

**DISCIPLINE COMMITTEE  
OF THE COLLEGE OF OCCUPATIONAL THERAPISTS OF ONTARIO**

PANEL:                                    Sylvia Boddener, Professional Member, Chairperson  
   Allan Freedman, Public Member, Board Director  
   Stephanie Schurr, Professional Member, Board Director

BETWEEN:

COLLEGE OF OCCUPATIONAL	)	ANASTASIA-MARIA HOUNTALAS for
THERAPISTS OF ONTARIO	)	College of Occupational
	)	Therapists of Ontario
	)	
- and -	)	
	)	
	)	
JANELLE MACKINNON	)	Janelle MacKinnon, self-represented
Reg. No. G0506164	)	
	)	
	)	EDWARD MARROCCO
	)	Independent Legal Counsel (“ILC”)
	)	
	)	
	)	Heard: August 9, 2023

**DECISION AND REASONS**

This matter came on for a motion hearing by way of videoconference before a panel of the Discipline Committee on August 9, 2023, at the College of Occupational Therapists of Ontario (“the College”). Janelle MacKinnon (the “Registrant”) was present and self-represented. The College moved to adjourn the proceedings against the Registrant *sine die* on the basis that the Registrant had signed an undertaking to surrender her certificate of registration and permanently resign from the College.

The motion was granted, and an order was issued orally on the record before the conclusion of the hearing. These are the Panel’s reasons for granting the motion.

## The Allegations

The allegations against the Registrant are contained in a Notice of Hearing, dated February 22, 2023. The Notice of Hearing was made Exhibit M-1 on the motion and the material particulars are as follows:

1. At the material times, Janelle MacKinnon (the “Registrant”) was a duly registered member of the College of Occupational Therapists of Ontario (the “College”). The Registrant was first registered with the College in 2005.
2. At the material times, the Registrant was also registered as an occupational therapist in Quebec.

### **Professional Misconduct in Quebec**

3. It is alleged that in or around January 2017, the Registrant was found by the Disciplinary Committee of the Order of Occupational Therapists of Quebec (the “Order”) to have contravened the Professional Code, CQLR, Chapter C-26, and the Code of Ethics for Occupational Therapists, CQLR, Chapter C-26, r 113.
4. The Registrant pleaded guilty and was found guilty of 38 counts of breaching the Quebec Professional Code and Code of Ethics for Occupational Therapists and received sanctions that included a fine of \$21,000.00, reprimands and a suspension.
5. The Registrant’s conduct that was the subject of the disciplinary hearing in Quebec related to billing for treatment that was not rendered and reports that were not provided, over-billing for services, using the signatures of persons without their consent, and failing to keep records appropriately.

### **Failure to Declare Finding of Misconduct**

6. Pursuant to clause 35(2)1.i of Regulation 226/96 under the *Occupational Therapy Act, 1991*, it is a condition of every certificate of registration that members provide the College with details of a finding of guilty in relation to any offence that occurs or arises after they have applied for registration.
7. Pursuant to clause 35(2)1.ii of Regulation 226/96 under the *Occupational Therapy Act, 1991*, it is a condition of every certificate of registration that members provide the College with details of a finding of professional misconduct, or a similar finding, in any jurisdiction in relation to occupational therapy that occurs or arises after they have applied for registration.
8. The Registrant renewed her certificate of registration with the College annually from 2018 to 2022 without declaring that she had been found guilty in 2017 of breaching the Professional Code and Code of Ethics in Quebec.

## **Professional Misconduct Alleged**

9. It is alleged that the above conduct constitutes professional misconduct pursuant to one or more of the following:
- a. Clause 51(1)(b) of the Code (the governing body of a health profession in a jurisdiction other than Ontario has found the member committed an act of professional misconduct, that would, in the opinion of the panel, be an act of professional misconduct under section 51 or as defined in the regulations); and/or
  - b. Clause 51(1)(c) of the Code and as defined in one or more of the following paragraphs of section 1 of Ontario Regulation 95/07 made under the *Occupational Therapy Act, 1991*:
    - i. Paragraph 36 (contravening, by act or omission, a term, condition or limitation on the member's certificate of registration, namely failing to comply with the condition imposed by clause 35(2)1.i and/or ii of Regulation 226/96); and/or
    - ii. paragraph 48 (engaging in conduct or performing an act, relevant to the practise of the profession, that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional); and/or
    - iii. paragraph 49: (engaging in conduct that would reasonably be regarded by members as conduct unbecoming an occupational therapist).

## The Evidence

The Registrant's undertaking to resign from the College and never re-apply, signed May 31, 2023, was entered into evidence as Exhibit M-2 on the motion. College counsel also filed a copy of the public register from the College, dated July 31, 2023, which confirms that the Registrant is indeed no longer entitled to practise with status her confirmed as "resigned" as of May 31, 2023.

## Decision

The Panel considered the evidence filed and agreed with the submission of College counsel that adjourning the matter against the Registrant, *sine die*, was appropriate in the circumstances and consistent with the public interest.

As noted above, an order granting the motion was made on the record before the conclusion of the day. A written order, also dated August 9, 2023, followed shortly thereafter.

## Reasons for Decision

The public interest demands that this College take adequate steps to regulate its membership. The College does this not only to maintain the publicly perceived integrity of the profession of occupational therapy but also to protect the public and prevent abuse of the privilege of holding oneself out as being a member of this College.

The misconduct alleged in this matter, and which was substantiated by the Order of Occupational Therapists of Quebec, was very serious. It involved alleged over-billing for services, using signatures


of others without consent, and failing to keep records appropriately. These are deceit related matters which, if proven, would likely carry a finding of moral failure on the part of a registrant. Conduct which involves deceptive billing for financial gain or improper use of another person's signature reflects directly on a registrant's suitability to be part of this College. This kind of misconduct would be met with swift and severe penalties and registrants should anticipate that this kind of behaviour may very well result in the revocation of their certification with the College.

In this case, the Registrant has resigned proactively and agreed to never attempt to return to practise in Ontario. Even if this Panel had found that all of the allegations in the Notice of Hearing had been proven, it would not be able to order the *permanent* revocation of the Registrant's certificate. In this regard, the outcome here is even more severe than what the Panel could have ordered insofar as the Registrant's status with the College is concerned. The Panel is mindful of this when it weighs whether the public interest requires this matter to be prosecuted to a conclusion as opposed to indefinitely adjourned.

In this case, the Registrant can pose no further risk to the public or the profession. Her status has been confirmed as resigned. She cannot hold herself out as a member of the profession. And if she ever tries to re-apply to practise in Ontario, these proceedings can be continued.

The Panel is satisfied that the public interest is protected and served. In these circumstances, College resources can be more efficiently focused on other matters with no detrimental impact on the objective of public protection and with no risk of further damage to the reputation of the profession of occupational therapy.

I, Sylvia Boddener, sign this decision and reasons for the decision as Chairperson of this Discipline Panel and on behalf of the Panel members listed below:

  
\_\_\_\_\_  
Chairperson

9/5/2023  
\_\_\_\_\_  
Date

Sylvia Boddener, Professional Member, Chairperson  
Allan Freedman, Public Member, Board Director  
Stephanie Schurr, Professional Member, Board Director

**DISCIPLINE COMMITTEE OF  
THE COLLEGE OF OCCUPATIONAL THERAPISTS OF ONTARIO**

Sylvia Boddener, Professional Member	)	WEDNESDAY,
Allan Freedman, Public Member, Board Director	)	THE 9TH DAY OF
Stephanie Schurr, Professional Member, Board Director	)	AUGUST 2023

**B E T W E E N :**

COLLEGE OF OCCUPATIONAL THERAPISTS OF ONTARIO

- and -

JANELLE MACKINNON


**ORDER**

**THE MOTION** to adjourn the hearing *sine die* was held on August 9, 2023, virtually by way of videoconference.

**ON READING** the Notice of Hearing dated February 22, 2023, the Acknowledgement and Undertaking to Resign and Never Reapply dated May 31, 2023, the Member's public register profile and on hearing the submissions of counsel for the College of Occupational Therapists of Ontario (the "College") and the member, Janelle MacKinnon (the "Member"):

1. **THE DISCIPLINE COMMITTEE ORDERS** that the hearing of the allegations against the Member set out in the Notice of Hearing dated February 22, 2023 is adjourned *sine die*.

Date:

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Sylvia Boddener

Chair

COLLEGE OF OCCUPATIONAL THERAPISTS  
OF ONTARIO

- and -

JANELLE MACKINNON

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**DISCIPLINE COMMITTEE OF OCCUPATIONAL  
THERAPISTS OF ONTARIO**

---

**ORDER**

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Ontario