

**EXECUTIVE SUMMARY – GORDON McCALLUM, RMT  
DISCIPLINARY HEARING CONDUCTED  
MAY 25, 2011**

The Member, Gordon McCallum, RMT, was charged with:

1. Sexual abuse of a patient;
2. Contravening the standards of practice of the profession or a published standard of the College, or failing to maintain a standard of practice of the profession;
3. Engaging in conduct or performing an act in relation to practising the profession, that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional; and
4. Engaging in conduct that would reasonably be regarded by members as conduct unbecoming of a massage therapist.

**THE PLEA**

The Member entered a guilty plea in respect of the allegations of professional misconduct.

**THE FACTS**

The evidence was presented by way of an Agreed Statement of Facts. Mr. McCallum is a RMT with no prior history with the College of Massage Therapists of Ontario ("College"). At the relevant time, Mr. McCallum owned and operated McCallum Massage Therapy in Newmarket, Ontario.

The College received a complaint from a client of Mr. McCallum, who is also a RMT and colleague of the Member. The complainant submitted a complaint to the College on February 9, 2010 concerning treatment that had been provided by the Member on October 23, 2009. In the complaint, the complainant alleged that Mr. McCallum:

- a. Inappropriately touched her genital area with his fingers under her underwear;
- b. Hugged her;
- c. Kissed her forehead;
- d. When his phone began to vibrate, and with reference to his cellphone being in his front pants pocket, stated "I keep it near my happy place"; and

The complainant also alleged that when she confronted Mr. McCallum at the moment he inappropriately touched her, and told him that "his hand was a little beyond boundaries", the Member apologized and covered the complainant's leg.

In the Member's response to the complaint, the Member admitted that his fingers "crossed the underwear line and into the gluteal cleft" and that this happened about three times before they spoke to each other and acknowledged that "boundaries had been crossed" and the Member stopped massaging her leg.

The Member stated that the complaint had affected his personal and professional life and admitted that his conduct was unprofessional. The Member denied making any reference to his phone being near his "happy place".

The Member acknowledged that he was guilty of professional misconduct in respect of the allegations.

## **FINDING OF GUILT**

On the basis of the Member's guilty plea and its review of the Agreed Statement of Facts, the Panel of the Discipline Committee found the Member guilty of the allegations of professional misconduct.

## **THE SENTENCING HEARING**

The Member and the College presented a Joint Submission on Penalty to the Discipline Panel. On the basis of the submissions, the Panel ordered as follows:

1. The Member's Certificate of Registration ("Certificate") shall be suspended for a period of 6 months.
2. The following terms, conditions and limitations shall be imposed upon the Member's Certificate:
  - a. Attendance at counselling for a period of not less than 12 months at a frequency of not less than monthly (unless otherwise directed by his counsellor) at the Member's expense;
  - b. The counsellor shall provide semi-annual reports to the College on the progress of the counselling at the Member's expense;
  - c. The Member shall provide a report following completion of counselling indicating what he has learned, how his conduct reflects upon himself and the profession and how his conduct relates to the charter on professionalism, which may be published;
  - d. The Member shall register and complete the following courses approved by the Registrar which will cover each of the following topics:
    - (i) Ethics and boundaries; and
    - (ii) Record-keeping;
3. The Member shall contribute to the counselling and treatment costs incurred by the complainant within six months following receipt of invoices submitted by the complainant to the College providing that the treatment relates to the conduct of the Member and is delivered within 6 months of the hearing to a maximum of \$1,000.00;
4. The Member shall contribute to the investigation and prosecution costs of the College in the amount of \$1,500.00 to be paid within 60 days of the decision becoming final;
5. A public and recorded reprimand; and

6. Publication in the usual course.

#### **EDITORIAL NOTE**

In its reasons for accepting the penalty, the Panel noted that the Member was cooperative in arriving at joint submissions of facts and penalty, which expedited the process and saved the complainant the trauma of testifying. The Member also apologized to the panel for his behaviour and indicated an intention to make amends and be held accountable for his behaviour.

A six month suspension would provide adequate deterrence to the Member and other members of the profession that this type of behaviour will not be tolerated. The required coursework will ensure that the Member will learn from his mistakes and correct any deficiencies in his practice. The ethic and boundaries coursework will also reinforce what is learned in his personal counselling. Sexual abuse is a serious charge and it is appropriate that the Member bear some of the costs of the complainant's counselling.

The lengthy suspension, and extensive terms, conditions and limitations imposed on the Member's Certificate should convey to the members of the College and the public that offences of this nature will be prosecuted vigorously.