



College of
Massage
Therapists of
Ontario

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Discipline Hearing Summary – Loris Colasanti, RMT (Toronto, ON) February 13, 2015

The Discipline hearing before a Panel of the Discipline Committee of the College of Massage Therapists of Ontario (CMTO) was held on November 6 and 7, 2014 and February 11, 12, and 13, 2015.

Allegations of Professional Misconduct

Mr. Loris Colasanti, a Registered Massage Therapist (RMT) was not found to have engaged in the following acts of professional misconduct:

- Sexual abuse of a client;
- Contravening a standard of practice of the profession or a published standard of the College; and
- Engaging in disgraceful, dishonourable or unprofessional conduct.

The Facts

This case proceeded to a full hearing and a summary of the evidence heard is as follows:

In 2011, the complainant, AA, was involved in a motor vehicle accident and suffered a whiplash injury. On April 24, 2012, AA received her first of several Massage Therapy sessions from RMT Loris Colasanti to help manage the pain related to her injury.

The following outlines the events in question according to the testimony of the complainant:

During treatment on January 25, 2013, when Mr. Colasanti was massaging AA's left side, she noticed that Mr. Colasanti's penis was pressed up against her arm that was hanging off the side of the table. She noted further that Mr. Colasanti gyrated his hips, and that she believed his penis to be semi-erect. When Mr. Colasanti repeated this action on the other side, AA stated that she felt utterly shocked. Later in the treatment, Mr. Colasanti moved AA's arm into a stretch, and then dropped her arm into his lap so her hand landed on his penis. He repeated this several times per side. During this treatment, there was no casual conversation.

On February 8, 2013, AA was in severe pain with a right-sided lower back spasm and pain radiating down her right leg. AA shared the extent of her discomfort with Mr. Colasanti. Mr. Colasanti responded by saying that if she won the lottery, she could take him home and he could massage her all the time. AA found the comment to be off-putting and anxiety inducing. During the treatment, Mr. Colasanti repeated the process of pressing his penis against AA's arm and gyrated his hips. Later in the treatment, Mr. Colasanti began massaging AA's left leg. This confused her, as it was her right leg that was in such

severe pain. Mr. Colasanti proceeded to pull AA's underwear up and she felt as though the left side of her labia was exposed. While stroking her leg, Mr. Colasanti touched the outside of AA's labia several times. He proceeded to put her leg down, so her foot was hanging off the side of the table, and pressed his penis into her foot while he massaged her calf. The same process was repeated on the right side. During this time, there was no conversation; AA was petrified and feared that she might be raped. Following the February 8, 2013 treatment AA disclosed the details of the aforementioned incidents to her psychologist, physiotherapist and family doctor, all of whom filed mandatory reports to the College. In these reports, AA noted that she is financially well off, and that financial concerns were never a motivation in pursuing her complaint. AA also denied attempting to kiss Mr. Colasanti on January 25, 2013, and further denied making up the sexual abuse because Mr. Colasanti rejected her advances.

The following outlines the events in question according to the testimony of Mr. Colasanti:

Mr. Colasanti has been an RMT since 1997 and has worked in rehabilitation with Motor Vehicle Accidents and sports injuries. Mr. Colasanti has physical limitations due to bulging discs in his back. His Massage Table is kept on a high setting during treatment to assist with his limitations.

Mr. Colasanti testified that he does not treat in a symmetrical manner, as was suggested by the complainant, as it is a disservice to the client. Rather, he focuses almost solely on the problem area.

Mr. Colasanti stated that on January 25, 2013, AA was very emotional and was crying. When he patted her on the shoulder to comfort her, she moved in towards him and he became uncomfortable, as it seemed like she wanted to kiss or hug him. He stepped back and offered not to go ahead with the treatment, but AA chose to proceed. Mr. Colasanti asserted that during the treatment his penis could not have come in contact with AA's arm, as she alleged, due to the height at which he kept the table to accommodate for his persistent back pain.

On February 8, 2013, AA arrived for treatment with pain in several areas. Mr. Colasanti performed the Sacroiliac Joint mobility test and advised AA of the treatment he wished to perform. AA consented to this treatment. Mr. Colasanti denied exposing AA's labia. He testified that the draping was done properly, and that it was a very conservative drape as AA's underwear was tight and it was hard to tuck the sheet in her underwear and hike them up. Mr. Colasanti denies gyrating his groin against either of AA's arms.

A few months after the alleged abuse, Mr. Colasanti and AA had a few passing interactions at Mr. Colasanti's new practice location. Mr. Colasanti stated that AA looked at him and said hi, and did not appear scared or worried.

When asked about AA's motives for making up a complaint, Mr. Colasanti explained that it could be about the insurance money and trying to get further compensation, or related to the incident on January 25, 2013 when he moved away from AA when he thought she was going to kiss him.

Findings of the Panel

The Panel considered all of the evidence as a whole and found that the College did not meet the burden of proof required to establish the serious allegations at issue. The Panel therefore dismissed all allegations against Mr. Colasanti.

Panel's Reasons for Decision

When deliberating, the Panel was struck by the number of inconsistencies and differences in AA's and Mr. Colasanti's testimonies. All parties agreed, however, that the burden of proof rests with the College and that the College was required to prove its case on the balance of probabilities based on clear, convincing and cogent evidence.

In dealing with the table height issue, the Panel was unable to conclude that there was clear, cogent or convincing evidence to determine whether Mr. Colasanti's penis could have been rubbing against AA's arm. AA testified that Mr. Colasanti's penis was in a semi-erect state when it was pressing and gyrating against her arm. If there were any sort of sexual gratification in these actions for Mr. Colasanti, the Panel expected that he would have had a full erection after gyrating. Additionally, the Panel took issue with the fact that AA could conclude Mr. Colasanti's penis was semi-erect, but could not determine whether or not there was a zipper in his pants. As Massage Therapists move when they work, the Panel believed that it is possible that in moving or the client moving, part of Mr. Colasanti grazed AA's arm.

The Panel found that the College did not meet the burden of proof with clear, cogent and convincing evidence that Mr. Colasanti rubbed/gyrated his penis on AA's arm, therefore Mr. Colasanti did not engage in the behaviour alleged. The treatments were explained by Mr. Colasanti and consent was given by AA. Given this, the Panel found that the standard of practice was met. There was no evidence provided that Mr. Colasanti's Massage Therapy skills or practices were substandard.

The Panel was aware that Mr. Colasanti's treatment notes show that on February 8, 2013 treatment was provided to the right lower side with the diagram indication the right low back, gluteals and right leg being treated. This calls into question for the Panel, AA's testimony of receiving bilateral treatment to both legs, which resulted in genital exposure on both sides. The Panel concluded that the College did not meet the burden of proof on clear, cogent and convincing evidence that AA's genitals were exposed. Therefore, it was found that Mr. Colasanti did not engage in the misconduct alleged.

In light of the Panel's findings in relation to each of the allegations of professional misconduct as alleged, a penalty hearing was not required.