

Discipline Hearing Summary – Alexander Dubkov, RMT (Richmond Hill, ON) April 24, 2015

The Discipline hearing before a Panel of the Discipline Committee of the College of Massage Therapists of Ontario (CMTO) was held on April 24, 2015.

Allegations of Professional Misconduct

Mr. Alexander Dubkov, a Registered Massage Therapist (RMT), was found to have engaged in the following acts of professional misconduct:

- Committing the Controlled Act of moving the joints of the spine beyond the individual's usual physiological range of motion using a fast, low amplitude thrust – a chiropractic adjustment;
- Treating or attempted to treat a condition beyond his competence; and
- Engaging in disgraceful, dishonourable or unprofessional conduct.

The Facts

The facts of the case were established by an Agreed Statement of Facts which set out the following:

On February 25, 2013, the College received a complaint from a client who received a Massage Therapy treatment with Mr. Dubkov at a spa in Richmond Hill, Ontario.

In the course of the treatment, Mr. Dubkov performed a chiropractic adjustment, and further, did so without the consent of the client.

In Mr. Dubkov's response to the complaint, he admitted to his misconduct stating he agreed with the complainant's statement that he had "crossed the line." Mr. Dubkov stated that he wished to help the complainant, mistakenly thought he could, and has regretted his actions ever since the treatment. Mr. Dubkov offered his apology to the client, the College and to the members of the profession. He further admitted that he was not qualified to perform the type of therapy that he had provided to the client, and acknowledged that he could have endangered the complainant's health's health and he regrets his actions.

In addition to the treatment provided to this complainant, Mr. Dubkov admitted to providing similar chiropractic adjustments to friends and family. In light of this pattern of behaviour, a further investigation was commenced reviewing the nature and extent to which these treatments were provided to friends and family.

A College-appointed investigator met with Mr. Dubkov. During this meeting, Mr. Dubkov admitted to performing chiropractic adjustments to his immediate family all without any formal qualifications, and without maintaining client health records.

During the College's investigation, an expert opinion was obtained from a chiropractor who stated in his professional opinion that Mr. Dubkov's treatment of the complainant did amount to "moving the joints of the spine beyond the individual's usual physiological range of motion using a fast, low amplitude thrust," and further, that it is possible that the procedure delivered to the lumbar region would have a greater risk level than had a qualified chiropractor delivered the treatment.

Mr. Dubkov acknowledged and admitted to each of the allegations of professional misconduct as alleged.

Findings of the Panel, Penalty Order and Cost Award Imposed

The Panel unanimously found that the facts contained in the Agreed Statement of Facts supported the guilty plea, and consequently, the Panel found Mr. Dubkov engaged in each of the allegations of professional misconduct as alleged.

The Panel accepted the Joint Penalty Submission of the Parties and imposed the following Penalty Order:

1. Suspension of Mr. Dubkov's Certificate of Registration for a period of four months commencing two weeks following the Panel's Decision. Part of this suspension can be reduced by six weeks if Mr. Dubkov successfully completes the College's Professionalism Workshop, at his expense within six weeks of the Panel's Decision.
2. A public and recorded reprimand that Mr. Dubkov will attend in person.
3. If Mr. Dubkov does not reduce any period of his four month suspension, he must successfully complete, at his expense, the College's Professionalism Workshop within one year of the Panel's Decision.
4. Imposition of a term on Mr. Dubkov's Certificate of Registration requiring that he agree to an inspection of his practice, at his expense, within six months of his return to practice after he serves his suspension.
5. Publication of the Panel's decision to include publication in the *Annual Report* of the College, a Discipline Hearing Summary posted on the College's website, as well as a summary of findings in the College's public register.

Cost Award

Payment of a contribution to the investigation and legal costs incurred by the College in the amount of \$2,500.00

Panel's Reasons for Decision

The Panel accepted the joint submission of the parties finding that it was fair, reasonable and in the public interest.

The Panel stated performing treatments that are outside of a registrant's competence places clients at great risk of physical harm. To do so without the consent of the client is particularly unethical and contrary to the standards of practice of the profession.

The Panel believes that the Professionalism Workshop will help to ensure that Mr. Dubkov returns to the profession with a renewed commitment to the standards of practice of the profession. Additionally, the Panel noted that the inspection of Mr. Dubkov's practice within six months following his return from his suspension will help to ensure that he is complying with those standards.

The Panel felt that a cost order in the case was appropriate given that the registrant's conduct necessitated an investigation and subsequent hearing.

At the conclusion of the hearing, Mr. Dubkov waived his right to appeal and an oral reprimand was delivered by the Panel.