

**EXECUTIVE SUMMARY – BRITT SCHOOLEY, RMT
DISCIPLINARY HEARING CONDUCTED
JULY 19, 2012
THE ALLEGATIONS OF PROFESSIONAL MISCONDUCT**

On July 19, 2012, a Discipline Hearing was conducted before a panel of the Discipline Committee of the College. It was alleged that Ms. Schooley committed the following acts of professional misconduct:

1. Failing to keep records as required;
2. Failing to make arrangements with a client for the transfer of the client's records in the care of a member when that member retires from practice;
3. Contravening a standard of practice of the profession or a published standard of the College or failing to maintain a standard of practice of the profession; and,
4. Engaging in disgraceful, dishonourable or unprofessional conduct.

Ms. Schooley pled guilty in relation to Allegations 3 and 4. The College withdrew Allegations 1 and 2.

THE FACTS

The College and Ms. Schooley filed an Agreed Statement of Facts in which Ms. Schooley acknowledged that she had committed the professional misconduct alleged in Allegations 3 and 4 above.

Ms. Schooley was first registered as a Massage Therapist in 2002. Between 2005 and 2006, she practiced as a Massage Therapist in Ottawa at the "Centre". In 2005, Ms. Schooley became the co-owner of the Centre with R.R., who was not a member of a regulated health profession.

In August 2006, Ms. Schooley sold her interest in the Center to R.R. and discontinued her practice there. Upon her departure, she left her client's health records with the Centre. Although there was another Registered Massage Therapist at the clinic, Ms. Schooley did not contact her clients to advise them that she was leaving, nor did she make arrangements for the transfer of their records.

In September 2006, Ms. Schooley became employed at another clinic, where she was both the manager and practised as a Massage Therapist. Some of Ms. Schooley's clients from the Centre moved with her to the new clinic, which was owned by R.S. R.S. was not a member of a regulated health profession.

In October 2006, Ms. Schooley discontinued her employment at the clinic. When she left, she left her client health records behind and never retrieved them. She did not contact her clients to advise them of the change, nor did she make arrangements for the transfer of their records. After she left, she was locked out of the clinic by the landlord, and her client health records were transferred to the police.

During this period of time, Ms. Schooley was involved in a highly abusive relationship with a man who was subsequently convicted of criminal charges, and jailed on account of his actions and threats towards her. She was also pregnant with her first child, who was born four days after she discontinued her employment at the clinic.

Ms. Schooley's records from this period of time were in the possession of the College and were reviewed by a College Expert. While he found some anomalies in Ms. Schooley's record keeping, his essential finding was that she demonstrated competency in capturing essential health history

information, and recording her assessment findings and the treatment applied.

Since May 2009, Ms. Schooley's client health records have been regularly audited by an RMT employer, who was aware of these charges, and there are no concerns regarding the collection, storage and retention of files, nor regarding their accuracy and completeness. Ms. Schooley no longer owns or operates her own clinic.

In March and April 2012, Ms. Schooley voluntarily undertook and successfully completed the College's Standards and Regulations course in order to refresh her skills and understanding of the expectations of the profession.

THE DISCIPLINE HEARING

Ms. Schooley was represented by legal counsel throughout the proceedings. She entered into a guilty plea in relation to Allegations 3 and 4 above. The College withdrew Allegations 1 and 2.

The Panel unanimously found that the facts contained in the Agreed Statement of Facts supported the guilty plea. The Panel therefore found Ms. Schooley guilty of Allegations 3 and 4 of professional misconduct.

THE PENALTY AND COSTS HEARING

The parties made a joint submission as to penalty and costs. The Panel accepted the joint submission as to penalty and ordered:

1. that Ms. Schooley be reprimanded;
2. that Ms. Schooley be suspended for a period of six (6) weeks. The first four (4) weeks of her suspension began immediately upon the date of the Order of the Discipline Panel (August 15, 2012). The remaining two weeks are to take place starting December 21, 2012, unless Ms. Schooley in the interim completes the College's Record Keeping course; and,
3. that Ms. Schooley submit, at her own expense, to one (1) inspection of her practice within one (1) year of the date of the Order of the Discipline Panel.

The Discipline Panel stressed that "client health information is very important and it is the duty of the massage therapist to protect those files." Ms. Schooley's circumstances during the period when the professional misconduct took place did not excuse her actions, but did shed light on her judgment and focus at the time. The Panel indicated that, although it had little information on the appropriate penalty range given the lack of cases on record of failure to safe guard records, a suspension was appropriate in order to protect the public. Ms. Schooley's penalty, which includes a period of suspension, and required course work and inspection, provides adequate deterrence and also protects the public by ensuring that Ms. Schooley is following the standards of practice.

The parties jointly recommended that the Discipline Panel order that Ms. Schooley pay costs in the amount of \$2,500.00. The Panel found that the amount submitted was on the high side, given Ms. Schooley's circumstances of being a single parent coming out of an abusive relationship. The Panel ordered costs in the amount of \$1,000.00.