



College of Massage Therapists of Ontario

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Discipline Hearing Summary – Katherine Nancekivell, RMT (Hamilton, ON, May 28, 2015)

Discipline Hearing before a Panel of the Discipline Committee of the College of Massage Therapists of Ontario (CMTO) held on May 28, 2015.

Allegations of Professional Misconduct

Ms. Katherine Nancekivell, a Registered Massage Therapist (RMT), was found to have engaged in the following acts of professional misconduct:

- Failing to attend an oral caution of the Inquiries, Complaints and Reports Committee;
- Contravening the *Massage Therapy Act, 1991*, *Regulated Health Professions Act, 1991* or the regulations under either of those Acts; and
- Engaging in disgraceful, dishonourable and unprofessional conduct.

Facts

The facts of the case were established by an Agreed Statement of facts, which is summarized as follows:

The College received a letter of complaint about Ms. Nancekivell expressing concerns with Ms. Nancekivell's professionalism, business practices and record-keeping skills.

An investigation was undertaken and a panel of the Inquiries, Complaints and Reports Committee (ICRC) determined that the appropriate disposition to address the concerns raised was to impose a Specified Continuing Education or Remediation Program ("SCERP") and issue a verbal caution.

The SCERP included the following requirements:

- Successfully complete the College's Professionalism Workshop within six months;
- Successfully complete a Registrar-approved record-keeping workshop within six months;
- Provide a written report to the Registrar of at least two pages in length within 30 days of completion; and
- Following the completion of the written report, attend before a Panel of the ICRC to present and discuss the report.

Ms. Nancekivell did not fulfil the terms of the SCERP within the deadlines imposed.

In relation to the additional term of the decision of the ICRC, Ms. Nancekivell was notified that she must attend at the College for her oral caution on November 8, 2013. Ms. Nancekivell did not attend as required.

A subsequent investigation was commenced as a result of Ms. Nancekivell's failure to comply with the requirements of the ICRC decision. During the investigation, Ms. Nancekivell advised that she received notice from the College regarding her requirement to attend the oral caution. However, she did not record the date in her calendar. She further stated that she had been at a medical procedure on the date and was unable to attend. But she took full responsibility for failing to attend as she was required to do.

Ms. Nancekivell acknowledged and admitted to each of the allegations of professional misconduct.

Findings of the Panel, Penalty Order and Cost Award Imposed

On the basis of the Agreed Statement of Facts and Ms. Nancekivell's guilty plea, the Panel found Ms. Nancekivell engaged in each of the acts of professional misconduct as alleged.

After considering a partial Joint Submission on Penalty, differing only with respect to the length of time for the suspension, the Panel imposed the following Penalty Order:

1. Suspension of Ms. Nancekivell's Certificate of Registration for a period of five months, with the ability to reduce the suspension by two months if Ms. Nancekivell completes the original terms of the SCERP imposed by an ICRC Panel within three months of the Panel's Decision;
2. If Ms. Nancekivell does not complete the SCERP within three months as outlined above, then she will be required to serve the entire five-month suspension and she must successfully complete the terms of the original SCERP imposed by ICRC within six months of the date of this Panel's decision;
3. A public and recorded reprimand that Ms. Ms. Nancekivell must attend in person; and
4. The Discipline Committee's decision will be published in the usual course, including publication in CMTO's *Annual Report*, a Discipline Hearing Summary posted on CMTO's website, and a summary of findings and penalty order on CMTO's public register.

Cost Award

Ms. Nancekivell must contribute to the investigation and prosecution costs of the College in the amount of \$2,500.00.

Panel's Reasons for Decision

The Panel noted that the requirement for a registrant to attend before an ICRC Panel for an oral caution and the completion of a SCERP cannot be taken lightly.

The Panel believes that the suspension will ensure that the public is protected while Ms. Nancekivell completes the requirements imposed under the original SCERP and will serve as both a specific deterrent to Ms. Nancekivell and a general deterrent to the profession.

The Panel considered personal mitigating circumstances, as well as Ms. Nancekivell's remorse and acknowledgement that her conduct was irresponsible.

The Panel imposed a cost award requiring Ms. Nancekivell to pay a portion of the College's investigations and hearing expenses deeming this as an appropriate case to impose such costs.

At the conclusion of the hearing, Ms. Nancekivell waived her right to appeal and an oral reprimand was delivered by the Panel.