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## Foundations for Success

2004 ANNUAL REPORT



celebrating  
**10** years  
OF LEGISLATION

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## Our Mission, Vision, Guiding Principles and Values

### MISSION

The College of Massage Therapists of Ontario is dedicated to excellence in protecting the public, serving its members, and promoting the highest possible quality of the practice of massage therapy in a safe and ethical manner.

### VISION

The College of Massage Therapists of Ontario envisions a future where:

- All qualified massage therapists are registered and proud to be associated with the College;
- Members bring a high degree of credibility and are inspired to maintain and enhance their skills, commitment and professionalism;
- The public, the government, and other healthcare professionals have a high level of awareness of, and confidence in, the competence of massage therapists and the profession of massage therapy;
- The College is seen, by the public and all its stakeholders and partners in Ontario and across Canada, to be a valued and respected member of the healthcare regulatory environment;
- The College is seen to be a willing and valued partner, and is open and accessible to all stakeholders;

- The College encourages, supports, and promotes excellence in the teaching, research and practice of massage therapy; and,
- The College, as a centre of excellence, is a creative and innovative professional regulatory organization, and a model for other similar organizations.

### GUIDING PRINCIPLES AND VALUES

The College of Massage Therapists of Ontario believes in:

- Honesty
- Integrity
- Respect for others
- Transparency and openness
- Accountability
- Fiscal diligence and sound financial planning
- Governance organizational development and effectiveness
- Continuously developing appropriate partnerships
- Professional ethics
- Excellence in massage therapy education, research and practice
- Dedication to public service and safety
- Valuing staff through fair, equitable and competitive employment practices
- Continuous commitment to quality assurance
- Meeting and exceeding statutory obligations
- Highest level of excellence in massage therapy practice

## Joint Message from the President and Registrar



RICK OVEREEM



DEBORAH WORRAD

With this edition of our annual report, we are commemorating a significant milestone in the history of the massage therapy profession in Ontario – ten years of self-regulation as the College of Massage Therapists of Ontario. With the passing of the *Regulated Health Professions Act (RHPA)* in 1991, a tremendous opportunity opened for the massage therapy profession. Out of the Board of Directors of Masseurs, the College of Massage Therapists of Ontario was formed in 1994 to oversee self-regulation for the massage therapy profession – a first in Ontario!

Self-regulation is a privilege – not a right – for this profession. As a self-regulating health profession we have both the privilege and the responsibility to promote the highest possible quality of massage therapy practice, to clarify our role as a profession within the broader health care context, and to collaborate effectively with each other and with other stakeholders. By fully embracing these responsibilities, the College can continue to fulfill its vision of dedication to excellence in protecting the public, serving our members, and promoting the highest possible quality of the practice of massage therapy in a safe and ethical manner. Fully accepting responsibility for self-regulation also allows the College to create and maintain superior standards for the massage therapy profession, and establish itself as a solid and reliable organization to which its members and the public can look for guidance and support.

As we celebrate our achievements over the past ten years, the theme “*Foundations for Success*” is particularly fitting for our organization. A solid foundation is always the base on which a well-respected and strong organization can build. The College started laying the foundation very early on in its inception. Once the operational components were put into place as required by the *RHPA*, we immediately began looking at the bigger picture.



How were we going to build a lasting structure for our members and the public? Since 1994 the College has grown in leaps and bounds. From the establishment of our Governance model in 2000 and the development of our strategic planning process in 2001; to ongoing information technology improvements, expansion of our public education campaigns, establishment of massage therapy competencies and defining the scope of practice; the College has worked hard to build a solid foundation to ensure its future success for the profession as a whole.

Massage therapy as a profession has also grown considerably in the last ten years. When the College was first formed there were 1,000 massage therapists in practice. Today there are over 7,100 registered massage therapists and the numbers rise steadily every year. The last ten years have seen the introduction of Standards of Practice, a Code of Ethics, and certification examinations that comply with international standards, ensuring a fair and objective evaluation of entry level competence for new massage therapists. Additionally, two major studies by the College in the past decade have indicated the growing use of massage therapy by the public of Ontario.

In 2004 the College continued to build on its already strong foundation by reinforcing some of the existing cornerstones. Massage therapy research is and continues to be an important cornerstone for the College. Advancing the scientific understanding of massage therapy is critical for raising public awareness and supporting acceptance of the profession as a reputable form of healthcare. Research also contributes to the body of knowledge of our profession. Massage therapy has a relatively small body of research compared to other professions, and

it is important that we keep adding to our knowledge to validate and refine the practice and application of massage therapy.

Several research projects around Complementary and Alternative Health Care (CAHC) and massage therapy were initiated last year, including a study on the feasibility of an online research literacy course for holistic health professionals, of which the College was a co-funder. Other initiatives included the College's continued participation at the Second International Symposium on the Science of Touch in May 2004 (the College attended the first symposium held in 2002) where leaders and educators came together to discuss how to increase research capacity in the Complementary and Alternative Health Care professions; and the announcement of the findings from the 2003 Massage Therapy Census, commissioned by the College to identify the current status of the profession, identify the changes and needs that are anticipated, and estimate future demands for the profession.

The College recently became a founding partner of the Holistic Health Research Foundation of Canada, a non-profit organization dedicated to research in the area of CAHC, and continued to work closely with it throughout 2004. Later in 2005, the Foundation will fund its first massage therapy research project – "Massage Therapy for High Risk Pregnant Women on Complete Bed Rest in Hospital," led by Trish Dryden, MT. We encourage all massage therapists to consider making personal, tax-deductible donations to the Foundation's dedicated Massage Therapy Research Fund (please visit [www.HolisticHealthResearch.ca](http://www.HolisticHealthResearch.ca) for more information).

The development of policies and Regulations for the profession, and the ongoing review of existing policy, is another key part of the foundation of the College. These activities ensure that the College continues to protect the public by guiding and supporting the members in providing massage therapy in a safe and ethical manner. In 2004, the adoption of a new Zero Tolerance Policy, and the Policy on Treatment of Sensitive Areas, are examples of how the College continues to ensure the profession retains high standards of practice.

The year also proved busy in the area of legislation mandated by the federal and provincial governments. The Personal Protection and Electronic Documents Act (PIPEDA) and the Personal Health Information Protection Act (PHIPA) both came into effect in 2004, and were specifically designed for the handling of personal information. The College ensured that members were informed of the new legislation and its expected impact for the massage therapy profession. Working with the Federation of Health Regulatory Colleges, the College developed tools to assist massage therapists in implementing the legislation in their practices, and in gaining an understanding of their responsibilities.

Other key accomplishments in 2004 include the College's improved use of technology. In 2001 the College became the first of the health regulatory Colleges in Ontario to make online registration renewal available to its members. In 2004 the College built on this foundation by beginning a project to permit examination applicants to apply and pay for the certification examinations online, and allowing new registrants to complete the initial registration process online. 2004 also marked the first time the College began to use mass e-mails to communicate with members. Archived copies of the College Standard and annual report continue to be available on the

College's website, as do a large number of forms and documents, which members can download and use to access College services and improve client care. The Ontario public now has greater access than ever before to information about the College's programmes and services through the website. We will continue to take steps to further utilize technology to communicate with the public and our members.

Looking ahead, the College will continue to respond to the growth of the profession and changes in the environment outside of the College by anticipating issues and concerns, and asking what needs to be initiated and accomplished to build and strengthen our foundation – and our structure – as a College. Future plans include continuing to work towards the creation of best practices for the profession; encouraging new research in massage therapy; and beginning a new dialogue with the members about the professionalism of massage therapists, and how members can become leaders and exemplars for this profession in the future.

We've come a tremendously long way in building a solid and lasting foundation for the massage therapy profession, and we are proud of our accomplishments over the past decade. The College looks forward to many new and exciting challenges over the coming ten years, and the opportunity to build on our reputation as a leader in the massage therapy sector in Canada.



Rick Overeem, MT



Deborah Worrada, BA, CAE



celebrating  
10 years  
OF LEGISLATION

## 2004 Highlights STRATEGIC DIRECTION #1

To serve and protect the public through ensuring the competency of massage therapists and the quality of practice of massage therapy.

- The College's Quality Assurance Committee completed more than 800 assessments through 36 assessors. Relatively small numbers were required to complete an undertaking or be reassessed (1.5%), or to produce their professional portfolio (3.2%). Another 32% were sent follow-up letters reminding them of peer assessor comments that caught the attention of staff (18%), and requesting them to report back to the committee to confirm that they had brought their practice into compliance (14%).
- Members who completed their self-assessment information indicated a number of areas where they assessed their current levels of competency to be below the target levels set by the committee. The top five of these areas are: On-going Client Evaluation (38%); Pathology (34%); Physiology (31%); Client Assessment (29%); and On-going Learning (28%). The top five areas therapists indicated that they plan to develop over the next three-year cycle include: Client Assessment (33%); On-going Learning (28%); Pathology (28%); Business Acumen (22%); and Business Development (20%).
- The average number of Continuing Education Units obtained by those members reporting this year was 86, with 30 units being the minimum requirement.
- The Quality Assurance Committee also spent a great deal of time in a major revision of the Standards of Practice. This work will continue into the early part of 2005, and when completed and adopted by Council, will be made available to all members.
- This year saw the lingering effects of preparedness and management of SARS and Avian Flu, as well as new directives for febrile respiratory illness (FRI). The College directed its members to the Ministry of Health and Long-Term Care website to ensure members had access to online updates for the most current information and screening tools. As regulated health practitioners, massage therapists are required to be familiar with FRI directives. The directives are comprehensive and cover specific areas of concern. These areas include surveillance, screening, counselling and referral, reporting, infection control, education and communication.
- A total of 58 appeals were presented to the Appeals Committee, of which 30 appeared in person to state their case. As a result, 12% of appeals were granted, and 7 candidates became eligible for registration.
- The Complaints Committee reviewed a total of 45 matters, of which 25 were new complaints received by the College in 2004. The number of new complaints is down by 10 compared to the previous year. The time period to review a complaint continues to decrease, but it is still above the legislated time limit. This is due mainly to the complexity of the complaints, and the investigation time required for a fair and due process.
- As of January 1, 2004, the Personal Information Protection and Electronic Documents Act (PIPEDA) came into effect in Ontario, and all commercial operations became responsible for compliance with the legislation. The College, in conjunction with the other health regulatory Colleges, developed a Guide to PIPEDA and a Checklist for preparing members' practices to meet the privacy requirements. The documents were made available on the College's website, and members were urged to review the information to ensure they are in compliance with this federal legislation.
- The Health Information Protection Act (HIPA) came into effect November 1, 2004 to ensure that personal health information is private, confidential and secure. The HIPA provides consistent and comprehensive rules for individuals and organizations that collect, use and disclose personal health information. HIPA takes precedence over the provisions of the federal privacy act, and the Personal Information Protection and Electronic Documents Act (PIPEDA). Members were encouraged to review the legislation to ensure they are in compliance.

## STRATEGIC DIRECTION #2

To increase public and membership awareness and understanding of the role and work of the College through appropriate education and communication strategies.

- In 2003, the College commissioned Collis & Reed Research to conduct a Massage Therapy Census to identify the current status of the profession, identify the changes and needs that are anticipated and estimate future demands for the profession. The Census was conducted in five separate surveys – the Membership Survey, the Student Survey, the Other Health Care Practitioners Survey, the General Public Survey and the Clients of Massage Therapists Survey. The results of the Census were communicated to all members in 2004, and made available on the College's website.
- The Client Relations Committee (CRC) developed additional strategic directives: an Advanced Ethics and Boundaries Workshop for all members, available as an online workshop in the future; Client Rights information that is being distributed in 2005 via the College website and a poster made available to all massage therapists; ongoing development of a diversity program that will be communicated through bulletins to members and the public; and ongoing development of mass e-mail methods of dispersing College information to members and the public. As well, the committee compiled member feedback on the definition of a client, clarifying what is meant by the term "client," and when and how the client-therapist relationship is established – an important task for any health profession. Also important is the CRC's ongoing review of mandatory reporting obligations to clarify the role and responsibility of massage therapists in protecting clients from abuse.
- The College's Registrar and legal counsel appeared before the Guelph municipal council in May 2004 to oppose a by-law to regulate the massage therapy profession. Massage therapists are more than adequately regulated by the provisions of the *Regulated Health Professions Act, 1991* and do not require another level of regulation by the municipality. As a result of the College's representation, massage therapists were excluded from the by-law.
- The Client Relations Committee (CRC) developed additional strategic directives: an Advanced Ethics and Boundaries Workshop for all members, available as an online workshop in the future; Client Rights information that is being distributed in 2005 via the College website and a poster made available to all massage therapists; ongoing development of a diversity program that will be communicated through bulletins to members and the public; and ongoing development of mass

## STRATEGIC DIRECTION #3

To continuously improve the management and operations of the College.

There have been no major changes in management or operations of the College in 2004. Staffing remained at the same level and efforts continue to focus on implementing the requirements laid out in the strategic plan.

### Key activities in this area include:

- Reviewing and identifying annual operational priorities and budgets

- Monitoring and evaluating current developments and emerging trends in the regulation of health professions at the provincial, national and international levels
- Collaborating with other provincial regulatory colleges to promote appropriate regulatory and legislative revisions and amendments
- Seeking member input and recommendations on proposed policies, positions, and By-laws



## 2004 Highlights STRATEGIC DIRECTION #4

To ensure effective, efficient and accountable governance and leadership of the College.

The Council has the legislative mandate to protect the health, safety and well being of the public. The appointed Members of Council have an additional responsibility to be especially sensitive to consumer welfare.

The public has a right to safety, the right to be informed, the right to choose, the right to be heard, the right to information, and the right to redress. Council members serve the public interest and must keep these rights in mind when making decisions. Working in the public interest means looking at the issues from the perspective

of their impact on the consumers of the service, rather than the perspective of the massage therapy profession alone. From a governance perspective, the Council ensures that it carries out its policy-making role.

The Registrar ensures that staff fulfill their administrative and policy implementation roles.

Through governance policies, the reporting and functioning roles of both staff and Council assist in directing the work of both groups.

### STRATEGIC DIRECTION #5

To establish and maintain collaborative relationships, alliances and partnerships with key internal and external stakeholders.

- In May 2004, the College sent four representatives (two Council members and two senior staff) to the International Symposium on the Science of Touch – “Towards an Integrative Medicine,” held in Montreal. The symposium brought together leaders and educators in the field to discuss how to increase research capacity in the Complementary and Alternative Health Care (CAHC) professions, and produce a report on long term strategies in this area for the Natural Health Products Directorate (NHPD) of Health Canada.

- The College continues to work closely with the Holistic Health Research Foundation of Canada, as a Founding Partner of this non-profit organization that was publicly launched in November 2004.

- Research continues to be an important and recurring theme in relation to massage therapy. The following projects were initiated in 2004:

- An HRDC-funded, two-year national pilot research grant (\$250,000) is studying online learning and research literacy for CAHC professionals. The College assisted in promoting the online literacy course to massage therapists.

- A national grant (\$65,527) from the NHPD, is comparing research curricula across six disciplines of CAHC schools in Canada (massage therapy, chiropractic, homeopathy, herbal medicine, naturopathy and traditional Chinese medicine).

- Research results for the two-part, College-funded study “The effect of massage on muscle fatigue and recovery” are now available. The Toronto phase of the study was published in the BMC Alternative and Complementary Medicine 2002. The Japanese study, “Effects of massage on blood flow and muscle fatigue following isometric lumbar exercise,” has been published in the May 2004 edition of the Medical Science Monitor (MSM).

- On May 2 and 3, 2004, the College participated in the Spa Esthétique Show at the Metro Toronto Convention Centre. This major show, held annually in Vancouver, Toronto and Montreal, proved an excellent venue for the College to educate spa owners, aestheticians and the public about the regulation of massage therapy, the protected titles of the profession, the official marks of the College and the competencies required to be a massage therapist.

### STRATEGIC DIRECTION #6

To examine the range of treatment modalities practised in relation to the scope of practice of massage therapy and establish guidelines for members and inform the public.

- At the request of members, a total of six modalities were reviewed by the Registration Committee to determine whether or not they were in the scope of practice, complementary modalities, or outside scope of practice. The modalities reviewed were: Activities of Normal Living Inventory (ANLI) assessments, Trigenics, Low Intensity Laser Therapy (LILT), Polarity Therapy, Reiki, and Lypossage. Recommendations were made to Council and the Schedule of Complementary Modalities and the Schedule of Modalities Considered Outside Scope have been revised to reflect the changes.

- The Registration Committee is responsible for determining whether applicants from outside Ontario meet the registration requirements to become a massage therapist. During the year, the Committee reviewed 11 applicants from other provinces and nine applicants from outside Canada. Additionally, the Committee decided that the Standards and Regulations e-workshop is now a requirement for educational equivalence with the approved Ontario programs.

- The Foundations course at the College of Acupuncture and Therapeutics in Kitchener has been evaluated as offering all of the competencies required for approval under the College’s Acupuncture Policy. (Members were previously required to complete both the Foundations course and the Advanced course to acquire the minimum education in acupuncture for massage therapists.)

- The College passed the following new policies in 2004:

- The Refresher Course Policy provides greater guidance regarding when a refresher course must be taken and what the course will consist of. This policy provides clarification for massage therapy schools, current members and applicants for Registration with the

College. An associated document, the Refresher Competencies Assessment Tool, was also adopted. This tool will help those taking the refresher course to identify what competencies they need to refresh.

- The Direct Client Care Policy outlines what “direct client care” as stated in the Regulations is considered to be, and provides clarification for massage therapists, massage therapy educational programs, massage therapists from other jurisdictions, and teachers.

- The College also amended the following policies and By-laws:

- Council amended the policy on Certificates of Registration to permit retired members to retain the Certificate of Registration and Photo ID card as long as they are temporarily returned to the College to be marked “retired” and sealed.

- By-Law No.7, Fees for Registration, Examinations, and Other Activities of the College, was amended to as a result of the College’s registration fee increase.

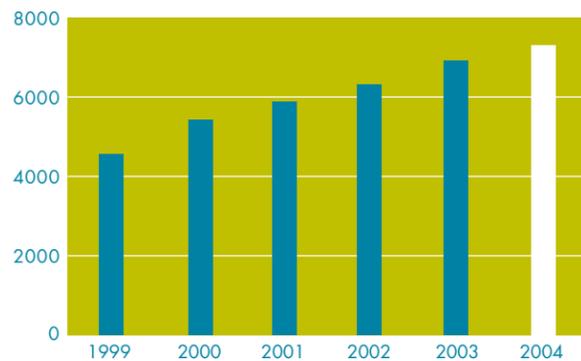
- By-Law No.8, The Register and Member Information, was amended to reflect the College’s current information collection practices.



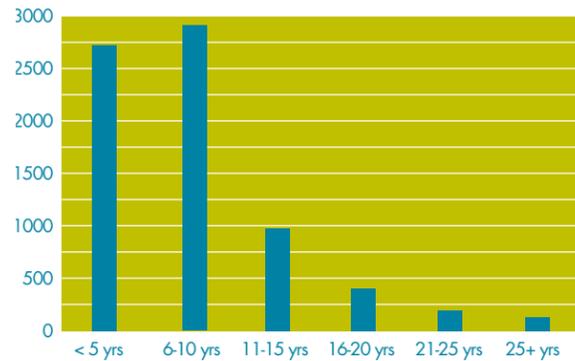
# College Facts and Stats

## REGISTRATION

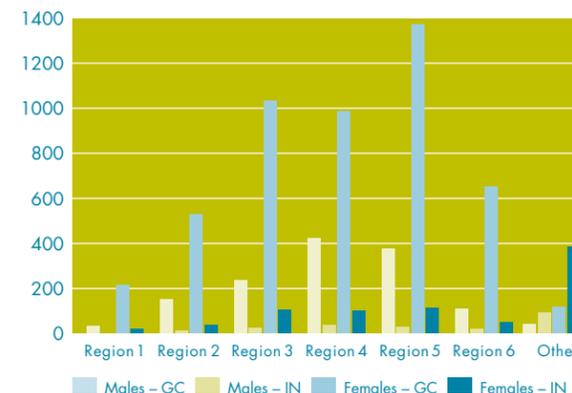
TOTAL NUMBER OF REGISTRANTS



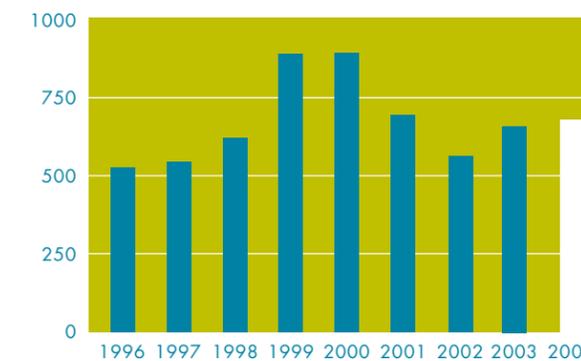
REGISTRANTS BY NUMBER OF YEARS IN PRACTICE



REGISTRANTS BY TYPE OF CERTIFICATE

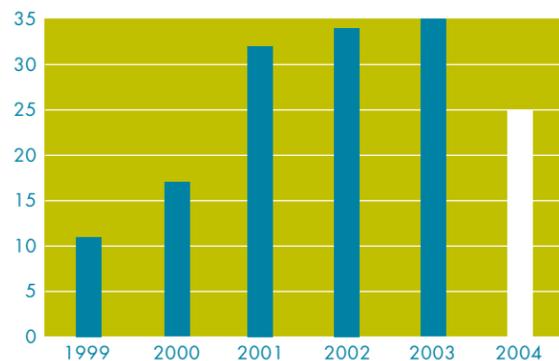


NEW MEMBERS

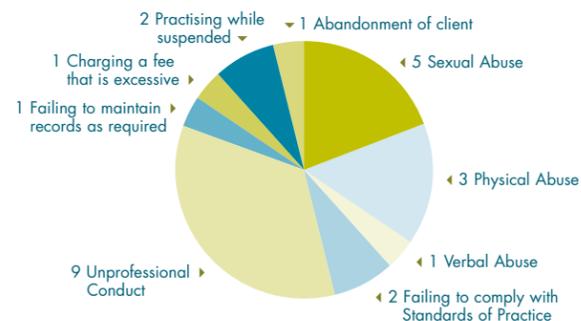


## COMPLAINTS

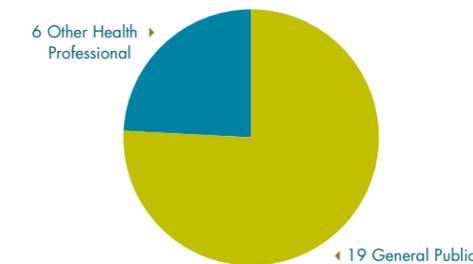
NEW COMPLAINTS



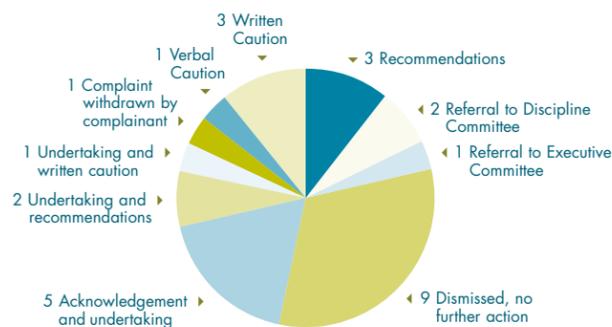
NEW COMPLAINTS BY TYPE



SOURCE OF COMPLAINT



DISPOSITIONS Total number of matters completed - 28  
Decisions include:

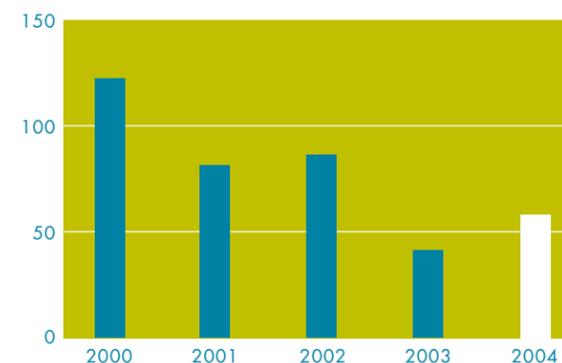


17 Matters Pending

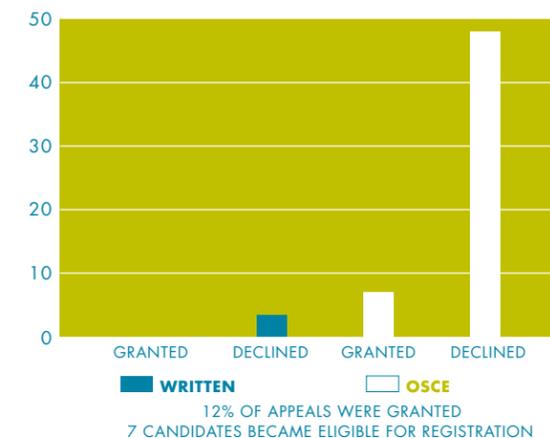
## CERTIFICATION EXAMINATIONS

Total # Candidates	# Pass OSCE	% Pass OSCE	Total Written Candidates	# Pass Written	% Pass Written	Total # eligible for registration	Total % eligible for registration
1184	738	62%	1003	826	82%	719	74%

APPEALS VOLUMES



STATUS OF ALL CASES REVIEWED



# Discipline Committee Decisions

## TIMOTHY BRITNELL, MT

### Charges

On June 1, 2, 3, 2004; on June 28, 29, 30, 2004; and on September 22 and 23, 2004; a Discipline Hearing was conducted before a panel of the Discipline Committee of the College. It was alleged that Mr. Britnell:

1. sexually abused his client R.V.;
2. failed to maintain the Standards of Practice;
3. engaged in disgraceful, dishonourable or unprofessional conduct; and
4. failed to maintain records required to be kept.

### The Plea

Mr. Britnell initially entered a plea of not guilty. On the eighth day of the hearing, he changed his plea to guilty to allegation 3 (unprofessional conduct) and allegation 4 (record keeping). Counts 1 and 2 were withdrawn at that time. With respect to count 1, the allegation was withdrawn because it was not supported by the evidence and could not be proved with the requisite degree of certainty. With respect to count 2, the facts were already subsumed within the facts supporting the pleas in respect of Allegation 3.

### The Facts

The facts supporting the guilty plea were introduced by the filing of a Joint Agreed Statement of Facts signed by both the College and Mr. Britnell. In the Agreed Statement of Facts, Mr. Britnell acknowledged that at all material times he held a valid Certificate of Registration with the College and that he provided massage therapy treatments to the complainant R.V. on four occasions in April and May 2001. The matter came before the College as a result of a complaint lodged by R.V. against the

Member and was referred to the Discipline Committee on October 30, 2003. The facts disclosed that the Member, who was first registered with the College in 1997, began seeing R.V. on April 25, 2001 for treatment of injuries she sustained in a motor vehicle accident that occurred on March 25, 2001. At the time, R.V. was 31 years of age, married with 3 children. R.V. was born in El Salvador, and had a grade 9 education. English was not her first language and, as a result, her ability to speak English was somewhat limited. Between April 25 and May 8, 2001, R.V. attended Clinic on four occasions and received treatment from the Member.

R.V.'s medical history revealed that as a result of the motor vehicle accident, she sustained injuries primarily to her neck, lower back, shoulders and left knee. After being treated at the clinic by a physiotherapist and a kinesiologist, R.V. was referred to the member by her family doctor for massage therapy in relation "to her neck and back pain."

### Unprofessional Conduct

During the four client encounters, the Member massaged, at various times, among other areas, sexually sensitive areas including the upper soft tissues of R.V.'s breasts, her upper inner thighs and her buttocks. Further, during the course of the four encounters, the Member spent more time than was reasonably necessary in relation to his massage of these sexually sensitive areas. Further, in the course of undertaking the upper breast area massage, on each occasion, while R.V. was supine, the Member placed the fingers of both of his hands beneath the draping sheet and conducted that portion of the massage in that manner.

The Member acknowledged that in the circumstances, he did not have sufficient clinical indications to justify engaging in the kind, or extent, of the massage to the sexually sensitive areas that he engaged in. He also

acknowledged that working under the sheet during the upper breast massage administered to R.V. was inappropriate.

The Member acknowledged that he failed to adequately communicate to R.V. his intentions and justifications for engaging in his massaging of the sexually sensitive areas. He acknowledged further that by focusing on R.V.'s sexually sensitive areas, he failed to adequately and appropriately meet the treatment needs of R.V. in all the circumstances. He acknowledged that there existed a language barrier between himself and his client, R.V., in respect of which he failed to take adequate steps to overcome.

The Member and the College agreed that, in all the circumstances, the treatment provided by the Member did not constitute sexual abuse but would be reasonably regarded by other members of the College as constituting unprofessional conduct.

### Record Keeping Allegations

The Agreed Statement of Facts revealed that the Member failed to keep records as required in relation to his treatment of R.V. He did not comply with the Massage Therapy Regulation Sections 7 through 11, or with the published Standards of Practice (including Standards 10, 11, 39 and 41). Missing from the Member's records were (a) a record of all necessary consents to treatment; (b) an adequate history of the client including relevant medical history; (c) an adequate assessment of the client; (d) a copy of the Treatment Plan; and (e) clinically significant information obtained from the other regulated health professionals at the clinic in relation to his client.

The Member acknowledged that the above facts constituted professional misconduct in relation to Allegation 3 (unprofessional conduct) and Allegation 4 (record keeping).

### Finding of Guilt

On the basis of the Member's guilty plea, and the Agreed Statement of Facts, the panel of the Discipline Committee found that the Member had committed professional misconduct as alleged in Allegation 3 (unprofessional conduct) and Allegation 4 (record

keeping) as alleged in the Notice of Hearing. Upon the acceptance of the plea of guilty, Allegation 1 (sexual abuse) and Allegation 2 (failure to maintain standards) were withdrawn by the College.

### Submissions Regarding Penalty

The submissions respecting the appropriate penalty proceeded on the basis of a joint submission described below, presented by counsel for the member and the College.

### Panel's Decision on Sentencing

Following due deliberation, the panel accepted the joint submission, and made the following Order:

- a) a recorded reprimand
- b) a 90-day suspension of the Member's Certificate of Registration, with 45 days of the suspension being remitted provided that the Member complies with the terms, conditions and limitations composed in paragraph (c) below within the time frame specified therein.
- c) it directed the Registrar to impose the following terms, conditions and limitations on the Member's Certificate of Registration namely:
  - i. The Member must enrol in, and successfully complete, at his own expense, the following three courses:
    - "Making Ethical Decisions and Maintaining Boundaries in Professional Relationships"
    - "Standards and Regulations e-Workshop"
    - A course in record keeping approved by and acceptable to the Registrar within all specified timeframes.
  - ii. The Member's practice will be monitored by means of not more than two inspections, conducted at the member's expense, within the twenty-four month period immediately following the date when the Order becomes final.
- d) The Member is to pay costs to the College as partial reimbursement of the College's costs in the amount of \$1,000.00.

### Reasons for Penalty

The Panel noted that it should follow the rule in criminal cases that joint submissions should be followed unless to do so would bring the administration of justice into disrepute or was contrary to the public interest. Upon reviewing the specific circumstances of the case, including the fact that the member had no prior history of discipline before the College and the costs borne by the member and the College in conducting the hearing, the Panel emphasized that the conduct was serious enough to warrant a period of suspension and underscored the value of clear communication with clients particularly concerning sexually sensitive areas of the body, and the right of clients to be fully informed of treatment plans at each treatment session.

The Member was represented at the hearing by legal counsel.

Immediately following the Hearing, the Member waived his right of appeal and the panel proceeded to administer the reprimand.

### DEBRA ANN MARCH, MT

#### Charges

On September 13, 2004 a Discipline Hearing was conducted before a panel of the Discipline Committee of the College. It was alleged that:

1. Ms. March sexually abused her client T.D.;
2. Ms. March engaged in disgraceful, dishonourable or unprofessional conduct; and
3. Ms. March failed to maintain records required to be kept.

#### The Plea

Ms. March entered a plea of guilty to count 2 (disgraceful, dishonourable or unprofessional conduct) and count 3 (record keeping). Upon acceptance of the guilty plea, the allegation of sexual abuse was withdrawn.

### The Facts

The facts supporting the guilty plea were introduced by the filing of a joint Agreed Statement of Facts signed by both the College and Ms. March. In the Agreed Statement of Facts, Ms. March acknowledged that, at all material times, she held a valid Certificate of Registration with the College and that she provided massage therapy treatments to the complainant, T.D., between July 1997 and June 1998.

In relation to the allegation of disgraceful, dishonourable or unprofessional conduct, the facts agreed upon disclosed that Ms. March is 45 years of age and had engaged in the practice of massage therapy for approximately 14 years. The allegations of professional misconduct against Ms. March arose out of events that occurred at a date following the termination of the formal professional relationship between the member and Ms. March. The matter came before the College as a result of the complaint lodged by Ms. T.D. The matter was referred to the Discipline Committee by a panel of the Complaints Committee in March 2004.

Ms. March practices massage therapy at the Peterborough Massage Clinic ("The Clinic") located in Peterborough, Ontario. Following the termination of the formal professional relationship, Ms. March and Ms. T.D. entered into an ongoing and intimate sexual relationship. Between October 2000 and May 2001, the member moved into the client's home. It was agreed between the parties that at no time after the cessation of formal treatment in June 1998 did Ms. March formally treat Ms. T.D. again as her client.

Ms. March acknowledged that by agreeing to engage, and engaging, in an intimate relationship with a former client in the manner, and within the time frame stipulated, she violated her ethical and professional obligations owed to her client. She acknowledged that other members of the College would reasonably regard such conduct as disgraceful, dishonourable or unprofessional.

Further, during the period of her cohabitation with Ms. T.D., Ms. March periodically issued receipts to Ms. T.D. allegedly for massage therapy services provided. Ms. T.D. then, with the knowledge and consent of

Ms. March, submitted those receipts to Manulife Financial ("Manulife") for repayment. Manulife, in turn, issued cheques to Ms. T.D. in an amount totaling \$1,600.00.

Ms. March acknowledged that the receipts issued were false and misleading because no therapeutic massages as described therein were ever provided by her to Ms. T.D. during the course of their cohabitation. Rather, it was acknowledged that any physical interaction between the member and Ms. T.D. during that period was more properly characterized as "personal interactions" between intimate partners rather than as professional therapeutic interactions contemplated and/or described by the language of the receipts. Ms. March acknowledged that by issuing the false receipts for use by her formal client, Ms. T.D., she violated her professional obligation. She further acknowledged that members of the profession would reasonably regard such conduct as disgraceful, dishonourable or unprofessional.

Ms. March acknowledged that by engaging in the intimate relationship and by issuing the receipts, both described above, she committed an act of professional misconduct as described by Paragraph 44 of Section 26 which defines professional misconduct as including "engaging in conduct or performing an act, in the course of practicing the profession, that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional."

#### Record Keeping Allegations

Following the lodging of the complaint by Ms. T.D., Ms. March was asked by the panel of the Complaints Committee to provide it with the member's original clinical records pertaining to the complainant. Ms. March was unable to do so because, as she alleged, the records were kept from her by the complainant. Ms. March acknowledged that under subsection 7(1) of Ontario Regulation 544/94 as amended, a member "shall, in relation to his or her practice, take all reasonable steps to ensure that records are kept in accordance with this part." Ms. March acknowledged that her inability to provide the original

clinical records to the Complaints Committee, in the circumstances indicated therein, established that she failed to take "all reasonable steps necessary to ensure" that the records were kept in accordance with the Massage Therapy Act, 1991 and Regulations made thereunder, and that her failure to do so constituted the act of professional misconduct as defined by the s. 26 of Ontario Regulation 544/94 as amended.

#### Finding: Guilty

On the basis of Ms. March's guilty plea and its review of the Agreed Statement of Facts, the panel of the Discipline Committee found that Ms. March had committed acts of professional misconduct as alleged in Count 2 (disgraceful, dishonourable or unprofessional conduct) and Count 3 (record keeping) as alleged in the Notice of Hearing.

#### Submissions Regarding Penalty

The submissions respecting the appropriate penalty proceeded on the basis of the filing of a Joint Submission with respect to Penalty and Costs accompanied by a signed Undertaking executed by Ms. March dated September 13, 2004. The panel also received, on the consent of both the member and the College, excerpts from the complainant's original letter of complaint dated March 24, 2003 dealing with the impact of Ms. March's conduct upon the complainant. Counsel for the member filed 16 letters of reference and the member's tax return for the five years preceding the date of the hearing.

In the Undertaking signed by the member, the member undertook, among other things, and agreed as follows:

1. To commence at her own expense counselling/therapy with a counsellor selected and approved by the College. Such therapy to commence within 30 days of the date when the sentencing order becomes final on a frequency of not less than monthly, or at such other intervals as may be recommended by the therapist. The therapy is to continue for a period of not less than 24 months from the date of commencement, for the purposes of receiving therapy in respect of boundary and related issues arising out of, and relevant to, the member's treatment of her former client, T.D.

2. The therapist is to report to the College every 4 months, at the member's expense, regarding the progress of therapy.
3. The member undertook to pay invoices submitted to the College by the complainant for counselling or therapy during the period commencing June 2001 through to and including September 2005; provided that the treatment is bona fide and reasonably relates to treatment provided to Ms. T.D. by a therapist meeting the criteria established by the Client Relations Committee of the College, to a maximum of \$5,000.00.
4. The member undertook to enrol and successfully complete, at her own expense, the College's course entitled "Making ethical decisions and maintaining boundaries in professional relationships" by the date stipulated in the Undertaking.
5. The member agreed to having her practice monitored by means of not more than 2 inspections, conducted at her own expenses ending 24 months following the end of the period of suspension of her Certificate of Registration.
6. The member undertook to reimburse Manulife Financial in the amount \$1,600.00 in the time frame specified in the Undertaking.
7. The member undertook not to engage in massage therapy, or massage-like activity, for a fee during the period of suspension, imposed by the panel of the Discipline Committee, and further undertook, during the same period, to refrain from holding herself out, or conducting herself, as a massage therapist.

#### Panel's Decision on Sentencing

Following due deliberation, the panel determined that, with one exception, the sentence proposed in the Joint Submission was appropriate. The panel imposed, in summary, the following:

1. a six month suspension of the member's Certificate of Registration
2. A recorded reprimand

3. It directed the Registrar to impose the following terms, conditions and limitations on the member's Certificate of Registration:
  - a. To enrol and successfully complete at her own expense the College's course entitled "Making Ethical Decisions and Maintaining Professional Boundaries" within the time frame specified in the order.
  - b. The member's practice is to be monitored by the College by means of not more than two inspections, at the member's own expense.
  - c. The member is to commence, at her own expense, and to continue with, treatment and/or therapy by a therapist approved and selected by the College at a frequency of not less than monthly, or at such increased frequency as the therapist may determine.
  - d. The member shall ensure that the therapist provide, at the member's expense, reports every four months until the completion of therapy, providing the progress of therapy and such other information as may be required by the College.
4. An Order that the member pay to the College the sum of \$5,000.00 as partial reimbursement of the College's costs and expenses associated with the case, within the time frame indicated therein.
5. An Order directing the member to reimburse Manulife in the amount of \$1,600.00.

#### Reasons for Penalty

The panel noted that this was a complex and unique case. It considered as factors in mitigation of the sentence that the member was without a previous complaint, had voluntarily entered into an Undertaking, in a forthright and timely fashion and had therefore had more than satisfactorily demonstrated remorse and conscientious acceptance of the grave nature of the professional misconduct.

Ms. March was represented at the hearing by legal counsel.

Immediately following the hearing, the member waived her right of appeal and the panel proceeded to administer the reprimand.

#### Editorial Note

The decision of the Discipline Committee in the March case reflects the College's ongoing and serious concern that professional boundaries be maintained both during, and following the termination of, the formal professional relationship. The decision of the panel also emphasizes the importance of ensuring that the integrity of the clinical records of a member is maintained regardless of the circumstances. The College wishes to remind members of their professional obligations in the preparation of invoices related to the provision of massage therapy. These invoices are heavily relied upon by the insurance industry. The willingness of private insurers to honour these invoices is vital to the interests of the public and the massage therapy profession. If information comes to the attention of the College that insurance receipts have been improperly, or inaccurately, issued by a member, the College intends to vigorously investigate and, if necessary, prosecute members who engage in such activity.

(NAME UNPUBLISHED), M.T.

#### Charges

On August 5 and 6, 2004, a discipline hearing was conducted before a panel of the Discipline Committee of the College. It was alleged that:

5. the Member sexually abused a client, T.H.;
6. the Member engaged in disgraceful, dishonourable or unprofessional conduct;
7. the Member failed to keep records as required; and
8. the Member contravened the standards of practice of the profession.

#### The Plea

The Member entered a plea of not guilty to all charges.

#### The Facts

The Panel heard testimony from the complainant, T.H., the complainant's husband, the Member and an expert witness, D.C., M.T. called as a witness on behalf of the prosecution.

#### The Case of the Prosecution

In substance, the complainant testified that the Member, during treatment provided on February 22, 2002, without her consent, manipulated her breasts and buttock, touched her abdomen, rubbed his groin against her back and head and contacted her pubic area with his hand. The complainant testified further that the Member inappropriately draped her body in a side-lying position, exposing her entire posterior body. She gave evidence that the Member moved her undergarment into the midline of the buttock without her consent.

The complainant's husband testified that upon returning home following her treatment, the complainant was in a distressed and emotional state. He testified that after calming his wife down, he reported the details of the alleged encounter with the Member to the police who thereafter charged the Member with sexual assault. Evidence was disclosed that the Member was acquitted of the charges in criminal court.

The College called as an expert, D.C., M.T. whose qualifications and credentials were accepted by the Panel. The expert testified and, as well, provided demonstrative evidence of the performance of the various aspects of the massage to which the complainant made reference in her testimony. The expert also described the record-keeping requirements imposed upon members under the Standards of Practice published by the College, the accepted standards of practice generally, and under the applicable regulations made under the Massage Therapy Act, 1991. The expert testified that if the conduct as alleged by the complainant occurred, the evidence would be sufficient to support the allegations.

#### The Case of the Defence

The Member denied touching the breasts of T.H., pressing his pelvis into her back and moving her undergarment to the midline. He testified that he applied momentary treatment to the abdomen expressly at the request of his client. He denied coming into contact with the Complainant's groin area.

The Member did acknowledge, during the course of his testimony that he failed to record the orthopaedic assessment and findings in his clinical record.

#### Findings of the Panel

The Panel noted that while there were inconsistencies in the testimony given by both the complainant and the Member, it accepted the evidence of the Member as being the more credible of the two versions of events forming the subject matter of the testimony. The Panel also expressly accepted the testimony of the Member that the touching of the abdomen was done at the request of his client. In light of its findings relating to the relative credibility of the witnesses, the Panel found the Member not guilty of allegations (1) sexual abuse, (2) disgraceful, dishonourable or unprofessional conduct, and (4) failing to maintain standards of practice.

The Panel accepted the Member's admission in respect of his failure to maintain a record of the orthopaedic assessment and findings in the client's clinical record and found the Member guilty of allegation 3 (failing to keep records as required).

#### The Penalty

Following sentencing submissions from the Member and prosecution counsel, the Panel imposed the following penalty:

1. the Member is to appear before a Panel of the Discipline Committee to receive a reprimand, with the fact of such reprimand not to be recorded;
2. the Member's name is not to be published;
3. terms, conditions and limitations were imposed on the Member requiring the Member to complete a record-keeping course approved by the Registrar within six months of the Decision becoming final; and
4. within one year of the completion of the record-keeping course, the member will be referred to the Quality Assurance Committee for a peer review.

#### Reasons for Findings and Penalty

The Panel noted expressly that it was giving no weight to the evidence given during testimony that the Member

had been acquitted of the criminal charges. It noted that the evidence of the complainant was full of subjective perceptions and observed that her evidence was inconsistent on material issues and did not demonstrate, in a clear, cogent and compelling manner, that the Member had breached the applicable Standards. The Panel also noted inconsistencies in the complainant's testimony regarding the nature and extent of the conversations between the complainant and the Member during the course of treatment.

The Panel noted that the case provides an example of the need for treatment-planning, record-keeping and ongoing communication with the client as well as a strict adherence to the issue of appropriate boundaries between therapist and client. It also noted that "the recording of clinical assessment and findings are integral to delivering care, and necessary to continued treatment planning."

The member acted as his own counsel at the hearing.

#### MARLAYNA-LYNN MARKS, MT

##### Allegations

By complaint dated November 6, 2002, Ms. BI, a former client of the member, filed a complaint with the College. Following consideration of the complaint, the Complaints Committee referred to the Discipline Committee of the College the following allegations of professional misconduct:

1. The member contravened the standards of practice of the profession;
2. The member falsified a record relating to her practice;
3. The member signed or issued a document that she knew was false or misleading;
4. She submitted an account for services that were false and misleading;
5. She made a claim respecting the utility of treatment other than a claim which could be supported as reasonable professional opinion;

6. She failed to keep records as required;
7. She engaged in disgraceful, dishonourable or unprofessional conduct.

##### Description of the Allegations

In summary, BI received two massages from the Member on December 29, 2001 and January 5, 2002. On January 11, having attended 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 totalling \$500.00 to Canada Life which falsely represented that the member had provided a series of 60-minute and 45-minute massages on specified dates between October 30 and November 18, 2001. In fact, no massage therapy was provided to the client on any of the specified dates contained in the Member's submission to Canada Life for payment. The client BI was referred to the Member solely for the purposes of receiving therapeutic massages. The client did not request the hypnotherapy services, and discontinued her association with the Member.

##### The Undertaking Agreement

December 8, 2004

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 then entered into an Undertaking/Agreement with the College dated December 8, 2004 wherein she agreed to:

1. Surrender her Certificate of Registration forthwith;
2. Refrain now and in the future, from holding herself out as a massage therapist in Ontario, elsewhere in Canada and the United States;
3. 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;

4. 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.

In the Undertaking, the Member acknowledged the accuracy of the allegations forming the subject matter of the referral to the Discipline Committee by the Complaints Committee.

##### Editor's Note

The scope of practice of massage therapy is defined in the Massage Therapy Act, 1991. Clients receiving massage therapy from 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.

# Financial Summaries

## AUDITOR'S REPORT

The accompanying summarized statements of financial position, operations and changes in net assets are derived from the complete financial statements of the College of Massage Therapists of Ontario as at December 31, 2004 and for the year then ended on which we expressed an opinion without reservation in our report dated April 15, 2005. The fair summarization of the complete financial statements is the responsibility of the College's management. Our responsibility, in accordance with the applicable Assurance Guideline of The Canadian Institute of Chartered Accountants, is to report on the summarized financial statements.

In our opinion, the accompanying summarized financial statements fairly summarize, in all material respects, the related complete financial statements in accordance with the criteria described in the Guideline referred to above.

These summarized financial statements do not contain all the disclosures required by Canadian generally accepted accounting principles. Readers are cautioned that these statements may not be appropriate for their purposes.

For more information on the College's financial position and results of operations, reference should be made to the related complete financial statements.

The comparative figures were reported on by another auditor.

*Hillem Ellis Grant C.A.P.*

Chartered Accountant  
Toronto, Ontario  
April 15, 2005

## SUMMARIZED STATEMENT OF FINANCIAL POSITION DECEMBER 31, 2004

	2004 \$	2003 \$
<b>ASSETS</b>		
<b>Current Assets</b>		
Cash	1,668,894	1,014,561
Deposits and prepaid expenses	21,206	19,625
	1,690,100	1,034,186
<b>Long-term Assets</b>		
Investments	1,134,733	1,145,266
Capital assets	97,884	95,780
	1,232,617	1,241,046
	<b>2,922,717</b>	<b>2,275,232</b>
<b>LIABILITIES</b>		
<b>Current Liabilities</b>		
Accounts payable and accrued liabilities	665,160	567,369
Deferred membership fees	1,800,451	1,306,682
	2,465,611	1,874,051
<b>Net Assets</b>		
Net assets invested in capital assets	97,884	95,780
Unrestricted net assets	359,222	305,401
	457,106	401,181
	<b>2,922,717</b>	<b>2,275,232</b>

## SUMMARIZED STATEMENT OF OPERATIONS YEAR ENDED DECEMBER 31, 2004

	2004 \$	2003 \$
<b>Revenue</b>		
Membership Fees	2,365,359	2,231,076
Examination Fees	711,035	543,187
Investment Income	79,672	77,453
Other Income	75,421	59,639
	3,231,487	2,911,355
<b>Expenses</b>		
Council and Committees	132,313	97,391
Complaints and Discipline	393,856	318,372
Communications	312,594	271,006
Examinations	519,922	591,927
Professional Fees	196,456	201,582
Quality Assurance	125,029	152,239
Rent and Operating Costs	201,934	184,960
Office and General	410,090	421,131
Amortization	49,758	39,355
Salaries and Benefits	833,610	780,613
	3,175,562	3,058,576
<b>Excess of revenue over expenses (expenses over revenues) for year</b>	<b>55,925</b>	<b>(147,221)</b>

## SUMMARIZED STATEMENT OF CHANGES IN NET ASSETS YEAR ENDED DECEMBER 31, 2004

	Invested in Capital Assets \$	Unrestricted \$	2004 Total \$	2003 Total \$
<b>Balance, beginning of year</b>	95,780	305,401	401,181	548,402
<b>Excess of revenue over expenses (expenses over revenues) for year</b>	(49,758)	105,683	55,925	(147,221)
<b>Investment in capital assets</b>	51,862	(51,862)	-	-
<b>Balance, end of year</b>	<b>97,884</b>	<b>359,222</b>	<b>457,106</b>	<b>401,181</b>

Complete Audited Financial Statements Available Upon Request From The College

† Notes to the financial statements can be viewed on the College website at [www.cmta.com](http://www.cmta.com)

## Council 2005

### EXECUTIVE COMMITTEE



**Rick Overeem, MT**  
President  
District 6  
Voice Mail #133



**Alpa Patel, MT**  
Vice President  
District 2  
Voice Mail #139



**Jane Mederak**  
Executive Member,  
Public Member  
Voice Mail #134

### COUNCIL MEMBERS



**Lynn Beyak**  
Public Member  
Voice Mail #132



**Emily Farrell, MT**  
District 3  
Voice Mail #138



**Wendy Hunter, MT**  
District 4  
Voice Mail #136

PHOTOS NOT AVAILABLE:

**Qodrat Azima**  
Public Member  
Voice Mail #137

**Lynn Dobson**  
Public Member  
Voice Mail #126

## 2005 Committees

### Executive

*Rick Overeem* – President  
*Alpa Patel* – Vice President  
*Jane Mederak* – Executive Member

### Appeals

*Alpa Patel* – Chair  
*Emily Farrell*  
*Qodrat Azima*  
*Sandra D'Ippolito* – (Volunteer)

### Client Relations

*Lynn Dobson* – Chair  
*Lynn Beyak*  
*Parisa Moallemian* – (Volunteer)

### Complaints

*Wendy Hunter* – Chair  
*Rick Overeem*  
*Lynn Beyak*  
*Qodrat Azima*  
*Jason Dubois* – (Volunteer)  
*Catherine Moran* – (Volunteer)

### Discipline

*Emily Farrell* – Chair  
*Lynn Dobson*  
*Dave Janveau* – (Volunteer)  
*Sylvia Jong*  
*Andrea Young* – (Volunteer)  
*Samantha Douglas* – (Volunteer)

### Fitness to Practise

*Lynn Dobson* – Chair  
*Wendy Hunter*  
*Parisa Moallemian* – (Volunteer)

### Quality Assurance

*Vacant* – Chair  
*Lynn Dobson*  
*Wendy Hunter*  
*Qodrat Azima*  
*Zoran Jelcic* – (Volunteer)

### Registration

*Vacant* – Chair  
*Jane Mederak*  
*Emily Farrell*  
*Sheryl Stanley* – (Volunteer)

### Staff

*Deborah Worrad* – Registrar & Executive Director  
*Corinne Flitton* – Deputy Registrar  
*Marjory Embree* – Registration Manager  
*Shona Hunter* – Quality Assurance Manager  
*Beata Gallay* – Examination Manager  
*Andrew Lewarne* – Examination Officer  
*Flo Meingast* – Executive Assistant  
*Bill Mumby* – Registration Assistant  
*Grace Marie Nicer* – Administrative Assistant  
*Richard Prevost* – Investigations and Complaints Assistant  
*Sue Volman* – Receptionist  
*Pauline Walters* – Investigations and Complaints Manager

## Non-Council Members (Volunteers)

Thank you to all the non-Council members who participate on the College's many sub-committees and working groups during the year. We truly appreciate your hard work and commitment.