

**DISCIPLINE COMMITTEE OF THE COLLEGE OF MASSAGE THERAPISTS OF  
NEW BRUNSWICK**

Indexed as: College of Massage Therapists of New Brunswick v. Alice Michaud, 2018 NBCMT 1

**IN THE MATTER OF** a Hearing directed  
by the Discipline and Fitness to Practise Committee of  
the College of Massage Therapists of New Brunswick  
pursuant to Section 38(1) of the  
***Massage Therapy Act***, SNB 2013, c. 49

**BETWEEN:**

**THE COLLEGE OF MASSAGE THERAPISTS OF NEW BRUNSWICK**

- and -

**ALICE MICHAUD, RMT**

**PANEL MEMBERS:**

Joshua D. Lutes RMT	Chair, Professional Member
Jolyane Richard RMT	Professional Member
Jenn Allaert RMT	Professional Member
Edwin White RMT	Professional Member
Lorraine Downing	Public Member

<b>Hearing Date:</b>	<i>July/28/2018</i>
<b>Decision Date:</b>	<i>July/28/2018</i>
<b>Release of Written Reasons:</b>	<i>August/18/2018</i>

**DECISION AND REASONS**

A Panel of the Discipline Committee of the College of Massage Therapists of New Brunswick (the "Panel") held a hearing on July 28, 2018. David J. Shore represented the College of Massage Therapists of New Brunswick (the "College"). Ms. Alice Michaud, RMT (Ms. Michaud or the "Registrant") was absent from the hearing and unrepresented.

J.S. ("Client #1") was absent from the hearing

T.M. (the "Complainant and Client #2") was present and accompanied by a family member.

The hearing commenced and the Panel was informed by the college that the Registrant had submitted an Admission of the Substance of the Complaint, signed July 16, 2018.

## **Allegations of Professional Misconduct**

The Notice of Discipline Hearing dated June 13, 2018, alleged that the Registrant had committed acts of professional misconduct, in that she;

1. Count #1

- a) sexually abused a [client], contrary to section 60(1)(a) of the Massage Therapy Act, SNB 2013, c. 49 (the "Act"), and further did commit an act of professional misconduct as defined by subsection 31(h) of the Act.

2. Count #2

- a) while a registered member of the College, failed to conduct herself in accordance with the principles of integrity and honesty with her client, thereby violating Principle III – Integrity in Relationships of the CMTNB Code of Ethics; and
- b) Failing to conduct herself in a professional manner and failing to refrain from acts which would reflect unfavourably on the profession as a whole.

## **The Registrant's Position**

The Registrant admitted to the allegations set out in the Admission of the Substance of a Complaint and the Notice of Hearing.

The Panel received a written plea which was signed by the Registrant on July 16, 2018. This admission serves as her position regardless of whether or not she appeared at the hearing. The Panel was satisfied that the Registrant's admission was voluntary, informed and unequivocal, despite her absence from the hearing.

## **Evidence**

Counsel for the College advised the Panel that an Admission of the Substance of the Complaint had been signed and a Guilty Plea had been entered.

The parties hereby agree that the following facts may be accepted as true by the Discipline Committee of the College:

### *The Registrant*

1. At the material times, the Registrant was a duly registered member of the College.

### *The Client*

2. Client #1 was a client of the Registrant's at the Max Health Institute in Moncton, NB (the "Clinic") for injuries sustained from a sleigh ride accident December 31<sup>st</sup>, 2014 in Middleton NS.

### *The Complainant*

3. Client #2 was a client of the Registrant's at the Clinic for injuries sustained from the sleigh ride that occurred on December 31<sup>st</sup>, 2014 in Middleton NS. She was living in a common law relationship with Client #1.

### *The Relationship between the Registrant and Client #1*

4. It was agreed that Client #1 was a client of the Registrant's from on or about February 2<sup>nd</sup>, 2016 until September 8<sup>th</sup> 2016. During which time they engaged in a friendship outside of the clinical setting and began seeing each other on a frequent basis.
5. It was agreed that the Registrant engaged in a sexual relationship with Client #1 during the period of their patient-therapist relationship.
6. It was agreed that engaging in a sexual relationship with a patient constitutes sexual abuse as defined by s.60(1)(a) of the Act, and furthermore is an act of professional misconduct in accordance with s.31(h) of the Act.

### *The Relationship between the Registrant and Client #2*

7. It was agreed that Client #2 was a client of the Registrant's from or about May 13<sup>th</sup>, 2016 to July 22<sup>nd</sup>, 2016.
8. It was agreed that the Registrant failed to disclose to Client #2 during the period of their therapist-patient relationship of her social and romantic involvement with Client #1, while knowing that Client #2 and Client #1 co-habited as romantic partners.
  - a) It was agreed that the Registrant failed to conduct herself in accordance with the principles of integrity and honesty, therefore violating Principle III – Integrity in Relationships, of the CMTNB Code of Ethics
  - b) It was agreed that the Registrant failed to conduct herself in a professional manner and thus failing to refrain from acts that would reflect unfavourably on the profession of massage therapy as a whole.

## **Findings on the Allegations**

The Panel accepted as correct all of the facts set out in the Admission of the Substance of the Complaint. The Panel considered the Admission of the Substance of the Complaint and found that the evidence supports the findings of professional misconduct as alleged in the Notice of Discipline Hearing.

## **Position of the Parties on Penalty**

Counsel for the College and the Registrant made a joint submission as to an appropriate penalty and costs order. This included:

Ms. Michaud was made aware that she would not be required to attend the hearing and was in full understanding that an order which may affect her would be made in her absence, and that the reprimand, with the fact of the reprimand and a summary of the reprimand would appear on the public register of the College.

The College of Massage Therapists of New Brunswick (the "College") and Alice Michaud ("Registrant") agree and jointly submit that the following would be an appropriate order as to penalty and costs in this matter:

1. The Registrar is directed to revoke Ms. Michaud's Certificate of Registration effective immediately and indefinitely.
2. Fact of the reprimand and a summary of reprimand to appear on the public register of the College.
3. Ms. Michaud will be exempt from reimbursing the College for the total costs involved in her case with the received signature and submission of the CMTNB Admission of Substance of a Complaint document.

Counsel for the College and the Registrant submitted that the proposed order appropriate and reasonable in light of the facts agreed upon.

## **Reasons for Penalty**

In determining an appropriate penalty for Ms. Michaud, it is the panel's responsibility to give adequate consideration to protection of the public. The Panel must also consider specific deterrence of the member, general deterrence of the profession, maintenance of public confidence in the integrity of the profession and to display the college's ability to self-regulate. In addition the Panel must also consider aggravating and mitigating factors.

The Panel is aware that revocation of a registrant's membership and a reprimand are the usual steps taken in circumstances where there has been a finding of sexual abuse in therapist-client relationship, as this has been the case with Ms. Michaud. As well it had previously been agreed upon by the Counsel for the College and by Ms. Michaud, that upon entering a guilty plea, the costs accumulated during the investigation and discipline proceeding, would not be claimed the College. Having considered all of these factors in this specific case, the panel was in agreement with the three suggested penalties but was not fully satisfied.

The Panel with much deliberation, unanimously decided that a fourth penalty be enforced to fulfil a just and satisfactory reprimand to fit the nature of this case.

4. Penalty Fine in the amount of \$2500.00 be paid to the College within 24 months of the date of the Discipline Committee's order, optionally paid in a lump sum or in 24 equal monthly installments of \$104.16, commencing on the first day of the first month after the Discipline Committee Order becomes final.

This Penalty Fine was ordered at the discretion of the Panel in accordance with ss.40(2)(c) of the Act, as it was felt that the need for specific deterrence, general deterrence, and strong denunciation of sexual abuse required an additional penalty against the Registrant in addition to revocation of her license. The Panel felt this way due to the fact that Ms. Michaud had left the profession to pursue a new career in the same industry as Client #1., prior to learning of the complaints brought against her by Client #2. In the circumstances, revoking the license of a member who had already left the profession does not fully meet the punitive objectives of a sanction for serious professional misconduct.

It is also the unanimous opinion of the Panel that Ms. Michaud's conduct was aggravated not only by her sexual misconduct in respect of Client #1, but also in her breach of trust and lack of integrity with respect to Client #2. The Panel felt that Ms. Michaud's conduct in engaging in a social, and then sexual relationship with Client #2's partner, while treating Client #2 as a healthcare provider, was grossly unprofessional and is an aggravating factor which warrants a monetary penalty in addition to revocation of her license.

With the above explanation the entire Panel feels confident that their ruling of the four penalties to be administered to Ms. Alice Michaud are appropriate in the circumstances.

### **Order**

The Panel stated its findings in its written order of July 28<sup>th</sup>, 2018. In that order, the Panel ordered and directed on the matter of penalty and costs that:

THE DISCIPLINE COMMITTEE FINDS that

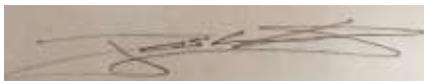
- 1) Alice Michaud, while a registered member of the College, during the period of February 2, 2016 to September 8, 2016, did provide massage therapy services to J.S. in a therapist-patient relationship and did engage in sexual

intercourse with J.S. during said therapist-patient relationship, and thereby Alice Michaud did commit an act or acts of sexual abuse of a patient as defined in subsection 60(1)(a) of the Act, and further did commit an act of professional misconduct as defined by subsection 31(h) of the Act; and

- 2) Alice Michaud, while a registered member of the College, during the period of May 13, 2016 to July 22, 2016, did provide massage therapy services to T.M. in a therapist-patient relationship and did fail to disclose any social and romantic involvement with J.S., while knowing that T.M. and J.S. co-habited as romantic partners, and thereby did commit an act of professional misconduct, to wit:
  - a) Failing to conduct herself in accordance with the principles of integrity and honesty with her client, thereby violating Principle III – Integrity in Relationships, of the College of Massage Therapists of New Brunswick Code of Ethics; and
  - b) Failing to conduct herself in a professional manner and failing to refrain from acts which would reflect unfavourably on the profession of massage therapy as a whole.

THE DISCIPLINE COMMITTEE ORDERS THE FOLLOWING PENALTY:

1. The Registrar is directed to revoke Alice Michaud's Certificate of Registration effective immediately and indefinitely.
2. The Registrar shall provide the fact of the reprimand and a summary of the reprimand on the public register of the College.
3. Ms. Alice Michaud is ordered to pay the Penalty Fine in the amount of \$2500.00 to be paid to the College within 24 months of the date of the Discipline Committee's order, optionally paid in a lump sum or in 24 equal monthly installments of \$104.16, commencing on the first day of the first month after the Discipline Committee Order becomes final.



Joshua D. Lutes, Chairman of Discipline & Fitness to Practice Committee