

## **Executive Summary – Kimberly Krestick, RMT, March 20, 2014**

Summary of the Discipline hearing before a Panel of the Discipline Committee of the College of Massage Therapists of Ontario held on **March 20, 2014**

### **Allegations of Professional Misconduct and Plea**

Kimberly Krestick entered a guilty plea in relation to the following allegations:

- Sexual abuse of a client;

### **The Facts and Findings of the Panel**

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

While registered with the College, the Member began a treating relationship with a male client in January of 2007. The treating relationship included at least ten sessions of registered massage therapy and was continuing on February 28, 2009.

On March 29, 2010, the College received a mandatory report from a regulated health professional who had been treating the client reporting that the client disclosed he and the Member had engaged in sexual activity following a massage therapy appointment occurred in early 2009.

The Member admitted that sexual activity occurred before the termination or conclusion of her professional relationship with the client.

The Member admitted that the conduct described constitutes professional misconduct, as it amounts to Sexual Abuse as described in the Code, contrary to section 51(1)(b.1) of the *Health Professions Procedural Code*, (the "Code").

The Member agreed and acknowledged that, her Certificate of Registration expired on December 31, 2011, and she did not seek to renew it and that the conduct described would have resulted in the mandatory revocation of her Certificate of Registration by the College.

In addition to the joint submissions the parties presented an Undertaking/Agreement signed by the Registrant which set out the following terms:

1. to enter a plea of guilty to Sexual Abuse;
2. to consent to the Agreed Statement of Facts;

3. to refrain now and in the future at any time, from practicing, and/or holding myself out, as a registered and/or regulated massage therapist, in the province of Ontario, or in any other jurisdiction in Canada or the United States;
4. to refrain now and in the future from applying for the reinstatement of my Certificate of Registration with the College, or from applying for registration with any other licensing body governing the practice of massage therapy, in any other jurisdiction within Canada or the United States;
5. to accept the written reprimand of a panel of the Discipline Committee, and
6. to contribute the amount of \$2,000.00 to partially offset the College's overall costs of investigating the matter to be paid by certified cheque payable to the College within 15 days of execution of this Undertaking/Agreement.

The Panel found that the Member engaged in the act of professional misconduct as alleged based on the facts set out in the Agreed Statement of Facts as on the terms of the Undertaking/Agreement agreed to by the Member.

### **Decision of the Panel and Penalty and Cost Award Imposed**

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

1. The Member shall receive a written reprimand;
2. The Member shall contribute to the investigation and prosecution costs of the College in the amount of \$2000 within 180 day of the date of the hearing; and
3. The Panel acknowledges the terms of the Undertaking provided by the Member to refrain from practicing or holding herself out as a registered massage therapist in Ontario, or in any other jurisdiction in Canada or the United States given that her Certificate of Registration expired on December 3, 2011 and;
4. Publication in the usual course.

### **Panel's Reasons for Decision**

The Panel affirmed the seriousness of the allegations and how such unprofessional behavior erodes the public trust and confidence in the profession. It was noted that the Member's conduct would have resulted in the mandatory revocation of her Certificate of Registration if she had maintained an active Certificate of Registration. In these circumstances, the Panel considered the Ms. Krestick's Agreement/Undertaking not to practice as a registered massage therapist or to seek the reinstatement of her licence in this or any other jurisdiction in Canada or the United States . This will further ensure

the public will be protected from members who do not practice in accordance with the requirements of the standards of practice of the College, particularly with regard to sexual abuse. The College will not tolerate such behavior and will take appropriate action to address such conduct by its members.

The Member's actions necessitated an investigation and a subsequent Discipline Hearing. It is only reasonable for the Member to contribute \$2,000. towards the College's overall costs of investigating this matter.