

**EXECUTIVE SUMMARY – DEBBIE NICHOLLS, RMT
DISCIPLINARY HEARING CONDUCTED
SEPTEMBER 20, 2012**

The Member, Debbie Nicholls, RMT, was charged with six counts of professional misconduct:

1. Contravening a term, condition or limitation imposed on the Member's Certificate of Registration, contrary to Section 26, Paragraph 5 of Ontario Regulation 544/94, as amended;
2. Receiving a benefit from the practice of Massage Therapy while under suspension without making full disclosure to the College of the nature of the benefit to be obtained and obtaining prior approval from the Executive Committee, contrary to Section 26, Paragraph 13 of Ontario Regulation 544/94, as amended;
3. Signing or issuing, in the Member's professional capacity, a document that the Member knew contained a false or misleading statement, contrary to Section 26, Paragraph 29 of Ontario Regulation 544/94, as amended;
4. Submitting an account or charge for services that the Member knew was false or misleading, contrary to Section 26, Paragraph 30 of Ontario Regulation 544/94, as amended;
5. With respect to the information return required under Ontario Regulation 864/93 (Registration) made under the Act on the renewal of a certificate of registration, the Member made a false or misleading statement or declaration or failed to fully provide the information required, contrary to Section 26, Paragraph 47 of Ontario Regulation 544/94, as amended; and
6. Engaging in conduct or performing an act, in the course of practicing the profession that, having regard to all circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, contrary to Section 26, Paragraph 44 of Ontario Regulation 544/94, as amended.

THE PLEA

The Member entered a plea of guilty to allegations 1, 2, 3, and 5. The parties made submissions with respect to allegation 6.

The College withdrew allegation 4 at the beginning of the hearing.

THE FACTS

This matter proceed by way of an Agreed Statement of Facts.

After the Member failed to submit her Target Level Submission Form of the Self-Assessment Tool, she received notification from the College that her registration would be suspended if she failed to submit the form along with a required fee by a certain date. The Member subsequently failed to submit her Target Level Submission Form and the required fee by the deadline. On October 27, 2009, the Member's registration as a Massage Therapist was suspended.

Following the suspension of the Member's Certificate of Registration, she provided over 200 Massage Therapy treatments and issued over 50 receipts representing that she was a registered Massage Therapist prior to the reinstatement of her registration approximately 10 months later on August 27, 2010. The Member admitted that she knew her registration as a Massage Therapist was suspended

during that approximately 10 month period.

In addition, the Member admitted that she failed to advise the College of her primary practice location while her registration was suspended in 2009 and 2010.

FINDING OF GUILT

The Panel of the Discipline Committee found the Member guilty of the five remaining allegations of professional misconduct (i.e. all allegations, except for submitting an account or charge for service that the Member knew was false or misleading, which was withdrawn by the College).

THE PENALTY

The Member and the College made submissions to the Panel of the Discipline Committee with respect to the appropriate penalty in this case. After hearing those submissions, the Panel ordered as follows:

2. A six month suspension of the Member's Certificate of Registration. However, such suspension to be remitted by a period of three months if the Member complies with the following terms, conditions and limitations imposed upon her Certificate of Registration:
 - (a) Prior to November 30, 2012 the Member shall complete a 10-20 page research paper with cited references highlighting both the effects and possible coping mechanisms to address the issue of professional burnout. All or part of this paper may be published at the discretion of the Registrar. A representative of the College (the Practice Advisor) will review this paper in terms of efficacy and quality of content. If there are any issues raised with respect to the content as indicated above, the Member and Registrar will be advised of any issues and the same may be deemed to be a failure to comply with this terms of the Penalty Order at the discretion of the Registrar.
3. The Member shall pay costs to the College in the amount of \$1,000, to be paid within 30 days of the decision becoming final; and
4. Publication of the Discipline Committee's decision in the usual course.

In fashioning the Penalty Order in this case, the Discipline Committee noted that there is a continuing professional obligation to review and respond to the College's correspondence even when a member is suffering from mental burnout. The Discipline Committee further noted that the seriousness of the conduct at issue (working while suspended and not advising the College of practice locations) is reflected by the length of the suspension in this case.

CASE COMMENT

The Nicholls Decision indicates a willingness on the part of the Discipline Committee to tailor a Penalty Order to address both the nature of a member's misconduct as well as his or her personal circumstances.