

Executive Summary – Michelle Law, RMT January 15, 2013

Summary of the Discipline hearing before a Panel of the Discipline Committee of the College of Massage Therapists of Ontario held on January 15, 2013

Allegations of Professional Misconduct and Plea

Ms. Law entered a guilty plea in relation to the following allegations:

- contravened the *Massage Therapy Act, 1991* and the *Regulated Health Professions Act, 1991*;
- failed to take reasonable steps to ensure that information she provided to the College was accurate;
- contravened the standards of practice;
- failed to keep records;
- falsified records;
- signed or issued, in her professional capacity, a document that she knew was false or misleading;
- engaged in disgraceful, dishonourable or unprofessional conduct and
- engaged in conduct unbecoming a massage therapist; and

The Facts

The College and Ms. Law signed an Agreed Statement of Facts, which set out the following facts.

The College received information about treatment received at a number of different spas and clinics in the Toronto area. After receiving this information a College's investigator attended one of the locations and received a massage from a woman named, "Cathy", and then asked for a receipt. "Cathy" advised the investigator that he would have to re-attend at the spa to obtain one because "the RMT was not available." When the investigator re-attended to collect the receipt, "Cathy" provided a receipt bearing Ms. Law's "R.M.T." stamp, her signature and the stamp relating to another practice location for Ms Law.

During the College's investigation, when another College investigator met with Ms Law she initially indicated that she had treated the investigator but later she acknowledged that she had created and signed a fictitious treatment note in order to conceal the fact that she really had not treated him.

If the case proceeded to a full hearing, Ms. Law stated she would have testified that she often pre-signed massage therapy receipts and that her employer at the time would fill in the rest of the information, such as the client name, date and the amount paid. Ms. Law stated that her former employer took one of the pre-signed receipts, and used them for fraudulent purposes without her permission or knowledge. The College's position was that Ms. Law was either not being truthful, or she was willfully blind or reckless by pre-signing receipts and leaving them in a place that was not secure.

The College's investigator randomly selected five of Ms. Law's client health records. The client health records were deficient and did not comply with many of requirements set out in the

College's standards and regulations including the failure to maintain an appointment book or financial records.

Decision of the Panel and Penalty and Cost Award Imposed

The Panel accepted Ms. Law's plea and found her guilty of professional misconduct in relation to each allegation.

The Discipline Panel considered submissions from the College and Ms. Law on an appropriate penalty.

In advocating for a shorter suspension, Ms. Law advised the Discipline Panel that she did not intentionally falsify a document. She indicated that, when the College's investigator had showed her the receipt for the investigator, she believed that she had actually treated him. Ms. Law stated that she did so because her employer had told her that there was a file, and it was his practice to interview clients, complete a health history and intake form on Ms. Law's behalf. When Ms. Law's employer later advised her that he could not locate the file, she stated that she had no reason to question him and so she simply created a treatment record.

The Panel then imposed the following penalty:

1. Ms. Law will be publicly reprimanded;
2. Her certificate of registration will be suspended for 9 consecutive months. The suspension would continue indefinitely until Ms. Law successfully completed, at her own expense, a Registrar-approved course in record-keeping and the College's Professionalism Workshop. If Ms. Law completed the coursework, her suspension could be reduced to five months;
3. Following the suspension Ms. Law would be subject to two unannounced inspections of her practice for two years.
4. Ms. Law had to contribute \$1,000 towards the College's costs.

Panel's Reasons for Decision

The Panel noted that a nine month suspension was fitting, stating:

In looking at the facts, Ms. Law did agree that she had filled out a treatment form at the request of her employer. Ms. Law agreed that she could not recall doing the massage and as she did not keep an appointment book, she had nothing to verify. The Panel noted that Ms. Law did not take responsibility for her professional obligations and deferred to her employer who is not an RMT.

And later:

When the Panel questioned Ms. Law on her professional obligations she stated she did what her boss told her to do. Ms. Law had a duty to inform/educate her employer on the professional obligations of an RMT and failed to do so. Blindly following instructions and not following the standards of practice is not acceptable.

The Panel believed that Ms. Law should be given some incentive to learn from this experience and therefore imposed the requirement for courses. It stated:

The Professionalism Workshop will serve to rehabilitate her and offer some professional growth as she works towards re-entering the profession. This course should help Ms. Law understand her professional obligations and hopefully ensure that she does not blindly follow orders that go against her obligations as a health professional.