

Discipline Decisions 2008

Member: Judit Essue, RMT

Hearing Date(s): September 19, 2008

Allegation(s) of Professional Misconduct:

1. Failure to cooperate with an authorized representative of the College conducting an inspection or examination of his records or practice;
2. Failing to keep records as required;
3. Falsifying a record relating to his practice;
4. Signing or issuing in his professional capacity, a document that he knew contained a false or misleading statement;
5. Contravening the *Massage Therapy Act, 1991*, the *R.H.P.A.* or the regulations under either of those Acts and;
6. Engaging in disgraceful, dishonourable and unprofessional conduct.

Brief Synopsis of Facts:

- Despite being served with the Notice of Hearing, the Member declined to participate and was not represented by a lawyer and as a result, a plea of not guilty was entered on the Member's behalf and the hearing proceeded before the Panel of the Discipline Committee in the Member's absence.
- The College's evidence included that of a number of witnesses including a College representative, A College Investigator and a representative from Green Shield Canada. The evidence heard included the following:
- Despite numerous opportunities the Member failed to respond to inquiries from Green Shield Canada in relation to receipts for massage therapy submitted under the Member's name and registration number. The Member failed to provide any documentation and records to confirm the legitimacy of claims submitted. In February 2007, a formal complaint on behalf of Green Shield was submitted to the College concerning the Member.
- The College also commenced a Section 75 investigation concerning the Member. The Member failed to respond to repeated requests for copies of her client health records. The member avoided repeated attempts by the Investigator to schedule an appointment. The Member failed to attend in accordance with a Summons to Witness served upon her.
- The Member admitted to the Investigator that she had not kept client files for the past five years. She also admitted to the Investigator that she had falsified her Registration Renewal forms by denying any previous criminal convictions.
- It was confirmed that in the Member's Registration Renewal Forms for 2005 to 2007, she had declared that she had no prior criminal charges or convictions. In fact the Member had been charged with fraud over \$5000 in December 2004 and had pleaded guilty to these charges receiving a suspended sentence and probation for one year.

Decision:

The Discipline Panel accepted the evidence of all the College's witnesses in their entirety and unanimously found the Member guilty of each acts of professional misconduct.

Penalty:

The Panel considered the submissions respecting penalty and imposed the following:

- (a) Revocation of the Member's Certificate of Registration;
- (b) Costs of \$4000; and
- (c) Publication.

The Panel's reasons for Decision and Penalty:

The Panel in its reasons for imposing the penalty noted that there was clear evidence that the Member behaved in a manner contrary to the professional conduct expected of a regulated health professional. It was further noted that the Member had clearly misrepresented the status of her criminal conviction to the College. She also acted in a dishonourable and unprofessional manner by being uncooperative with the College in its investigation. In relation to the cost penalty the Panel increased the proposed amount as it felt strongly that the Member should be held responsible to off-set at least half of the costs incurred by the College in the proceedings. It was also noted that much of the costs could have been minimized if the Member had cooperated from the beginning of the investigation.

The revocation of the Member's registration was intended to send a strong message to all Massage Therapists that the College will uphold high standards of professional conduct among its Members.

EDITORIAL NOTE

The *Essue* decision affirms the importance of cooperating with the College in its investigations. The misrepresentation of pertinent information to the College is considered a serious matter. Also, costs imposed on Members may be increased if a lack of cooperation has interfered with the investigation and caused increased costs.