

Executive Summary – Colin Andruniak, RMT July 18, 2013

Summary of the Discipline hearing before a Panel of the Discipline Committee of the College of Massage Therapists of Ontario held on July 18, 2013

Allegations of Professional Misconduct and Plea

Mr. Andruniak entered a guilty plea in relation to the following allegations:

- sexual abuse of a patient;
- contravening a standard of practice of the profession or a published standard of the College;
- failing to maintain records as required;
- falsifying a record relating to his practice;
- signing or issuing, in his professional capacity, a document that he knew contained a false or misleading statement; and
- engaging in disgraceful, dishonourable or unprofessional conduct.

The Facts

The College and Mr. Andruniak submitted an Agreed Statement of facts which set out the following facts.

Patient A began receiving massage therapy treatment from Mr. Andruniak in March, 2011. Patient A received massage therapy treatment from Mr. Andruniak on at least seven occasions and, during two of those appointments, Patient A and Mr. Andruniak engaged in sexual intercourse. Mr. Andruniak issued a receipt for massage therapy treatment provided to patient A in respect of one of the abovementioned appointments that included sexual intercourse. Further, on two separate occasions, Mr. Andruniak issued receipts in respect of treatment purportedly provided to Patient A's son. Patient A's son did not receive massage therapy on either of the dates indicated in the receipts issued by Mr. Andruniak and, indeed, never received massage therapy treatment from Mr. Andruniak.

On February 15, 2012, an investigator on behalf of the College attended at Mr. Andruniak's residence and place of practice. The investigator asked Mr. Andruniak for his client records in respect of Patient A and Patient A' son. Mr. Andruniak advised the investigator that he could not provide receipt books or appointment books because they were not preserved. Mr. Andruniak conceded that he did not keep a record of massage therapy appointments for many patients.

In 2009, Patient B was referred to Mr. Andruniak by a female co-worker and thereafter began attending at Mr. Andruniak's clinic for massage therapy on an infrequent basis. In or about August 2010, Patient B injured her back during a workplace accident. She attended a physician and subsequently underwent physiotherapy for the injury. The physiotherapist recommended massage therapy treatment as additional means of treating her injury. Thereafter, Patient B began attending Mr. Andruniak's clinic on a regular basis.

Mr. Andruniak and Patient B scheduled appointments and otherwise communicated by telephone text messaging. Between January 2010 and April 2011, Mr. Andruniak provided massage therapy treatment to Patient B approximately once per month. During this time, Mr. Andruniak sent several text messages to Patient B that contained romantic, sexual or otherwise inappropriate content. Mr. Andruniak treated Patient B throughout.

In February 2012, Mr. Andruniak relocated his practice from his clinic to his home address. In the course of the relocation, Mr. Andruniak lost all of his clients' confidential records and files in their entirety. Mr. Andruniak did not report the loss of his confidential client health records to the College, nor to anyone else. As with the other records which were lost in the relocation of his practice, Mr. Andruniak lost the patient chart that he maintained in respect of Patient B.

On May 8, 2012, a College Investigator attended at Mr. Andruniak's residence. The College Investigator observed Mr. Andruniak's appointment book and receipt books. Mr. Andruniak's appointment records did not coincide with the dates indicated in his receipt book. Mr. Andruniak advised the College Investigator that he did not have some client appointments written in his appointment book because they were scheduled by text messaging.

Decision of the Panel and Penalty and Cost Award Imposed

The Discipline Panel accepted the Joint Penalty Submission of the College and Mr. Andruniak and imposed the following penalty:

1. the Member's Certificate of Registration shall be immediately revoked;
2. the Member shall pay costs of \$3,000, payable within one year of the Decision of the Panel becoming final;
3. the Member was ordered to immediately provide the College with two post-dated cheques in the amount of \$1,500 to satisfy this costs award;
4. the Member shall receive a public and recorded reprimand; and
5. the decision was ordered to be published in the usual course.

Panel's Reasons for Decision

In its Reasons for Penalty, the Committee noted that the College of Massage Therapists of Ontario maintains zero tolerance for sexual abuse towards clients and this has been made explicit to members. In the circumstances, nothing short of revocation of the Member's Certificate of Registration was acceptable. The Committee indicated that there is no situation that allows for consensual sex between a health care professional and his client and therefore mandatory revocation is the only option. The Committee noted that revocation of the Member's Certificate of Registration protects the public so as no harm may come to any other clients in the future.

The Committee also noted that Mr. Andruniak sent inappropriate text messages to a client. The Committee noted that while there may be many ways to communicate with a client, including text messaging, the messages must always be professional. Mr. Andruniak's messages were sexual in nature and therefore totally inappropriate.

The Committee also noted that the Member behaved disgracefully and his actions necessitated a complex investigation and subsequent Discipline Hearing.