

Marlayna-Lynn Marks

member: Marlayna-Lynn Marks, MT

Hearing Dates: December 16, 2004

Charges of Professional Misconduct

- The member contravened the standards of practice of the profession;
- The member falsified a record relating to her practice;
- The member signed or issued a document that she knew was false or misleading;
- She submitted an account for services that were false and misleading;
- She made a claim respecting the utility of treatment other than a claim which could be supported as reasonable professional opinion;
- She failed to keep records as required; and
- She engaged in disgraceful, dishonourable or unprofessional conduct.

Brief Synopsis of Facts

- The client received two massages from the member on December 29, 2001 and January 5, 2002;
- When the client attended on January 11, 2002 for an additional Massage Therapy session, the member provided instead of Massage Therapy, hypnotherapy and recorded the session on audiotape without first having requested the client's consent;
- Investigation revealed that the member had previously submitted a series of claims totaling \$500.00 to the client's insurance company which falsely represented that the member had provided a series of 60-minute and 45-minute massages on specified dates between October 30 and December 18, 2001. No Massage Therapy was provided to the client on any of the specified dates; and
- The client was referred to the member solely for the purposes of receiving therapeutic massages and did not request the hypnotherapy services.

Undertaking Agreement

Following the referral of allegations of misconduct to the Discipline Committee, the member advised the College that she was going to surrender her Certificate of Registration. She entered into an Undertaking/Agreement, acknowledging the accuracy of the allegations forming the subject matter of the referral to the Discipline Committee, and agreed to:

- Surrender her Certificate of Registration forthwith;
- Refrain now and in the future, from holding herself out as a Massage Therapists in Ontario, elsewhere in Canada and the United States;

- Refrain from applying for reinstatement of her certificate with the College or from applying for registration with any other licensing body governing the practice of Massage Therapy in any other jurisdiction, wherever situated; and
- The publication of her name, including a description of the allegations and of the Undertaking in the College's publications.

Following receipt of the signed Undertaking/Agreement, the College agreed to stay all outstanding charges against the member and to discontinue its ongoing Executive Committee investigation into other allegations. The Undertaking further provides that in the event that the member breaches any of the terms of the Undertaking, the discipline proceedings would be reactivated.

Editors Note

The scope of practice of Massage Therapy is defined in the Massage Therapy Act, 1991. Clients of members receiving Massage Therapy from registered members are entitled to submit billings to insurance companies for reimbursement. It is essential, however, that the members not misrepresent the nature of services they provide when issuing receipts to clients. The ability of members to seek reimbursement from private insurers for the provision of Massage Therapy services is an extremely important component to the access of those services by members of the public. Abuse by members of that privilege could well undermine the insurance industry's willingness to continue to fund services of this nature.

Secondly, when members engage in conduct that goes well beyond the accepted scope of practice, to the extent that they represent and hold themselves out as Massage Therapists in the course of those interactions, the members will be judged in accordance with the accepted standards of practice applicable to the Massage Therapy profession. Those standards are expected to be followed. If members deviate from those standards, disciplinary action can reasonably be anticipated.