



College of Massage Therapists of Ontario

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Discipline Hearing Summary – Petra Ciobanu, RMT (Ottawa, ON)

January 26, 2016

Summary of the Discipline hearing before a Panel of the Discipline Committee of the College of Massage Therapists of Ontario (CMTO) which was held on January 26, 2016.

Decision

On January 26, 2016, the CMTO's Discipline Committee found that Ms. Petra Ciobanu, a Registered Massage Therapist (RMT), committed acts of professional misconduct in that she:

- 1) Contravened or failed to maintain the Standards of Practice of the profession or College;
- 2) Falsified records relating to her practice;
- 3) Signed or issued a document in her professional capacity that she knew contained false or misleading statements;
- 4) Failed to take reasonable steps to ensure any information provided by or on her behalf to the College was accurate; and
- 5) Engaged in conduct relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

The Facts

The facts of the case were established and accepted by the Panel through an Agreed Statement of Facts, submitted by both Parties, which set out the following information:

Ms. Ciobanu had been an RMT since 2006. In December 2013, the College received information regarding an exam candidate holding herself out as an RMT at Ms. Ciobanu's Clinic. In January and March 2014, an undercover College investigator visited the Clinic to receive unsupervised massage treatments from the exam candidate whose RMT status was explicitly - yet falsely - confirmed. Following the treatments, RMT receipts were provided to the investigator. These receipts wrongfully displayed Ms. Ciobanu's name and registration number.

Another undercover investigator from the College attended Ms. Ciobanu's Clinic in August, 2014. Once again, the exam candidate issued an RMT receipt to the investigator, bearing Ms. Ciobanu's name and

registration number. As a result, the College sought an Order from the Court which granted an injunction prohibiting the exam candidate from holding herself out as an RMT.

In late August, 2014, a formal investigator was appointed to this case to conduct an interview with Ms. Ciobanu at the Clinic. The registrant provided false information to the investigator regarding the exam candidate's employment at the Clinic. The formal investigator returned to the Clinic in December, 2014. During this visit, the registrant confessed that the treatment provided to the informal investigator in early August, 2014, was performed by the exam candidate, while the writing on the treatment record and signature were the registrant's.

Ms. Ciobanu admitted that she:

- a) Allowed an exam candidate who is not registered with the College to practise Massage Therapy at the Clinic despite knowing that this individual was not registered;
- b) Signed the treatment records in respect to the undercover College investigator's case in August, 2014, thereby leaving a false impression that an RMT performed the Massage Therapy treatment when in fact the treatment was performed entirely by the exam candidate;
- c) Knowingly used a non-registered student to perform Massage Therapy treatments, and did so without informing the clients; and
- d) Lied to the College investigator regarding the exam candidate's employment, gaining consent from the clients, and supervising the exam candidate during treatments.

Penalty Order and Cost Award Imposed

After reviewing the Joint Penalty Submission of the Parties and in consideration of the relevant case law and mitigating factors presented by the College, the Panel imposed the following penalty:

1. A public and recorded reprimand;
2. A suspension of the Certificate of Registration for 12 consecutive months and thereafter indefinitely until the conditions of clauses 3, 4, 5, and 7 below are satisfied;
3. Successfully complete a Registrar-approved Professionalism Workshop at her own expense within six months of this Order;
4. Submit a written reflection in respect to her conduct to the College within six months of this Order;
5. Submit a written apology to the profession;
6. Submit to an inspection of the registrant's practice, at the registrant's own expense, within six months of resuming practice;
7. Payment of costs in the amount of \$3,000, contributing to the investigation and prosecution costs incurred by the College in relation to this matter; and
8. Publishing of this Discipline Committee's decision in the usual course.

Panel's Reasons for Decision

The Panel was satisfied that neither the public interest, nor the administration of justice, would be compromised in accepting the Joint Penalty Submission.

Further, the Panel considered additional case law to support its decision in accepting the Joint Penalty Submission:

CMTO v. Zhou (2011) presented similar allegations to those faced by Ms. Ciobanu. The Panel in that case ordered the registrant to a nine-month suspension with the submission to an inspection of his practice within a year of his return; a public and recorded reprimand; and was ordered to pay costs of \$2,000.

CMTO v. Bu (2012) also presented similar allegations in which the registrant received a nine-month suspension with two months remittance upon the successful completion of a Record Keeping course and Professionalism workshop; with the submission to an inspection of his practice within six months of his return; a public and recorded reprimand; and a contribution of \$2,000 in costs.

CMTO v. Guan (2015), was another similar case which resulted in the registrant being ordered to a twelve-month suspension with two months remittance if the terms of the penalty were met, including a public and recorded reprimand; completion of the Professionalism workshop and Record Keeping course; the submission to an inspection of her practice within six months of her return; and costs of \$4,000.

The College took into consideration the following aggravating factors:

1. The registrant was not initially truthful with the College investigator;
2. The registrant stood to personally gain from the professional misconduct;
3. The professional misconduct was sustained over a period of time.

The registrant's counsel determined that the following were mitigating factors:

1. The registrant has no previous discipline history;
2. The registrant admitted her mistakes;
3. The registrant demonstrated remorse by her cooperation.

The registrant's counsel also filed several letters of support on behalf of the registrant. Although not tendered for their truth, the letters were intended to provide the Panel with a glimpse of the registrant's general character otherwise. Although the Panel found the letters to be of little use since the registrant's character in the eyes of others did not assist in determining the appropriate penalty for the misconduct in which she engaged, it did suggest that the registrant would likely be open to rehabilitation.

Overall, the Panel is confident that the penalty imposed will aid with facilitating the public's protection and safety while Ms. Ciobanu completes her remedial work.

The penalty will convey to all RMTs, the public, and to the profession as a whole, that the College will not tolerate such conduct by its registrants and will take the necessary steps to protect the public interest. Although ultimately cooperative, Ms. Ciobanu was not initially completely truthful, and as a result, the Panel determined it was only fitting she contributes to the costs of the hearing process.