

PROVINCE OF NEW BRUNSWICK

IN THE MATTER OF THE *MASSAGE THERAPY ACT*

AND IN THE MATTER OF COMPLAINT #049 AGAINST MELISSA ROY

DECISION OF THE DISCIPLINE AND FITNESS TO PRACTISE COMMITTEE

Panel Members:

Jenn Allaert, RMT (Chair)

Jolyane Richard, RMT

Melissa Michaud, Public Member

Background

1. On December 12, 2022 EB (the “Complainant”) filed a Complaint with the College of Massage Therapists of New Brunswick (the “College”) against Melissa Roy (the “Respondent”) alleging professional misconduct. The Complaint is known as Complaint #049.
2. The Respondent filed a Reply to the Complaint. The date of the Reply is unknown.
3. On May 2, 2023, the Complaints Committee of the College determined that the Complaint relates to sexual misconduct and merits further consideration by the Discipline and Fitness to Practise Committee (the “Discipline Committee”) of the College. The Complaint was therefore referred to the Discipline Committee.
4. On June 17, 2023, a Panel of the Discipline Committee (the “Panel”) held a videoconference hearing to determine Complaint #049. The College was represented by counsel Sheila Mecking and the Respondent by counsel Jennifer Davis. The Panel was assisted by independent legal counsel Dominic Caron.

The Record

5. The Panel has considered the documents and materials that form the record. The Record is comprised of the following documentary evidence:
 - i. Notice of Hearing dated May 17, 2023;
 - ii. Decision of the Complaints Committee dated May 2, 2023;
 - iii. Complaint by EB against Melissa Roy – All PDFs and Screenshots Part 1;
 - iv. Part 2;
 - v. Part 3;
 - vi. Joint submission dated June 15, 2023;
 - vii. Joint submission signature page.
6. At the start of the hearing, Ms. Mecking and Ms. Davis advised the Panel that the parties were presenting a joint submission on merit and remedy.

Joint Submission

7. In the joint submission, the Respondent admits to the following facts:
 - a. The Complainant and the Complainant's husband were, at all material times, clients of the Respondent;
 - b. The Respondent had an inappropriate personal relationship with both the Complainant and the Complainant's husband and failed to maintain appropriate boundaries with the Complainant and the Complainant's husband;
 - c. The Respondent exchanged text messages and instant messages with the Complainant on a number of occasions which had inappropriate sexual content;
 - d. The Respondent admits that she should not have offered massage therapy services to the Complainant or to the Complainant's husband while having a close personal friendship with both or either of them;
 - e. The Respondent admits that she engaged in remarks of a sexual nature towards the Complainant contrary to paragraph 60(1)(c) of the *Massage Therapy Act*, SNB 2013, c 49 (the "Act") ; and
 - f. The Respondent admits that her conduct digressed from established or recognized professional standards and rules of practice of the profession of massage therapy.
8. Regarding the proposed penalty, the parties propose that the Respondent receives the following summarized sanctions:

- a. The issuance of a reprimand (in force for two years);
- b. A caution;
- c. A licence suspension for a period of one month;
- d. Costs of \$1000;
- e. Fine of \$1,500;
- f. Mandatory ethics course;
- g. Mandatory professional roles and responsibilities course;
- h. If conditions (d) to (g) are not met, the Respondent may be suspended;
- i. Publication of the decision with name.

Decision

- 9. In the determination of an appropriate penalty, the Panel understands that it must take into consideration a number of factors including but not limited to the protection of the public, the reputation of the profession, the specific deterrence of the member and the general deterrence.
- 10. The Panel also understands that when both parties have put forward a joint submission on the penalty, this penalty should generally be accepted if the Panel is of the opinion that the factors listed above are respected in the joint submission.
- 11. The Panel is of the opinion that this penalty will achieve the College's role of protecting the public, will uphold the reputation of the profession and will deter the Respondent and any other member of the College from engaging in similar behaviour.

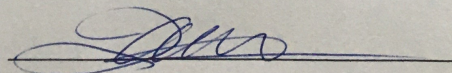
Order

- 12. The Discipline Committee accepts the joint submission of the College and the Respondent and orders that:
 - I. Pursuant to Para. 40(2)(a) of the *Act*, the Respondent is reprimanded for her conduct and this Reprimand shall be recorded in the registration records of the Respondent for a period of two years;
 - II. Pursuant to Para. 40(2)(j) of the *Act*, the Respondent is cautioned that if another complaint is filed against her, this decision and Order may be taken into consideration;

- III. Pursuant to Para. 40(2)(e) of the Act, the Respondent's registration and membership with the College be suspended for a period of one month;
- IV. Pursuant to Para. 40(2)(i) of the Act, the Respondent shall pay a portion of the costs of the College associated with this Complaint, in the amount of \$1,000.00 within twelve months from the date of this Order;
- V. Pursuant to Para. 40(2)(c) of the Act, the Respondent shall pay a fine of \$1,500.00 within twelve months from the date of this Order;
- VI. Pursuant to Para. 40(2)(d) of the Act, the Respondent shall, within twelve months of the date of this Order and at her expense, take a college or university level ethics course for massage therapists, approved in advance by the Registrar, and shall submit evidence of successful completion of the ethics course to the Registrar;
- VII. Pursuant to Para. 40(2)(d) of the Act, the Respondent shall, within twelve months of the date of this Order and at her expense, take a course regarding professional roles and responsibilities, approved in advance by the Registrar, and shall submit evidence of successful completion of the professional roles and responsibilities course to the Registrar;
- VIII. If the Respondent fails to complete the conditions outlined in (IV) to (VII), her registration may be suspended by the Registrar; and
- IX. Pursuant to Para. 40(2)(g), 40(2)(h) and s. 50 of the Act, the Registrar is directed to publish this decision on the College's website and the notice of the decision shall include the Respondent's name. A hyperlink of the decision is to be sent to the membership of the College.

13. This is a unanimous decision and order by the Panel.

Dated this 11th day of July, 2023.

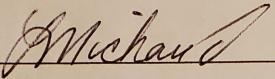


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