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ONTARIO MASSAGE THERAPISTS DISCIPLINE TRIBUNAL

Citation: *College of Massage Therapists of Ontario v. Sonsini,* 2026 ONMTDT 16
Date: August 4, 2026
Tribunal File No.: PC-10966

BETWEEN:

College of Massage Therapists of Ontario

College

- and -

Nino Sonsini

Registrant

2026 ONMTDT 16 (CanLII)

FINDING REASONS

Heard: May 4, 5, 6, and 8, 2026

Panel:
Raj Anand (panel chair)
Jennifer Da Ponte (massage therapist)
Matthew Gordon (public)
Jay Mathers (public)
Jayne Webster (massage therapist)

Appearances:
Anastasia-Maria Hountalas, for the College
Edwin Upenieks, for the registrant

RESTRICTION ON PUBLICATION

Pursuant to Rule 2.2.2 of the HPDT Rules of Procedure and ss. 45-47 of the Health Professions Procedural Code, no one shall publish or broadcast the names of patients or any information that could identify patients, including the names of patient family members, or disclose patients' personal health information or health records referred to at a hearing or in any documents filed with the Tribunal. There may be significant fines for breaching this restriction.

The Ontario Massage Therapists Discipline Tribunal is the Discipline Committee established under the Health Professions Procedural Code.

Introduction

[1] The registrant Nino Sonsini treated a patient (referred to in these reasons as “the patient”) at 15 appointments between 2015 and 2023. The College alleges that at the final appointment on June 8, 2023, the registrant treated sensitive parts of the patient’s body without informed or written consent, and he reached under her clothing and touched her back, hips, belly and genitals. The College also alleges that during the period he was treating the patient, Mr. Sonsini engaged in a pattern of three other, less significant boundary violations: routine hugs at the end of each appointment, an invitation to have a drink together, and a flirtatious Valentine’s Day greeting on WhatsApp.

[2] Together, the College submits that the registrant engaged in sexual and physical abuse, breached published standards of the College, treated the patient without consent and engaged in conduct that would reasonably be regarded by the profession as disgraceful, dishonourable or unprofessional (DDU).

[3] The registrant vigorously disputes these allegations, and we heard conflicting testimony from the patient and the registrant, as well as some less significant evidence from the College investigator and another registered massage therapist (RMT).

[4] The College also alleged, and by the end of the hearing the registrant admitted, that he failed to keep accurate financial records for his last two sessions with the patient on June 2 and 8, 2023.

[5] Drawing on our analysis of the credibility and reliability of the witnesses, we have concluded that the College has met its burden of proof on three of the five allegations, including the most serious misconduct on June 8, 2023.

[6] These are our reasons.

Overview of the treatment relationship

[7] Mr. Sonsini has practised out of a home-based clinic called Feldenkrais Health and Movement Centre since 2011. Prior to becoming a Registered Massage Therapist, he had a lengthy career with the Royal Canadian Mounted Police, beginning in 1974. The registrant practises a massage therapy modality called Feldenkrais, which involves

2026 ONMTDT 16 (CanLII)

treating soft tissues and joints using gentle movements over a patient's clothing to help address physical function or pain.

[8] The registrant treated the patient at six appointments between November 8 and December 2, 2015; a pair of sessions a year later, on November 24 and 26, 2016; another pair after a gap of almost three years, on October 18 and 22, 2019; three appointments the following year, on August 21 and 28 and December 15, 2020; a single one two years later, on December 11, 2022; and then the final two sessions six months after that, on June 2 and 8, 2023.

[9] The patient was fully clothed during all of these sessions. The registrant testified that this was always the case with his Feldenkrais treatments. Mr. Sonsini testified that he never put his hands under any patient's clothing.

[10] The patient saw another RMT, Sarah Gedge-Thrasher, on June 12, 2023, and gave her a brief account of what took place four days earlier.

[11] The College alleged that the registrant engaged in a pattern of boundary violations: an invitation to a social interaction, early in the professional relationship; hugging the patient at the end of every appointment; a flirtatious Valentine's Day message to her; and treatment without consent and sexual abuse on June 8, 2023.

[12] The College also alleged that Mr. Sonsini's receipts for the June 2 and 8, 2023 sessions were inaccurate because they included services that were not provided.

[13] As noted, all of these five incidents (or categories of incidents) were disputed by the registrant in his testimony.

[14] In the following sections, we set out the governing evidentiary and regulatory framework. We then apply that framework to the College's allegations by weighing the credibility and reliability of the witnesses, both in relation to individual events and the core or collateral pieces of evidence that the parties relied upon, and as it pertains to our overall assessment of the principal witnesses.

Burden of proof

[15] The College's burden of proof, as in other civil cases, is on a balance of probabilities, based on clear, convincing and cogent evidence.

2026 ONMTDT 16 (CanLII)

[16] There is no onus on the registrant to disprove the College's case, and the panel must be careful to avoid inadvertently shifting the burden of proof onto the registrant: *College of Physicians and Surgeons of Ontario v. Beitel*, 2013 ONSC 1599 at para. 25 (Div. Ct.). At the same time, the Tribunal must not subject the registrant's witnesses' evidence to "a different level of scrutiny" than the College's: *Karkanis v. College of Physicians and Surgeons of Ontario*, 2014 ONSC 7018 at paras. 51 and 71 (Div. Ct.).

[17] As the Divisional Court stated in *Stefanov v. College of Massage Therapists of Ontario*, 2016 ONSC 848 at para. 62:

> [...] sexual abuse is one of the most significant and serious findings that the Panel can make against a member. Given the consequences of such a finding, the Panel is required to act with care and caution in assessing and weighing all the evidence. In doing so, the Panel must ensure that the evidence is of such a quality and quantity as to justify a finding of sexual abuse (*Re Bernstein and College of Physicians and Surgeons of Ontario* (1977), 1977 CanLII 1072 (ON HCJ) [...], at pp. 486-488).

[18] The seriousness of the alleged conduct, and the consequences of a finding, however, do not alter the standard of proof: *F.H. v. McDougall*, 2008 SCC 53 at paras. 40 and 45-49.

[19] As the Divisional Court stated in *Beitel* at para. 30, the Tribunal is not constrained to accept the evidence of the patient or the registrant in its totality. The question is whether, on the whole of the evidence, the College has proven its case on a balance of probabilities.

[20] At the same time, as the Supreme Court stated in *McDougall* at para. 86:

> However, in civil cases in which there is conflicting testimony, the judge is deciding whether a fact occurred on a balance of probabilities. In such cases, provided the judge has not ignored evidence, finding the evidence of one party credible may well be conclusive of the result because that evidence is inconsistent with that of the other party. In such cases, believing one party will mean explicitly or implicitly that the other party was not believed on the important issue in the case. That may be especially true where a plaintiff makes allegations that are altogether denied by the defendant as in this case.

2026 ONMTDT 16 (CanLII)

Sexual abuse

[21] "Sexual abuse" of a patient is defined in s. 1(3) of the Health Professions Procedural Code, Schedule 2 to the *Regulated Health Professions Act, 1991*, SO 1991, c. 18 (Code) as:

> (a) sexual intercourse or other forms of physical sexual relations between the member and the patient,
>
> (b) touching, of a sexual nature, of the patient by the member, or
>
> (c) behaviour or remarks of a sexual nature by the member towards the patient.
>
> (4) For the purposes of subsection (3),
>
> "sexual nature" does not include touching, behaviour or remarks of a clinical nature appropriate to the service provided.

[22] To establish that conduct by a registrant is "sexual in nature," the College must prove that an objective observer would conclude that the complainant's sexual integrity was violated, regardless of the registrant's intention: *College of Physicians and Surgeons of Ontario v. Peirovy*, 2018 ONCA 420 at paras. 16-19 and 50.

[23] The College alleges that the registrant's hands were under the patient's leggings and underwear, and he touched her mons pubis, outer labia and the opening of her vagina, all of which the patient described as distinctly sexual in nature. Mr. Sonsini denies touching any of those parts of her body.

[24] The Code specifically excludes touching, behaviour or remarks "of a clinical nature appropriate to the service provided" from the definition of sexual abuse. The registrant did not rely on this exclusion or deny that the conduct alleged by the patient was sexual in nature. His position was that the conduct on June 8, 2023 that the College relies on as sexual abuse did not occur.

Physical abuse

[25] Subsection 26(1), para. 11 of Ontario Regulation 544/94 made under the *Massage Therapy Act, 1991,* SO 1991, c. 27 (the General Regulation) (s. 26, para. 8 of the version in force at the time of the events) lists physical abuse as an act of professional misconduct. The College relies on allegations that Mr. Sonsini touched the

2026 ONMTDT 16 (CanLII)

patient's body under her clothing, including her back and hips without informed consent, and that the patient felt "violated." The College also relies on the alleged sexual abuse as constituting physical abuse as well.

[26] In *Carruthers v. College of Nurses of Ontario,* 1996 CanLII 11803, the Divisional Court stated that a finding of physical abuse does not require proof of an intention to cause bodily harm, nor a demonstration that such a "hurt or injury" has resulted. "[W]hat must be decided, by thorough canvass of the circumstances, is whether the member's conduct amounted to maltreatment of the bodily integrity of the patient" (*Carruthers*, at p. 21). The court then listed some of the circumstances of the alleged touching that may be relevant:

- the nature of the conduct;
- any words or gestures that accompany the conduct;
- the nature and extent of the force applied by the registrant to the patient;
- the intent, purpose or motive of the registrant; and
- the nature and extent of any consent given by the patent to the registrant's conduct.

Standards of practice of the profession

[27] Under s. 26(1), para. 9 of the General Regulation (s. 26, para. 6 of the version in force at the time of the events), it is an act of professional misconduct to "[contravene] a standard of practice of the profession or a published standard of the College, or [fail] to maintain the standard of practice of the profession."

[28] The Standard of Practice: Professional Boundaries stipulates that registrants must maintain professional boundaries to preserve the trust and respect of the therapeutic relationship and to prevent boundary crossing, boundary violation and abuse. They must recognize that patient participation "is never justification for boundary crossings or violations," and that there is "an inherent power imbalance in the therapeutic relationship." Registrants must "ensure that all spoken remarks, body language and gestures towards [patients] are polite, professional and respectful at all times, and refrain from any behaviour that increases the risk of boundary violation."

2026 ONMTDT 16 (CanLII)

[29] In this case, the College submitted that Mr. Sonsini's conduct toward the patient included at least one social invitation, a goodbye hug at each appointment, and flirtatious conduct on Valentine's Day in 2023.

[30] Under the College's Standard of Practice: Consent, before conducting an assessment or providing treatment, a registrant must obtain the patient's informed consent, which includes a discussion about six elements:

a. The nature of the treatment;

b. The expected benefits;

c. Risks and side effects;

d. Alternative courses of action;

e. Likely consequences of not having treatment; and

f. The patient's right to ask questions about the information provided, and to stop or modify the assessment or treatment at any time.

[31] The Consent Standard also requires registrants to obtain a patient's written informed consent before assessing or treating sensitive areas, which include the upper inner thigh, chest wall muscles, breasts, and buttocks.

[32] There is a dispute in the evidence of the patient and the registrant about whether any of the six elements of informed consent were discussed on June 8, 2023. The parties agree that on June 8, 2023, Mr. Sonsini did not ask for the patient's written consent for the treatment of sensitive areas, and she did not sign a consent form for that purpose. The College submits that the registrant lacked informed consent to touch the patient's back, hip area, inner thighs or belly under her clothing.

[33] These parts of the body are not within the College's definition of sensitive areas, for which there are additional consent, draping and communication requirements. In closing submissions, the College withdrew the allegation that the registrant touched the patient's upper inner thighs.

[34] The College also relies on its Standard of Practice: Prevention of Sexual Abuse, which incorporates an absolute prohibition of sexual abuse by Registrants. Therefore, if

2026 ONMTDT 16 (CanLII)

the registrant touched the patient's genitals under her clothing, there could be no clinical reason and no question of obtaining consent to do so.

Record keeping

[35] Under s. 26(1), para. 5 of the General Regulation (s. 26, para. 26 of the version in force at the time of the events), it is an act of professional misconduct to fail to keep records as required. Registrants are required to keep a financial record that contains the particulars of the treatment they provide, including the date, type of treatment and the fee charged. Section 10 of the General Regulation specifies that

> 10. (1) A financial record shall be kept for each [patient].
>
> (2) The financial record must contain,
>
> (a) the particulars of the treatment or procedure rendered;
> (b) the fee charged for the services provided; and
> (c) a copy or record of the receipt issued for payment of the services provided.

[36] In this case, the College's allegation focused on whether the registrant's June 2 and 8, 2023 receipts accurately recorded the treatment the patient received on those dates. In his testimony, Mr. Sonsini claimed he was justified in what he recorded for that session, but in final argument, he admitted the allegation.

Disgraceful, dishonourable or unprofessional conduct

[37] The College alleges that the registrant also engaged in professional misconduct under para. 38 of s. 26(1) of the General Regulation (para. 44 of s. 26 of the version in force at the time of the events) because he engaged in conduct or performed an act relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

[38] The panel may make a finding of sexual abuse and disgraceful, dishonourable or unprofessional conduct arising from the same set of facts. In *College of Physicians and Surgeons of Ontario v. Schwarz*, 2019 ONCPSD 9 at p. 25, the Tribunal stated that "sexual abuse of a patient violates a patient's trust, autonomy and dignity. Such conduct towards a patient constitutes disgraceful, dishonorable, or unprofessional conduct."

2026 ONMTDT 16 (CanLII)

Credibility and reliability

[39] Credibility refers to a witness's sincerity and willingness to tell what they believe to be the truth. Reliability, on the other hand, relates to the ability of the witness to accurately observe, recall and recount the events in question.

[40] The credibility assessment of interested witnesses, particularly in cases of conflicting evidence, must reasonably subject the testimony of each witness to an examination of its consistency with the overall probabilities and the surrounding circumstances. In this case, those surrounding circumstances include the evidence that we accept or reject from other witnesses. In short, we must decide whether the story provided by a witness is in harmony with the conclusion that a practical and informed person would reach about what probably occurred at the time. See *Faryna v. Chorny*, 1951 CanLII 252 (BC CA) at p. 357.

[41] Credibility is not a proxy for reliability. A credible witness may give unreliable evidence. Very simply, an honest witness may be mistaken: *R. v. Morrissey*, 1995 CanLII 3498 (ON CA); *R. v. H.C.*, 2009 ONCA 56 at paras. 41 and 43; *Stefanov* at paras. 61, 64 and 106. Because of the passage of time between the events and the hearing, the case before us is one example of where this may occur.

[42] While there is no exhaustive list of factors for assessing credibility, we are entitled to consider issues such as a person's "bias, motivation to lie or any other factors that might lead a witness to deliberately distort the truth": *R. v. McKay*, 2011 ABPC 82 at paras. 14 and 17. In *College of Physicians and Surgeons of Ontario v. Beairsto*, 2016 ONCPSD 24 at pp. 15-16, the panel provided a list of several relevant factors. See also Justice Reid's oft-quoted discussion of the factors an administrative tribunal should take into account in weighing the testimony of witnesses: *Re Pitts and Director of Family Benefits Branch of the Ministry of Community & Social Services*, 1985 CanLII 2053 (ONSC).

[43] While a witness's demeanour may be a factor to be considered, "demeanour alone is a notoriously unreliable predictor of the accuracy of evidence by a witness": *R. v. G.M.C.*, 2022 ONCA 2 at para. 68, citing *Law Society of Upper Canada v. Neinstein*, 2010 ONCA 193 at para. 66.

2026 ONMTDT 16 (CanLII)

[44] We must look at all the evidence to assess the impact of inconsistencies about the core issues in the case. In short, a panel may find a witness to be reliable even if there are inconsistencies in their evidence on peripheral or less material issues: *College of Physicians and Surgeons of Ontario v. Yaghini*, 2016 ONCPSD 52 at pp. 19-20, aff'd *College of Physicians and Surgeons of Ontario v. Yaghini*, 2018 ONSC 2449 (Div. Ct.). Inconsistencies on minor matters frequently occur. At the same time, a large number of minor inconsistencies can become significant in our assessment of reliability: *R. v. M.G*., 1994 CanLII 8733 (ON CA) at para. 28.

[45] These principles are important in this case, as in many sexual abuse cases.

[46] For example, in *College of Physicians and Surgeons of Ontario v. Noriega, E. H.,* 2014 ONCPSD 31, aff'd *Noriega v. College of Physicians and Surgeons of Ontario*, 2016 ONSC 924 (Div. Ct.) at paras. 58 and 65-68, a sexual abuse complainant was found to be credible and reliable even though she had a poor memory for many details of her appointments with the physician, including how often she attended, over what period of time, and for what procedures and assessments. She was frank in admitting her poor memory and acknowledging inconsistencies between statements she had made. At p. 27, the Tribunal held that the complainant was "clear and consistent" on the central issue.

[47] The registrant has no obligation to demonstrate that the complainant has a motive to lie, and the absence of an apparent motive to fabricate is not the same as proof that there was no such motive. At the same time, the Tribunal is entitled to "consider the apparent absence of motive to falsify as one factor among many in assessing the patient's credibility": *College of Physicians and Surgeons of Ontario v. Tan,* 2021 ONCPSD 25 at paras. 208-223.

Analysis and finding on the first four allegations

[48] We will consider in turn the four less serious allegations about Mr. Sonsini's conduct – hugging at every session, invitation for a glass of wine, Valentine's Day greeting and record keeping – all of which require findings about the credibility of the registrant and the patient in relation to those specific allegations. These are sufficiently discrete and contained events to permit us to reach findings on these issues before moving to the appointment of June 8, 2023. Our evidentiary and credibility findings on the four less serious allegations provide significant circumstantial evidence that we have

2026 ONMTDT 16 (CanLII)

taken into account in determining the credibility and reliability of the polarized accounts put forward by Mr. Sonsini and the patient about what took place on June 8, 2023.

Hugging goodbye after each session

[49] According to the patient, every appointment ended with a goodbye hug at the door before she left the clinic. She said she did not initiate the hugs, but the registrant would step forward, and after the patient put on her shoes, there would be a hug. They were "very brief," not a long hug. These hugs were part of the routine, and she did not object or take offence. At the same time, the reliability of her evidence that hugs took place after every session is undermined by her limited recollection of the appointments before June 2023, including her admission that she did not know how many appointments took place before June 2023, or how many appointments there were in total.

[50] At the hearing, the patient was not asked whether she viewed the hugs as sexual in nature, but the tenor of her testimony would indicate that she did not. For a period of time up to June 2023, the patient's mother received massage therapy from the registrant, although we did not receive any evidence from her or the registrant about the nature and duration of her mother's treatment relationship with the registrant. We also do not know whether routine hugs, not of a sexual nature, were related to that family relationship or the patient's and registrant's cultural practices.

[51] The registrant denied that he ever hugged the patient. He said he always avoided unnecessary physical contact, and he pointed out that many of their appointments occurred during the COVID pandemic. From that point onward, there were periods when social distancing rules were in place that governed health professionals and the general public. After a certain point, vaccines were available.

[52] We do not have evidence on precisely when the patient as a police officer or member of the public could be, or was obliged to be, vaccinated, and how these periods overlapped with her appointments with the registrant. We do have reliable evidence in the registrant's contemporaneous clinical notes that he performed COVID screens on August 21 and 28, 2020. We have the patient's testimony that she did not get vaccinated until December 2022 or January 2023. At the same time, it is evident that the registrant paid attention to the patient's vaccination status, at least to the extent of noting his understanding or information on December 11, 2022 and June 8, 2023 that she was not vaccinated. We have insufficient evidence to reach firm conclusions about the patient's

2026 ONMTDT 16 (CanLII)

vaccination status at any particular appointment. But the evidence we have clearly supports Mr. Sonsini's testimony that COVID was a reason on its own for him to avoid unnecessary physical contact with the patient such as a goodbye hug. At the same time, we have no reason to conclude that the patient made up the issue of goodbye hugs.

[53] Mr. Sonsini agreed with the College that the hugs that the patient described would be inappropriate in the context of a therapeutic relationship, and hugs were behaviour that could lead to a boundary violation. This appears to be correct; the Professional Boundaries Standard quoted earlier contains no exception for consensual or comforting hugs, which are not clinically justified and for which the patient did not provide any explicit consent.

[54] On balance, we reach the following conclusions. We do not have clear, convincing and cogent evidence, and we are left with uncertainty, that goodbye hugs took place at any specific treatment session before June 8, 2023. We are however satisfied that one or more such hugs did take place before June 8, 2023, and when they did, the registrant breached the Standard of Practice: Professional Boundaries. We have no evidence to indicate that any of the hugs were sexual in nature, but hugging was "behaviour that could increase the risk of boundary violation," the criterion that is set out in the Standard of Practice: Professional Boundaries, or part of "a pattern of boundary-pushing behaviour," as the College submitted.

[55] We therefore conclude that this allegation by the College is proven in part.

Invitation for a glass of wine

[56] The patient testified that early in their professional relationship, when they realized that they shared a background in policing, the registrant invited her for a drink by the fireplace to talk about the stresses of police work. She called this "off-putting," because he was a male practitioner, and she did not follow up. At the same time, she took his offer as a kind gesture.

[57] The registrant denied that this ever happened. His uncontradicted evidence is that he did not drink, and he did not have a fireplace at his home. Mr. Sonsini acknowledged that an invitation for a drink would be unprofessional behaviour that could lead to a boundary violation.

2026 ONMTDT 16 (CanLII)

[58] In these circumstances, we are not satisfied that the patient's evidence is reliable and that Mr. Sonsini made such an invitation. It may be that the registrant said something to the patient in their initial conversations about policing, and without any follow up by either of them, the patient was left with a misunderstanding as to what he had said or intended. For present purposes, however, it is sufficient to state that the allegation has not been proven.

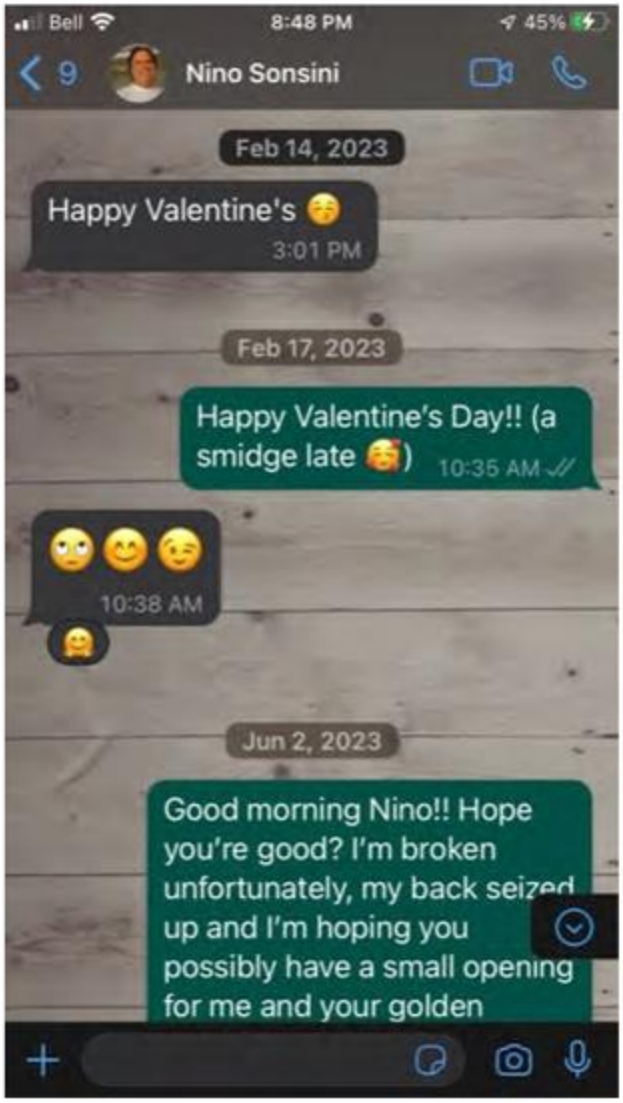
Valentine's Day exchange on WhatsApp

[59] The registrant and the patient scheduled appointments using WhatsApp messages, phone calls and in person while she was at the clinic. As requested by the College's investigator, the patient produced a copy of her WhatsApp messages with Mr. Sonsini from 2023 onward. The registrant testified he was unable to produce his WhatsApp messages, because his phone had limited storage and therefore he had deleted them and was unable to recover the messages.

[60] At the hearing we received what the patient put forward as messages between her and the registrant from February 14 to June 2, 2023. Their last appointment before this exchange was about two months earlier, on December 11, 2022, and the next one was on June 2, 2023.

[61] The screenshots provided by the patient began with an exchange on February 14 and 17, 2023 that began with a Valentine's Day greeting from Mr. Sonsini to her. It was in her phone, with his picture, as reproduced below from Ex. 5 at the hearing.

2026 ONMTDT 16 (CanLII)



[62] The WhatsApp messages resumed on June 2, when the patient asked for "a small opening for me and your golden hands" because her back had seized up. Several pages of messages followed, all of them on June 2, and there is no dispute that those messages were sent and received. First, the patient and the registrant set up what turned out to be the June 2 appointment that afternoon. After the June 2 appointment, they set up the June 8 appointment, and the registrant provided some advice about exercises the patient could do in the meantime.

2026 ONMTDT 16 (CanLII)

[63] The College's allegation relates to the February 14 and 17 exchange. The patient described the registrant's February 14 "Happy Valentine's" message with a kiss emoji as "weird." She waited three days and then responded in kind.

[64] Mr. Sonsini denied that he sent the Valentine's Day message at all. When the College's investigator asked him about it, without showing him a copy, he told her he did not remember it. Later he said he did not recall sending it. At the hearing, Mr. Sonsini denied sending the message, but did not suggest he had sent it by accident. He asserted at one point that the patient had deleted key messages, although he did not deny sending all of the other messages in the screenshots that corresponded with the patient's treatment dates.

[65] In his closing submissions he alleged that the patient had "selectively" complied with the case management direction to produce all of her messages with the registrant, but the direction pertained only to 2023, and there is no evidence that messages were sent outside the February to June time frame that year.

[66] The registrant did not provide any evidence or consistent explanation of how the February 14 message was sent from his account to hers.

[67] If Mr. Sonsini did not send the Valentine's Day message to the patient, he would presumably have said so at the first available opportunity. In his reply three minutes later, the registrant did not say it was not his Valentine's Day greeting. In his testimony, Mr. Sonsini denied that his three emojis signified an eye roll (since she had taken three days to reply), a blush and a wink. He denied he was flirting with the patient.

[68] He testified that they meant "what is this all about?", which is not an obvious conclusion, and he certainly did not state in plain and professional language that the Valentine's Day greeting did not come from him. Indeed, there is no evidence in the many messages that ensued, or at any later point, that he apologized or provided an explanation to the patient.

[69] We do not accept Mr. Sonsini's denial that he sent the Valentine's Day message, his explanation of his reply message, or his claims that the patient tailored the evidence in some way. The registrant breached the Standard of Practice: Professional Boundaries. He did not ensure that his communications with the patient were "polite, professional and respectful at all times," and he failed to recognize that patient

2026 ONMTDT 16 (CanLII)

participation “is never justification for boundary crossings or violations,” and that there is “an inherent power imbalance in the therapeutic relationship.” As a result, Mr. Sonsini engaged in “behaviour that increases the risk of boundary violation.”

Record keeping

[70] The registrant was required to keep a financial record containing the particulars of the treatment he provided, including the date, type of treatment and the fee charged. After the close of evidence, he acknowledged that his June 2, 2023 receipt was in error because it stated that the patient received laser therapy, and the June 8, 2023 receipt was in error because it stated that the patient had received laser therapy and kinesiology taping, when she did not receive these services on those dates. Accordingly, he admitted a violation of s. 10 of the General Regulation and a breach of s. 26(1), para. 5 (formerly s. 26, para. 26) of the General Regulation.

[71] It is nevertheless worth noting the path that was followed at the hearing to reach that result. In his testimony, he denied any breach of his record-keeping obligations, despite having explicitly admitted the deficiencies in his September 2024 response to the College investigation. When the registrant was cross-examined about this at the hearing, he denied responsibility by giving a surprising explanation. He claimed that the pre-printed forms he used for receipts included all the services he provided, and he was not required to cross out or remove laser therapy and kinesiology taping from the form when he didn’t provide them because they were services that he delivered on other occasions when requested as part of the fee he charged. Mr. Sonsini claimed that his receipts were accurate, even though they recorded services as provided to the patient that could have been but were not delivered.

[72] We refer to this evidence, despite his concession in final submissions, for this reason. Like his explanation of the meaning of “NV,” which we consider below, his testimony on the proper content of any receipt was confusing, illogical, and relevant to our assessment of the registrant’s credibility as a witness on the central evidentiary dispute about their last appointment.

Analysis and finding on the June 8, 2023 incident

[73] The patient received treatment from many health practitioners, principally for injuries suffered as a police officer since 2014. Ms. Gedge-Thrasher, the other RMT the

2026 ONMTDT 16 (CanLII)

patient saw, referred her to the registrant for pain relief through massage therapy using the Feldenkrais modality. The patient typically wore athletic clothes, and the registrant performed treatment over her clothing. At each treatment session, they would discuss her reason for coming in. The registrant would tell her his treatment plan and give her direction on what she should do. We did not hear about any session in which the patient rejected a proposed treatment or signed a written consent for the touching of sensitive areas of her body.

[74] The patient saw the registrant in June 2023 for low back pain. She had been sitting at a high-top table on a bar stool when she felt a shooting pain up her back. They arranged a session on June 2, and June 8 was a follow-up appointment.

[75] The photographs of the clinic showed a treatment table with a stool next to it where the registrant sat while treating his patients. One end of the table was closer to the clinic's front wall with the clinic's entrance doors. Beyond the other end of the table was the registrant's office area. Sitting at his desk, he would be facing the treatment table, with his framed certificates on the back wall of the clinic behind him. Lying on the table, a patient would have on one side, a wall parallel to the table just a short distance away, and on the other side, an open space leading to a waiting area.

[76] We will first describe the evidence of the registrant and the patient on the core issue about the areas of her body that he touched in the course of the June 8 appointment. After providing our observations on their conflicting testimony, we will then address several of the surrounding circumstances and context that the College and the registrant put forward to support their evidence on the central question.

[77] Those surrounding circumstances and context include a large number of incidents and events during the eight years of their professional relationship in which the patient and the registrant gave very different and irreconcilable evidence at the hearing. For the most part, the College put forward this evidence to support its allegation that the registrant engaged in a pattern that included three prior boundary violations, while the registrant used this evidence to support his submission that the patient lacked credibility.

The registrant's account of the June 8 appointment

[78] Mr. Sonsini's account of the June 8 appointment was as follows. The patient arrived on June 8 dressed in a waist-length black leather motorcycle jacket and jeans.

2026 ONMTDT 16 (CanLII)

He asked her how she had been since the June 2 treatment, to which she replied she was still in pain and “couldn’t even walk.” He saw from her gait that she had pain on her right side. He also knew she had previously reported kidney stone and sacral and lumbar spine issues.

[79] The registrant’s plan was therefore to do low grade joint movements to do gentle lengthening of the muscles instead of stretching them. He said the patient gave her verbal consent.

[80] The registrant described the general practice he said he followed at every appointment, and he applied this to the June 8, 2023 session with the patient. This involved treating the patient while she was lying on the table in three positions in turn.

[81] First, he sat on the stool between the table and the wall (on the right side of the table as viewed from the entrance doors), and the patient lay on her right side, where there was “extreme pain,” so that the registrant could treat the left side of her body. Her back faced him, and her head was closest to the office area and the back wall. After completing treatment in that position, he remained on the stool in the same location, while the patient turned 180 degrees to lie on her left side, again facing away from Mr. Sonsini. At this point her head was facing the clinic entrance. In that position, he treated her right side of her body.

[82] Next, according to Mr. Sonsini, the patient turned onto her back and bent her knee. The registrant completed low grade joint mobility of her right leg by using his right hand to flex and extend her leg. He also lengthened the psoas muscle, pressing his left hand in and up underneath her rib cage about three or four times. The registrant said he kept his left hand at the line between her belly button and her pelvic bone. He then repeated this treatment on her left leg. Mr. Sonsini said at this point, the patient told her this reduced the pain, and she was feeling better.

[83] After swaying the patient’s left and right legs, he extended her back by having the patient sit up at the end of the table, facing away from him toward the doors, and he supported her spine by placing his knee and lower leg against her. This brought her shoulders back and helped to open her chest muscles.

[84] The registrant said that throughout the session, he checked in with the patient to ensure she was not uncomfortable or in pain. At the conclusion, she told him she was

2026 ONMTDT 16 (CanLII)

feeling better. He did a gait check by having her walk across the room. She confirmed she could walk, and she felt better.

[85] Mr. Sonsini denied touching the patient in a sexual manner. He denied touching her groin, genitals, belly, pelvis, or any other part of her body under her clothing. He acknowledged touching her neck and ankles, which were not covered by clothing.

[86] The registrant said, and the patient did not dispute, that he told her he would not be offended if she did not return for further treatment. For Mr. Sonsini, this reflected his view that she had sufficient access to specialized care from other healthcare practitioners, and he felt limited in how much he could assist her.

2026 ONMTDT 16 (CanLII)

The patient's account of the June 8 appointment

[87] We now summarize the patient's account of the same appointment, which was very different.

[88] She said she was wearing three-quarter length Reebok leggings, as she typically did at such appointments, ending just below her knee. She wore a Lululemon long-sleeved top with thumb holes, a Lululemon sports bra with thin shoelace straps that crossed her back, and underwear. They discussed her injury, but there was no discussion about the areas of the body the registrant would be treating at this follow-up appointment, or about the risks or benefits of treatment, and she did not ask any questions. She anticipated the registrant would treat her lower back, to address the injury she had identified before the June 2 appointment.

[89] The patient said she got on the treatment table, with her head at the end that faced the door. The registrant instructed her to lie on her left side, so the wall was behind her back, and she was facing the open area on the other side of the table. The registrant sat on the stool between the table and the wall, behind her back.

[90] Mr. Sonsini started at her feet and worked up the side of her leg, with small "tweaking" and "stretching" movements of his hands. When he reached her waist, he put a hand under her shirt and touched her back over her bra. He had never put his hands under her clothes before that, and at this session he did not advise her, ask her permission or give an explanation before doing so.

[91] At the registrant's direction, the patient then turned onto her back, and he moved from her right-hand side to the end of the table, behind her head. From his position, closest to the door, he adjusted her neck, which she said was "usual" in her appointments.

[92] Then Mr. Sonsini returned to the patient's right side, between the table and the wall. There he put his left hand down her pants and into the hip joint or crease. He was "digging into that area…with small maneuvers, and was helping with the pain." He asked the patient to move her leg up and down, and when she did it incorrectly, he grabbed her foot with his right hand, slid her leg up and down the table, and "tweaked inside the [hip] joint." The registrant was working in the right joint area, and kept moving his hand closer to her genitals, "but never arrived there." His left hand was under her pants, but not in her underwear.

[93] Mr. Sonsini then moved his hand, and she felt it "swipe" from her right hip joint to her left hip joint. She described this as moving across her "belly," covering the area where each leg meets the hip joint on that side. At that point she realized his left hand was in her underwear. He dug into her left hip joint, again with small maneuvers, and guided her foot to slide up and down each time. It was painful, but it was releasing the pain she was having at the same time. The patient said his hand moved lower into her genitals with each leg movement up and down, with his hand resting on her pubic bone. She could feel one or two fingers on her outer labia, at the top of her vagina. He did not penetrate her vagina. Her eyes were closed, but she recalled the feeling of the registrant's hands and finger.

[94] In her testimony, the patient tearfully said she felt "violated," but did not react verbally or physically during this portion of the treatment; she was just waiting for it to end. She felt better physically and was able to sit comfortably on the stool across from the registrant's office desk to pay his invoice and confirm her mother's appointment with him for the following day.

[95] The patient testified that after she paid her bill, she put on her shoes, and the registrant gave her a hug goodbye and "shuffled" her out the door. (As noted, Mr. Sonsini denied that he hugged the patient at any time.)

[96] She said she left the clinic crying and trying to understand what had happened. She entered into a dark time, with her trust broken and things "thrown upside down." Her

2026 ONMTDT 16 (CanLII)

confusion was heightened by the effect it would have on her mother's continued healthcare relationship with the registrant if she came forward.

[97] During the College's investigation, the patient prepared body charts, annotated in her handwriting, illustrating the touching she says occurred at the June 8 appointment. We received her chart and her testimony about it without objection from the registrant. We did not, however, admit the evidence as a prior consistent statement, but rather simply to clarify the description she put forward in her testimony about the precise positioning and physical areas of her body during the interaction.

2026 ONMTDT 16 (CanLII)

Core and surrounding circumstances relevant to the June 8, 2023 allegations

[98] In assessing the competing accounts of the June 8 appointment, there is little room for compromise. The patient and the registrant agreed on the reason she sought treatment, and the pain reduction that he would strive to achieve. While there was no discussion about the parts of her body he would target, the patient expected he would treat her lower back, because that was the area of the injury that she identified to him. Their accounts of what took place after that were widely divergent.

[99] Mr. Sonsini described a session that followed his general practice in discussing a patient's health concerns, describing and obtaining the patient's consent to his intended Feldenkrais treatment, and delivering the agreed service. The patient described a session that was unique in her experience with the registrant over the eight years of their professional relationship. He had never put his hands under her clothing or used them to reach parts of her body he was prohibited from touching.

[100] We make the following observations, based on the two witnesses' testimony about the June 8, 2023 appointment, as well as the overall context that includes our findings on the other four allegations. Taken together, they support the conclusion that the patient's evidence on the core issues relating to that event is credible and reliable.

[101] Both the patient and the registrant were interested witnesses, but the parties did not put forward evidence that either of them had a particular motive to lie or mislead the Tribunal.

[102] There was however a significant contrast in the manner in which the two witnesses gave their evidence, and from our observation they had different weaknesses in terms of credibility and reliability.

[103] The patient had little recollection of her 15 appointments with the registrant. She had not been given the clinical record to review in advance of the hearing. We have commented on the accuracy of her recollection with respect to the “hugging” and “invitation to wine” incidents.

[104] Nevertheless, the patient appeared to have a precise and detailed recollection of what took place at the June 8, 2023 appointment. She was careful and measured in what she said, and how she said it. She gave a methodical account of the sequence of steps that the registrant took, her physical positioning at each stage, and her perceptions of the locations where she felt his hands or his fingers touching her body. It appeared to us that she did not exaggerate the areas of her back, hips, and genitals that the registrant reached. She drew a vivid contrast between this appointment and previous ones in terms of the registrant going under her clothing for the first time, and we accept that she was not mistaken.

[105] Early and often in her testimony about the appointment, the patient gave the registrant credit for having accurately assessed and treated the pain issue she brought to him.

[106] The registrant, on the other hand, appeared to be less objective in his approach to the case. This was manifested during his own testimony and his counsel’s cross-examination of the patient. Mr. Sonsini made extensive efforts, which to some extent deflected attention from the allegations before us, to attack the patient’s credibility by impugning various aspects of her character on a personal and professional level. In our view, those efforts to adduce evidence that would reflect unfavourably on the patient were largely unsuccessful.

[107] For example, he accused the patient at one point of altering the WhatsApp messages, but later withdrew the claim. When the College’s investigator appeared as a witness, the registrant belatedly attempted to challenge her investigation by taking issue with her communications with him and requests for information that are typical of professional regulatory investigations. The registrant withdrew the challenge during the

2026 ONMTDT 16 (CanLII)

hearing, but when he later testified, and in his written closing submissions, he returned on his own to criticism of the investigation procedures.

[108] In terms of ability to recall details of the June 8 session, Mr. Sonsini relied heavily on his general practice in providing such Feldenkrais treatments. In his testimony, he set out an idealized account of the steps he takes and the positioning of his patients in every case. Understandably, his account includes adherence to all regulatory requirements and appropriate massage therapy practices. It includes, according to his testimony, administering treatment over the clothing of his patients, and the prohibition on touching sensitive areas without express consent and touching the patient's genitals in any circumstance.

[109] Reliance on general practice can be a useful tool for professionals to recount the details of what probably occurred in one of a large number of similar patient encounters and treatments. However, there are limitations. No two appointments are identical. In addition, intentionally or inadvertently, usual practice may not be followed where circumstances are exceptional or unusual. In particular, even if the evidence shows that regulatory obligations – including the prohibition of sexual abuse – were met as a matter of general practice, that does not exclude the possibility that a breach took place on a particular occasion.

[110] Some of the context at the close periphery of the core issues about June 8 did not reflect well on the registrant's credibility.

[111] For example, a complication arose out of Mr. Sonsini's reliance on his clinical notes to support his claim that the patient was an anti-vaxxer. As noted, he wrote "NV" in the patient's health history form for two appointments. His transcription, which was filed in evidence, recorded this as "non vaccinated." But in his testimony, he put forward and persisted in the assertion that "NV" was a short form for three very different statements: he had confirmed that the patient was unvaccinated, still off duty from her job as a result of her vaccination status, and still seeing a psychotherapist.

[112] As another example, Mr. Sonsini testified that his notation "some emotional family issues" was a record of the patient's increasing instability. The terms do not have the same meaning, and if instability was important to the patient's massage therapy treatments, the registrant made no reference to it in his clinical notes.

2026 ONMTDT 16 (CanLII)

[113] On the central aspects of what occurred on June 8, the two witnesses gave very different descriptions of the sequence of steps the registrant took. According to the patient, she was in two positions in total. Her head was always facing the door, and in sequence, she lay on her left side, with the registrant behind her back, and then she lay on her back, with the registrant moving to the end of the table, closest to the door. The patient, who was in pain, particularly on the right side of her body, did not have to change her orientation on the table. She just moved from a leaning to a lying position.

[114] The patient was not challenged about this sequence in her cross-examination, but the registrant then gave testimony that was inconsistent with the patient's in several ways, quite apart from the nature and extent of his touching of her body. We accept the patient's description of her positioning, for several reasons.

[115] First, Mr. Sonsini stated that the patient started at the opposite end of the table, with her head closest to the desk. While the disputed physical touching could have occurred regardless of the patient's orientation on the treatment table, her positioning was central to both witnesses' recollection and their testimony about the treatment as a whole. Contrary to the rule in *Browne v. Dunn*, the registrant's intended evidence was not put to her, and her response if it had been suggested to her might have been helpful in assessing the reliability of her overall recollection.

[116] As the Court of Appeal stated in *R. v. MacDonald*, 2025 ONCA 807,

> [57] … [The *Browne v. Dunn* principle] is a 'confrontation principle in the context of cross-examination of a witness for a party opposed in interest on disputed factual issues' [citation omitted]. The rule applies when counsel intends to challenge the witness's credibility either by calling contradictory evidence or making submissions to the trier of fact that tease out contradictions….
>
> [58] …Where the cross-examining party wants to challenge a witness's credibility on a core point, the witness should be given the opportunity to comment. Not only is this fair to the witness, it is also fair to the opposing party who can respond as appropriate while time still permits, and it is fair to the trier of fact who is ultimately charged with the responsibility of making the credibility assessment.

2026 ONMTDT 16 (CanLII)

[117] We are entitled to give greater weight to the patient's testimony because she was not given the opportunity to respond to the registrant's entirely different placement of her body on the treatment table: *MacDonald*, at para 60. We prefer her testimony on this important point for this reason, and for two additional reasons that we consider below.

[118] The second point about positioning was the registrant's evidence that she occupied four positions in sequence – on her right side, her left side, her back and seated – rather than three. This is central to the narrative of what took place in the session. It is unlikely, in our view, that the patient was first directed to lean on her right side, which was the site of "extreme pain," so that the registrant could work on her left side.

[119] Third, we do not accept that in her condition, the registrant would require the patient to rotate her whole body by 180 degrees, while he remained in the same location. This point is also central to the two witnesses' recollection of the event. According to Mr. Sonsini, he sat on the stool, behind her back, between the table and the wall, rather than rolling the stool around to the other side of the table. Therefore, the patient, in pain, was forced to "flip" her body 180 degrees, lean on her left side, head facing the door, so that the registrant could stay in the same place. All this was required so that he could work on her right side, which was the "pain site" for which she came to him for therapy.

[120] Mr. Sonsini's version of this positioning, which seems illogical on its face, was not put to the patient to allow her an opportunity to explain whether it made sense to her. While inappropriate touching could have taken place in either scenario, the witnesses' recollection of how the treatment took place is a core element of the allegation, which supports the reliability of the patient's evidence of what occurred.

[121] Another central element of disputed fact was the patient's clothing at the June 8, 2023 appointment. We prefer the patient's testimony that she was wearing leggings and a long-sleeved top, not a biker jacket and jeans as Mr. Sonsini recalled. The patient gave evidence that the type of outfit she was wearing that day (as opposed to jeans) was typical of what she wore to sessions with Mr. Sonsini. For massage treatment over her clothes, that seems logical, and she was not challenged in her testimony about her typical clothing. As noted, the registrant tied his recollection of her clothing to his allegation that she was riding a motorcycle and leaving it outside his clinic. We consider and reject that evidence below.

2026 ONMTDT 16 (CanLII)

[122] The patient pointed to the time of year to suggest that a biker jacket and jeans would be warmer than required. In final written submissions the registrant submitted a screenshot of one weather app that was not introduced, authenticated, explained, or put to the patient for her response. Mr. Sonsini's submissions contain his interpretation of what it says. We give the document no weight. If the screenshot is genuine and reliable, it appears to give the temperature as 19 degrees, which does not assist us in resolving the dispute over the patient's clothing.

[123] The registrant also claimed the patient was angry when she came to the appointment. It is not clear why that would be relevant to the question about what occurred that day, but it appears to be one of several ways in which the registrant sought to challenge her credibility by criticizing her manner and her mental health, and her actions more generally as an individual, as a police officer and as a patient. For the most part, these attempts to malign the patient and divert attention from the core issues failed in our view and did not enhance the registrant's credibility as a witness seeking to recall matters accurately and present his evidence objectively.

[124] The evidence did not indicate that the patient did or said anything on June 8, 2023 that would suggest she was angry, or that her state of mind was relevant in any way to what took place at the session. When asked about being angry, or being angry about her pain, she responded that she was in pain, not angry.

[125] In cross-examination of the patient and in his own testimony, the registrant returned to several variations on this theme that she was angry. He said she was wearing a biker jacket, and when he asked her if she had a bike, she became angry, said "what f-ing bike, I can hardly walk." Again, this was not put to the patient in cross-examination.

[126] Another accusation about the patient being angry at the June 8, 2023 appointment related to an incident in which she pulled a gun in the presence of her police partner during an interaction with an individual brandishing a knife who would not get into their police cruiser. Mr. Sonsini testified that she raised this when she was paying her bill at his desk after the treatment. According to him, she was wearing her biker jacket, telling him about the troubles she was having at work. When her partner tried to restrain her, she used a profanity to tell him to shut up, and she threatened to

2026 ONMTDT 16 (CanLII)

shoot him first. Mr. Sonsini returned to this incident several times, testified about it in great detail, and volunteered at the hearing that she should have been fired.

[127] The registrant was not present at the incident with the accused person, and he was relying on what he said the patient herself volunteered at the conclusion of the June 8 appointment. The patient provided a very precise account of the incident. It occurred in June, but it was June 10, 2019. When the date was pointed out to the registrant, he said she had initially told him about it before. According to the patient, she pulled out her gun because she perceived that accused person to be dangerous, and there was no threat directed at her partner. There was no mention of this dramatic incident or any concern expressed about it in the registrant's clinical notes at any time. He did not refer to it at his College investigation interview.

[128] We cannot accept any part of the registrant's account of the patient's anger and preoccupation at the June 8, 2023 session about the policing incident he described to us, some of which occurred in a different way four years earlier. Mr. Sonsini's credibility as a witness and the reliability of his account of his relationship and interactions with the patient was diminished by his effort to bring it into the June 8, 2023 appointment, to exaggerate what occurred in 2019, and to use it to tarnish the patient's competence as a police officer, her work history, and her mental stability.

[129] There was in fact only one reference to personal issues in Mr. Sonsini's records of the 15 appointments between 2015 and 2023. The patient's health history form for October 18, 2019 (like other dates) refers to tension, stress and pain, and on this date there is a general note referred to above that the patient "has gone through some emotional family issues." The patient testified that she had had some work issues, not family issues. She gave precise evidence about several injuries she suffered at work.

[130] The registrant claimed on several occasions that the patient had work-related problems, and was not permitted to carry a gun. She explained that she was on health leaves, and for that reason she lost the right to carry a gun until it was restored after her return to work. The registrant testified that the patient asked for medical notes from him on two occasions, but he was unable to provide them, and he used this to suggest that she was upset with him. In fact, the patient's absence from work was governed by workers' compensation, and she did not require a note from the registrant. She testified

2026 ONMTDT 16 (CanLII)

that she did not ask him for such notes, and Mr. Sonsini's records contain no reference to notes being requested or refused.

[131] The registrant's recollection of this exchange about the gun incident at the June 8, 2023 appointment was tied to his memory of the patient wearing a biker jacket, which we have rejected.

[132] As we suggested earlier, the registrant tended in his testimony overall to recount his general practice, which at times appeared to be an idealized version of events which did not seem accurate.

[133] For example, even though he and the patient both had policing backgrounds, and despite most of her appointments arising from workplace injuries, he said he did not talk to the patient about what was going on in her life; he just listened. That is directly contradicted by his February 29, 2024 email to the College investigator, in which he stated, "[W]e always talk about police work, crime and stresses around the work." (He went on to say, "Client at the end of sessions likes to talk [sic] I am the one to say I am busy.") The patient said they talked about "everything and nothing," which we accept as a more realistic summary of this collateral issue.

[134] A more pointed example related to Mr. Sonsini's notation "NV" in his treatment notes.

[135] The patient and the registrant gave conflicting evidence on whether she was an "anti-vaxxer." Again, Mr. Sonsini testified on collateral issues, apparently with the goal of casting doubt about her mental health and undermining her reliability as a witness. His evidence included the following, with brief annotations of the patient's response:

- The patient objected to being vaccinated against the COVID-19 virus (denied);
- She would not wear a mask (not put to the patient);
- She got into trouble because of this with her employer, the police service (denied);
- She said the COVID vaccine contained chips that her employer would use to track her (not put to the patient);

2026 ONMTDT 16 (CanLII)

- She told him the police were following her because she would not get vaccinated (not put to the patient);

- She told the College investigator that the criminal justice system (which she was a part of) did not work;

- When the patient arrived for her June 8, 2023 session in a motorcycle jacket and jeans, Mr. Sonsini asked her whether she left her motorcycle outside (denied);

- On her way to an August 21, 2020 appointment, she called to ask whether there were any “strange” cars in front of the clinic. When the patient arrived, she told the registrant that she thought she was being followed because the police service suspected officers of being off work for medical or psychological reasons because they did not want to be vaccinated. (Denied. The parties also agreed that there were no vaccines available on August 21, 2020); and

- In the registrant’s email dated February 29, 2024 to the College’s investigator referred to above, he made reference to the patient being “on stress because refusal of COVID vaccine.” (Not put to the patient. We admitted the document as rebutting the suggestion in cross-examination that he had not raised this issue before. The document was not admitted as a prior consistent statement of fact.)

[136] None of Mr. Sonsini’s evidence summarized above was suggested in any way by his clinical record, and there is no evidence that the registrant took any steps to assist the patient with what he asserted were irrational and apparently fictitious claims in some cases. If true, much of the information he put forward to attack her credibility would have been important and troubling to him in their therapeutic relationship at the time, not solely to be volunteered later in a College investigation or a Tribunal hearing. We do not accept Mr. Sonsini’s assertions about the patient in the bullet points listed above.

[137] There is insufficient evidence to resolve whether the Patient had an objection to being vaccinated against the COVID virus at any time. Moreover, this is a distinctly collateral issue that the registrant raised to portray the patient as erratic or lacking in judgment. The inconclusive evidence on this point was as follows.

[138] In his closing submissions, the registrant’s counsel stated without adducing evidence that “COVID-19 vaccines first became available to frontline workers” on

2026 ONMTDT 16 (CanLII)

December 15, 2020. His clinical notes for August 21, 2020 stated that the patient called on her way to the appointment to ask him "whether I'd seen any strange cars." The patient denied having an objection to vaccination and testified that she was first vaccinated in December 2022 or January 2023. The registrant recorded "COVID-19 pre-screen" in her clinical records for August 21 and 28, 2020, and the next appointments were on December 11, 2022 and June 2 and 8, 2023. For December 11, 2022 and June 8, 2023, but not for June 2, 2023, Mr. Sonsini wrote "(NV)".

2026 ONMTDT 16 (CanLII)

The patient's actions following the June 8, 2023 incident

[139] Mr. Sonsini attempted to undermine the patient's testimony because she did not record, report or react to the alleged misconduct, including most prominently sexual abuse, when she had an opportunity. He made six assertions, all of which implicate stereotypes about the manner in which victims of sexual abuse are expected to behave.

[140] The Health Professions Discipline Tribunal has applied the established Supreme Court jurisprudence on these impermissible stereotypical assumptions. For example, in *College of Physicians and Surgeons of Ontario v. Aboujamra*, also a sexual abuse case, the Tribunal noted:

> [77] As the Supreme Court of Canada stated in *R. v. D.D.*, 2000 SCC 43 at para. 65:
>
> > A trial judge should recognize and so instruct a jury that there is no inviolable rule on how people who are victims of trauma like a sexual assault will behave. Some will make an immediate complaint, some will delay in disclosing the abuse, while some will never disclose the abuse. Reasons for delay are many and at least include embarrassment, fear, guilt, or a lack of understanding and knowledge. In assessing the credibility of a complainant, the timing of the complaint is simply one circumstance to consider in the factual mosaic of a particular case. A delay in disclosure, standing alone, will never give rise to an adverse inference against the credibility of the complainant.
>
> [78] The reasoning in *D.D.* is not confined to delays in reporting; there is "no rule as to how victims of sexual assault are apt to behave" (*R. v. Kiss*, 2018 ONCA 184 at para. 101), and a "lack of avoidant behaviour or lack of change in

behaviour, must never be used to draw an adverse inference about a complainant's credibility" (*R. v. A.R.D.,* 2017 ABCA 237, at para. 64).

[141] For that reason alone, we give the registrant's evidence on the patient's actions in response to the June 8, 2023 event little weight in assessing the patient's credibility. In addition, each of the registrant's assertions is weakened by the context in which it arises.

[142] First, Mr. Sonsini pointed out that the patient's VISA receipt for the June 8 session showed a time of 3:44 pm. If the appointment started on time at 2 pm and took one hour, that would mean she did not leave immediately. He suggested that that was inconsistent with the patient having suffered a traumatic event. We do not have to decide whether this was an accurate time frame. There is no usual or common-sense way for an individual to respond in the immediate aftermath of sexual abuse. Moreover, the registrant himself stated in his February 29, 2024 email to the College investigator that "client at the end of sessions likes to talk. I am the one to say I am busy. She is free to go anytime."

[143] Second, the registrant pointed out that the patient was a police officer, who was trained to take contemporaneous notes. It is not at all clear that this is what is expected in the circumstances of a police officer who has attended her own healthcare appointment, or for that matter in the circumstances of a police officer who is acting as a private citizen.

[144] Third, the patient did not report the alleged sexual abuse to the police. At the same time, the registrant pointed her to the College investigator's report, which stated her view that the criminal justice system was broken. We also heard that the patient did not file a complaint because she did not initially want to be identified, but she was told by her therapist that she would have to come forward for the College to proceed with an investigation. Therefore, quite apart from the impermissible presumption about an alleged victim's behaviour in reporting abuse, the context included reasons (which were not put to the patient) for an understandable reluctance to be a complainant.

[145] Fourth, the patient was questioned on her reporting of the June 8, 2023 incident to her other health professionals. It is difficult to see how she could be accused of delay or any other shortcoming in reporting, when we received the evidence of her regular massage therapist, with whom she raised the issue four days later. She also spoke to

2026 ONMTDT 16 (CanLII)

other health professionals in the following weeks, because she was trying to understand what had occurred at the June 8 appointment, and whether it formed part of any accepted modality of treatment that these other therapists would provide.

[146] Fifth, the patient was asked whether she told two of her relatives about the alleged abuse. She did not; in fact she said she was surprised to learn they were the registrant's patients, and she had not been in touch with them for some time.

[147] Sixth, the registrant testified, and the patient denied, that she made a WhatsApp appointment and came to the clinic in late July or early August 2023 to look up her patient file and ask whether he kept any patient information on his phone. He made no notes of this visit. He claimed at one point that the patient must have altered her messages, because the follow-up message he allegedly sent the patient after June 8 was also missing from her messages for the year 2023 that she was ordered to produce. The evidence also indicates that Mr. Sonsini did not tell the College anything about the alleged post-June 8, 2023 visit by the patient until two weeks before the Tribunal hearing was originally scheduled to begin.

[148] In our view, the evidence is unclear on whether this visit took place. We infer from Ms. Gedge-Thrasher's notes that by July 26, 2023, the patient had received confirmation that a report had been made to the College, but the College investigator was not appointed until December 2023. We did not receive evidence, for example, on why the patient would be asking whether he kept any patient information on his phone, and why this visit did not come to the attention of the College until the eve of the hearing.

[149] We have insufficient evidence to reach a conclusion on whether and why this visit took place. In any event, we regard the issue itself as collateral and unimportant for purposes of the findings that are required in this matter.

June 12, 2023 appointment with Ms. Gedge-Thrasher

[150] Four days after the June 8, 2023 appointment with the registrant, the patient had her next appointment with her regular RMT, Ms. Gedge-Thrasher. The patient testified that while she was on the treatment table, she told Ms. Gedge-Thrasher that the registrant had reached under her clothing and was "in her hip joint" and "in the crease." The patient did not recall the exact words she used to describe the clothing she was wearing on June 8.

2026 ONMTDT 16 (CanLII)

[151] Ms. Gedge-Thrasher wrote her clinical notes immediately after the session, which was her usual practice. They contained the following statement: “She reported that she was wearing bike shorts and RMT’s hands went under her shorts and underwear and inside her vj.”

[152] At the hearing, the registrant submitted that the patient’s description of the incident to Ms. Gedge-Thrasher showed that the patient exaggerated and lacked credibility. He argued that according to the notes, the patient told Ms. Gedge-Thrasher that “Mr. Sonsini used both hands during the alleged assault, that [the patient] was wearing bike shorts, and that Mr. Sonsini’s hands went inside her vagina.”

[153] However, Ms. Gedge-Thrasher testified that she could not recall the brief conversation word for word. The patient was in the middle of a massage, and she was “pretty upset” and was “processing” the event as she spoke. For Ms. Gedge-Thrasher, it was not the appropriate time to be asking follow-up questions, so she “just let her talk.”

[154] Ms. Gedge-Thrasher did not remember what the patient said about her clothing. Ms. Gedge-Thrasher did not dispute the suggestion that the patient might have been referring to leggings, which were made of similar material. Ms. Gedge-Thrasher was only able to say, “bike shorts…would have been what I understood at the time.”

[155] Regarding the alleged touching, she acknowledged it was possible the patient said “hand” rather than “hands.” Ms. Gedge-Thrasher remembered the patient using the word “inside,” but this could have been referring to the crease of her hip.

[156] Having heard “inside,” Ms. Gedge-Thrasher said she assumed the patient was referring to her vagina. With the patient “naked on my table,” Ms. Gedge-Thrasher said she did not “clarify, do you mean inside your vagina? Because inside means inside.” Ms. Gedge-Thrasher therefore added the words “her vagina” because that is what she understood the patient to have meant. More specifically, she understood the patient to be referring to her genitalia, not necessarily the patient’s vagina.

[157] Having heard the testimony of the patient and Ms. Gedge-Thrasher, we are unable to conclude that there was any inconsistency between the patient’s evidence at the hearing and what she reported to Ms. Gedge-Thrasher. It is likely, given the circumstances of the patient’s disclosure during the appointment, that she gave a short form description of Mr. Sonsini putting his hand into the patient’s hip joint. Ms. Gedge-

2026 ONMTDT 16 (CanLII)

Thrasher then wrote down her understanding, again in condensed form, rather than recording the words used by her patient. There was no opportunity for the patient to read, discuss or verify what Ms. Gedge-Thrasher had written. Viewed in retrospect, Ms. Gedge-Thrasher agreed that on the essential points, the patient may have reported to her what the patient said to us in her testimony.

2026 ONMTDT 16 (CanLII)

Conclusion regarding the June 8, 2023 appointment

[158] In addition to the above analysis of the direct and circumstantial evidence surrounding the June 8, 2023 appointment itself, we have taken into account our earlier, mixed conclusions about the credibility and reliability of the registrant and the patient in relation to the four less serious alleged incidents. For example, we did not accept the patient's evidence about an invitation for a glass of wine, and we did not accept her claim that hugging took place at the end of every appointment. Conversely, we did not accept Mr. Sonsini's explanation of his record keeping where he did not deliver a service, and we did not accept his evidence that the source of the Valentine's Day greeting was unknown to him.

[159] Having weighed all of these elements in our analysis of the June 8, 2023 session and the four prior incidents, we accept the patient's account of the June 8, 2023 appointment, and therefore conclude that the College met its burden of proof of its allegations with respect to that appointment. Without any discussion or warning about what he was going to do, the registrant engaged in sexual abuse when he put his hands under the patient's leggings and underwear, rested his hand on her mons pubis and touched her outer labia and the opening of her vagina with two fingers.

[160] In addition, having regard to the provisions of the General Regulation and the standards set out earlier, we find that the registrant breached the standard on consent, and he breached boundaries, when he touched the patient's hip area and belly without any discussion or explanation. His actions in touching areas of her body without consent, including touching her genitals for which there could not be a clinical reason or consent, also constituted physical abuse.

[161] In reaching these conclusions, including a finding of sexual abuse, we do not accept the College's submission that the hugging and Valentine's Day message on which we have made findings in its favour represent a pattern of sexual conduct or boundary crossing behaviour that culminated in the June 8, 2023 incident. In our view,

the prior incidents are too disparate in their character and too remote in terms of chronology to justify the connection that the College sought to prove.

[162] Together with our finding of breach of the General Regulation with respect to clinical records, we conclude that the registrant engaged in disgraceful, dishonourable and unprofessional conduct by showing a serious disregard for his professional obligations.

Interim Order

[163] Under s. 51(4.2)(c) of the Code, we are required to make an interim order immediately suspending the registrant's certificate of registration given that we have found touching of a sexual nature of the patient's genitals. Accordingly, we order that the registrant's certificate of registration be suspended effective immediately.

[164] A further hearing date will be scheduled to consider the issues of penalty and costs.

2026 ONMTDT 16 (CanLII)