

IN THE MATTER OF A HEARING BY  
THE DISCIPLINE COMMITTEE OF THE COLLEGE OF MASSAGE THERAPISTS  
OF BRITISH COLUMBIA CONVENED PURSUANT TO THE PROVISIONS OF  
THE *HEALTH PROFESSIONS ACT* RSBC 1996, c.183

BETWEEN:

The College of Massage Therapists of British Columbia  
(the "College")

AND:

Anuraj (Anu) Gill, RMT  
(the "Respondent")

**REASONS FOR DECISION**

**(Determination made pursuant to section 39 of the *Health Professions Act*)**

**Dates and Place of Hearing:**

January 29, 2019 and April 30, 2019

Charest Reporting Inc.  
1650 – 885 West Georgia Street  
Vancouver, BC V6C 0B5

-and-

Resolutions  
1300 – 925 West Georgia Street  
Vancouver, BC V6C 3L2

**Hearing Sub-Committee of the Discipline Committee (the "Panel")**

Michael Wiebe, RMT, Chair  
Jennifer Lie, RMT  
Nicholas Aubin

**Counsel for the College:**

Miriam Isman

**The Respondent appearing on his own behalf** (January 29, 2019)

**Independent Counsel for the Panel:**

Susan Precious

## Decision

1. The Panel finds that Anuraj (Anu) Gill, RMT failed to reply to communications from CMTBC in a timely or responsive manner, or at all, regarding his Standard First Aid/CPR-C certification and his non-responsiveness to requests from CMTBC for information about the same.
2. The Panel finds that pursuant to section 39(1) of the *Health Professions Act* RSBC 1996 c.183 (the "Act" or "HPA"), Mr. Gill has not complied with a standard imposed under the Act and has committed unprofessional conduct.

## Background

3. A panel of the Discipline Committee of the College of Massage Therapists of British Columbia conducted a hearing to determine, pursuant to section 39 of the Act, whether Mr. Gill failed to comply with the Code of Ethics, whether he failed to comply with the Act, and whether he committed professional misconduct or unprofessional conduct.
4. The particulars of the allegations against Mr. Gill are set out in the citation dated October 22, 2018, as follows:
  1. Between February 2018 and today's date, you failed to reply to communications from CMTBC in a timely or responsive manner, or at all, regarding your Standard First Aid ("SFA")/CPR-C certification, and your non-responsiveness to requests for information about the same, including the following communications from the CMTBC:
    - a. an email dated February 2, 2018;
    - b. an email dated February 20, 2018;
    - c. a letter dated March 22, 2018 sent by email and registered mail;
    - d. a letter dated April 6, 2018 sent by email and registered mail;
    - e. two letters dated April 30, 2018 sent by email and registered mail;
    - f. an email dated May 15, 2018;
    - g. an email dated June 4, 2018;
    - h. an email dated June 14, 2018; and / or
    - i. a letter dated June 18, 2018 sent by email and registered mail.

5. The hearing took place at Charest Reporting on 885 West Georgia Street in Vancouver, British Columbia on January 29, 2019, and at Resolutions on 925 West Georgia Street in Vancouver, British Columbia on April 30, 2019.
6. The parties led evidence at the hearing with respect to allegations at issue. The College also delivered written submissions.
7. The Panel's determination takes into account the evidence adduced at the hearing and the College's written submissions.

### **Service**

8. Mr. Gill attended the first day of the hearing on January 29, 2019. He did not take issue with respect to the service of the citation.
9. Mr. Gill did not attend the second day of the hearing on April 30, 2019. The Panel considered whether to proceed with the hearing in the absence of the Respondent.
10. The Discipline Committee is authorized to proceed in the absence of a respondent under section 38(5) of the HPA, which provides:
  - 38 (5) If the respondent does not attend, the discipline committee may
    - (a) proceed with the hearing in the respondent's absence on proof of receipt of the citation by the respondent, and
    - (b) without further notice to the respondent, take any action that it is authorized to take under this Act.
11. The College submitted that the Respondent was served with the citation, and received fair and adequate notice of the April 30<sup>th</sup> continuation date.
12. The College submitted two affidavits in support of its position. The Affidavit of Personal Service of Carmen Spring, sworn on November 14, 2018, provided proof that the citation was personally served on Mr. Gill on November 2, 2018. The Affidavit of Gillian Morgan, sworn on April 29, 2019, attaches copies of an email dated March 20, 2019 in which the Respondent indicated that he was available on April 30, 2019 for the continuation of the hearing.
13. The Panel issued an oral determination on April 30, 2019 that it would proceed with the hearing in the absence of the Respondent pursuant to section 38(5) of the HPA because it was satisfied with the proof of receipt of the citation by the

Respondent and that the Respondent had received adequate notice of the April 30, 2019 date for the continuation of the hearing.

### **Burden and standard of proof**

14. The College acknowledged that it bears the burden of proof and must prove its case on a “balance of probabilities”. The College cited in particular the case of *F.H. v. McDougall*, 2008 SCC 53, in which the Supreme Court of Canada stated that “evidence must always be sufficiently clear, convincing and cogent to satisfy the balance of probabilities test”.
15. The Panel agrees with the College’s submissions on the burden and standard of proof.

### **Relevant statutory provisions**

16. The allegations in the citation engage the following statutory provisions.
17. Section 39 of the HPA sets out the determinations which the Discipline Committee may make following a hearing:
  - 39 (1) On completion of a hearing, the discipline committee may, by order, dismiss the matter or determine that the respondent
    - (a) has not complied with this Act, a regulation or a bylaw,
    - (b) has not complied with a standard, limit or condition imposed under this Act,
    - (c) has committed professional misconduct or unprofessional conduct,
    - (d) has incompetently practised the designated health profession, or
    - (e) suffers from a physical or mental ailment, an emotional disturbance or an addiction to alcohol or drugs that impairs their ability to practise the designated health profession.
18. Section 19(1)(l) of the HPA empowers the Board of a College to make bylaws that establish standards of professional ethics for registrants:

19(1) A board may make bylaws, consistent with the duties and objects of a college under section 16, that it considers necessary or advisable, including bylaws to do the following:

(l) establish standards of professional ethics for registrants, including standards for the avoidance of conflicts of interest;

19. Section 1(1) of the College's Bylaws defines the Code of Ethics as follows:

"Code of Ethics" means the Code of Ethics established by the Board under section 19 (1) (l) of the Act;

20. Section 28 of the College's Code of Ethics states:

28. RMTs must respond to any inquiries, requests and directions from the College in a professional, responsive and timely manner.

21. Section 26 of the HPA defines "unprofessional conduct" and "professional misconduct", as follows:

"unprofessional conduct" includes professional misconduct.

"professional misconduct" includes sexual misconduct, unethical conduct, infamous conduct and conduct unbecoming a member of the health profession;

## **Evidence**

### ***Witnesses***

22. The College called two witnesses at the hearing.

*Kate Parisotto*

23. Kate Parisotto is the College's Director of Inquiry and Discipline.

24. Ms. Parisotto testified to the communications with the Respondent, including the various requests for information. Her testimony as to those communications is summarized below.

25. On or prior to January 30, 2018, Mr. Gill contacted the College because he was having issues uploading his certificate for SFA/CPR-C to the College's Registrant Portal for the purpose of completing his registration. He uploaded copies of gift certificates for treatment instead of his SFA/CPR-C certificate and his Criminal Record Consent form, and completed the registration process. The College asked Mr. Gill, via e-mail, to submit the correct documents by e-mail and /or the online portal.

26. Later on January 30, 2018, Mr. Gill emailed the College to provide them with his Criminal Record Consent form, and to advise that he had uploaded his SFA/CPR-C certification to the Registrant Portal. In the Registrant Portal, he stated that his SFA/CPR-C certification expired on January 30 or 31, 2018.
27. On February 2, 2018, the College wrote to Mr. Gill and requested proof of valid First Aid certification within 7 days, as the document he had uploaded to the Registrant Portal expired on October 26, 2017 and as such, he was not in compliance with section 63.3(1) of the College's Bylaws, which requires active registrants to have current certification in SFA/CPR-C.
28. On February 2, 2018, Mr. Gill confirmed receipt of the College's request by reply email stating "Oh ok!! Ok I will comply asap and sent it over..."
29. Mr. Gill did not provide proof of valid SFA / CPR Certification by February 9, 2018, the deadline set out in the College's February 2, 2018 request.
30. On February 20, 2018, the College wrote to Mr. Gill because he had not responded to the February 2, 2018 request. The College indicated that it was concerned about his continued non-compliance with section 63.3 of the Bylaws and informed him that the matter was going to be forwarded to the Inquiry Committee. The College again requested that Mr. Gill provide proof of valid certification in SFA/CPR-C immediately. Mr. Gill did not respond to this second request.
31. On March 22, 2018, the College wrote to Mr. Gill regarding the Inquiry Committee's investigation of him for stating in the Registrant Portal that he had SFA/CPR-C certification expiring on January 30 or 31, 2018 when in fact it expired on October 26, 2017, and failing to respond to the College's two requests for information. The College advised Mr. Gill of his obligation to respond promptly to requests from the CMTBC. This letter was sent by registered mail, although Mr. Gill did not pick it up. It was subsequently re-sent by e-mail.
32. On April 6, 2018, the College wrote to Mr. Gill to again request proof of valid SFA/CPR-C re-certification immediately, and to request a response to various questions, including why he stated in the Registrant Portal that he had SFA/CPR-C

certification expiring on January 30 or 31, 2018, and why he failed to respond to the College's first two requests for information. The College requested his reply by April 27, 2018. The College again reminded Mr. Gill of his obligation to respond in a professional, responsive and timely way, and advised that failure to do so may constitute professional misconduct.

33. On April 27, 2018, the deadline set out in the College's April 6, 2018 request for information, Mr. Gill logged on to the Registrant Portal and uploaded what appeared to be a temporary card from Canadian Red Cross stating that he had completed re-certification in SFA/CPR- C on April 25, 2018. Mr. Gill did not, however, respond to the questions set out in the College's third request for information.
34. On April 30, 2018, the College wrote to Mr. Gill to request that he return a signed copy of the letter dated March 22, 2018, to confirm receipt.
35. Also on April 30, 2018, the College wrote to Mr. Gill to acknowledge that he had logged on to the Registrant Portal and uploaded what appeared to be a certificate for SFA/CPR-C. The College again advised Mr. Gill of his obligation to respond, asked that he respond to the questions in the College's third request for information, and also asked that he advise why he was unable to obtain valid SFA/CRP-C re-certification until April 25, 2018. The College requested a response by May 14, 2018.
36. On May 14, 2018, Mr. Gill wrote to the College regarding its questions about his SFA/CPR-C certification. Mr. Gill's response was sent by e-mail, from the same e-mail address which the College had used for all electronic correspondence with him. This e-mail was a reply to the CMTBC's e-mail to Mr. Gill dated April 30, 2018, which attached the two letters of that date mentioned above. In his response, Mr. Gill advised that:
  - a. he experienced technical difficulties uploading his SFA/CPR-C certificate to the College's Registrant Portal at the time of his registration, but communicated with the CMTBC to advise of these difficulties, and

- b. he had a valid SFA/CPR-C certification. He wrote: " ... I did have my CPR recertification completed but did not have a certificate saved on an efile and in my move from the mainland to Saltspring Island lost contact with the group who facilitated me as well as the paper certificate. I then reregistered for another course on Saltspring and completed again what was necessary for me to have another valid paper certificate which I then took a picture of and uploaded as per your request by April 27."
37. On May 15, 2018, the College wrote to Mr. Gill to seek details about his SFA/CPR-C certification, including where he completed training for the valid SFA/CPR-C certificate that he had between October 26, 2017 and April 25, 2018, when he completed that training, and why he stated in the Registrant Portal that his SFA/CPR-C certification expired on January 30 or 31, 2018. The CMTBC also asked that Mr. Gill respond to the outstanding questions from the College's fourth request for information regarding his previous failure to respond. The College requested a response by May 30, 2018.
38. On May 30, 2018, Ms. Parisotto spoke to Mr. Gill by telephone. He requested an extension of time to respond. An extension was granted until June 1, 2018. The College then confirmed the extension via email. Mr. Gill responded to that email acknowledging receipt. He did not however provide a substantive response to the College's request for information by the extended deadline of June 1, 2018.
39. On June 4, 2018, the College wrote to Mr. Gill, via e-mail, to advise that he did not respond to College's fifth request for information by the June 1st deadline and reminded him of his obligation to cooperate with the College's investigation. The CMTBC advised that Mr. Gill's non-responsiveness would be referred to the Inquiry Committee and requested a response by no later than June 5, 2018. The College did not receive a response from Mr. Gill.
40. On June 14, 2018, Mr. Gill wrote to the College by email stating: "I haven't heard back from you and am a bit confused about your last email? I have responded to your questions so am not sure as to your responses on June 4th/5th. Please let me know as I am out of the country from June 17-26th."

41. On June 14, 2018, the College responded to Mr. Gill's email to clarify the specific questions Mr. Gill had failed to respond to. The College also invited Mr. Gill to resend his responses if he believed he had sent them. The College asked that Mr. Gill respond by July 6, 2018. Mr. Gill did not respond.
42. On June 18, 2018, the College sent a letter to Mr. Gill, via e-mail and registered mail, to confirm that he had not responded to the questions set out in its May 15, 2018 request for information, which were repeated in the College's subsequent requests. The College requested a response to these questions by no later than July 6, 2018. Mr. Gill did not respond by the July 6, 2018 deadline.
43. Ms. Parisotto testified that the College attempted to independently confirm whether Mr. Gill had valid SFA/CPR-C certification from one of the approved providers pursuant to section 63.3 of the CMTBC's Bylaws. The College was not able to determine whether Mr. Gill had valid certification from October 26, 2017 to April 25, 2018, or whether he had certification that expired on January 30 or 31, 2018.

*Mr. Gill*

44. Mr. Gill was the only witness who testified in response to the College's allegations against him.
45. Mr. Gill acknowledged that his SFA/CPR-C lapsed in 2017. Mr. Gill stated that he thought he should have just been charged the non-compliance fee.
46. Mr. Gill took responsibility for not responding to the College in time. He stated that he was very busy and it was not a priority.
47. Mr. Gill also testified that he stopped making an effort to respond to the College because he had a similar experience in past and he believed that the more he responded to the College's questions, the more questions he would receive from the College.
48. Mr. Gill also testified that he had experienced some health issues relating to knee surgery.
49. Mr. Gill stated that he made several telephone calls to the College in relation to his registration. First, he spoke with a staff member named Valerie Turner, who

worked at the College at the time. Mr. Gill testified that he advised Ms. Turner about uploading the gift certificates.

50. Mr. Gill testified that he subsequently spoke to Kate Irvine by phone. Ms. Irvine is a paralegal at the College. Mr. Gill testified that he spoke to Ms. Irvine more than once but could not recall how many times or when those telephone calls occurred. Mr. Gill testified that he told Ms. Irvine about his health issues.
51. Mr. Gill testified that he also spoke to Ms. Parisotto several times. He could not recall when or how many times. He testified that he asked Ms. Parisotto for an extension and advised that he would be out of the country in June 2018. Mr. Gill also stated that it is possible that he confused the two "Kates".
52. On cross-examination, Mr. Gill acknowledged that he did not respond to the following communications College communications: March 22, April 6, May 15, June 4, June 14, and June 18, 2018. Mr. Gill acknowledged that he did not respond to the College about why he was failing to respond to their requests for information.

*College's rebuttal evidence – Ms. Parisotto and Ms. Irvine*

53. On April 30, 2019, the College called two witnesses to provide reply evidence pursuant to section 38(4) of the HPA: Ms. Parisotto and Ms. Irvine.
54. Ms. Parisotto testified in reply to Mr. Gill's evidence that he spoke to her multiple times, though he could not recall the dates, and that he asked for her an extension to provide a response.
55. Ms. Parisotto testified that she only spoke with Mr. Gill by phone on two occasions: May 30, 2018 and October 30, 2018.
56. Ms. Parisotto described her record keeping practices relating to telephone conversations. She indicates the name of every individual with whom she speaks on a particular day in her day planner. Ms. Parisotto testified that she reviewed her day planner for 2018 and there were only two entries, on May 30 and October 30, 2018, showing phone calls with Mr. Gill.

57. Ms. Parisotto also described the College's voicemail system and her practices relating to saving voicemails. All voicemails are sent to email. Ms. Parisotto testified that if she receives a voicemail from a registrant, she saves it to the corresponding investigation file. Ms. Parisotto testified that there are no voicemails from Mr. Gill.
58. The College also called Kate Irvine to deliver rebuttal evidence. As mentioned above, Ms. Irvine is a paralegal in the administrative and discipline group at the College.
59. Ms. Irvine testified that the majority of telephone calls she receives are in relation to reserved title violations.
60. Ms. Irvine also described her record keeping practices for telephone calls and voicemails messages. Ms. Irvine takes notes during telephone calls which she then converts into a memo to file, which is in email format. That email then gets sent to the appropriate person handling the matter and saved to registrant files. Her voicemails also go to email and then get saved to corresponding investigation files.
61. Ms. Irvine testified that she did not speak with Mr. Gill nor did she receive a voicemail from him.

***Exhibits***

62. The following exhibits were entered into evidence by counsel for the College:
  - a. Exhibit 1: Citation dated October 22, 2018
  - b. Exhibit 2: Book of Documents consisting of 28 tabs of documents, primarily comprising the College's communications with the Respondent.
  - c. Exhibit 3: Affidavit of Personal Service of Carmen Spring dated November 14, 2018.
  - d. Exhibit 4: Affidavit of Gillian Morgan dated April 29, 2019.

## Findings and analysis

### *Findings of fact*

63. The Panel finds the following facts.
64. Mr. Gill had SFA/CPR-C certification that expired on October 26, 2017.
65. Mr. Gill obtained SFA/CPR-C certification on April 25, 2018.
66. The College the following correspondence to Mr. Gill:
  - a. an email dated February 2, 2018;
  - b. an email dated February 20, 2018;
  - c. a letter dated March 22, 2018;
  - d. a letter dated April 6, 2018;
  - e. two letters dated April 30, 2018;
  - f. an email dated May 15, 2018;
  - g. an email dated June 4, 2018;
  - h. an email dated June 14, 2018; and
  - i. a letter dated June 18, 2018.
67. Mr. Gill received all of the above correspondence.
68. Mr. Gill failed to respond to the following of the College's correspondence in a timely or responsive manner:
  - a. the email dated February 2, 2018;
  - b. the email dated February 20, 2018;
  - c. the letter dated March 22, 2018;
  - d. the letter dated April 6, 2018;
  - e. the letter of April 30, 2018 requesting return of a signed copy of the notice of investigation letter dated March 22, 2018;
  - f. the email dated June 4, 2018;
  - g. the email dated June 14, 2018; and
  - h. the letter dated June 18, 2018.
69. Mr. Gill provided partial responses to the second letter dated April 30, 2018 and the email dated May 15, 2018.

70. The second letter dated April 30, 2018 set out five questions. The Panel finds that the Respondent's email of May 14, 2018 responded to two of the five questions (questions #1 and #3), specifically,
- a. In response to the question "why did you initially upload an image of a gift certificate in place of the required criminal record check authorization form and SFA/CPR-C re-certification to the Registrant Portal when renewing your registration for 2018?", Mr. Gill responded that he experienced technical difficulties and "When I got to the CPR step, I was unable to upload the JPEG file to the portal. As a result and only having hours left until the process would be closed and I would be unregistered, I was frustrated and unable to proceed further. I called the CMT office for assistance. I did leave a message as it was nearing the end of the workday. In the mean time, in order for me to complete the step to move into the payment step I was able to upload the JPEG of my gift certificate as the portal system was able to recognize that format."
  - b. In response to the question "you failed to provide proof of valid SFA/CPR-C re-certification by February 9, 2018, as requested in an email dated February 2, 2018 to you from Valerie Turner, a CMTBC Temporary Assistant (which you did receive, as you replied to it on February 2, 2018, stating that you would "comply asap and send it over")", Mr. Gill responded that "I also must note that I did have my CPR recertification completed but did not have a certificate saved on an efile and in my move from the mainland to Saltspring Island lost contact with the group who facilitated me as well as the paper certificate".
71. Mr. Gill responded to one of the five questions set out in the College's May 15, 2018 email through his testimony at this hearing. Specifically, in response to the first question about where he completed the training for the valid SFA/CPR-C certification that he held from October 26, 2017 and April 25, 2018, the Respondent gave evidence that he completed that training in Alberta. As previously set out above, the Respondent also provided testimony that his 2017

certification lapsed, however, the first question in the May 15<sup>th</sup> email deals with the location of the training.

72. The Panel notes that its findings in relation to the partial responses provided by the Respondent above are only in relation to whether the Respondent provided any response to the College's communications. The Panel is not making a determination as whether and when the Respondent held SFA/CPR-C certification.
73. The Panel finds with respect to the partial responses to the College's communications of April 30, 2018 and May 15, 2018, the Respondent's responses were not delivered in a timely manner.
74. The Panel has considered the conflict in the testimony between the Respondent and the College's witnesses in relation to whether he made numerous telephone calls to the College in relation to the delays in providing valid SFA/CPR-C certification and the reasons for those delays. The Panel found both Ms. Parisotto and Ms. Irvine to be credible, specific, and detailed in their recollections of dealing with the Respondent, and their telephone and voicemail practices. The Panel found the Respondent's accounts of the phone calls to have been vague, imprecise and unreliable. He was not able to identify the dates and number of times on which he telephoned Ms. Parisotto and Ms. Irvine and suggested at one point that he may have confused them altogether. Accordingly, the Panel finds that the Respondent spoke with Ms. Parisotto on by telephone on two occasions and did not speak with Ms. Irvine by telephone.

### ***Code of Ethics***

75. The College submitted that the Code of Ethics is a "standard" for purposes of section 39(b) of the Act. The College referred to section 19(1)(l) of the HPA which empowers the Board of a College to make bylaws that establish standards of professional ethics for registrants. The College noted that the definition of Code of Ethics in section 1(1) of the College's Bylaws confirms that the Code of Ethics was established under section 19(1)(l) of the HPA.

76. The Panel accepts that the Code of Ethics is a standard for the purposes of section 39(b) of the Act.
77. Section 28 of the College's Code of Ethics provides that:
  28. RMTs must respond to any inquiries, requests and directions from the College in a professional, responsive and timely manner.
78. The Panel finds that the Respondent did not respond to College inquiries and requests in responsive and timely manner, and a result did not comply with section 28 of the Code of Ethics.
79. The Panel finds that the citation is proven on a balance of probabilities and determines pursuant to section 39(1)(b) that the Respondent has not complied with a standard imposed under the Act.

### ***Unprofessional conduct***

80. Section 26 of the HPA defines "unprofessional conduct" as including "professional misconduct". Professional misconduct is defined in section 26 of the HPA to include "sexual misconduct, unethical conduct, infamous conduct and conduct unbecoming a member of the health profession".
81. The College has referred to the case of *Pearlman v. Manitoba Law Society Judicial Committee*, [1991] 2 SCR 869 in which the Supreme Court of Canada defined "professional misconduct" as "conduct which would be reasonably regarded as disgraceful, dishonorable, or unbecoming of a member of the profession by his well respected brethren in the group – persons of integrity and good reputation amongst the membership".
82. The College also relied upon the decision of *Millar v. College of Physicians and Surgeons of British Columbia*, [1994] BCJ No. 967 in which the British Columbia Supreme Court approved the *Black's Law Dictionary* definition of "unprofessional conduct" as being conduct "which violates ethical code or rules of profession or such conduct which is unbecoming member of profession in good standing".
83. The Court in *Millar* also referred to the principle that the failure to cooperate with a regulator can amount to professional misconduct. This principle was more strongly

expressed in the more recent British Columbia case of *Kaburda v. College of Dental Surgeons of British Columbia*, [2001] BCJ No.2161 where the Court stated:

21 There is a general duty on all members of self-governing professions to cooperate with their governing bodies (*Artinian v. College of Physicians and Surgeons* (1990), 73 O.R. (2d) 704 (Ont. H.C.J.). This duty has to some extent been codified in the Rules of the College.....

...

26 The appellant had a duty to cooperate by replying to the Deputy Registrar's request. A reply that is not responsive to the request authorized by Rule 16.03(b) will, if not offered in good faith and reasonably based, support a determination that the registrant has engaged in unbecoming conduct.

84. The College also submitted that findings of professional misconduct have been made in similar cases by other regulators. The Panel takes note in particular of the following cases cited by the College: *The College of Registered Nurses of British Columbia v. Cunningham*, Reasons for Decision and Order of the Discipline Committee dated February 6, 2017; *Law Society of British Columbia v. Robert John Cuddeford*, 2010 LSBC 11; and *College of Physicians and Surgeons of BC re Dr. Jeannine Olszewski*, August 25, 2016.
85. The Panel finds there is a duty to cooperate with the College which requires a registrant to respond to communications in responsive and timely manner and that a failure to do so may constitute unprofessional conduct.
86. The Panel finds that the Respondent failed to cooperate with the College in responding to its communications in a responsive and timely manner. By failing to cooperate with the College over the course of approximately one year, the Respondent impeded the College's statutory obligation to regulate the profession. The Panel finds that the citation is proven on a balance of probabilities and that the Respondent committed unprofessional conduct pursuant to section 39(1)(c).

#### **Order**

87. The Panel determines pursuant to section 39(1)(b) and (c) of the Act that the Respondent has not complied with a standard imposed under the HPA and committed unprofessional conduct.

**Penalty**

88. The Panel requests that the parties provide written submissions regarding the appropriate penalty and costs.
89. The Panel requests that the parties provide the written submissions in accordance with the following schedule:
  - a. Submissions must be delivered by counsel for the College to Mr. Gill and the Panel no later than June 14, 2019;
  - b. Submissions must be delivered by Mr. Gill to counsel for the College and the Panel no later than July 15, 2019;
  - c. Reply submissions may be delivered by counsel for the College to Mr. Gill and the Panel no later than July 29, 2019.
90. Submissions for the Panel should be delivered to Susan Precious, counsel for the Panel and may be delivered electronically.

**Notice of right to appeal**

91. The Respondent is advised that under section 40(1) of the Act, a respondent aggrieved or adversely affected by an order of the Discipline Committee under section 39 of the Act may appeal the decision to the Supreme Court. Under section 40(2), an appeal must be commenced within 30 days after the date on which this order is delivered.

Date: May 13, 2019



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Michael Wiebe, RMT, Chair



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Jennifer Lie, RMT



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Nicholas Aubin