

**IN THE MATTER OF THE *HEALTH PROFESSIONS ACT*, R.S.B.C. 1996, c. 183
(the “HPA”)**

**AND IN THE MATTER OF
THE COLLEGE OF MASSAGE THERAPISTS
OF BRITISH COLUMBIA (“the College”)**

**AND
KEVIN AN
(the “Registrant”)**

**CONSENT ORDER PROPOSAL
(the “Proposal”)**

BACKGROUND

1. The Proposal is made by the Registrant to the Inquiry Committee of the College (the “**Committee**”) under section 37.1 of the HPA.
2. On January 24, 2020, the College issued the Registrant a certificate of practising registration under number RMT-009351.
3. On June 2, 2021, a complaint was submitted to the College with respect to events that occurred while the Registrant was providing massage therapy treatment to a female patient (the “**Patient**”) at her place of residence on May 25, 2021.
4. On or about June 2, 2021, the Committee initiated an investigation into the Patient’s complaint.
5. On June 4, 2021, the Registrant was charged with one count of sexual assault contrary to section 271 of the *Criminal Code* in relation to his provision of massage therapy to the Patient on May 25, 2021. As a criminal investigation into the Registrant’s conduct was ongoing, the College elected to hold part of its investigation in abeyance pending the conclusion of criminal proceedings.
6. On June 22, 2021, the Registrant’s registration status with the College was changed to Non-practicing.
7. On January 6, 2022, the Registrant became a former registrant due to his failure to renew his registration with the College.

8. On September 29, 2021, the Registrant was convicted in the British Columbia Provincial Court of the following offence:

that on or about May 25, 2021, at or near New Westminster, British Columbia, he did commit an offence of assault, contrary to section 266 of the *Criminal Code*.

9. On September 29, 2021, the Registrant was sentenced to, *inter alia*, a conditional discharge, and a 12-month probation order.
10. On January 25, 2023, the College directed the issuance of a citation against the Registrant in this matter.
11. On March 29, 2023, a citation was issued against the Registrant for a discipline hearing on July 26, 2023.
12. On May 5, 2023, the College issued an amended citation against the Registrant in this matter.

ADMISSIONS

13. The Registrant admits that
 - a. On May 25, 2021, he provided massage therapy services to the Patient at the Patient's place of residence. During the treatment, he massaged the Patient's breasts under the draping without her consent.
 - b. On or about September 29, 2021, he was convicted in the British Columbia Provincial Court on the following charge: that on or about May 25, 2021, at or near New Westminster, British Columbia, he did commit an offence of assault, contrary to section 266 of the *Criminal Code*. This conviction related to the Registrant's conduct as set out in paragraph 13(a), above.
14. The Registrant admits that the conduct set out in paragraphs 13(a) and 13(b) above amount to separate acts of professional misconduct.

CONSENT TO ORDER

15. The Registrant proposes resolution of this matter on the following terms:
 - a. that, pursuant to section 39(2) of the HPA, his registration with the College is cancelled effective as of the date of the Committee's approval of the Proposal;
 - b. that, pursuant to section 39(8) of the HPA, the Committee order that he not be eligible to apply for reinstatement of registration for a period of 5 years from the date of the Committee's approval of the Proposal; and

- c. the Registrant shall pay costs to the College in the amount of \$2,500.00 with respect to its investigation of the Registrant in this matter.

ACKNOWLEDGEMENTS

16. The Registrant acknowledges that, if the Proposal is accepted by the Committee, it will issue a Consent Order consistent with the Proposal that is considered to be an order of the discipline committee made under section 39 of the HPA. If the Proposal is rejected, the hearing will proceed as though the Proposal had not been made and without consideration of its contents.
17. The Registrant acknowledges that, if the Proposal is accepted by the Committee, publication of the Proposal and the Consent Order issued will be made in accordance with section 39.3 of the HPA.
18. The Registrant acknowledges that in the event that the Inquiry Committee issues a Consent Order in accordance with the Proposal, and he applies for registration after 5 years, his application will be addressed by the registration committee in accordance with section 20 of the HPA and the Bylaws of the College, including as they may be amended. He will not have an automatic right to registration and will be required to meet all legislative and Bylaw requirements relating to registration, including those relating to good character.
19. The Registrant further acknowledges and agrees that the provisions of the Proposal, and of any Consent Order issued in accordance with the Proposal, shall be construed as including any successor entity to the College and any successor legislation to the HPA, and that the provisions of paragraph 18, above, shall be construed and applied in accordance with, to the extent possible, any successor legislation to the HPA that may be in effect at the time of the Registrant's future application, if any, for registration.

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20. The Registrant acknowledges that he has had an opportunity to obtain legal advice and representation throughout the College's processes and before making the Proposal and that he fully understands and agrees to the terms and conditions set out herein.

SIGNED in Vancouver, B.C., this 23 day of June, 2023.



Kevin An, Registrant

Signature of Kevin An witnessed on above date by:



Witness Name (Print)



Witness Signature

SIGNED in Vancouver, B.C., this 23 day of June, 2023.