



**College of Massage Therapists of British Columbia**

#304-1212 West Broadway, Vancouver, British Columbia, Canada V6H 3V1

## PUBLIC NOTICE – CITATION

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### **Reynard Graham, Former Registrant**

Victoria, BC

**Date of Action:** December 15, 2014

**Nature of Action:** The Registrar issued a citation to the former registrant under section 37 of the Health Professions Act. The citation notifies the former registrant that the Discipline Committee will conduct a hearing to inquire into his alleged conduct. Specifically, that while providing massage therapy services to a 16-year-old female patient, the former registrant allegedly touched and spoke about the patient's breasts sexually and without therapeutic purpose.

**Important Note:** A citation is a charging document that brings a complaint forward from the Inquiry Committee to the Discipline Committee. Once a citation is issued, the matter will go to a Discipline Hearing, unless a Consent Order can be reached under section 37.1 of the Health Professions Act.

Citations issued by the Inquiry Committee under section 37 of the Health Professions Act involve allegations which are and remain unproven unless admitted by a former registrant or determined by the Discipline Committee.

**See Citation below.**



## College of Massage Therapists of British Columbia

#304-1212 West Broadway, Vancouver, British Columbia, Canada V6H 3V1

### CITATION TO APPEAR

Section 37 of the *Health Professions Act*, RSBC 1996, ch. 183

To: Reynard Laird Graham

TAKE NOTICE that the Inquiry Committee has directed me, the Registrar, to issue this Citation under section 37 of the *Health Professions Act*, R.S.B.C. 1996, chapter 183 (the "Act").

A hearing panel of the Discipline Committee (the "Discipline Committee") of the College of Massage Therapists of British Columbia (the "College") will conduct a hearing to inquire into your conduct, the circumstances of which are set out in the attached schedule, to determine if your conduct constitutes any matter set out under section 39(1) of the Act.

AND FURTHER TAKE NOTICE that the Hearing will be held as follows:

PLACE: Charest Reporting  
1650-885 West Georgia Street, Vancouver, B.C., V6C 0B5

DATE: May 29, 2015

TIME: 9:00 a.m. – 12:00 p.m.

If you are unavailable on the date set for hearing, you may apply in writing to request a change in the date or time.

AND FURTHER TAKE NOTICE that section 38(4.1) of the Act entitles you to an outline of the anticipated evidence from each of the witnesses that will be called and an opportunity to inspect any documentary evidence at least 14 days prior to the hearing. Your rights relating to the hearing can be found in the Act and the College Bylaws.

AND FURTHER TAKE NOTICE that at the hearing, legal counsel on behalf of the College will make submissions with respect to the appropriate action to be taken regarding your registration. The action that can be taken includes a reprimand, imposing limits or conditions on your practice, suspension or cancellation of your registration, or imposing a fine, under section 39(2) of the Act.

**Non-Appearance by Respondent:** If you fail to appear at the date, time and place set for the hearing, the Discipline Committee is entitled to proceed with the hearing in your absence upon proof of receipt of the Citation by you and may take any action, without further notice to you, that it is authorized to take under the Act pursuant to section 38(5) of the Act.

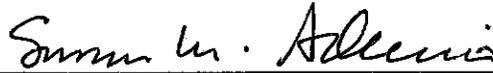
**DISCIPLINE COMMITTEE'S CONTACT INFORMATION**

The mailing address of the Discipline Committee for delivery is:

College of Massage Therapists of British Columbia  
#304-1212 West Broadway  
Vancouver, British Columbia  
V6H 3V1

Attention: Discipline Committee

Dated at Vancouver, British Columbia this 15<sup>th</sup> day of December, 2014.

A handwritten signature in cursive script, reading "Susan M. Addario", is written above a horizontal line.

Susan Addario, Registrar

## SCHEDULE

### Nature of the complaint and alleged conduct to be inquired into:

1. Mr. Reynard Laird Graham (the "Respondent"), was a Registered Massage Therapist of the College of Massage Therapists of British Columbia at all material times. The Respondent surrendered his certificate of Active Registration (No. 4154) to the College on or about June 9, 2010. The Respondent's certificate of Active Registration was cancelled on or about February 15, 2011 for non-payment of fees.
2. The Respondent provided massage therapy services to a 16-year-old female student, Ms. M. (the "Patient") on or about March 30, 2010 at the : located in or near Victoria, B.C. (the "Session").
3. During the Session, the Respondent touched and spoke about the Patient's breasts sexually and without therapeutic purpose. In particular, after providing a massage of the Patient's pectorals muscles, to address her complaints of right shoulder, upper back and neck pain, the Respondent cupped the Patient's breasts for several seconds and said that she had "nice breasts" or "beautiful breasts" or words to that effect.
4. On or about May 17, 2010 and after the Inquiry Committee advised the Respondent that it was investigating a complaint made by the Patient against him, the Respondent advised the Inquiry Committee by letter that "I cupped her breasts with my hands for several seconds and I told her that she had nice breasts."
5. On or about May 12, 2010, the Respondent was charged with the following: "Reynard Laird Graham, on or about the 30<sup>th</sup> day of March, 2010, at or near Oak Bay, in the Province of British Columbia, did sexually assault B.E.M., contrary to section 271 of the Criminal Code".
6. On or about July 23, 2010, the Respondent pleaded guilty to and was convicted of an offence, being one count of sexual assault contrary to section 271 of the *Criminal Code*. On or about October 15, 2010, the Respondent was sentenced to *inter alia* a conditional sentence, and a period of probation.
7. The Patient's name is currently subject to a publication ban under section 486.4 of the *Criminal Code*, which bans publication, broadcast or transmission of any information that could identify a victim or a witness.

### Grounds for disciplinary action

8. The provisions of Part 3 of the *Health Professions Act* apply to *inter alia* former registrants.
9. The College relies on s. 71(2) of the *Evidence Act*, RSBC 1996, ch. 124, which establishes that proof of a conviction or a finding of guilt is admissible in evidence to prove that the person committed the offence. Accordingly, proof of the Respondent's conviction under s. 271 of the *Criminal Code* is proof that the Respondent intended to and did engage in conduct amounting to a sexual assault.
10. An assault includes a person applying force intentionally to another person without his or her consent: s. 265 of the *Criminal Code*. A sexual assault is an assault committed in circumstances of a sexual nature, such that the sexual integrity of the victim is violated. The sexual nature of the circumstances is to be determined objectively, i.e., based on the sexual or carnal context of the assault being visible to a reasonable observer: *R. v. Chase*, [1987] 2 S.C.R. 293.
11. By committing sexual assault during the Session, the Respondent has:
  - a. engaged in professional misconduct or unprofessional conduct,

b. failed to comply with s. 75 of the Bylaws, and failed to comply with standards, specifically the following provisions of the *Code of Ethical Conduct* (Schedule "C"):

i. Section **1(2)** of the *Code of Ethical Conduct*.

*General Duty to Patients*

1(2) A Registrant shall not take advantage of a patient's vulnerabilities for the Registrant's sexual, emotional, social, political or financial interest or benefit.

ii. Section **2(a)** of the *Code of Ethical Conduct*.

*Sexual Conduct Prohibited*

2. A Registrant shall not

(a) engage in sexual conduct with a patient....

[End of Schedule]