

Donald Martin, Former RMT

Location:

Victoria, BC

Date of Action:

Sep 15, 2015

Nature of Action: On June 5, 2015, a panel of the Discipline Committee (“the Panel”) determined that Mr. Martin: 1) failed to comply with section 75 of the College’s Bylaws, which requires each registrant to adhere to the College’s Code of Ethical Conduct (the “Code”); 2) failed to comply with sections 1(2) and 2(a) of the Code; and 3) committed professional misconduct in relation to four different former female patients as set out in the [Second Further Amended Citation dated February 17, 2015](#) (PDF). On September 15, 2015, the Panel released its order and reasons for decision on penalty (see below).

Determination of professional misconduct and breach of Code:

With respect to Patient #1 (D.K.), the Panel found that in the course of providing massage therapy services, Mr. Martin:

- touched the patient sexually and without therapeutic purpose on one occasion on February 1, 2013 and on two occasions on February 12, 2013 by brushing his hand against her anal and genital region while withdrawing his hand from her sacrum in administering a sacrum maneuver;
- acted intentionally to view the patient’s breasts sexually and without therapeutic purpose during seven massage therapy sessions in January and February 2013 by holding the sheet covering her away from her body after she had turned over on the massage table;

With respect to Patient #2 (V.S.), the Panel found that in the course of providing massage therapy services on October 17, 2013, Mr. Martin:

- touched the patient sexually and without therapeutic purpose by brushing his hand against her anal and genital region while withdrawing his hand from her sacrum in administering the sacrum maneuver;

- touched the patient sexually and without therapeutic purpose while massaging her hip by reaching underneath her and touching her adjacent to her groin area;

With respect to Patient #3 (L.T.), the Panel found that in the course of providing massage therapy services on October 11, 2013, Mr. Martin:

- touched the patient sexually and without therapeutic purpose by pressing his erect or semi-erect penis, through his clothing, against her bare upper arm for between five and ten minutes;
- touched the patient sexually and without therapeutic purpose by pressing his erect penis, through his clothing, against the top of her head for between five and ten minutes;
- after lifting the sheet so that the patient could turn over, intentionally raised or “wafted” the sheet covering her so he could view her breasts, which he did sexually and without therapeutic purpose; and

With respect to Patient #4 (A.W.), the Panel found that in the course of providing massage therapy services on January 24, 2013, Mr. Martin:

- acted intentionally to view the patient’s breasts for a sexual purpose by raising the sheet covering the patient three to four times after she had turned over on the table, and holding the sheet away from her body for three to five seconds each time.

[Read Reasons for Decision](#) (Reissued on June 26, 2015 to add paragraph numbers – PDF)

Penalty:

Following its consideration of written submissions on penalty, publication and costs from the College and from Mr. Martin, the Panel released further reasons for decision on September 15, 2015 and ordered that Mr. Martin:

1. be reprimanded pursuant to section 39(2)(a) of the Health Professions Act (the “Act”);
2. be fined in the amount of \$35,000.00 pursuant to section 39(2)(f) of the Act;
3. be liable to pay the College, pursuant to section 39(5) of the Act, costs in the amount of \$81,216.31.

The penalties imposed by the Panel were those available under the Act following Mr. Martin's resignation. Mr. Martin resigned following the initial hearing and the Panel's determination of professional misconduct and breaches of the Code. The Panel noted that it is important to proceed with professional discipline in such cases, in order to demonstrate to the profession and to the public that a registrant will not be able to avoid the consequences of serious misconduct by resigning his or her registration. In this case, the Panel found that Mr. Martin's sexual touching and/or viewing of the complainants was intentional and involved a number of significant breaches of trust. Had Mr. Martin not resigned prior to the issuance of the order, the Panel would have imposed the sanctions initially proposed by the College, which included cancellation of registration, a two-year period of ineligibility to re-apply for registration, a \$10,000 fine, and a requirement to provide a medical opinion of fitness from a qualified medical practitioner in the event of any reinstatement application.

[Read Reasons for Decision/Order \(PDF\)](#)