

**EXECUTIVE SUMMARY – BRIAN SUDLETSKY
DISCIPLINARY HEARING CONDUCTED
NOVEMBER 29, 2012**

ALLEGATIONS AND PLEA

Mr. Sudletsky has been a member of the College since approximately September 1997. From April 2007 to August 2008, Mr. Sudletsky's Certificate of Registration was suspended as a result of the non-payment of fees (the "Suspension"). In the nearly 1½ years during the Suspension, Mr. Sudletsky issued official receipts for Massage Therapy at least 143 times, involving 37 patients while earning \$9,095 as result of those treatments.

Mr. Sudletsky was charged with twelve counts of professional misconduct. The allegations were that he:

1. contravened the Regulated Health Professions Act (the "Act");
2. failed to provide copies of client health records;
3. contravened a term or limitation on his Certificate of Registration;
4. contravened the standards of practice;
5. failed to provide accurate information;
6. failed to reply appropriately or within a reasonable time;
7. failed to co-operate with an investigation;
8. failed to keep accurate client health records;
9. falsified records;
10. received benefits from practicing while suspended without making full disclosure to the College;
11. signed or issued, in his professional capacity, a document that he knew was false or misleading; and
12. engaged in disgraceful, dishonourable or unprofessional conduct.

After Mr. Sudletsky pleaded guilty to allegations 8 through 12, the College withdrew the remaining allegations.

THE FACTS

The College and Mr. Sudletsky signed an Agreed Statement of Facts, and presented it to the Discipline Committee. The following is a summary of those facts.

An insurance company inquired about Mr. Sudletsky's registration status. The College then sent one of its investigators to Mr. Sudletsky's clinic to pose as a patient seeking Massage Therapy. After receiving treatment, the investigator asked Mr. Sudletsky if her insurance company would cover the service and advised Mr. Sudletsky's that she was only covered for Massage Therapy performed by a Registered Massage Therapist. Mr. Sudletsky then issued a receipt, bearing the Member's name, his College registration number and indicated on the receipt that the \$100.00 received was for "Massage Therapy".

Approximately 2 months later, the College received a phone call from one of Mr. Sudletsky's patients. The patient was inquiring as to why his last three receipts for treatment from Mr. Sudletsky had been rejected by his insurance company. The patient indicated that he had been seeing the Member since 2003 for Massage Therapy treatments. He advised the College that his doctor had provided him a prescription for Massage Therapy and that he always attended for Massage Therapy treatment with Mr. Sudletsky. He stated that his receipts were always for Massage Therapy other than the three that list

osteopathy. When his insurance company rejected those three receipts, stating that they do not cover osteopathy, the patient contacted the receptionist at Mr. Sudletsky's clinic. The patient was then provided with Mr. Sudletsky's RMT number over the phone. When the patient contacted his insurance company, they once again rejected the claim because Mr. Sudletsky was suspended.

For many of his other patients, Mr. Sudletsky would prepare an official receipt for "osteopathy" but later (often later the same day) revise it or replace it with another for "Massage Therapy" when his patients advised him that their insurance would not cover them for osteopathy. Mr. Sudletsky did so for at least 18 patients on 61 occasions.

Mr. Sudletsky's did not keep any treatment notes or appropriate appointment book entries for many of the patients that the Member saw during his Suspension. He also did not develop a treatment plan or document any consent to treatment or follow the requirements of the Massage Therapy Regulation.

FINDING OF GUILT AND SENTENCING

The Discipline Panel accepted Mr. Sudletsky's guilty plea and found him guilty of five counts of professional misconduct.

The College and Mr. Sudletsky provided the panel with a Joint Submission on Penalty, recommending the following sanctions:

1. Mr. Sudletsky will be publicly reprimanded;
2. his Certificate of Registration will be suspended immediately for nine (9) consecutive months; two (2) months of which would be suspended if Mr. Sudletsky were to comply with the terms, conditions and limitations provided by the Panel, which included:
 - (a) completing, at his own expense, a Registrar-approved record-keeping course and the College's Professionalism Workshop by August 29, 2013, and
 - (b) within 30 days of completing each course, he must advise the Registrar in writing regarding his completion.
3. once Mr. Sudletsky has completed his suspension, he must undergo up to two inspections of his practice by the College at his own cost; and
4. Mr. Sudletsky must to pay \$1,500.00 towards the College's costs.

The Discipline Panel accepted those submissions, stating that they were "fair, reasonable and in the public interest".

REASONS FOR PENALTY

The Discipline Panel felt that a suspension of nine (9) months was appropriate given that Mr. Sudletsky engaged in acts that were unprofessional and diminished the integrity of the profession. It believed that the sanction would send a strong message to other Massage Therapist, clients and insurance providers that the College treats these actions seriously. The panel also hoped that a lengthy suspension would help restore faith in the profession. The Discipline Panel stated:

A suspension will reinforce the seriousness of his errors and will signal to the rest of the profession that the College will not tolerate this type of behaviour by its members.

And later:

Insurance companies are critical to the financial wellbeing of the whole profession and when members practice without the required credentials, future benefits for clients may be adjusted or eliminated.