

Jennifer Berry, RMT

Location:

Vancouver

Date of Action:

January 24, 2022

Nature of Action: The registrant, Jennifer Berry, RMT, voluntarily entered into an undertaking and consent agreement with the Inquiry Committee of CMTBC.

As part of the agreement, Ms. Berry agreed to the following terms:

1. a five-month suspension (with two months recognized as time served);
2. a formal reprimand;
3. a condition on her practice of massage therapy, namely a one-year period of supervised practice under terms specified by CMTBC (following her suspension);
4. review of the *Massage Therapists Regulation* and CMTBC's Bylaws, standards of practice, and Code of Ethics;
5. completion of intensive remedial coursework on record-keeping and professional ethics;
6. undertakings not to repeat the conduct; and
7. random audits for a period of two years.

Reasons: The undertaking and consent agreement relates to an investigation initiated by the Inquiry Committee on its own motion regarding Ms. Berry's record-keeping practices.

As part of the undertaking and consent agreement, Ms. Berry admitted to numerous breaches of the record-keeping requirements set out in Schedule "E" to CMTBC's Bylaws at the applicable times. In particular, Ms. Berry:

- did not create or maintain health care records for any of her patients between November 2004 and January 2017;
- failed to create a health care record for 53 patients whom she treated in 2019 and 2020;

- in 2018, 2019 and 2020, failed to document one or more treatments in her record, in relation to 59 patients for whom she did create a health care record;
- in 2018, 2019 and 2020, created record entries in which multiple treatments were grouped in one entry, in five patients' health care records;
- stored multiple patients' health care records in the same folder; and
- in 2020, created some health care records which in the College's view were not legible.

Ms. Berry also admitted that she did not have a note-taking system prior to August 2019. She recorded her treatments in notepads, and some notes were not legible to the College. She admitted that she originally kept her notepads and receipt books in her desk or with her, including leaving them in a bag in her car, and that her car was broken into 5 times and her bag containing her notepads and receipt books was stolen. Ms. Berry admitted that a flood in her home destroyed receipt books and that she shredded certain of her receipts.

Ms. Berry also admitted to failing to comply with CMTBC's Interim Guidelines for Return to Practice (COVID-19) by failing to document the pre-screening carried out for symptoms of COVID-19 with patients treated between May 20, 2020 and June 24, 2020 upon their arrival for treatment at some or all of their appointments.

Ms. Berry acknowledged that by engaging in the conduct described above, she committed professional misconduct and violated:

- sections 9(1), 11(1), 13(1) and 13(2) of Schedule "D" to the College's Bylaws in effect on November 1, 2004 and until December 9, 2013;
- sections 3, 4(1)(a), 5(a) and 5(b) of Schedule "E" to the College's Bylaws in effect from December 10, 2013 until April 15, 2016; and
- sections 2, (3)(1)(a) and (c), 3(2), 3(3)(b) and 4 of Schedule "E" to the College's Bylaws in effect since April 16, 2016.

The Inquiry Committee considered Ms. Berry's conduct to be serious, involving numerous breaches of fundamental record-keeping requirements over an extended period of time.

The Inquiry Committee is satisfied that the undertaking and consent agreement in this matter appropriately reflects the seriousness of the registrant's conduct and will protect patient safety.