

**PROVINCE OF NEW BRUNSWICK**

**IN THE MATTER OF THE *MASSAGE THERAPY ACT***

**AND IN THE MATTER OF COMPLAINT #045 AGAINST LAURA LIRETTE**

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**DECISION OF THE DISCIPLINE AND FITNESS TO PRACTISE COMMITTEE**

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Panel Members:

Jenn Allaert, RMT (Chair)

Edwin White, RMT

Erica Robertson, RMT

Melissa Michaud, Public Member

**Background**

1. On January 25, 2022, CG (the “Complainant”) filed a Complaint with the College of Massage Therapists of New Brunswick (the “College”) against Laura Lirette (the “Respondent”) regarding an incident that occurred at Ms. Lirette’s massage. The Complaint is known as Complaint #045.
2. On February 23, 2022, the Respondent filed a Reply.
3. On April 7, 2022, the Complaints Committee of the College determined that the Complaint relates to professional misconduct, incompetence, or incapacity 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 4, 2022, a Panel of the Discipline Committee (the “Panel”) held a videoconference hearing to determine Complaint #045. The College was represented by counsel Jessica Bungay and the Respondent by counsel Brian F.P. Murphy, Q.C. The Panel was assisted by independent legal counsel Dominic Caron.

## **The Record**

5. The Committee 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 2, 2022;
  - ii. Complaint of CG dated January 25, 2022;
  - iii. Reply of Laura Lirette dated February 23, 2022; and
  - iv. Decision of the Complaints Committee dated April 7, 2022.
6. At the start of the hearing, Ms. Bungay on behalf of the College requested that the Notice of Hearing containing the charges against the Respondent be amended.
7. Mr. Murphy consented on behalf of the Respondent.
8. The charges against the Respondent were, thus, amended and replaced by the following counts:

### **Count # 1**

That Laura Lirette, while a registered member of the College, on January 20th, 2022, provided massage therapy services to [CG] in a therapist-patient relationship and touched [CG] in an inappropriate manner and engaged in behavior that digressed from the established or recognized professional standards or rules of practice of the profession. Thereby, Laura Lirette did commit an act or acts of professional misconduct as defined by subsection 31(c) of the CMTNB Act.

### **Count # 2**

That Laura Lirette, while a registered member of the College, on January 20th, 2022, provided massage therapy services to [CG] without first having obtained a completed patient intake form from Ms. Good. Thereby, Laura Lirette did commit an act or acts of professional misconduct as defined in subsection 31(c) of the CMTNB Act.

## **Joint Submission**

9. The Respondent pleaded guilty to the two counts of professional misconduct.

10. The parties then proceeded to present a joint submission regarding the penalty. The parties submit that the appropriate penalty is:
  - a. The issuance of a reprimand;
  - b. Ms. Lirette be required to take the Ethics and Professionalism course offered by Eastern College, or by another accredited institution as approved in advance by the Registrar, and shall provide evidence of successful completion to the Registrar within 3 months of the date of the Order;
  - c. A suspension of Ms. Lirette's licence for a period of 3 weeks;
  - d. A fine of \$1,000 to be paid by Ms. Lirette to the College within 30 days of the return to practice;
  - e. Ms. Lirette pay the amount of \$1,000 as costs of the disciplinary proceedings to be paid within 30 days of the return to practice; and
  - f. The Registrar be directed to give public notice of the Order.
  - g. Failure to submit the confirmation of completion of the course, or pay the fine and costs in accordance with the established timelines, will result in the suspension of Ms. Lirette registration until the condition(s) are met.
11. During her arguments on the penalty, Ms. Bungay made representations to the effect that the outcome suggested by the parties achieves the College's role of protecting the public.
12. Ms. Bungay then stressed that amongst the mitigating factors, it was important to note that the Respondent recognized that she committed an act or acts of professional misconduct, thus avoiding having to put everyone through a full hearing.
13. Ms. Bungay also referenced prior cases of this Discipline Committee and stated that the sanctions proposed were consistent with the prior cases.
14. Mr. Murphy then made representations on behalf of the Respondent and focused on a number of mitigating factors including his client's clean disciplinary history prior to this incident and her remorsefulness for any harm she has caused.
15. The Respondent then made representations directly to the panel and apologized to the Panel members, to the College and to the members of her community.

## **Decision**

16. 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.
17. 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.
18. 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**

19. 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 cautioned that if another complaint is filed against her, this decision may be taken into consideration;
  - II. Pursuant to Para. 40(2)(d) of the *Act*, the Respondent shall take the Ethics and Professionalism course offered by Eastern College, or by another accredited institution as approved in advance by the Registrar and shall provide evidence of successful completion to the Registrar within 3 months of the date of this Order;
  - III. Pursuant to Para. 40(2)(e) of the *Act*, the Respondent's membership with the College be suspended for a period of 3 weeks;
  - IV. Pursuant to Para. 40(2)(c) of the *Act*, the Respondent shall pay a fine of \$1,000.00 within 30 days of her return to the practice of massage therapy;
  - V. Pursuant to Para. 40(2)(i) of the *Act*, the Respondent shall pay a portion of the costs of the College with respect to this Complaint, in the amount of \$1,000.00 within 30 days of her return to the practice of massage therapy;

- VI. Pursuant to Para. 40(2)(g), 40(2)(h) and s. 50 of the *Act*, the Registrar is directed to give public Notice of the Order against the Respondent on the College’s website and the notice shall include the Respondent’s name. A hyperlink of this Notice is to be sent to the membership of the College.
- VII. Failure to submit the confirmation of course completion referred to in (II), pay the fine referred to in (IV) or pay the costs referred to in (V) above, shall result in the suspension of the Respondent’s registration until the condition(s) are met.

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

**Dated** this   9   day of   June  , 2022

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Jenn Allaert, RMT (Chair)

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Edwin White, RMT

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Erica Robertson, RMT

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Melissa Michaud, Public Member