

**EXECUTIVE SUMMARY –
JOSE ANTONIO BARRIOS LOPEZ, RMT
DISCIPLINARY HEARING CONDUCTED
FEBRUARY 15, 2012**

THE ALLEGATIONS OF PROFESSIONAL MISCONDUCT

On February 15, 2012, a Discipline Hearing was conducted before a panel of the Discipline Committee of the College. In a Notice of Hearing dated February 14, 2012, it was alleged that Mr. Barrios-Lopez committed the following acts of professional misconduct:

1. Contravening a standard of practice of the profession or a published standard of the College, or failing to maintain the standard of practice of the profession; and,
2. Engaging in disgraceful, dishonorable or unprofessional conduct.

Mr. Barrios-Lopez pleaded no contest, and the hearing proceeded by way of a Statement of Undisputed Facts.

THE UNDISPUTED FACTS

During the period between May 2007 and September 2008, Mr. Barrios-Lopez provided Massage Therapy to the Complainant, herself a registered member of the College, on eight occasions. During that period the Complainant provided Massage Therapy to Mr. Barrios-Lopez on three occasions from her home office.

When Mr. Barrios-Lopez provided Massage Therapy to the complainant, he did so at his place to work, with the exception of two treatments of the Complainant. Those appointments took place in the Complainant's home office so that she could fit them in between appointments with her own clients.

The Complainant described herself as a very friendly person who generally hugs people when greeting or saying goodbye to them. After her first appointment, the Complainant and Mr. Barrios-Lopez hugged when they said hello and goodbye.

The Complainant did not have any concerns about her first and second treatments; however, over the course of some of her later treatments, Mr. Barrios-Lopez made unprofessional comments. He asked the Complainant whether she was in a relationship; he advised her that her boyfriend was "lucky"; he advised her that he was in a relationship; he told her that if she was ever "in need" that he would be there for her; and when he noticed that the Complainant's legs were unshaven, he joked that she "mustn't have been expecting to go to second base then."

Mr. Barrios-Lopez recognized, upon reflection, that his comments could have been misconstrued and that they were unprofessional. He explained, however, that they were made in a context in which the questions and information shared seemed natural to him. His comment that the Complainant's boyfriend was "lucky" was intended to suggest that she was a nice person and that her boyfriend was fortunate to be in a relationship with such a nice person. When he said he would be there for her, he meant that he would provide treatment to her at her home at her request as a favour in the future. His comment about second-base was intended as a lighthearted joke to put the Complainant at ease in relation to her unshaven legs, which he often found to be the source of embarrassment for his female clients.

Mr. Barrios-Lopez recognized that some of his comments made the Complainant feel uncomfortable and he was deeply remorseful for any discomfort he may have caused her.

The Complainant also reported that during one of her treatments, Mr. Barrios-Lopez kissed her arm after she reported to him that the massage to her left bicep had been painful. Mr. Barrios-Lopez indicated that he did not kiss her arm directly; rather he brought his fingers to his lips, kissed them, and then brought his fingers to touch her bicep.

The Complainant further reported that on one occasion, she specifically requested treatment for her pectoralis muscles. Mr. Barrios-Lopez used techniques that he had previously used with the Complainant, but without obtaining her explicit consent and during the treatment asked if he could place his hand beneath the draping. The Complainant refused and Mr. Barrios-Lopez ceased the treatment.

THE DISCIPLINE HEARING

Mr. Barrios-Lopez was represented by legal counsel throughout the proceedings. He entered a plea of no contest in relation to the two allegations of professional misconduct contained in the Notice of Hearing dated February 14, 2012. The allegations contained in the initial Notice of Hearing, dated April 30, 2009, were withdrawn at the conclusion of the hearing.

The panel of the Discipline Committee accepted Mr. Barrios-Lopez's plea of no contest and found that he had engaged in the two acts of professional misconduct alleged.

PENALTY AND COSTS

The parties made a joint submission as to penalty and costs. The Panel accepted the joint submission as to penalty and ordered:

1. That Mr. Barrios Lopez's Certificate of Registration be suspended for a period of three (3) consecutive months, to commence immediately upon the date of the Order and, upon proof of Mr. Barrios-Lopez's full and satisfactory compliance with section 2 of the Penalty, directed the Registrar to suspend one (1) month of the suspension;
2. That the Registrar impose terms, conditions and limitations on his Certificate of Registration that within 60 days of the Order as to Penalty, he provided a written report to the College describing what he had learned through the Professionalism Course that he completed prior to the Hearing, and how his conduct reflected upon himself, the profession and how it related to the Charter of Professionalism; and
3. That he be reprimanded.

The Panel recognized that Mr. Barrios-Lopez was very remorseful, that he had no prior findings of misconduct, and that he recognized how his behavior was unbecoming and jeopardized his relationship with his clients, professional members and the public.

However, in its Decision and Reasons, the Panel stressed that engaging in conduct or performing acts that could be reasonably considered by members as unprofessional in the course of practicing the profession is a serious offence. Such unprofessional behaviour erodes the profile of the profession in the

minds of the public and other health care professionals. As such, a suspension and report regarding unprofessionalism was appropriate.

The Discipline Committee ordered that Mr. Barrios-Lopez pay the College the sum of \$1,500.00 towards the costs incurred by the College in the matter.