

**EXECUTIVE SUMMARY – DAYNA COMERFORD, RMT  
DISCIPLINARY HEARING CONDUCTED  
JUNE 20, 2012**

The Member, Dayna Comerford, RMT, was charged with four allegations of professional misconduct.

1. Contravening a term, condition or limitation imposed on her Certificate of Registration (“Certificate”);
2. Receiving any form of benefit from the practice of Massage Therapy while under suspension unless full disclosure is made to the College of the nature of the benefit to be obtained and prior approval is obtained from the Executive Committee;
3. Signing or issuing, in a member’s professional capacity, a document that the Member knows contains a false or misleading statement; and
4. Engaging in conduct or performing an act in relation to practising the profession that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

**THE PLEA**

The Member entered a guilty plea in relation to allegations 1, 2 and 4. The College withdrew allegation 3.

**THE FACTS**

The evidence was presented by way of an Agreed Statement of Facts. The allegations of professional misconduct arose out of the failure to pay the requisite fees resulting in the Member’s Certificate being suspended on February 23, 2010.

On August 20, 2010, Ms. Comerford contacted the College by email to update her practice location. In response, Member Services advised Ms. Comerford that her Certificate was suspended effective February 23, 2010 for non-payment of fees.

In subsequent email correspondence, the Member advised that she sent her CEU package, including the form to renew her registration, late in 2009. Ms. Comerford advised that she provided her husband’s credit card information and signature so that her fees could be debited automatically. Member Services responded saying that Ms. Comerford had to pay certain fees before reinstatement. Ms. Comerford paid those fees on August 27, 2010 and her Certificate was reinstated shortly thereafter.

The College had received Ms. Comerford’s CEU package on January 11, 2010. On January 21, 2010, the College advised the Member that the deadline to renew her registration had passed and that her Certificate would be suspended unless she took specific steps by February 22, 2010. On January 27, 2010, the College advised Ms. Comerford that her renewal package was incomplete as:

1. She did not authorize the correct amount;
2. She did not fill in the insurance section correctly; and
3. She did not sign and date the General Declaration.

The package sent by the College advising Ms. Comerford that her Certificate was suspended for non-

payment of fees was not picked up and was returned to the College in March.

A subsequent investigation by the College established that:

1. The Member practiced at three clinical locations during the period of her suspension;
2. The Member ceased practicing as soon as she found out that her Certificate was suspended;
3. The Member had sent in her renewal form and CEU reporting form, and was confused as to why she had not received an updated Registration Card;
4. The Member stated that she only became aware of the suspension after sending the College an updated clinic location on August 20, 2010;
5. The Member did not check the credit card statement to ensure that the registration fees were paid, as it was her husband's credit card;
6. The Member had not read the correspondence sent to her by the College in early 2010, as she had been living with her parents-in-law and did not have a key to check the mail when they were out of the country from the beginning of the year until sometime in February 2010;
7. When the Member's in-laws returned, the Member picked up the Notice from the College but when she attempted to retrieve the registered mail package, the post office informed her that the mail in question had been returned to sender; and
8. The address on file during the period of the Member's suspension was the address of her in-laws.

The Member acknowledged that she practiced Massage Therapy while suspended. In her defence, the Member claimed that she did not become aware of her suspension until August 2010 and that she immediately cancelled all scheduled Massage Therapy appointments thereafter. The Member admitted that she was responsible for collecting her mail, but noted that the College should have attempted to notify her in an alternative manner when it was clear that she did not receive the Notice of Suspension by Registered Mail.

The Member acknowledged that she was guilty of professional misconduct in respect of allegations 1, 2 and 4.

### **FINDING OF GUILT**

On the basis of the Member's guilty plea and its review of the Agreed Statement of Facts, the Panel of the Discipline Committee found the Member guilty of allegations 1, 2 and 4. The Panel accepted the withdrawal of allegation 3.

### **THE SENTENCING HEARING**

The Member and College presented a Joint Submissions on Penalty to the Discipline Panel. On these submissions, the Panel ordered as follows:

1. The Member's Certificate shall be suspended for a period of 3 months;
2. However, such suspension shall be remitted for a period of 2 months if the Member complies with the terms, conditions and limitations imposed on the Member's Certificate;
3. The following terms, conditions and limitations shall be imposed on the Member's Certificate, and shall continue until the Member complies with each of the terms, conditions and limitations set out below, and in any event, completed within one year of the Panel's decision:

- (a) The Member shall successfully complete the College's Professionalism workshop and provide satisfactory evidence of completing same within 30 days;
  - (b) The Member agrees that the College is entitled to contact the facilitators for the course and request a report to the Registrar outlining the Member's participation in the course which, if unsatisfactory, will constitute a breach of paragraph 3(a) above.
4. The Member will contribute to the investigation and prosecution costs of the College in the amount of \$1,000;
  5. The decision of the Panel and the penalty imposed shall be published in the usual course; and
  6. Having waived her right of appeal, the Member will receive a public and recorded reprimand.

#### **CASE COMMENT**

This decision stands for the principle that practising Massage Therapy without a valid registration is a very serious offence. Although the Panel recognized that the Member stopped treating the clients immediately when she learned of her status, it is the Member's responsibility to ensure that her registration remains valid and that the College has a reliable means of contacting her.