

EXECUTIVE SUMMARY – GLENN BUNTING, RMT
DISCIPLINARY HEARING CONDUCTED MARCH 1, 2009

The Member, Glenn Bunting, RMT, was charged with four counts of professional misconduct, and pleaded guilty to the following two counts:

- a. Contravening a standard of practice of the profession or a published standard of the College for failing to maintain the standard of practice of the profession; and
- b. Engaging in disgraceful, dishonourable or unprofessional conduct.

Following the plea, the College withdrew the balance of charges of professional misconduct, which included an allegation of sexual abuse. The Member was self-represented.

THE FACTS

Evidence was presented by way of an Agreed Statement of Facts. The Member was a Registered Massage Therapist since December 31, 1997, with no prior complaints to the College.

The College received three complaints concerning the Member. The first complainant complained that over two visits in early 2007, the Member had inappropriately massaged her breasts for an extended period of time, and on the second occasion, touched her nipples, without first discussing it with her. The complainant felt vulnerable and did not say anything to the Member at the time.

The second complainant complained about a treatment on March 30, 2007 where she felt that the Member had pushed her underwear higher than normal, and appeared to let his fingers fall into the divot between her buttocks. He also massaged her breasts, when a pectoral massage had just been discussed. The client felt uncomfortable and that the massage was not therapeutic. She did not ask him to stop because she felt awkward and vulnerable.

The third complainant complained about a treatment where the Member had offered to perform a pectoral massage, but then proceeded to undrape the front of her body, massage her breast and to touch her nipple. When this occurred, she asked the Member to stop. She complained that the Member had offered no explanation of what would be involved in a pectoral massage, including where he would touch.

In his response, the Member apologized to the complainants for any misunderstanding. He acknowledged that he likely failed to be specific enough in his description of a pectoral massage and what was involved. He claimed that he only undraped the area being worked upon. He denied ever touching any of the complainants nipples. He immediately stopped when the third complainant indicated she was uncomfortable.

With respect to the second complaint, the Member stated that when working on the gluteus region, he tucks and folds the sheet to expose the area to be treated. He apologized if the client felt that as part of this, her underwear was moved to high. In working the gluteus region, he

claimed that he does not work close to the cleft line and it would not be exposed with the draping. He was not aware of any discomfort with the client during this massage.

The Member apologized to the clients for their discomfort with his massage treatments. He gave the best treatment he could. There was never any sexual intention in his work. The Member affirmed that he took the complaints very seriously. As a result of the complaints, he had voluntarily decided not to perform any pectoral work from May 25, 2007. If any client now asks for pectoral work, he refers them to another therapist.

The Member acknowledged that he had failed to obtain appropriate written consent for the treatment of sensitive areas, including the chest wall and breast tissue as set out in the College's Position Statement on Treatment of Sensitive Areas. This statement provides that:

“Massage Therapists need to remember, and should inform their clients that, a signed consent is not valid without ongoing informed consent. Therapists should be careful to obtain and record verbal consent for all procedures, including massage to sensitive areas, each time treatment is delivered.

...

Massage Therapists must conduct themselves responsibly and understand that treatment of chest wall muscle, breast tissue, inner thigh and gluteal structures that exceeds reasonable professional practice is disconcerting to the public and the College, and may be considered grounds for charges of professional misconduct.”

The Member acknowledged that he had failed to perform breast massage in accordance with the standard of care and Technique Standard 15, which provide that:

Conditions:

Given that breast massages requested are clinically indicated prior to treatment, in that the client has consented to breast massage ...

Standard:

Quality/Technical and Interpersonal:

- So that you do not touch the nipple and/or areola.
- So that the breast tissue is uncovered only when it is being treated directly ...

Both of these failures constituted a failure to maintain the published standards of practice of the profession.

The Member acknowledged that he had engaged in conduct that would reasonably be regarded by members as disgraceful, dishonourable or unprofessional conduct.

FINDING OF GUILT

On the basis of the Member's guilty plea, its review of the Agreed Statement of Facts and the accepted standards of the College, the panel of the Discipline Committee found the Member guilty of two counts of professional misconduct in that he had failed to meet the applicable standards for breast massage, failed to obtain the necessary consent, and had engaged in disgraceful, dishonourable and unprofessional conduct.

THE SENTENCING HEARING

The Member and the College presented a joint submission respecting penalty to the Discipline Panel. Following submissions of counsel, the Panel accepted the recommendation. The following penalty was imposed:

1. A nine-month suspension of the Member's Certificate of Registration;
2. Five months of that suspension shall be remitted, in the event that the Member complies with the terms, conditions and limitations imposed on the Certificate of Registration.
3. The following terms, conditions and limitations shall be imposed on the Member's Certificate of Registration:
 - (a) Registration within the College's professionalism and standards and regulations courses within six months' time; and
 - (b) The Member shall pay costs of \$1800 within 60 days of the decision becoming final.
4. The Member signed an undertaking to the College that he will not perform any form of pectoral or breast massage in his practice in the future, and acknowledged that a breach of the undertaking would constitute an act of professional misconduct.

In its reasons for accepting the joint submission, the Panel unanimously found that the conduct set out in the Agreed Statement of Facts supported the finding of professional misconduct.

The Panel considered that the guilty plea meant that none of the complainants had to testify at a hearing. The proposed penalty was in line with the College's primary goal, being to protect the public by regulating the profession. The coursework will ensure the Member understands the importance of meeting prescribed standards. The undertaking will serve as a constant reminder to the Member that it is a privilege to be a regulated health care professional. The undertaking will further protect the public by preventing the Member from putting himself in similar circumstances in the future.

The penalty conveys a clear message to the Membership that this type of behaviour will not be taken lightly by the College.

Immediately following the hearing, the Member waived his right of appeal and the Panel administered a public reprimand at that time.

EDITORIAL NOTE

The Bunting decision emphasizes the importance of adhering to standards of practice of the College and maintaining professional care of clients. In undertaking massage of the breasts, written consent must be obtained and there must be a thorough discussion of what the client should expect.