

**EXECUTIVE SUMMARY - BELLA FIN, RMT
DISCIPLINE HEARING CONDUCTED ON JANUARY 25, 2010**

THE CHARGES

The member, Bella Fin, MT, was charged with six counts of professional misconduct; namely that she:

- (a) Failed to maintain records as required;
- (b) Falsified records;
- (c) Signed or issued records known to be false;
- (d) Submitted a false and misleading account;
- (e) Failed to provide adequate information to the College; and
- (f) Engaged in disgraceful, dishonourable or unprofessional conduct.

THE PLEA

Ms. Fin entered a plea of guilty to the allegations of failing to keep proper records (count 1), falsifying records (count 2), submitting a false or misleading account (count 4), and engaging in disgraceful, dishonourable or unprofessional conduct (count 6). Following the plea, the charges of issuing false records and failing to provide accurate information to the College (counts 3 and 5) were withdrawn. The member was represented by legal counsel.

THE FACTS

Evidence was presented by way of an Agreed Statement of Facts. The evidence disclosed that the member has been a member of the College for more than 20 years and has worked at a variety of clinics located in Thornhill, North York, Toronto, and Richmond Hill.

In December of 1999, three members of the same family, D.C., O.C., and A.C., were involved in a motor vehicle accident. On March 17, 2000, the member issued three accounts for massage therapy services rendered to the three family members. Each of the accounts indicated that the member saw D.C., O.C., and A.C. (a mother, father, and their 12 year old daughter) on at least 45 different occasions between December 1999 and April 2000. The member charged \$80.00 per session for a total of \$3,600.00 for each family member. The member personally signed each of the accounts and recorded her registration number on the face of each.

The member admitted that, while she did not provide massage therapy services to O.C. and A.C., she nevertheless rendered accounts in their names to insurance companies. She acknowledged that the accounts were false and misleading in that regard. During the course of the investigation, the member was also unable to produce any clinical notes and records to indicate that she had provided services to any member of the family.

On April 10, 2000, the member issued three separate official receipts, each dated April 10, 2000, made out to each of D.C., O.C., and A.C. in the amount of \$3,600.00. One of the receipts was issued to D.C. who was 12 years old at the time. The receipts each bore the member's signature and registration number. The member admitted that none of the family members provided her with any funds and that she did not provide the receipt to any of the family members.

As a result of the foregoing, the member admitted to being guilty of, *inter alia*, falsifying a record (count 2) and submitting accounts for services that she knew were false and misleading (count 4).

RECORD-KEEPING DEFICIENCIES

During the course of the College's investigation, and during a number of interviews with investigators and College officials, the member informed the College that she did not take notes in car accident cases, that she did not usually take a history if the client had been involved in an accident even though she knew that she should, that she did not use an appointment book, and that her files were a mess. She was unable to produce 8 of the 15 files requested of her. In connection with a number of other clients the member explained that, in one case, she did not have a file because the client "came to the clinic only once for a half hour treatment to give the massage a try", and in another, the client came only once or twice and she didn't think that he had paid. She also admitted during the course of an interview that she knew that she did not "do everything right". In a subsequent interview with the College representative the member advised that she was aware that her record-keeping was deficient and that she failed to keep an appointment book.

Accordingly, the member admitted that she was guilty of failing to keep records as required (count 1).

Finally, the member acknowledged that her conduct in failing to maintain appropriate records and knowingly issuing false and misleading accounts and receipts would generally be regarded by members of the profession as disgraceful, dishonourable, or unprofessional (count 6).

THE 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 four counts of professional misconduct.

THE SENTENCING HEARING

Immediately following the acceptance of the plea, a sentencing hearing was conducted for the panel of the Discipline Committee. The member and the College presented a Joint Submission Respecting Penalty and Costs to the Discipline panel. Upon consideration of the Joint Submission and upon hearing the submissions of counsel for the member and the College, the panel accepted the Joint Submission and imposed the following penalty:

1. A nine month suspension of the member's certificate of registration to commence immediately and to be served consecutively without interruption;
2. An Order directing the member to pay to the College the sum of \$20,000 towards legal fees and other costs incurred by the College in the course of investigating and prosecuting the matter;
3. An Order directing the Registrar to impose the following terms, conditions, and limitations on the member's certificate of registration:
 - a. Ms. Fin to successfully complete college courses on record-keeping and professionalism.
 - b. Ms. Fin shall provide the College upon completion of the courses with a written report to the College describing what she has learned through the courses, how her conduct reflects upon herself and the profession, and how her conduct relates to the *Charter of Professionalism*. The report, in whole or in part, or a summary thereof, may be published in the College Standard or such other College publication as deemed appropriate.
 - c. Upon reinstatement of her certificate of registration following the completion of her suspension, the member shall submit to an inspection of her practice at her own expense by a designated College representative on up to two occasions within a 24 month period following the date of reinstatement.
 - d. The results of the hearing shall be published in the public portion of the College register in the ordinary course and in the annual report or such other publications as the College deems advisable.

- e. Notwithstanding paragraph one, the suspension of the member's certificate of registration shall continue indefinitely until such time as the member has complied with subparagraphs A through C.
4. A public and recorded reprimand, and an Order that the results of the hearing be included in the public portion of the College register.

In its reasons for imposing the sentence, the Discipline panel was extremely troubled by the conduct of the member, with particular reference to the submission of false or misleading accounts and the issuance of fraudulent receipts. They referred to her behaviour as "reprehensible". When coupled with the fact that the member's records were incomplete, inadequate, and in violation of numerous provisions of the College standards, the panel was of the view that only a significant period of suspension, the payment of considerable costs, and ongoing inspections of the member's practice would send a message to the profession that such conduct will not be tolerated.

In its decision not to impose an even greater penalty, the panel noted that the member had presented several favorable character and reference letters, the fact that this was the member's first appearance before the Discipline Committee, the fact that the member had agreed to enter a guilty plea and thereby shortened the proceedings considerably, as well as the fact that the member had recently been diagnosed with a serious medical condition.

EDITORIAL NOTE

The Fin proceeding, like others that have come before, dealt with the significant issue of falsification of invoices and records in relation to insurance billings and submissions for payment. The College has adopted a Zero Tolerance Policy towards violations of this kind. The regulated massage therapy industry cannot survive without the cooperation and support of Ontario's insurers. Conduct of the nature found in the Fin case can only serve to undermine the confidence of the insurance industry in the regulated profession of massage therapy. The College will be seeking significant periods of suspension, or worse, if members come before it who are found guilty of these kinds of offences.