

Discipline Decisions 2008

Member: Andy Alevras, RMT

Hearing Date(s): October 22, 23 and 24, 2008

Allegation(s) of Professional Misconduct:

- 1.) Sexual abuse of a client, A.B.; and
- 2.) Engaging in disgraceful, dishonourable or unprofessional conduct.

Brief Synopsis of the Facts:

This matter proceeded by way of a contested hearing as the member entered a plea of not guilty in relation to the allegations of professional misconduct. The member was not represented by legal counsel.

- The panel heard evidence from the complainant AB, the member and another massage therapist that worked with the member. The evidence included the following:
- The complainant, A.B. testified that she received massage therapy treatments from the member during the period of January 1, 2007 to July 3, 2007. During these treatments, she stated she discussed with the member personal hobbies, interests and family circumstances. The member displayed physical support for emotional stressors in A.B.'s life, and provided her with hugs on occasion. The member also provided A.B. with his phone number and e-mail address so that she could contact him between treatments. The member and A.B. exchanged e-mail correspondence of a personal nature. The e-mails were atypical of a professional patient relationship, and more typical of an exchange between friends with a romantic relationship.
- A.B. testified that in one treatment she discussed potential separation from her husband, and that the member kissed her during this treatment and engaged in intimate conversation. In subsequent e-mails exchanged, the member stated that A.B. was on his mind constantly, and had other contact that went beyond a therapist-client relationship. A.B. testified that the member had a sexual relationship with her, including kissing and masterbation.
- The member provided in his testimony, that he was aware that A.B. had stressors in her life, and by his e-mails, he intended to provide support and a "shoulder to cry on". The member denied any sexual contact and testified that he only hugged A.B. on two occasions.
- Another massage therapist working with the member testified that she walked in unexpectedly into a massage room while the member was treating A.B. This massage therapist testified that A.B. was draped appropriately and receiving a neck massage. This testimony was contrary to A.B.'s testimony indicating that she was inappropriately draped and having sexual contact with the member when the colleague walked in.

Decision:

The Panel held that there was no clear and convincing evidence to support the allegation of sexual abuse. The panel found there was nothing in the emails that backed up A.B.'s testimony of an intimate, sexual relationship. The only other information available was A.B.'s testimony and the member's response. The Panel concluded that neither testimony favoured either side.

The Panel found that the member had, however, engaged in conduct that would reasonably be regarded as disgraceful, dishonourable or unprofessional. The member had utilized e-mail and phone contact with the

client that went beyond the scope of practice in trying to support a client in a fragile state. The Panel found in the circumstances the member should have referred the client to another relevant health care professional and recognized that a client in a fragile state may have interpreted his emails differently than intended. It was further found that the member should have ended the treatment relationship when it became apparent that the client had strong emotional feelings for him, which she expressed to the therapist. At the very least, the member should have contacted the College for advice on how to proceed at this juncture.

Penalty:

Following submissions regarding an appropriate penalty, the Panel imposed the following penalty:

- a) 3 month suspension of the Member's Certificate of Registration;
- b) 2 months of the suspension may be remitted in the event that the Member complies with the Terms, Conditions and Limitations imposed on his Certificate of Registration;
- c) Imposition of the following Terms, Conditions and Limitations on the Member's Certificate of Registration:
 - i. The Member to enrol in the College's Professionalism Workshop and the College's course entitled "Ethics for Health Professionals: How to Make Good Choices in Tough Circumstances", within 30 days of the decision;
 - ii. The Member to contribute \$1,000 to the investigation and prosecution costs of the College to be paid within six months of the decision becoming final. The member would be allowed to work out an agreeable instalment plan with the College;
 - iii. the Member must contribute to counselling and treatment costs incurred by the Complainant within six months following receipt of invoices submitted by the complainant to the College, providing that the treatment relates to the conduct of the Member and is delivered within six months of the hearing, to a maximum of \$1,000;
- d) Public and Recorded Reprimand; and
- e) Publication.

The Reprimand

The Member attended before a panel of the Discipline Committee on December 5, 2008 and the panel delivered a Reprimand.

Panel's reasons for Decision and Penalty:

In its reasons for the penalty imposed, the Panel affirmed that while there was no clear and convincing evidence of sexual misconduct, there was tangible evidence that the Member had gone beyond his responsibilities as a massage therapist, and clearly crossed the professional boundaries between therapist and client. The Panel noted there was an evident lack of understanding by the Member about the boundaries and ethics of client-therapist relationships.

As far as mitigating circumstances, the Panel found that the Member expressed remorse about the wrong choices he made in his professional relationship with A.B. The Panel noted that the course work would

provide him with training on how to handle similar situations like this in a more appropriate fashion in the future.

The Panel indicated that the outcome of the hearing was a valuable learning experience for all massage therapists, and that they must be vigilant about the boundaries between themselves and clients. It was noted that Clients who appear to have emotional difficulties should be referred to appropriate health care professionals. Members must also understand the harm this behaviour can have on the public, and that the College will not tolerate this type of professional misconduct.

EDITORIAL NOTE

The *Alevras* decision emphasizes the importance of maintaining professional boundaries with clients, and the need to seek outside advice where such boundaries appear to be challenged. Professional boundaries are essential to be maintained and the imposition of the suspension in this matter supports the seriousness of any breaches of these boundaries.