

EXECUTIVE SUMMARY

SCOTT BROWN, M.T. DISCIPLINE HEARING

The Charges

On September 19, 2001, March 4, 2002 and May 23, 2002, a discipline hearing was held, before a panel of the discipline Committee of the College. It was alleged in the Notice of Hearing that:

1. On January 6, 2000, Mr. Brown sexually abused his client, D.M;
2. Mr. Brown failed to maintain the standard of practice of the profession relative to his client, D.M.;
3. Mr. Brown engaged in disgraceful, dishonourable or unprofessional conduct; and
4. Mr. Brown verbally abused D.M.

The Plea

Mr. Brown entered a plea of not guilty to all charges.

The Hearing on the Substance of the Allegations

On September 19, 2001 the panel of the College's Discipline Committee (the "Panel") heard evidence from the complainant, D.M., who testified that Scott Brown M.T. without her consent, touched her labia twice during a massage-therapy treatment and spoke inappropriately to her about other clients. D.M. also testified that Mr. Brown failed to properly drape her. At the continuation of the hearing in March of 2002, Mr. Brown testified that the touching of D. M.'s labia was the inadvertent result of an epileptic twitch. Mr. Brown was represented by legal counsel throughout the hearing.

Finding of Guilt

While the Panel found that some of the evidence given by D.M. conflicted with the evidence of the College's investigator, the Panel accepted the evidence of the complainant where it concerned Mr. Brown's inappropriate touching, draping and conversation about other patients. The Panel did not accept Mr. Brown's evidence concerning the cause of the touching.

In reasons released May 7, 2002, the Panel found that Mr. Brown did sexually abuse D.M. on January 6, 2000 by touching the complainant's labia, by failing to drape her appropriately and by discussing other clients with her. Because all of the allegations arose out of the same set of facts, the Panel proceeded to convict Mr. Brown only in relation to the charge of sexual abuse.

The Sentencing Hearing

Following the Panel's finding of guilt, a sentencing hearing was held on May 23, 2002. The client, D.M. was in attendance and gave a victim impact statement concerning the profound

impact this incident had upon her. She described how the incident has resulted in a mistrust of males in general and male health providers in particular.

Mr. Brown, during his submissions, filed a number of character reference letters from other patients/clients who indicated that they had received quality treatment from Mr. Brown and trusted him. The Panel was also reminded by the College's legal counsel, of the College's zero tolerance in relation to sexual abuse of patients.

The Penalty

After due deliberation, the Discipline Committee imposed the following penalty:

1. Mr. Brown's Certificate of Registration was suspended for a period of nine months;
2. Three of the months of the nine-month suspension can be remitted if Mr. Brown, within 30 days of the date that the Panel's reasons become final, enters into personal counseling, at his own expense, with a therapist approved by the Registrar. The counseling is to be conducted on not less than a monthly basis or at such other intervals as may be recommended by the therapist, and the counseling shall continue for a minimum period of 24 months for the purpose of dealing with issues arising out of Mr. Brown's treatment of his client D.M. The therapist will be required to provide a status report to the Registrar twice during the period of therapy;
3. A condition was imposed on Mr. Brown's Certificate of Registration, that once reinstated, that he continue the counseling;
4. Mr. Brown was directed to attend before a Panel of the Discipline Committee to be reprimanded with the fact of the reprimand to be recorded on the College Register;
5. As a condition of Mr. Brown's Certificate of Registration, the member is required to attend and successfully complete, at his own expense, within 12 months of the date when the Panel's sentencing decision becomes final, the College's course in "Boundaries and Ethics", and provide the Registrar with satisfactory proof of the successful completion of that course;
6. As a further condition on Mr. Brown's Certificate of Registration, Mr. Brown is to submit to one monitoring of his practice by a designated representative of the College, during the 18-month period following the completion of his suspension. This monitoring will be at Mr. Brown's expense up to a maximum of \$750.00;
7. Pursuant to section 53.1 of the *Health Professions Procedural Code*, Mr. Brown was ordered to pay the College a contribution of \$5,000.00 toward the legal and other costs and expenses incurred by the College in the course of investigating and prosecuting the matter, and in the course of conducting the hearing of the matter.
8. The results of the hearing and the sentence of Mr. Brown are to be published in the ordinary course in the College Standard, after the sentence imposed herein becomes final, including the results of any appeal from the decision of the Panel.

The Appeals

Following the hearing, Mr. Brown appealed the conviction and penalty to the Divisional Court of the Superior Court of Ontario. The appeal was dismissed on May 21, 2003 with costs being paid by Mr. Brown of \$5,000.00 payable within 24 months. Mr. Brown then sought leave to appeal to the Ontario Court of Appeal. The Ontario Court of Appeal dismissed the member's

application for leave to appeal with costs fixed at \$1,000.00. The decision of the Panel of the Discipline Committee became final on August 6, 2003