

College of Audiologists and Speech Language Pathologists of Ontario



CASLPO Discipline Decisions You Should Know About

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Agenda

- Professional Misconduct
- Review 3 cases (links embedded):
 - [CASLPO v. D'Onofrio 2018](#)
 - [CASLPO v. Thomas 2018](#)
 - [CASLPO v. Berge 2015](#)

For each case we will discuss:

- » Facts
- » Finding
- » Penalty
- » Reasons

What is “professional misconduct”?

- Acts of misconduct are specific to the profession – CASLPO’s [Professional Misconduct Regulation](#)
 - E.g. Submitting an account that is false or misleading
- [Regulated Health Professions Act, 1991 \(RHPA\)](#) sets out acts that apply to all regulated health care professionals (s. 51(1) of the Code)
 - E.g. Sexual Abuse of a Patient
- However, the *RHPA* does not define “professional misconduct”
 - Based upon consensus or values in the profession

CASLPO v. D'Onofrio 2018

Facts

In [CASLPO v. D'Onofrio](#), the member (SLP) treated a patient who had suffered an intracranial hemorrhage, which resulted in the need for speech-language therapy.

The member assessed and treated the patient over the course of approximately 6 weeks, from December 2014 until January 2015. The patient was then discharged and the member did not continue to provide treatment.

Facts (Con'd)

Sometime between mid-February 2015 and mid-March 2015, the member and the patient engaged in a sexual relationship. The member ended the relationship around September 2015.

Complaint was lodged with the College in December 2016. Complainant wished to withdraw the complaint in December 2017.

The member admitted to engaging in professional misconduct by entering into a personal and sexual relationship soon after the therapeutic relationship ended.

Finding

At a hearing held on February 8, 2018, a panel of the Discipline Committee found the SLP member guilty of professional misconduct under paragraph 37 of section 1 of Ontario Regulation 749/93:

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.

In particular, the member was found to have engaged in professional misconduct in that she became involved in a personal and sexual relationship soon after the treatment relationship had ended.

Penalty

- reprimand
- four-month suspension (three months remitted upon successful completion of a mediation course)
- two-year practice monitoring program
- \$5,000.00 in costs

Reasons

- Failed to exercise good judgement and to follow the College's Position Statement when engaging in a sexual relationship shortly after the therapeutic relationship had ended
- Failed to recognize the impact of a possible continued power imbalance and vulnerability of the former patient
- Penalty was appropriate as it fell into the range of penalties in similar cases, and would not be otherwise contrary to public interest

All AUDs and SLPs must remember the inherent power imbalance that exists in the treatment relationship. Patients are vulnerable in this power imbalance, so it is always the responsibility of the AUD or SLP to behave in a professional manner.

Note: As of May 1, 2018, amendments to the *RHPA* prohibit a health care professional from engaging in a sexual relationship with a patient within one year of the treatment relationship ending.

Questions?

CASLPO v. Thomas 2018

Facts

In [CASLPO v. Thomas](#), the member (AUD) made improper OHIP claims, provided inadequate counselling and follow-up care to patients who received FM systems, and failed to keep complete and adequate records.

For a period of 6 years, the member had used the OHIP billing number of a retired physician (otolaryngologist). OHIP provided remittances to the physician, who then remitted approximately 60% of the funds to the member.

Facts (Con'd)

Further, for a period of two years, the member provided FM systems to patients, and in some cases, these were not set up for optimal use with hearing aids.

The member entered a plea of “no contest” with respect to the allegations brought forward by the College.

Finding

At a hearing held on April 3, 2018, a panel of the Discipline Committee found the member guilty of professional misconduct under the following paragraphs of section 1 of Ontario Regulation 749/93:

Paragraph 2: failing to maintain standards

Paragraph 19: failing to keep records as required

Paragraph 22: signing or issuing a document that is false or misleading

Paragraph 23: submitting an account that is false or misleading

Paragraph 37: disgraceful, dishonourable, unprofessional conduct

Penalty

- reprimand
- revocation of the certificate of registration
- \$10,000.00 in costs

Reasons

- Intentionally participated over a long period of time in a scheme to improperly bill OHIP for personal gain
- Little regard for citizens of Ontario in need of health care
- The conduct had brought the reputation of audiologists across the province into disrepute
- Penalty was appropriate as it fell into the range of penalties in similar cases, and met the seriousness of the misconduct to serve the public interest

Inappropriate third party billing is a very serious offence, as it impairs the ability of public and private programs to provide funding for patient care. AUDs and SLPs bear the responsibility to bill in an honest way, and, in so doing, are trusted to help these programs continue to be viable for the benefit of Ontarians.

Questions?

CASLPO v. Berge 2015

Facts

In [CASLPO v. Berge](#), the member (AUD) had used the title doctor, since at least 2009, in the course of providing or offering to provide health care to individuals in Ontario.

The member had referred to herself as “Dr. Brenda Berge” (as well as variations and abbreviations) on her practice website, on her business cards and on her business sign.

Finding

At a hearing held on October 28-30, December 18, 2014 and September 2, 2015, a panel of the Discipline Committee found the member guilty of professional misconduct under the following paragraphs of section 1 of Ontario Regulation 749/93 :

Paragraph 16: inappropriately using a term, title or designation

Paragraph 31: contravening the *ASLPA*, the *RHPA*, regulations under the Acts

Paragraph 34: inappropriately advertising or permitting advertising

Paragraph 37: disgraceful, dishonourable, unprofessional conduct

Penalty

- reprimand
- three months suspension (one month to be remitted)
- six unannounced practice inspections
- completion of a remediation course
- \$97,595.00 costs

Reasons

- Conduct was a clear violation of s.33 of the *RHPA*
- Knowing and willing breach of the regulations which govern the profession
- For self-regulation to be effective, the member must abide by the current and relevant legislation
- Order is to denounce the conduct to both the member and the membership

This decision has application to both AUDs and SLPs, and all health professionals subject to the *RHPA*. The member engaged in conduct that was clearly against the law. The restriction is meant to prevent confusion by vulnerable patients with health concerns or illnesses.

It should be noted that this decision has withstood a considerable amount of judicial scrutiny, as Ontario's Divisional Court upheld the Discipline decision and the member's leave to appeal has been denied by both Ontario's Court of Appeal and the Supreme Court of Canada.

A motion to reopen the case has been made and will be heard shortly.

Questions?

Thank You!

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