

**EXECUTIVE SUMMARY –
KUNAL ROY CHATTERJEE, RMT
DISCIPLINARY HEARING CONDUCTED
JUNE 21, 2012**

The Member, Kunal Roy Chatterjee, RMT, was charged with the following counts of professional misconduct:

1. Sexual abuse of a patient;
2. 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;
3. 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.

THE PLEA

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

THE FACTS

Evidence was presented by way of an Agreed Statement of Facts.

Mr. Chatterjee became a member of the College on November 22, 2006. On November 21, 2009, the Member provided a massage to A.J. During this treatment, the Member provided A.J. with a breast massage. There was no clinical indication for a breast massage, nor did A.J. request this treatment. The Member did not discuss a breast massage with A.J. nor did A.J. give verbal consent. The Member did not record the breast massage in his treatment notes, and while conducting the breast massage, the Member left the sheet draped over A.J.'s breasts and performed the massage underneath the sheet.

On January 16, 2010, the Member provided a massage to H.D. During that treatment, the Member provided H.D. with a breast massage. There was no clinical indication for a breast massage, and H.D. did not give written or verbal consent for a breast massage. The Member did not record the breast massage in his treatment notes, and while conducting the breast massage, the Member left the sheet draped over H.D.'s breasts and performed the massage underneath the sheet.

Also on January 16, 2010, the Member provided a massage to C.F. During the treatment, the Member provided C.F. with a breast massage. There was no clinical indication for a breast massage, nor did the Member discuss a breast massage with C.F. prior to providing it. The Member did not record the breast massage in his notes, and while conducting the breast massage, the Member left the sheet draped over C.F.'s breasts and performed the massage underneath the sheet.

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 in relation to counts 2 and 3 as outlined above.

PENALTY

The College and the Member made a Joint Submission on Penalty. On the basis of these submissions, the Panel ordered as follows:

1. The Registrar shall revoke the Member's Certificate of Registration;
2. The Member undertakes not to reapply for membership in the College of Massage Therapists of Ontario;
3. The Member shall contribute to the investigation and prosecution costs of the College in the amount of \$2,000.00 by December 1, 2012. The costs can be paid in equal installments of \$333.33 on the first of every month, starting on July 1, 2012 until the full sum is paid on December 1, 2012;
4. The Member shall receive a public and recorded reprimand;
5. Publication in the usual course. The College may publish at the discretion of the Registrar details of the Member's failure to comply with all or part of the terms of the Penalty imposed.

In its Reasons for Penalty, the Panel noted that breast massage is only performed for therapeutic or clinical reasons, and it is a serious offence to perform breast massage when these clinical indicators are not present. The Panel's concerns were further compounded by the fact that informed consent was not given and the way the breast massage was done did not meet the Standards of Practice. The Panel found that there was a violation of trust between the Member and his clients.

In the Panel's mind, revocation was appropriate. It will ensure the public is protected and will show that the College will not tolerate this type of behaviour. It will also send a strong message to the profession that when performing breast massage, clinical reasons must be present and informed consent especially regarding breast massage must be obtained and documented.