

Discipline Decisions 2008

Member: Derek Royer, RMT

Hearing Date(s): May 16, 2008

Allegation(s) of Professional Misconduct:

1. Failing to abide by a written Undertaking given to the College or to carry out an agreement entered into with the College;
2. Contravening the *Massage Therapy Act, 1991*, the *R.H.P.A.* or the regulations under either of those Acts and;
3. Engaging in disgraceful, dishonourable and unprofessional conduct.

Brief Synopsis of Facts:

The evidence was presented by way of an Agreed Statement of Facts as well as submissions by the College Prosecutor and the Member. The Agreed Facts established the following:

- The Member first became registered with the College on April 10, 2002.
- On March 29, 2003 the Member's Certificate of Registration was suspended for non-payment of fees and in April of 2005 the Member entered into a repayment agreement with the College for his outstanding fees. The Member's registration was subsequently reinstated by the member agreeing to pay his outstanding fees within a specified time.
- During the Member's suspension it came to the College's attention that he had been continuing to practice massage therapy while his registration was suspended. This information was reviewed by the Registrar and the Executive Committee at which time it was determined that in exchange for the College's offer to take a remedial rather than disciplinary action, the Member entered into a written Undertaking with the College in September of 2004.
- Despite repeated following up and correspondence from the College the member never complied with any terms of his Undertaking with the College.
- The Member failed to provide payment of his outstanding fees within the payment plan agreed to with the College.
- Given the Member's failure to comply with the terms of his Undertaking as well as pay his outstanding fees, the Member's Certificate of Registration was again suspended for non-payment of fees as of July 1, 2006.
- During the hearing the Member admitted to continuing to practice the profession while his Certificate of Registration was suspended in July and August of 2006
- The Member further admitted that the clients who attended for massage therapy treatments during his suspension were led to believe and/or did believe that his Certificate of Registration was in 'good standing' and that receipts issued by him could be submitted to extended health insurers for reimbursement. The member made continuing and persistent misrepresentations to clients, approximately 21 times while his Certificate of Registration was suspended.

Decision:

The Panel accepted the Agreed Statement of Facts and submissions of Counsel for the College and the Panel unanimously found the member guilty of each of the allegations of professional misconduct.

Penalty:

The Panel accepted the submissions of Counsel for the College and imposed the following penalty:

- (a) 6 months suspension with the ability, based on Member's full and satisfactory compliance of the Terms, Conditions and Limitations imposed on his Certificate of Registration, for direction from the Registrar to suspend the remaining portion of the suspension;
- (b) Imposition of the following Terms, Conditions and Limitations on the Member's Certificate of Registration:
 - (i) To complete a Registrar approved Record-keeping course, The College's Standards and Regulations Workshop and the College's Professionalism Workshop, at the Member's expense, prior to the expiry of the suspension period imposed under term 1 of the Order
 - (ii) The Member must provide to the College, within 90 days following the completion of the courses, a written report describing what he has learned through the courses, how this conduct reflects upon both himself and the profession, and how his conduct relates to the College's Charter of Professionalism, which report, in whole or in part. Or a summary thereof, may be published in the College Standard or such other publication as may be directed by the Registrar with her sole and absolute discretion;
 - (iii) The Member must submit to two inspections of his practice, at his expense, within 6 months and one year after the completion of his coursework, and to instruct the Inspector to provide a report of each inspection to the Executive Committee within one month of each inspection, the total costs of such inspections not to exceed \$175;
- (c) Public and recorded Reprimand;
- (d) Costs of \$1000 and;
- (e) Publication.

The Reprimand

Immediately following the Hearing, Mr. Royer waived his right of appeal and a public reprimand was administered by the panel.

Panel's reasons for Decision and Penalty:

The Panel was of the view that this case called for a severe penalty because 'on two occasions' the Member engaged in practising massage therapy while his Certificate of Registration was suspended". The Panel also indicated its desire to reinforce the message to the profession that the College will not tolerate its members breaching the terms and conditions of their registration nor will it tolerate a member ignoring the terms of an Undertaking made to the College. The Panel found the conduct in the circumstances were extremely serious and warranted the penalty imposed. The Panel indicated that it will not make exceptions for any members who ignore the Standards of Practice for the profession.

EDITORIAL NOTE

The *Royer* case reinforces the message that the College will not tolerate its members breaching the terms and conditions of their registration. Any member who is found to have engaged in active practice in contravention of the terms and conditions of their registration, or practicing while their registration is under suspension, will be brought before the discipline panel of the College. Significant periods of suspension and other financial penalties will be sought upon conviction. The College is always mindful that the success of the profession is integral to the public's trust and with its relationship with extended healthcare insurers. Conduct of this nature could jeopardize both.

This case also highlights the significance of members entering into undertaking/agreements with the College. These agreements are relied upon by the College in the course of its work. Any member who enters into such undertakings and/or agreements and breaches any terms of the agreement this behaviour is seen as a serious offence and warrants appropriate penalties to reflect the serious nature of the conduct.