hearing Date:	November 6, 2007	

**DECISION AND REASONS FOR THE DECISION
of the Panel of the Discipline Committee**

This matter came before a panel of the Discipline Committee ("Panel") at a hearing which was held on Tuesday, November 6, 2007.

A Notice of Hearing containing a Statement of Allegations was filed as Exhibit No. 1.

An Agreed Statement of Facts (2 Volumes) was filed on the consent of both parties as Exhibit No. 2a and 2b. The Agreed Statements of Facts contained the following agreed upon facts:

- "1. Ms. Estelle Mayer-Linklater ("Ms. Mayer-Linklater") was, in all material times, a speech-language pathologist and a member of the College of Audiologist and Speech-Language Pathologists of Ontario ("the College").
2. Commencing in September 2000, Ms. Mayer-Linklater was employed by, and practiced speech-language pathology with, the Leeds-Grenville & Lanark

District Health Unit ("the Health Unit") as a Service Provider in the Preschool Speech-Language System. Ms. Mayer-Linklater also practiced with a number of partner agencies of the Health Unit, providing services through local hospitals and social service agencies.

3. On November 13, 2003, Ms Mayer-Linklater was injured in a motor vehicle accident. She went on medical leave from the Health Unit following the accident and has been unable to work since that date. She is in receipt of social assistance.
4. In an effort to ensure uninterrupted client care, the Health Unit attempted to locate the records of those clients for whom Ms. Mayer-Linklater provided services but the Health Unit was unable to locate all such records in its offices or in offices that Ms. Mayer-Linklater had used.
5. The Health Unit subsequently learned from Ms. Mayer-Linklater that many of these records were at her home. Many of her patient/client notes were in rough form only and were incomplete at the time of the accident.
6. On or about February 27, 2004, the Health Unit Coordinator attended at Ms. Mayer-Linklater's home and retrieved client records and other relevant information relating to clients.
7. In the course of responding to the complaint made to the College, Ms. Mayer-Linklater provided considerable additional information about many of her clients that, had she included in the records or provided to the Health Unit Coordinator when she attended at Ms. Mayer-Linklater's residence on February 27, 2004, would have been of considerable assistance in terms of providing uninterrupted and appropriate client care.
8. Ms. Mayer-Linklater therefore engaged in professional misconduct within the meaning of paragraphs 2 (failing to maintain a standard of practice of the profession), 19 (failing to keep records as required) and 37 (engaging in conduct or performing an act, relevant to the profession, that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional).
9. Between September 18, 2000 and November 2003, Ms. Mayer-Linklater failed to maintain client records that accurately reflected the services that she provided and otherwise failed to create or maintain appropriate records:
 - a. In seventy (70) cases for which Ms. Mayer-Linklater was responsible, the vast majority of records were incomplete, in that they did not contain assessment reports or findings, client contact notes, recommendations, progress notes, client goals, progress towards goals and next steps.
 - b. Unscored test forms with notes regarding observations and recommendations and unsigned "working notes" were also present.

- c. Often, "working notes" that had observational notations taken during a therapy session were included in the client records with more than one patient/client on the same page recorded together.
 - d. In many cases, monthly statistics that Ms. Mayer-Linklater reported to the Health Unit indicated that clients had attended for various interventions but there was no corresponding documentation as to the nature of the service, progress, changes to treatment programs, further recommendations and/or consultations with other caregivers.
10. Attached hereto as **Appendix "A"** is a copy of a report of an independent expert retained by the College, Judith K. Ball, dated February 6, 2006. While Ms. Mayer-Linklater does not necessarily agree with the entire content of the expert's report, she does not dispute the expert's overall views for purposes of these proceedings.
 11. Attached hereto as **Appendix "B"** is a copy of the records referred to by Ms. Ball at pages 3 and 4 of her report.
 12. After receiving a complaint about Ms. Mayer-Linklater, the College invited Ms. Mayer-Linklater to forward to the College, in their original form, any patient/client materials still in her possession including the materials she had variously referred to in her correspondence to the College as "contact notes", "group notes" and "group file".
 13. In response, on June 17, 2005 Ms Mayer-Linklater forwarded documents to the College, including but not limited to:
 - "Group Contact Notes" that Ms. Mayer-Linklater had in her possession at the time of the accident.
 - "Contact Notes" pertaining to individual clients prepared by Ms. Mayer-Linklater using information from "Group Contact Notes". Many of these "Contact Notes" were written by Ms. Mayer-Linklater from April to June 2005, long after the contact had occurred, sometimes over 18 months later. Ms. Mayer-Linklater failed to note the date when she charted these late individual "Contact Notes" and, at times, she failed to provide sufficient information with respect to the client contact. In some of the documents that she forwarded to the College, Ms. Mayer-Linklater also identified more than one client's name along with the information relating to those clients, rather than creating proper notes for individual client.
 14. Ms. Mayer-Linklater therefore engaged in professional misconduct within the meaning of paragraphs 2 (failing to maintain a standard of practice of the profession), 19 (failing to keep records as required) 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).

15. At all material times, Ms. Mayer-Linklater has been registered with the College as "Estelle Mayer-Linklater".
16. However, Ms. Mayer- Linklater identified herself to the Health Unit, and in its records, as "Estelle Mayer". Further, Ms. Mayer-Linklater referred to herself in client records as "Estelle Mayer", "E. Mayer" or "E.M."
17. By failing to use the name that she has registered with the College, Ms. Mayer-Linklater engaged in professional misconduct within the meaning of paragraphs 2 (failing to maintain a standard of practice of the profession), 18 (using a name other than the member's name, as set out in the register, in the course of providing or offering to provide services within the scope of practice of the professions), 19 (failing to keep records as required) 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)."

After giving both Counsels an opportunity to make submissions respecting the finding of professional misconduct, the Panel withdrew to deliberate.

DECISION ON FINDING OF PROFESSIONAL MISDCONDUCT

The Panel was satisfied that the conduct described in the Agreed Statement of Facts constituted professional misconduct as defined by paragraphs 2, 18, 19 and 37 of section 1 of Ontario Regulation 749/93, made under the Audiologists and Speech-Language Pathologists Act, 1991. It, therefore, found Ms. Estelle Mayer-Linklater had committed acts of professional misconduct as more particularly set out in the Agreed Statement of Facts.

PENALTY

The parties filed a Joint Submission on Penalty and Costs which was marked as Exhibit No. 3. The Joint Submission suggested that the following penalty would be appropriate in the circumstances of this case, namely, an Order

- "a. Reprimanding the member;
- b. Directing the Registrar to suspend the member's certificate of registration for a period of one month commencing on a date to be fixed by the Registrar but which date will be no later than January 1, 2008.

- c. Directing the Registrar to impose a term, condition and limitation on the member's certificate of registration requiring the member to draft a paper that will be a minimum of 1,000 words addressing practice issues that are relevant to the allegations contained in the Notice of Hearing including, but not limited to, the requirements to make and maintain proper records. The paper must refer to all pertinent requirements, including all College standards, and be to the satisfaction of the Registrar or his or her designate and the member must obtain such approval within three (3) months from the date of this Order. All costs associated with reviewing the paper will be at the member's expense.
- d. Requiring the member to pay \$500.00 in costs to the College within three (3) months from the date of this Order."

PENALTY DECISION

The Panel understood from the submissions that where a hearing involved a Joint Submission on Penalty, the Panel should accept the proposal if it is within a reasonable range of penalties for similar conduct. It also understood that it was not its role to make minor changes to a penalty when jointly submitted and that so long as the penalty would not bring the administration of the proceedings into disrepute, it should accept the Joint Submission. This Panel understood that it should not accept a Joint Submission as to Penalty where the penalty would compromise the integrity of the process thereby causing the public to lose trust in the College's ability to self-regulate.

The Panel recognized that Joint Submissions of this type are an important part of all levels of justice and that in the context of a discipline proceeding it is important that members can be reasonably assured when they enter into an agreement with the College that it will be accepted by the Discipline Committee.

The Panel concluded that the penalty being jointly submitted was a fair and appropriate penalty having regard for the facts of this case.

The Panel, therefore, accepted the Joint Submission on Penalty and Costs and issued that Order as set out by the above sections a, b, c, and d.

REASONS FOR THE PENALTY

There are several audiences for this Order on Penalty.

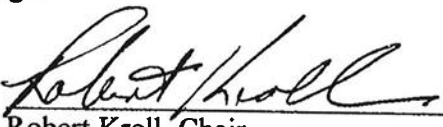
- The public which has to be assured that the College takes this misconduct very seriously and that it is capable of policing the profession and protecting the public.

- The profession which must be sent a message, in the strongest of terms, that this type of behaviour is totally unacceptable.
- The member, who must suffer consequences for her actions to ensure that the behaviour will not occur again and who, at the same time, shall be provided with an opportunity for rehabilitation.

In the Panel's view, the penalty imposed constituted a fair one which balanced all of the principles of sentencing. The conduct which Ms. Mayer-Linklater engaged in was a blatant disregard of her professional and ethical obligations. The Panel also wanted members of the profession to know that conduct of this nature reflects on all members of the College and gives our profession a reputation it does not deserve. All members of the College have an obligation to ensure documentation is complete and reflective of the best possible service provision and if that cannot be fulfilled, then it is again the responsibility of the member to communicate that to their supervisors to ensure the standards of practice of the profession are met. The panel also wanted Ms. Mayer-Linklater and all other members of the College to know that this type of behavior would not be tolerated. At the same time, however, the Panel believed that the penalty which was ordered by the Panel gave recognition to certain mitigating factors which were described by counsel for the Member and which related to Ms. Mayer-Linklater's financial and medical situation, her existing undertaking agreement (mentoring) with the College and her co-operation with the College.

Dated:

Nov 21, 2007


Robert Kroll, Chair,
Panel of the Discipline Committee