



College of Massage Therapists of British Columbia

#304-1212 West Broadway, Vancouver, British Columbia, Canada V6H 3V1

SECOND FURTHER AMENDED CITATION TO APPEAR

Section 37 of the *Health Professions Act*, RSBC 1996, ch. 183

To: Donald Martin, RMT

TAKE NOTICE that the Inquiry Committee has directed me, the Registrar, to issue this Citation under section 37 of the *Health Professions Act*, R.S.B.C. 1996, chapter 183 (the "Act").

A hearing panel of the Discipline Committee (the "Discipline Committee") of the College of Massage Therapists of British Columbia (the "College") will conduct a hearing to inquire into your conduct, the circumstances of which are set out in the attached schedule, to determine if your conduct constitutes any matter set out under section 39(1) of the Act.

AND FURTHER TAKE NOTICE that the Hearing will be held as follows:

PLACE: Charest Reporting, 1650-885 West Georgia Street, Vancouver, B.C., V6C 0B5

DATE: February 17, 18, 19, 20, 23, 24, 25, 26 and 27, 2015 and March 2, 3, 4, 5 and 6, 2015.

TIME: 9:30 a.m.

If you are unavailable on the dates set for hearing, you may apply in writing to request a change in the date or time.

AND FURTHER TAKE NOTICE that section 38(4.1) of the Act entitles you to an outline of the anticipated evidence from each of the witnesses that will be called and an opportunity to inspect any documentary evidence at least 14 days prior to the hearing. Your rights relating to the hearing can be found in the Act and the College Bylaws.

AND FURTHER TAKE NOTICE that at the hearing, legal counsel on behalf of the College will make submissions with respect to the appropriate action to be taken regarding your registration. The action that can be taken includes a reprimand, imposing limits or conditions on your practice, suspension or cancellation of your registration, or imposing a fine, under section 39(2) of the Act.

Non-Appearance by Respondent: If you fail to appear at the date, time and place set for the hearing, the Discipline Committee is entitled to proceed with the hearing in your absence upon proof of receipt of the Citation by you and may take any action, without further notice to you, that it is authorized to take under the Act pursuant to section 38(5) of the Act.

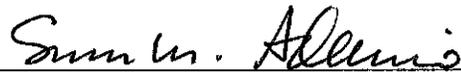
DISCIPLINE COMMITTEE'S CONTACT INFORMATION

The mailing address of the Discipline Committee for delivery is:

College of Massage Therapists of British Columbia
#304-1212 West Broadway
Vancouver, British Columbia
V6H 3V1

Attention: Discipline Committee

Dated at Vancouver, British Columbia this 17th day of February, 2015.



Susan Addario, Registrar

SCHEDULE

Patient #1 (D.K.)

Nature the complaint and alleged conduct to be inquired into:

1. Mr. Donald Martin (the "Respondent") is a Registered Massage Therapist of the College of Massage Therapists of British Columbia.
2. The Respondent provided massage therapy services to the complainant, D.K., during seven treatment sessions or thereabouts (the "Treatment Sessions"), with the sixth session occurring on or about February 1, 2013 (the "Sixth Session") and the seventh session occurring on or about February 12, 2013 (the "Seventh Session" respectively), at or about in Victoria, B.C.
3. During the Sixth and Seventh Sessions, the Respondent touched D.K. sexually and without therapeutic purpose three times. In particular:
 - a. During and near the end of the Sixth Session, after D.K. had put on her clothing, the Respondent discussed with her and applied a technique ostensibly to address muscular tightness around her hips, by pressing her legs to her chest using his shoulder. The Respondent positioned his shoulder under the back of both of her knees, placed her calves over his shoulder, and placed the palm of a hand over her sacrum area at the base of her spine.
 - b. After the Respondent applied the technique, and as the Respondent was lowering D.K.'s legs and feet to the table, he moved his hand between her thighs, and brushed his hand or fingers up the length of or part of her anal and genital area.
 - c. During and near the end of the Seventh Session, after D.K. had put on her clothing, the Respondent twice applied the same technique he applied to D.K. during the Sixth Session. On both occasions, as the Respondent was lowering D.K.'s legs and feet at the table, the Respondent moved his hand between her thighs, and brushed his hand or fingers up the length of or part of her anal and genital area.
4. During all of the Treatment Sessions except the first, including during sessions occurring on or between January 16, 2013 and February 12, 2013, or thereabouts, while D.K.'s upper body was unclothed, the Respondent handled the cover sheet in a manner that exposed her naked upper body to the Respondent's view, by his holding the sheet up at a distance from her body after she had turned from a face-down position to a face-up position. At these times, the Respondent stood behind her head and was adjusting the sheet over her breasts after she turned over. The Respondent's handling of the cover sheet to expose D.K.'s upper body was done intentionally, and for a sexual and non-therapeutic purpose.

Grounds for disciplinary action

5. By touching the patient sexually, and by acting intentionally to view a female patient's breasts for a sexual purpose, the Respondent has:
- a. engaged in professional misconduct,
 - b. failed to comply with s. 75 of the Bylaws, and failed to comply with standards, specifically the following provisions of the *Code of Ethical Conduct* (Schedule "C"):
 - i. Section 1(2) of the *Code of Ethical Conduct*.
General Duty to Patients
1(2) A Registrant shall not take advantage of a patient's vulnerabilities for the Registrant's sexual, emotional, social, political or financial interest or benefit.
 - ii. Section 2(a) of the *Code of Ethical Conduct*.
Sexual Conduct Prohibited
2. A Registrant shall not
(a) engage in sexual conduct with a patient....

Patient #2 (V.S.)

Nature of the complaint and alleged conduct to be inquired into:

6. Mr. Donald Martin (the "Respondent") is a Registered Massage Therapist of the College of Massage Therapists of British Columbia.
7. The Respondent provided massage therapy services to the complainant, V.S., on or about October 17, 2012 (the "Treatment Session"), at or about in Victoria, B.C.
8. During the Treatment Session, the Respondent touched V.S. sexually and without therapeutic purpose. In particular:
 - a. V.S. attended for treatment of her back, buttocks and hips for mid- and low-back injury.
 - b. While V.S. was face-down on the massage bed, with her brassiere unfastened and her exercise pants lowered past her buttocks, the Respondent was standing near her head and massaging her on both sides, from her upper-back to her mid- and lower-back.
 - c. As the Respondent's right hand came down V.S.'s left side, and was massaging her hip, his fingers extended to her underside, and touched the side of her groin area, adjacent to the pubic hairline.
 - d. During and near to the end of the Treatment Session, after V.S. had put on her clothing, without notice to her or obtaining her consent first, the Respondent applied a technique by pressing her legs to her chest

using his shoulder. The Respondent positioned his shoulder under the back of both of her knees, and placed her calves over his shoulder.

- e. After the Respondent applied the technique, and as the Respondent was lowering V.S.'s legs and feet to the table, his hand moved between her thighs, and he ran his hand or fingers up the length of or part of her anal and genital area.

Grounds for disciplinary action

9. By touching the patient sexually, the Respondent has:
 - a. engaged in professional misconduct,
 - b. failed to comply with s. 75 of the Bylaws, and failed to comply with standards, specifically the following provisions of the *Code of Ethical Conduct* (Schedule "C"):
 - i. Section 1(2) of the *Code of Ethical Conduct*.

General Duty to Patients

1(2) A Registrant shall not take advantage of a patient's vulnerabilities for the Registrant's sexual, emotional, social, political or financial interest or benefit.
 - ii. Section 2(a) of the *Code of Ethical Conduct*.

Sexual Conduct Prohibited

2. A Registrant shall not
(a) engage in sexual conduct with a patient....

Patient #3 (L.T.)

Nature of the complaint and alleged conduct to be inquired into:

10. Mr. Donald Martin (the "Respondent") is a Registered Massage Therapist of the College of Massage Therapists of British Columbia.
11. The Respondent provided massage therapy services to the complainant, L.T., a practitioner and a registrant of the College of _____ of British Columbia, on or about October 11, 2013 (the "Treatment Session"), at or about Victoria, B.C.

During the Treatment Session, the Respondent touched L.T. sexually and without therapeutic purpose. In particular:

- a. During the initial part of the Treatment Session, while L.T. was lying face-down on the massage table, with her arms at her sides, the Respondent began to lean his pelvis and penis against the side of her arm while, inter alia, massaging the other side of her body. After some time, as he continued to press his penis into her arm, he became semi-erect. The Respondent did not move his penis, but pressed his semi-erect penis into her arms with some pressure.

- b. The Respondent pressed his penis against L.T. for about 5 to 10 minutes, and was semi-erect for about half that time.
12. During the Treatment Session, while L.T.'s upper body was unclothed, and just after L.T. had turned from a face-down position to a face-up position, the Respondent handled the cover sheet using a "wafting" motion that caused the sheet to lift and float upwards in the air, about a foot above her body, and exposed her naked upper body to the Respondent's view for several seconds. At this time the Respondent stood at L.T.'s side. L.T., seeing the Respondent look at her breasts, tried to cover her breasts with her arms, after which the Respondent placed the sheet back down. The Respondent's handling of the cover sheet to expose L.T.'s upper body was done intentionally, and for a sexual and non-therapeutic purpose.
 13. During the Treatment Session, the Respondent touched L.T. sexually and without therapeutic purpose. In particular, while L.T. was lying face-up, and the Respondent was massaging her neck, the Respondent leaned over her and firmly pressed his groin and his fully-erect penis, or alternatively his semi-erect penis, against the top of her head for a period of time.

Grounds for disciplinary action

14. By touching the patient sexually, and by acting intentionally to view a female patient's breasts for a sexual purpose, the Respondent has:
 - a. engaged in professional misconduct,
 - b. failed to comply with s. 75 of the Bylaws, and failed to comply with standards, specifically the following provisions of the *Code of Ethical Conduct* (Schedule "C"):
 - i. Section 1(2) of the *Code of Ethical Conduct*.
General Duty to Patients
 1(2) A Registrant shall not take advantage of a patient's vulnerabilities for the Registrant's sexual, emotional, social, political or financial interest or benefit.
 - ii. Section 2(a) of the *Code of Ethical Conduct*.
Sexual Conduct Prohibited
 2. A Registrant shall not
 (a) engage in sexual conduct with a patient....

Patient #4 (A.W.) :

Nature of the complaint and alleged conduct to be inquired into:

15. Mr. Donald Martin (the "Respondent") is a Registered Massage Therapist of the College of Massage Therapists of British Columbia.

16. The Respondent provided massage therapy services to the complainant, *A.W.*, on or about January 24, 2013 (the "Treatment Session"), at or about [redacted] in Victoria, B.C.
17. During the Treatment Session, while *A.W.* was in a face-up position and her upper body, including her breasts, was naked, the Respondent handled the cover sheet in a manner that exposed her naked upper body to the Respondent's view, by his lifting and holding the sheet up 3 or more times at a distance from her upper body of up to a foot.
18. The Respondent's handling of the cover sheet to expose *A.W.'s* upper body was done intentionally, and for a sexual and non-therapeutic related purpose.

Grounds for disciplinary action

19. By acting intentionally to view a female patient's breasts for a sexual purpose, the Respondent has:
 - a. engaged in professional misconduct,
 - b. failed to comply with s. 75 of the Bylaws, and failed to comply with standards, specifically the following provisions of the *Code of Ethical Conduct* (Schedule "C"):
 - i. Section 1(2) of the *Code of Ethical Conduct*.
General Duty to Patients
1(2) A Registrant shall not take advantage of a patient's vulnerabilities for the Registrant's sexual, emotional, social, political or financial interest or benefit.
 - ii. Section 2(a) of the *Code of Ethical Conduct*.
Sexual Conduct Prohibited
2. A Registrant shall not
(a) engage in sexual conduct with a patient....

[End of Schedule]