

EXECUTIVE SUMMARY – ANNA PETTITA, RMT

DISCIPLINARY HEARING CONDUCTED JANUARY 16, 2009

The Member, Anna Pettita, RMT, was charged with two counts of professional misconduct:

- a. Failure to keep records as required; and
- b. Engaging in conduct that would be regarded by members as conduct unbecoming a massage therapist.

THE PLEA

The Member entered a guilty plea in relation to allegation 1, and the College withdrew the second allegation.

THE FACTS

Evidence was presented by way of an Agreed Statement of Facts. The Member was a registered massage therapist since October 26, 2005 and practiced at the Glass and Pillar Spa in Sarnia, Ontario (the “Spa”) between March 13, 2006 and July 20, 2007.

On September 4, 2007, the Spa complained that, among other things, the member had failed to maintain appropriate and accurate client information for treatments conducted.

The member admitted that she had failed to document or chart any of her massage therapy treatments at the Spa, and failed to keep health records as required. She kept no treatment notes for any treatments administered to clients and only sometimes kept client profile sheets.

The member admitted that her failure to keep records as required constituted a disregard of prescribed standards on massage therapists, and contrary to section 11 and 26(26) of Ontario Regulation 544/94 to the Massage Therapy Act, 1991.

The member had not practiced massage therapy in Ontario from July 20, 2007 and as of January 2009, had not renewed her membership status with the College. She was moving to the States imminently and had no intention of practicing massage therapy in Ontario in the future.

FINDING OF GUILT

On the basis of the Member’s guilty plea and its review of the Agreed Statement of Facts, the panel of the Discipline Committee found the Member guilty of failing to keep records as required.

THE SENTENCING HEARING

The Member and the College presented a joint submission respecting penalty to the discipline panel, except on the issue of costs. Following submissions of counsel and member, the panel accepted the joint recommendation and imposed the following penalty:

1. A three month suspension of the Member's Certificate of Registration, to take effect upon the member's return to practice massage therapy in Ontario;
2. Such suspension shall be remitted for the full period if the Member complies with the terms, conditions and limitations imposed on the Certificate of Registration:
 - a) The Member will enrol in and complete a Registrar-approved record keeping course;
 - b) Upon return to practice of massage therapy in Ontario, the Member's practice will be subject to an inspection within one year's time to ensure appropriate record-keeping practices;
3. The Member will contribute \$500 to the investigation and prosecution costs of the College, which may be paid in monthly instalments over two years.
4. The Member waived her right of appeal.

In its reasons for accepting the joint submission and imposing costs of \$500, the panel noted that the three month suspension would deter the member and others from acting unprofessionally by failing to keep proper records. The Record Keeping course would refresh the member's knowledge of what constitutes proper documentation of treatment plans, as well as recording information pertinent to optimizing the well-being of clients.

While the member advised that she was experience financial difficulties, the panel held that she should be responsible for some costs.

The panel noted that the penalties imposed protected the public as the suspension would remain in effect until the Record Keeping course was taken; and they affirm that a failure to keep records is a serious matter and constitutes an act of professional conduct, which will not be tolerated by the College.

EDITORIAL NOTE

The Pettita decision affirms the importance of keeping records as required. A failure to keep records constitutes an act of professional conduct, which will not be tolerated by the College.