

Executive Summary – Leszek Kopec, RMT January 18, 2013

Summary of the Discipline hearing before a Panel of the Discipline Committee of the College of Massage Therapists of Ontario held on January 18, 2013

Allegations of Professional Misconduct and Plea

Mr. Kopec entered a guilty plea in relation to the following allegations:

- Falsifying a record;
- Signing or issuing, in the member's professional capacity, a document that the member knows contains a false or misleading statement;
- Failing to keep records as required;
- Engaging in conduct or performing an act that would reasonable by regarded by members as disgraceful, dishonourable and unprofessional.

The Facts

The College and Mr. Kopec entered an Agreed Statement of Facts which set out the following facts.

The College received information regarding questionable billing practices at two affiliated Salon and Spas wherein it was indicated the Operator for both Facilities was billing non-massage therapy treatments as massage therapy, using the registration number of a registered massage therapist.

After conducting an investigation into the business practices of the locations, the College determined that the Operator was in possession of pre-signed, otherwise blank receipts, signed by Mr. Kopec and was also issuing the receipts for massage therapy, irrespective of the fact that Mr. Kopec was not the individual providing the massage therapy services.

Given this information, the College commenced an investigation into the conduct of Mr. Kopec. A College appointed investigator met with Mr. Kopec at which time he advised that it was his customary practice to provide pre-signed receipts for "massage treatment" which are otherwise blank, to the Operator of the facilities, who would then provide the completed receipt to the client. Mr. Kopec also confirmed that the Operator had requested this practice for administrative convenience. Mr. Kopec acknowledged that two receipts presented to him by the investigator bore his name, signature, registration number and the phrase "massage treatment", but the other handwriting on the receipts was not his own. Mr. Kopec also confirmed he had provided the Operator with a few hundred pre-signed receipts for "massage treatment" which were otherwise blank, at the request of the Operator. Mr. Kopec denied ever being provided with any money for the pre-signed, otherwise blank receipts and he stated he had at some point asked the Operator to return the pre-signed receipts, but was told that they were gone.

Mr. Kopec further acknowledged that he did not keep appointment books, but rather kept weekly planners in a binder, which he threw out at the end of the year. In relation to the balance of his client health records Mr. Kopec advised that he had approached the Operator to obtain the files but was told that they were misplaced or thrown in the garbage during renovations.

Decision of the Panel and Penalty and Cost Award Imposed

The Panel accepted Mr. Kopec's plea and found him guilty of professional misconduct in relate to each allegation.

The Discipline Panel accepted a Joint Penalty Submission from the College and Mr. Kopec and imposed the following penalty:

1. Mr. Kopec's Certificate of Registration shall be suspended for a period of eight (8) months, with the suspension to commence on February 18, 2013;
2. Three (3) months of Mr. Kopec's suspension shall be remitted if he complies with the terms, conditions and limitations imposed on his Certificate of Registration, as set out in paragraph 3 below, within four (4) months of the start date of the suspension;
3. The following terms, conditions and limitations will be imposed on Mr. Kopec's Certificate of Registration and shall continue until he complies with the terms, conditions and limitations:
 - a. Mr. Kopec shall enroll in and successfully complete, at his own expense, the College's Record Keeping Course and shall provide satisfactory evidence within 30 days of completing the same;
 - b. Mr. Kopec shall enroll in and successfully complete, at his own expense, the College's Professionalism Workshop and shall provide satisfactory evidence within 30 days of completing the same.
4. Mr. Kopec shall complete the courses referred to in paragraph 3, above, within one year of the date of the Discipline Committee's Decision;
5. A public and recorded reprimand;
6. Costs of this hearing in the amount of \$1,000.00, which is to be provided to the College within three months of the date of the Discipline Committee's Decision; and
7. The publication of this decision in the usual course, which includes publication in the Annual Report of the College, an Executive Summary posted on the College's website, as well as a summary of findings, also accessible through the College website. Additionally, the College may publish, at the discretion of the Registrar, details of the Member's failure to comply with any terms of the penalty imposed.

Panel's Reasons for Decision

The Panel noted that the significant number of otherwise blank signed receipts for 'massage treatments' given to the Operator of the facility was concerning and Mr. Kopec should have known or ought to have known these receipts could be issued to clients for massage therapy provided by non-registered individuals. It was further noted that when Mr. Kopec failed to protect his professional credentials, he seriously compromised his status as a licensed professional.

It was also noted that Mr. Kopec's failure to keep client health records in the circumstance constituted a concerning lapse of judgment with respect to the practice of his profession and for this reason, the

Panel imposed a period of suspension to reinforce the seriousness of Mr. Kopec's errors as well as signal to the profession that the College will not tolerate this type of behaviour by its Registrants.

The Panel further cited that aiding in the ability for unlicensed practice diminishes the integrity of the profession in the minds of the public, other health professionals and insurance providers as Insurance companies are crucial to providing access to health care. Public confidence and trust in the integrity of the profession must be promoted and protected.

With respect to the imposition of a cost award, the Panel stated that costs were imposed as Mr. Kopec's actions necessitated an investigation and subsequently a discipline hearing which are costly and therefore, it is only fair that he contribute in part to the costs of the proceedings.