

EXECUTIVE SUMMARY – TANYA MOUNT, RMT

DISCIPLINARY HEARING CONDUCTED MAY 19, 2009

The Member, Tanya Mount, RMT, was charged with three counts of professional misconduct:

- a. Failing to maintain records as required; ;
- b. Contravening the *Massage Therapy Act, 1991*, the *Regulated Health Professions Act, 1991*, or the regulations under either of those Acts; and
- c. Engaging in disgraceful, dishonourable or unprofessional conduct.

THE PLEA

The Member entered a guilty plea to the allegations of professional misconduct.

THE FACTS

Evidence was presented by way of an Agreed Statement of Facts. The Member is a registered massage therapist practising massage therapy in Newmarket, Ontario. Prior to her current practice locations, the Member was employed at the Ruegg Clinic in Newmarket, Ontario (the "Clinic").

The Member's Certificate of Registration was suspended effective October 23, 2007 for a failure to pay fees as required. On October 30, 2007, the College received information that the Member continued to practise, even though she had been advised of her suspension by letter dated October 23, 2007.

Subsequent investigations of the College demonstrated the following:

- a. Between October 23, 2007 and March 15, 2008, the Member provided 257 massage treatments at the Clinic while suspended and earned \$20,558.00 during this time; and
- b. The Member's record-keeping was deficient in several respects.

By email communication dated November 9, 2008, the Member admitted that it was against her better judgment to continue practising while suspended and expressed a willingness to take course work to improve her record-keeping skills.

Following her admission of having committed serious breaches of professional misconduct, the Member co-operated with the College's investigation and prosecution of the allegations.

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 the allegations of professional misconduct as set out in the Notice of Hearing.

THE SENTENCING HEARING

The Member and the College presented a joint submission respecting penalty to the discipline panel. Following submissions of counsel, and agreement by the Member, the panel accepted the recommendation and imposed the following penalty:

1. A six month suspension of the Member's Certificate of Registration;
2. A period of three months of the suspension shall be remitted, in the event that the Member complies with the terms, conditions and limitations imposed on the Certificate of Registration;
3. The following terms, conditions and limitations shall be imposed on the Member's Certificate of Registration:
 - a) The Member will complete the Registrar approved records-keeping course, at the Member's own expense, within sixty days from the decision of the panel;
 - b) The Member will provide the College with satisfactory evidence of successful completion of the records-keeping course within thirty days of completing same; and
 - c) The Member will contribute to the investigation and prosecution costs of the College in the amount of \$1,000, to be paid within thirty days of the decision becoming final or on such terms agreeable to the College.
4. The Member will undergo one inspection of her practice at her expense within twelve months of her reinstatement into practice;
5. Public and recorded reprimand; and
6. Publication in the usual course.

In its reasons for accepting the joint submission on penalty, the panel affirmed the seriousness of the allegations and how such unprofessional behaviour eroded the profile of the profession in the minds of the public, other health care professionals and the insurance providers. The panel felt that during the joint submission on penalty phase of the hearing, Ms. Mount still did not fully understand the total concept of standards of practice for her profession. The standards are in place to protect the public and the integrity of the profession. A member can not pick and choose which ones they will follow, even in the event of personal and financial difficulties occurring outside of practice. For that reason, the panel added another condition to the joint

submission on penalty which was to have one inspection of the Member's practice at her expense within twelve months of her reinstatement into practice.

At the same time, the panel recognized how remorseful the Member was and the mitigating difficult personal and financial circumstances giving rise to her unprofessional conduct. The panel stated that the public interest will be protected by the suspension imposed, the coursework required, and the follow-up monitoring of her practice upon reinstatement into the profession. The suspension, coursework, monitoring and fine were onerous and should deter others in the profession from engaging in similar acts of professional misconduct.

Immediately following the hearing, the Member waived her right of appeal and the panel administered a public reprimand at that time.

EDITORIAL NOTE

The Mount decision emphasizes the importance of maintaining a legitimate Certificate of Registration while practising the profession and ensuring that client health records are maintained in accordance with the standards expected of the profession. Engaging in unlicensed practice diminishes the integrity of the profession in the minds of the public, other health professionals and insurance providers. Insurance companies are crucial to the financial wellbeing of the whole profession and when members practise without the required credentials, future benefits for clients may be adjusted or eliminated. Members represent the entire profession in every act taken in professional and public life. Public confidence and trust in the integrity of the profession must be promoted.

Engaging in practice while suspended and failing to maintain records as required are serious violations, for which a lengthy suspension is warranted. A professional massage therapist can not let personal events outside of practice affect their professional conduct. That said, the panel made note of the remorse of the Member and her co-operation with the College process, which served to mitigate the penalty imposed in some respect.