



Discipline Hearing Summary – Bibi Gafoor, RMT (Toronto, ON), May 8, 2015

The Discipline hearing before a Panel of the Discipline Committee of the College of Massage Therapists of Ontario (CMTO) was held on May 8, 2015.

Allegations of Professional Misconduct

Ms. Bibi Gafoor, a Registered Massage Therapist (RMT), was found to have engaged in the following acts of professional misconduct:

- Receiving a benefit from Massage Therapy practice while suspended;
- Falsifying a record relating to the registrant's practice;
- Knowingly signing or issuing a false or misleading document;
- Failing to reasonably ensure information provided to the College is accurate;
- Failing to permit entry with a College representative conducting an inspection of records;
- Contravening the *Act*, as it relates to Ms. Gafoor continuing to practise while her Certificate of Registration was suspended;
- Engaging in disgraceful, dishonourable or unprofessional conduct; and/or
- Engaged in conduct unbecoming a Registered Massage Therapist (RMT).

The Facts

This case proceeded to a full hearing. Despite being served with Notice of Hearing, Ms. Gafoor did not attend the hearing. A plea of not guilty was entered on Ms. Gafoor's behalf and the College proceeded with its case. A summary of the evidence considered by the Panel is as follows:

The Notice of Hearing contained the following allegations:

Notice of Hearing Dated August 21, 2014

It was alleged that Ms. Gafoor committed a number of acts of professional misconduct, and the specified allegations were stated as follows:

1. On December 27, 2012, a panel of the College's Discipline Committee (the "Discipline Panel") found that Ms. Gafoor had committed acts of professional misconduct. Specifically, the Panel found that she did the following:
 - Failed to keep records as required;
 - Falsified a record; and
 - Failed to take reasonable steps to ensure that any information provided to the College was accurate.
2. On March 24, 2013, the Discipline Panel directed the College's Registrar to immediately suspend Ms. Gafoor's Certificate of Registration for a minimum of nine months.

3. Approximately one month after the suspension of Ms. Gafoor's Certificate of Registration, on April 19, 2013, a College investigator attended Ms. Gafoor's clinic. The investigator posed as a client and advised Ms. Gafoor that her insurance coverage likely expired on January 4, 2013. After providing the investigator with a 60-minute massage, Ms. Gafoor issued a receipt for the Massage Therapy treatment and backdated the receipt to January 4, 2013, in the amount of \$85. The receipt contained Ms. Gafoor's College registration number and the designation of RMT.
4. The College undercover investigator attended Ms. Gafoor's clinic on two further occasions in May 2013. Ms. Gafoor provided additional Massage Therapy treatments on these dates with receipts backdated for January 2013. Each receipt issued included a stamp with Ms. Gafoor's name, her College registration number and the title RMT. Ms. Gafoor advised the College investigator that, by identifying treatments this way, she would be reimbursed more money and would have more money to spend for her next Massage Therapy treatment.
5. On July 2, 2013, a formally appointed investigator attended Ms. Gafoor's clinic and instructed Ms. Gafoor to provide access to her records. Ms. Gafoor did the following:
 - Lied about her identity and advised the investigator that her name was Christina Singh.
 - Stated that "Bibi is not a Massage Therapist anymore. She is suspended and not an RMT." She also advised the investigator that Ms. Gafoor did not work at the clinic.
 - Refused to comply with the investigator's request.
 - Directed the investigator to leave the premises.
6. By engaging in this conduct, Ms. Gafoor obstructed the College's investigator and failed to cooperate with the College. This is contrary to her obligations under the provisions of the *Regulated Health Professions, Procedural Code ("The Code")*.
7. Ms. Gafoor's conduct, as described above, constitutes the following acts of professional misconduct pursuant to the *Professional Misconduct Regulations*:
 - a) Contravening the standards of the profession;
 - b) Receiving a benefit from Massage Therapy practice while suspended;
 - c) Falsifying a record relating to the registrant's practice;
 - d) Knowingly signing or issuing a false or misleading document;
 - e) Failing to reasonably ensure information provided to the College is accurate;
 - f) Failing to permit entry with a College representative conducting an inspection of records;
 - g) Contravening the *Regulated Health Professions Act, 1991* (or the regulations surrounding the Act), as it relates to Ms. Gafoor continuing to practice while her Certificate of Registration was suspended and hold herself out as an RMT;
 - h) Engaging in disgraceful, dishonourable or unprofessional conduct; and/or
 - i) Engaged in conduct unbecoming a Registered Massage Therapist.

College's Case

CMTO called the two College investigators involved in the investigation as well as entered numerous documents as evidence to establish a number of facts. This evidence included demonstrating that Ms. Gafoor was appropriately given notice of the Hearing date.

The College's first investigator provided evidence related to the treatments she received as an undercover client from Ms. Gafoor and her experience on each occasion.

The appointed College investigator provided evidence on his role, and described his interactions with Ms. Gafoor during the investigation in relation to determining to what degree Ms. Gafoor may have been continuing to practice while her Certificate of Registration was suspended.

Findings of the Panel

After considering the evidence – unchallenged, because neither Ms. Gafoor nor a representative attended the hearing – the Panel found Ms. Gafoor committed eight of the nine allegations of professional misconduct, as alleged in the Notice of Hearing.

The Panel concluded that the College did not prove the allegation that Ms. Gafoor failed to meet the Standard of Practice of the Profession. However, the Panel's findings with respect to the remaining allegations of professional misconduct were as follows:

Allegation: Receiving a Benefit from Massage Therapy Practice While Suspended

The Panel accepted that Ms. Gafoor's Certificate of Registration was suspended when Massage Therapy treatments were provided to the College's undercover investigator and that Ms. Gafoor received payment for these treatments and issued receipts bearing her signature and College registration number in relation to these treatments and holding herself out as an RMT.

Allegation: Falsifying a Record in Relation to Her Practice

The Panel found that Ms. Gafoor falsified records in relation to her practice; she issued false receipts in connection with Massage Therapy treatments rendered to the investigator. The Panel accepted the evidence provided by the investigator regarding Ms. Gafoor's explanation of why 60 minutes was added to the receipt: so that additional insurance funds could be applied for future Massage Therapy treatments.

Allegation: Knowingly Signing or Issuing a False or Misleading Document

The Panel accepted as evidence that Ms. Gafoor backdated and made up false dates on the receipts issued to the investigator and found Ms. Gafoor to have engaged in this act of professional misconduct.

Allegation: Contravening the Regulated Health Professions Act, 1991

The Panel found that Ms. Gafoor continued to practise Massage Therapy when her Certificate of Registration was suspended. In addition to accepting the false receipts as evidence, the Panel also accepted a business card obtained from her practice location which demonstrated Ms. Gafoor continued to hold herself out as an RMT during the period of the suspension.

Allegation: Engaging in Disgraceful, Dishonourable or Unprofessional Conduct

For all of the activities articulated above, the Panel found that Ms. Gafoor's behaviour would be deemed by registrants as disgraceful, dishonourable and unprofessional conduct.

Allegation: Engaging in Conduct Unbecoming a Registered Massage Therapist

The Panel found that, given the evidence, Ms. Gafoor's conduct was unbecoming a Registered Massage Therapist.

Penalty Order and Cost Award Imposed

The penalty hearing proceeded immediately after the fact hearing. The College presented submissions and evidence regarding an appropriate penalty for this case.

A number of documents were entered as exhibits. CMTO's Director of Professional Conduct provided evidence about the College's investigation and prosecution costs.

After considering the evidence and submissions, the Panel imposed the following Penalty Order:

1. Immediate revocation of Ms. Gafoor's Certificate of Registration.
2. The Discipline Committee's decision will be published in the usual course, including publication in CMTO's *Annual Report*, a Discipline Hearing Summary posted on CMTO's website, and a summary of findings and penalty order on CMTO's public register.

Cost Award

The Panel imposed a cost award in the amount of \$25,000 for partial payment toward the College's investigation and prosecution costs. This sum is to be paid in full by June 8, 2015.

Reasons for Decision

The Panel considered carefully the submissions and evidence of the College. The Panel believed that revocation was appropriate in this case, given the serious and concerning behaviour of the registrant. The Panel considered Ms. Gafoor's prior discipline history to be a very serious contributing factor for the severity of the penalty imposed. The Panel was primarily concerned that despite Ms. Gafoor's previous

discipline history, she continued to practice. This, to the Panel, demonstrated complete disregard for the profession and a lack of concern for the protection of the public.

The Panel imposed the cost award as a reflection of the lengthy investigation, which was fettered by Ms. Gafoor's failure to respond to CMTO's various communication efforts. Imposing the costs was a way to underscore to Ms. Gafoor that even though she is now removed from the profession, this does not relieve her of the obligation to contribute to the College's costs.