

Member: **Darcy Keenan**
Hearing Date: March 6, 2007

Charge(s) of Professional Misconduct

- Sexual abuse of a client; J.D.
- Contravening the standards of practice of the profession, a published standard of practice of the College or failing to maintain the standard of practice of the profession, and
- Engaging in conduct or performing an act, in the course of practising the profession, that having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

Brief Synopsis of Facts

- The facts of the case were established by an Agreed Statement of Facts and a Joint Submission respecting penalty, which acknowledged the following:
- This matter came to the attention of the College by way of a complaint filed by Ms. J.D.
- Ms. J.D. attended the clinic on nine occasions to receive therapeutic massages for the treatment of back pain
- During the last treatment J.D. attended for treatment expressly to focus on the gluteal area and quadriceps.
- During the massage the Member massaged J.D.'s sternum following which he stated "I hope that wasn't too sensual for you" to which J.D. replied "no".
- The Member then undraped both of J.D.'s breasts and performed a breast massage following which he left both of J.D.'s breasts undraped while he performed an abdominal massage.
- There were no clinical indications or therapeutic purpose for performance of a breast massage or for leaving J.D.'s breasts exposed during the subsequent abdominal massage.
- At no time prior to or during the Member's treatment did he obtain J.D.'s consent for the treatment and the uncovering of her breasts.
- The Member did not inform J.D. of the change in treatment plan encompassing the massaging and uncovering of her breasts to give J.D. an opportunity to provide her consent.
- The Member's conduct was contrary to Standards 11, 12, 18 and 35 of the published Standards of Practice.
- During a conversation between J.D. and the Member, he acknowledged that there were no clinic indications or therapeutic purpose for the performance of the breast massage and apologized for his behaviour.
- In the Member's response to the complaint he outlined the Standards of Practice that had been breached and also confirmed several changes he had made to his practice to avoid similar concerns. The changes included; obtaining written consent prior to treatment as well as any changes to treatment. The Member also stated he registered for and undertook the Standards and Practice course and contacted the College in order to enrol in the College's, "Making Ethical Decisions and Maintaining Professional Boundaries" Workshop. The Member also apologized and acknowledged that his conduct constituted both sexual abuse and failure to maintain Standards of Practice.

Decision

- The panel accepted the member's guilty plea and therefore found the member guilty of sexual abuse of a client and contravening the

Standards of Practice of the College. The charge of engaging in disgraceful, dishonourable or unprofessional conduct was withdrawn.

Penalty

- 6 month suspension
- Suspension of the Member's Certificate of Registration for a period of six (6) months, of which three (3) months of the suspension will be remitted if the Member attends counselling for a period of not less than 12 months and at a frequency of not less than monthly (unless otherwise directed by his counsellor)
- The counsellor is to provide semi annual reports on the progress of the counselling at the Members expense.
- The Member is to provide a report, following completion of counselling, indicating what he has learned, how his conduct reflects upon himself and the profession and how his conduct relates to the Charter on Professionalism, which may be published.
- Imposition of a condition on the Member's Certificate of Registration that the Member shall take courses, approved by the Registrar, which cover each of the following topics:
 - i. Ethics and Boundaries; and
 - ii. Record Keeping
- An Inspection of the Member's practice will be conducted within 18 months after reinstatement, at the Member's expense.
- Costs of \$1500.00
- Publication of the decision.

Panel's Reasoning

The panel determined that the joint submissions with respect to the facts of the case supported a finding of guilt. The panel was of the view that the Member appeared to have learned his lesson and would not likely transgress again. The panel further noted the conduct of the Member in acknowledging his conduct and agreeing to counselling and to undertake course work demonstrated substantial rehabilitation. The panel was of the view that the six month suspension coupled with a published reprimand and the requirement that the Member write a letter to the College which might be published would send a serious message to like minded members of the profession that conduct such as this would not be tolerated. The panel is of the opinion that the penalty of suspending the Member's practice and subsequent inspection of his practice serves to protect the public.

The panel also noted that the Member's extraordinary conduct justifies the remission of three months of suspension. The panel noted that while the conduct of the Member was reprehensible and completely unacceptable, he took full responsibility for his conduct and already undertook to take courses to rectify the situation.

Editorial Note

This decision in this case is intended to send a message to the profession at large that the College maintains a zero tolerance towards sexual abuse of any kind. Any member who is found to have engaged in sexual abuse of the kind involved in this case can expect to receive a significant period of suspension. The members are reminded of their ethical obligations to maintain strict and appropriate boundaries with all clients.