

Discipline Decisions 2008

Member: Elena Richmond

Discipline Hearing Date(s): December 5, 2008

Allegations of Professional Misconduct:

1. Contravening the *Massage Therapy Act, 1991*, the *Regulated Health Professions Act, 1991* and/or regulations made thereunder;
2. Failing to keep records as required; and
3. Engaging in disgraceful, dishonourable or unprofessional conduct.

Brief Synopsis of the Facts:

- This matter proceeded by way of an Agreed Statement of Facts and joint submission respecting penalty. The facts of the case acknowledged the following:
- The Member first became registered with the College on November 8, 2001.
- In January 2005, the College notified the Member that her Renewal of Registration had not been received by the College by the required deadline, and that her registration would expire on January 1, 2005. The letter further indicated that if she did not renew her registration by March 23, 2005, her Certificate of Registration would be suspended for non-payment of fees.
- The Member did not renew her registration and therefore she received notice that her Certificate of Registration was suspended for non-payment of fees as of March 23, 2005. The notice further stated that she may not practice massage therapy while her Certificate of Registration was suspended.
- The College received information in August of 2006 which suggested the Member was continuing to practice and hold herself out as a massage therapist despite the suspension of her Certificate of Registration. Following receipt of this information the Registrar with the approval of the Executive Committee commenced an investigation inquiring into and examining her practice.
- During its investigation, the College requested that the Member provide copies of receipts for the years 2005 and 2006. While the Member provided receipts pertaining to 2006, she was unable to provide receipts pertaining to 2005.
- The College obtained client health records from the Member which confirmed she continued to provide massage therapy treatments and hold herself out as a massage therapist despite the suspension of her Certificate of Registration.
- An Expert opinion was also sought in relation to the quality of the records and the opinion indicated that the Member failed to maintain her records as required.
- The Member admitted she had practiced the profession while her Certificate of Registration was suspended, and acknowledged that the clients who attended upon her for Massage Therapy during the period of her suspension were led to believe and/or did believe that her Certificate of Registration was in good standing. She further admitted that she was a duly authorized and registered Member of the College and that receipts issued by her could be submitted to extended health insurers for reimbursement. The Member admitted that she had also failed to maintain records as required.

Decision:

The Panel unanimously found the Agreed Statement of Facts supported the Member's plea and a finding of guilt in relation to the acts of professional misconduct as alleged.

Penalty:

After deliberating upon the submissions of the Member and Counsel for the College, as well as the joint submissions respecting penalty, the Panel imposed the following penalty:

- a) 6 months suspension of the Member's Certificate of Registration;
- b) The imposition of the following Terms, Conditions and Limitations:
 - (i) The Member must complete a Record-Keeping Course, a Standards and Regulations Course and the College's Professionalism Workshop, at her own expense, prior to the expiry of the period of suspension;
 - (ii) The Member must provide to the College, within 90 days following the completion of her coursework, a written report describing:
 - a. What she has learned through the courses,
 - b. How her conduct reflects upon both herself and the profession, and;
 - c. 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 publication as may be directed by the Registrar in her sole and absolute discretion; and
 - (iii) The Member must submit to two inspections of her practice, at her own expense, within six months and one year after the completion of her coursework, and to instruct the Inspector provide a report of the each inspection to the Executive Committee within one month of each inspection, the total cost of such inspections not to exceed \$175.00; and
- c) Public and recorded Reprimand;
- d) Costs of \$ 2000 and;
- e) Publication.

The Reprimand

Ms Richmond attended on the date of the hearing and the Reprimand was issued on that date.

Panel's reasons for Decision and Penalty:

The Panel indicated in its reasons that the Member had engaged in serious professional misconduct warranting a lengthy suspension. The Panel also indicated that the suspension ought to be a deterrent to other like-minded members and that, together with the course work, it should serve to rehabilitate the Member.

In deciding the appropriate penalty, the Panel pointed out that Ms Richmond was remorseful and ashamed of her behaviour, and had been cooperative with the College. While the Panel was also mindful of certain mitigating circumstances that placed Ms Richmond's misconduct in context, it stated that Members "must always maintain professional behaviour in spite of circumstances in their professional life."

EDITORIAL NOTE

The *Richmond* case is consistent with previous discipline cases of a similar nature and confirms the intended message to the profession that the College will not tolerate its Members' breaching the terms and conditions of their registration. Any member who is found to be engaged in a practice while their Certificate of Registration is suspended will be brought before the Discipline Panel, where significant periods of suspension and financial penalties will be sought upon conviction. The College is always mindful that the success of the profession is tied to the public's trust and with its relationship with extended health care insurers.