
Professional Conduct Committee
Saskatchewan Association of Social Workers
And
Ms. Lynda McCuaig (SASW Reg. # 0827)

Decision

Of the
Discipline Committee
Saskatchewan Association of Social Workers

Appearing for the Professional Conduct Committee: Darcia Schirr, Q.C.

Appearing for Lynda McCuaig: Lynn Galey

Members of the Discipline Committee:

David Rivers, MSW, RSW (SK) – Chairperson

Katherine Potts, HBSW, RSW (SK)

Charlene Cameron, BSW, MA, RSW (SK)

Sarah Tekatch, RN, MN (Public Representative)

Gary Prediger, BSW, RSW (SK)

Counsel for the Discipline Committee: Alma Wiebe, Q.C.

Date of the Hearing: January 16, 2017

Introduction

A hearing of the Discipline Committee of the Saskatchewan Association of Social Workers (“SASW”) pursuant to Section 28 of the *Social Workers Act* was conducted in Regina Saskatchewan on January 16, 2017 with respect to a complaint against Ms. Lynda McCuaig.

Background

On May 19, 2015, the SASW received a letter of complaint from RS, a service recipient, alleging that Ms. McCuaig may be guilty of professional incompetence and misconduct in relation to an Access Assessment she wrote in August 2014. The complaint alleged the incompetence “involves her research, assessment, documentation, evaluation, interpretation and conclusion-making abilities” and therefore the report was alleged to be neither reliable nor credible.

The letter was referred by the Registrar to the Professional Conduct Committee. After reviewing the complaint, Jim Walls, the Chair of the Professional Conduct Committee proceeded with a formal investigation pursuant to Section 26(1) of the *Social Workers Act*.

After consideration of all matters disclosed during the investigation of the complaint, the Professional Conduct Committee recommended the matter be referred to the Discipline Committee to hear and determine the following charges as set out in Appendix A to the Notice of Discipline Hearing dated August 18, 2016:

1. By an Order dated June 23, 2014, Mr. Justice Chicoine directed that an access assessment report be prepared regarding RL’s parenting time with the two children of his relationship with RS. You prepared an access assessment report dated August 13, 2014. The report demonstrates a failure to meet the *Social Workers Act*, *Canadian Association of Social Workers Code of Ethics*, *SASW Standards of Ethical Practice* and the *Model Standards of Practice for Child Custody Evaluations*, the particulars of which are, inter alia, as follows:
 - a. The report is not accurate, objective, fair and independent as:
 - i. You did not observe RL interacting with his children.
 - ii. You did not explain or sufficiently explain why you did not see RL interacting with his children.
 - iii. You used hearsay statements from a number of sources without identifying the statement as hearsay.
 - iv. You outlined allegations made by RS against RL and gave RL the opportunity to respond to those allegations. You did not follow a similar approach when RL made allegations against RS and RS had no opportunity to respond.
 - v. You uncritically accepted and documented statements made by RL’s references that you knew or ought to have known were unreliable and or false.

- vi. You failed to point out inconsistencies and/or contradictory information received by both RL and RS or about them from collateral sources.
 - vii. The report states that the children witnessed RL assault RS which was incorrect and not the case.
 - viii. The report is confusing as at page 7, you indicate that RL assaulted RS on November 15, 2014 and yet on the same page, you indicate that RL was charged with assaulting RS in November 2013.
 - ix. At page 27 of the report, you indicate that the parents have completed the “parenting after separation and divorce and parenting after separation in high conflict situations sessions...however they find it difficult to incorporate this thinking into their parenting style”. As of the date of the report, RS had not attended these sessions.
 - x. Under the heading “Parental Attributes/Limitations”, you make this statement “Amongst her friends, RS takes pride in having the ‘the worse divorce’. However, RS seems to lack the insight regarding the devastating impact of the parental conflict on (the children).” This statement attributed to RS was inaccurate, taken out of context and used in a manner that portrayed RS negatively.
- b. You included information in the report which was not relevant and which may have had a prejudicial effect including:
- i. Information from RL’s references that are critical of the fairness of the legal system.
 - ii. Opinions from both parents regarding custody when the direction of the court was to examine RL’s access.
 - iii. Criticisms of RS by RL’s common-law partner.
- c. You failed to inform or properly inform collateral sources and school references about the limits of confidentiality.
- d. You used language that was inappropriate in the circumstances and unprofessional including “they both need to bury the hatchet...” and describing the assault by RL on RS as an “incident between the parents”.
- e. Throughout the report, quotation marks are inconsistently used or improperly used such that it is difficult to know what is a direct quotation or what is your summary of the discussion.
- f. The Model Standards indicate that child custody evaluators “are strongly encouraged to utilize peer reviewed published research in their reports”. In the “recommendations” of your report, you refer to an individual who is not a recognized author in the field. The passage used from this individual comes from a blog and not a published article that is

peer reviewed. Further, the quotation you attribute to this individual was cited inaccurately to support your conclusions and recommendations.

- g. The report contains numerous grammatical and typographical errors.
2. In your response letter dated July 11, 2015 to the Professional Conduct Committee, your letter quoted extensively from the *Model Standards of practice for Child Custody Evaluations* but you did not attribute your comments to the *Model Standards* or use quotation marks to illustrate the source of comments.

Preliminary Matters

At the commencement of the hearing, Counsel for the Professional Conduct Committee filed proof of service of the Notice of Discipline Hearing on Ms. McCuaig pursuant to Section 28(1) of *The Social Workers Act*.”

No issues or objections to the composition of the Discipline Committee or its jurisdiction to hear and decide this matter were raised.

Agreed statement of facts

Solicitors for the SASW Professional Conduct Committee and for Ms. McCuaig submitted a written statement to the Discipline Committee which agreed to a number of facts as follows:

1. Lynda McCuaig of the City of Swift Current, in the Province of Saskatchewan is a registered social worker and a member of the Saskatchewan Association of Social Workers (the “Association”) in good standing.
2. Ms. McCuaig first registered with the Association on April 8, 1993. For the years 1996 and 1997, Ms. McCuaig was not a member of the Association. She has registered and been a continuous member since January 1998 and she has been a member in good standing since that date.
3. On May 19, 2015, the Association received a letter of complaint regarding Ms. McCuaig from RS of Esterhazy.
4. The complaint letter was forwarded to the Professional Conduct Committee for review and investigation. The investigation by the Professional Conduct Committee has resulted in the charges set out in Appendix A to a Notice of Discipline Hearing dated August 18, 2016.
5. The Discipline Hearing was originally scheduled for November 21, 2016 but it was adjourned at the request of Ms. McCuaig to January 16, 2017.

Background to the Complaint

6. By an Order dated June 23, 2014 in Court of Queen's Bench Yorkton, Mr. Justice Chicoine directed that an access assessment be prepared regarding RL's parenting time with the two children of his relationship with RS.
7. By arrangement between legal counsel for Mr. RL and Ms. RS, Lynda McCuaig was engaged to complete the assessment. Ms. McCuaig did complete an assessment report dated August 13, 2014.
8. The primary purpose of a custody and/or access assessment is to assess the family and to provide objective information and recommendations to assist the court in determining the best interests of children in custody and/or access disputes.
9. In Saskatchewan, professionals who conduct custody and/or access assessments are required to follow the Model Standards of Practise for Child Custody Evaluation developed by the Association of Family and Conciliation Courts.

Discipline Charges

10. The Professional Conduct Committee withdraws the following charges set out in Appendix A of the Notice of Discipline Hearing of August 14, 2016:

1(a)(viii)
1(a)(x)
1(c)
1(d)
2

11. The Professional Conduct Committee seeks to amend charge 1(v) as follows:

“You uncritically documented statements made by RL’s references.”

12. The Professional Conduct Committee also seeks to amend charge 1(b)(i) as follows:

“Information from RL’s references that are critical of the fairness of the legal system.”

13. The Professional Conduct Committee also seeks to amend charge 1(f) as follows:

“The Model Standards indicate that child custody evaluators “are strongly encouraged to utilize peer reviewed published research in their reports”. In the “recommendations” of your report, you refer to an individual who is not a recognized author in the field.”

14. Ms. McCuaig admits the following allegations in charge 1 of the amended Appendix A and admits that the conduct described in those charges constitutes professional incompetence as that term is defined in section 30(2) of *The Social Workers Act*:

- 1(a)(i), (ii), (iii), (iv), (vi), (vii) and (ix)
- 1(a) (v) as amended
- 1(b)(i) as amended
- 1(b) (ii) and (iii)
- 1€
- 1(f)(as amended)
- 1(g)

15. Ms. McCuaig further admits that her conduct described in the charge for which she has offered guilty pleas amount to a breach of the following:

Canadian Association of Social Workers Code of Ethics 2005

Value 6: Competence in Professional Practice:

Social workers uphold the right of clients to be offered the highest quality services possible.

Social workers strive to maintain and increase their professional knowledge and skill.

Social workers demonstrate due care for client's interests and safety by limiting professional practice to areas of demonstrated competence.

Value 4: Integrity in Professional Practice

Social workers demonstrate and promote the qualities of honesty, reliability, impartiality and diligence in their professional practice.

SASW Standards of Practice for Registered Social Workers in Saskatchewan

E. Competence

PRINCIPLE:

Social Workers shall be competent in the performance of the services they undertake on behalf of the persons they serve.

1. Knowledge/Skills/Abilities

(b) A social worker shall have adequate skills to meet standards of practice requirements. This includes, but is not limited to, skills in the following tasks:

2. Assessment

4. Communication

5. Documentation

6. Consultation

7. Supervision

8. Evaluation

(c) A social worker shall have adequate ability to meet standard of practice requirements. This includes but is not limited to, the ability to:

1. Use interpersonal communication skills to:

(i) Provide clear explanations of professional and workplace roles:

(iii) Clarify the need to gather sufficient and appropriate information for the services requested or provided:

2. Develop a prompt and reasonable report when required; and

3. Use consultation and supervision in the management of professional relationships with clients and the application of *practice methods*.

The Model Standards of Practice for Child Custody Evaluations

II. EVALUATION STANDARDS

E. Presentation of Findings and Opinions

Child custody/access evaluators shall strive to be accurate, objective, fair and independent in their work and are encouraged to utilize peer-reviewed research in their reports.

1. Evaluators shall not present data in a manner that might mislead the triers of fact or others likely to rely upon the information and/or data reported. In their reports and when offering testimony, evaluators shall strive to be accurate, objective, fair and independent. Evaluators shall resist partisan pressure to report their information and data or to communicate their opinions in ways that might be misleading.

2. Evaluators are encouraged to utilize and make reference to pertinent published research in the preparation of their reports. Where peer-reviewed published research has been alluded to, evaluators shall provide full references to the cited research.

3. Evaluators shall recognize that information not bearing directly upon the issues before the court may cause harm when disclosed and may have a prejudicial effect. For these reasons, evaluators shall avoid including information in their reports that is not relevant to the issues in dispute. Notwithstanding the foregoing, evaluators shall retain all information gathered by them and make this available to the court when ordered to do so.

III. EVALUATION PROCEDURES

A. Data Gathering/Establishing the Scope of the Evaluation

The scope of the evaluation shall be delineated in a court order.

2. Evaluators shall employ procedures that are most likely to yield information that will meet the needs of the court and shall conduct the data gathering phase of their evaluations in a manner consistent with provincial and judicial rules governing such evaluations. When circumstances demand that an evaluation be limited in scope, evaluators shall take steps to ensure that the boundaries to the evaluation and the evaluator's role are clearly defined for the parties, lawyers and the court.

B. Commitment to Accuracy

Child custody/access evaluators shall strive to be accurate, objective, fair and independent in gathering their data and shall be prepared to defend decisions made by them concerning their methodology.

In gathering data, evaluators shall be committed to accuracy, objectivity, fairness, impartiality, independence, and shall weigh all data, opinions, and be prepared to articulate the bases for their recommendations.

IV. USE OF A BALANCED PROCESS

2. Evaluators will endeavour to employ procedures that will create a sense of balance for those involved in the process. As one element of a balanced process, the evaluative criteria employed shall be the same for each parent-child combination. In the interests of fairness and sound methodology, evaluators shall ensure that any allegation concerning a matter that the evaluator is likely to consider in formulating his/her opinion shall be brought to the attention of the party against whom the allegation is registered so that he/she is afforded an opportunity to respond.

XI. OBSERVATIONAL – INTERACTIONAL ASSESSMENT

B. Parent-Child Observations

Each parent-child combination shall be observed directly by the child custody/access evaluator, unless there is a risk to the child's physical or psychological safety.

1. All children, including pre-verbal children, shall be observed with their parents, unless verifiable threats to a child's physical or psychological safety will create foreseeable risk of significant harm to the child or where conducting such an observation is impossible (as when a parent is incarcerated or overseas). Where parent-child observations have not been conducted on the basis of possible risk to a child, evaluators shall have an affirmative obligation to articulate the bases for their decisions.

XII. USE OF COLLATERAL SOURCE INFORMATION

A. The Importance of Collateral Source Information

Valid collateral source information is critical to a thorough evaluation. Sufficiency and reliability of collateral source information is a determination to be made by the child custody/access evaluator.

XIII. THE EVALUATION REPORT

A. Style

The evaluation report shall be written clearly and without jargon so that it can be understood by the court, lawyers and parties. The report shall convey an attitude of understanding and empathy of all of the individuals involved, adults and children, and shall be written in a way that conveys respect for each individual.

16. The factual allegations in Appendix A speak for themselves. In reference to charge 1(f) as amended:
- (a) Starting at page 1 of the Report, Ms. McCuaig identifies 30 sources of information and number 30 is identified as "Shaffren, M. *The Psychological Effects of Divorce on Children*".
 - (b) At page 29 of the report, Ms. McCuaig wrote:

As well, the children were recently witnessed (sic) an assault to their mother by Ryan. According to the school counsellor, the children did not exhibit any signs and symptoms associated with Post-Traumatic Stress Disorder. However, (sic) According to Shaffren, the stress that divorce causes children can lead to, "anxiety, confusion, depression, delinquent behaviour, etc. In addition these children can have attention and concentration problems, academic problems, anger problems and sleep disorders" (Shaffren, p.2).
 - (c) An individual identified as "M. Shaffren" is actually Michael J. Shaffran. During her interview with the Professional Conduct Committee, Ms. McCuaig could not produce the article or paper written by "Shaffren M". The Professional Conduct Committee conducted an internet search of Michael J. Shaffran which led to Mr. Shaffran's commercial website. In Mr. Shaffren's website,

he describes himself as a licenced clinical social worker at private practice in California. Included in his website is a link to his blog and the Professional Conduct Committee determined that the source of Ms. McCuaig's comments at page 29 of the report came from his blog. The blog article was not peer reviewed.

No further evidence was called by either party at the hearing and the committee accepted Ms. McCuiag's guilty plea.

Penalty

In light of the Agreed Statement of Facts and Ms. McCuaig's admission of guilt, argument on behalf of both parties was restricted to the issue of penalty. In that regard, the parties filed a joint submission as to penalty. Upon careful review of the joint submission and upon hearing from counsel for both parties, the committee made the following order.

1. Pursuant to section 29(1)(d) of *The Social Workers Act* (the *Act*) Ms. McCuaig's practice shall be subject to the following conditions:
 - a. Ms. McCuaig shall only accept the assignment of a Custody and/or Access Evaluation or a Voice of the Child Report from Family Justice Services, and must ensure that she has arranged for competent and close supervision of the report by an employee of Family Justice Services who is a registered social worker or a registered psychologist.
 - b. Close supervision will be defined as the provision of consultative and editorial review of all written drafts of a report and documents approval of any final report prior to its submission to the court.
 - c. Ms. McCuaig shall not undertake custody and/or access evaluations or Voice of the Child reports that are assigned by the court, independently of Family Justice Services.
2. Ms. McCuaig shall be entitled to apply to the Registrar to lift all or some of the restrictions by providing evidence to the Registrar that she has acquired the knowledge and skills to competently produce custody and/or access evaluations or Voice of the Child reports without close supervision.
3. An order pursuant to section of 29(2)(a)(i) of the *Act* that Ms. McCuaig shall pay a fine in the amount of \$1,000.00.
4. An Order pursuant to section 29(2)(a)(ii) of the *Act* that Ms. McCuaig shall pay the costs of the investigation and hearing which shall be fixed in the amount of \$2,000.00.
5. The fine and costs shall be paid on or before March 1, 2017. In the event payment is not made on or before March 1, 2017, Ms. McCuaig shall be suspended from the Association pursuant to section 29(2)(b) of the *Act* until payment is made.
6. Pursuant to section 29(3) and (4), a copy of the Discipline Committee decision and Order shall be provided to RS and Cypress Health Region.

7. A copy of the Discipline Committee Decision and Order shall be provided to The Ministry of Justice, Family Justice Services, Attention Program Manager. Further, the Discipline Committee Order shall be posted on the SASW website and a digest of the decision shall be published in the SASW newsletter.

On behalf of the Discipline Committee, Counsels and involved parties to the hearing are to be thanked for their cooperation in supporting and expediting the discipline hearing and penalty decision process in a manner that benefits all.



David Rivers, MSW, RSW (SK)
Chairperson – Discipline Committee

Date: January 27, 2017

For the Discipline Committee:

Katherine Potts, HBSW, RSW (SK)

Sarah Tekatch, RN, MN (Public Representative)

Charlene Cameron, BSW, MA, RSW (SK)

Gary Prediger, BSW, RSW (SK)