

**DISCIPLINE COMMITTEE OF THE COLLEGE OF REGISTERED  
PSYCHOTHERAPISTS AND REGISTERED MENTAL HEALTH THERAPISTS OF  
ONTARIO**

**Citation:** *College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario v. Hynes*, 2023 ONCOLLEGE 8

**Date:** September 22, 2023

**File No.:** C2021-12

**BETWEEN:**

College of Registered Psychotherapists and Registered Mental Health Therapists of  
Ontario

- and -

Michael Hynes

**FINDING REASONS**

**Heard:** August 14-16, 2023, by videoconference

**Panel:**

Sophie Martel  
Heidi Ahonen, RP  
Carol Cowan-Levine, RP  
Henry Pateman  
Jeffrey Vincent

**Appearances:**

Ahmad Mozaffari, for the College  
Jenis Patel, for the Registrant

## Introduction

- [1] Michael Hynes has been a registrant of the College of Registered Psychotherapists of Ontario (the College) since it began to regulate psychotherapists in 2015. He practised psychotherapy for several years on a full and part-time basis prior to 2015. In 2010, he also began training and offering services in craniosacral therapy.<sup>1</sup>
- [2] The client's then therapist referred her to the registrant in 2010; the referral being to a therapist skilled in body work. The registrant treated the client from December 2010 to July 2018. From around 2014 to 2018, the registrant was the client's primary therapist.
- [3] The allegations relate to conduct that occurred after the *Psychotherapy Act, 2007*, SO 2007, c. 10, Sched. R was proclaimed on April 1, 2015.
- [4] The College alleges that the registrant committed multiple acts of professional misconduct, including sexual abuse and a failure to maintain clinical records, in his interactions with the client.
- [5] The matter proceeded on a partial agreed statement of facts. The client and the registrant also both testified. The registrant agreed that he initiated physical contact with the client but disagreed that it was of a sexual nature. He also disagreed with several of the client's descriptions of the physical contact that occurred during the treatment sessions. Furthermore, the registrant submitted that any physical contact occurred while he was providing the client with craniosacral therapy as opposed to psychotherapy.
- [6] We find that the College has proven on a balance of probabilities that the allegations are established. We preferred the evidence of the client to that of the registrant where their evidence differed. We conclude that the registrant committed sexual abuse, physically abused the client, contravened standards of practice of the

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<sup>1</sup> At various times, the registrant referred to the type of craniosacral therapy he practised as visionary craniosacral therapy. For ease of reference, we use the shortened term of craniosacral therapy in these reasons.

profession, engaged in disgraceful, dishonourable or unprofessional conduct, and engaged in conduct unbecoming a member of the profession.

- [7] The registrant agreed that he did not maintain a clinical file or notes for this client. We conclude that he engaged in professional misconduct by failing to do so.
- [8] It has not been necessary for us to determine if craniosacral therapy (which the parties often referred to as “body therapy”) forms part of the scope of practice of psychotherapy (which the parties often referred to as “talk therapy”) if practised separately and distinctly. We find that the talk and body therapy were intermingled. The registrant used craniosacral therapy techniques together with talk therapy. All the therapy at issue was, therefore, part of the regulated profession of psychotherapy.

### **Absence of a Clinical File and Notes**

- [9] The client never saw the registrant take notes and the registrant agreed that he did not maintain clinical notes nor a clinical file regarding the treatment he provided to the client over an eight-year period.
- [10] The heads of professional misconduct that can lead to a finding are set out in the Health Professions Procedural Code, Schedule 2 to the *Regulated Health Professions Act*, SO 1991, c. 18 and Ontario Regulation 317/12 under the *Psychotherapy Act* (the Regulation).
- [11] We conclude that in failing to maintain clinical notes and a clinical file, the registrant contravened a standard of practice of the profession, failed to keep records in accordance with the standards of practice of the profession and engaged in conduct that would reasonably be regarded by registrants as disgraceful, dishonourable or unprofessional (Regulation, ss. ((1), (25), and (52))).
- [12] Standard 5.1 of the *Professional Practice Standards for Registered Psychotherapists* that addresses record-keeping and clinical records requires registrants to keep an accurate and complete clinical record for each client. A registrant demonstrates compliance with the standard by including information such as a complete client profile, a plan for therapy, a record of client communications and a record of any therapeutic assessments. As noted in the background section of this standard, the clinical record serves as an important reference document,

which helps the therapist recall their objective observations, and explain choices regarding the plan for, and progress of, therapy. The registrant breached this standard and paragraph 25 of the Regulation, which requires keeping written records.

[13] In failing to maintain a clinical record and failing to take a single clinical note in respect of weekly therapy treatments he provided to the client over many years, the registrant also engaged in conduct that would reasonably be regarded by registrants as disgraceful, dishonourable or unprofessional.

[14] There was no allegation nor evidence that the registrant's failure to keep clinical notes was for nefarious purposes. However, the absence of such a record made it difficult to date the allegations and situate the evidence based on which discussions and contacts occurred at various treatment sessions. The documentary evidence was limited to emails and texts exchanged between the registrant and the client as well as reports and letters completed by the registrant for the client addressed to Ontario Works and the Criminal Injuries Compensation Board.

## **Sexual Abuse and Other Related Allegations**

### **Evidence**

#### General

[15] The registrant graduated from university in 1997 with an undergraduate degree specializing in psychology. He subsequently attended training programs at a psychotherapy institute, which he completed in 2006. He then practised psychotherapy on a part-time basis.

[16] In 2010, he became interested in craniosacral therapy and in the 2010-2011 period, he completed six of the 10 levels with the Milne Institute in the United States. The registrant, who experienced trauma as a teenager, said that the work being done by Hugh Milne, a practitioner of craniosacral therapy, "spoke to him." He viewed it as a method of treating people with deep trauma.

[17] Toward the beginning of 2010, the registrant was building up his practice from a part-time practice to a full-time practice of psychotherapy (talk therapy) as well as starting a craniosacral therapy practice. He denied mixing the two.

- [18] In 2010, the client was seeing another therapist for assistance regarding childhood trauma and a recent relationship breakup. Her therapist told her she had “stored trauma in her body” and referred her to the registrant for craniosacral therapy to help release the body trauma. The client understood craniosacral therapy to be another modality under the psychotherapy umbrella.
- [19] The client and the registrant testified that the registrant did not ask the client to sign any paperwork such as intake and treatment consent forms.
- [20] The client and the registrant agreed that from 2010 to around 2014, the client continued seeing her original therapist while also receiving treatment from the registrant. The client also saw a third therapist from around 2012 to 2015 as part of group therapy.
- [21] Around 2014, the registrant became the client’s primary therapist. The client stopped seeing her original therapist because of a conflict of interest in that the client was also enrolled in a psychotherapy education program and doing an internship under the supervision of her original therapist.
- [22] The client and the registrant agreed that during treatment sessions the client discussed multiple issues such as relationship, family, school and childhood trauma issues. Additionally, the client suffered a sexual assault in 2015 and this too became a focus of her treatment with the registrant. The client and the registrant agreed that she attended in-person treatments with the registrant about every week, 40 to 50 times per year, between April 2015 and July 2018. They also corresponded by text message, email and over the phone.
- [23] The client stopped treatment with the registrant in July 2018 for multiple reasons. She testified that she lost trust in the registrant when he became the acting clinical director of the psychotherapy school she had been attending. The client had difficulty funding her courses. While the school initially told her to continue her courses and worry about the fee payment later, it subsequently pressured her to pay the fees. The client had expressed her concerns about the school, including the funding issues, to the registrant over the years and lost trust in him when she discovered that he had assumed the clinical director position from her previous therapist. She also testified that what happened in therapy started to feel very

wrong. She filed complaints against her first therapist, the psychotherapy school she attended and, in 2020, she filed her complaint against the registrant.

[24] The registrant testified that after he assumed the role of clinical director at the school the client attended as a student, the client expressed feeling betrayed by him as she believed that the registrant was siding against her in respect of her school issues.

#### Registrant's Acknowledgements Regarding the Treatment Sessions Between April 2015 and July 2018

[25] The registrant agreed that he initiated physical contact with the client as part of treatment. From around April 2015 to July 2018, he acknowledged engaging in the following conduct:

- He lay on the treatment table (described as a massage table) with the client on multiple occasions, typically beside her, but on one occasion he lay on top of her while she was lying face down.
- He had the client sit on his lap.
- He held the client in his arms, including holding the client in full body-to-body contact, standing and lying down, on several occasions.
- He made physical contact near the client's genital area and placed his forearm on top of the client's pelvis. He had to place his hands between the client's legs in order to reach her backside for some craniosacral therapy holds.
- He asked to see the client's scar on her left buttock cheek from a surgical procedure located on her left buttock, which bothered her esthetically. He offered to kiss the scar. There is a dispute about the tone of this offer.
- The client occasionally removed her pants during the sessions. She was fully unclothed during several sessions.
- He may have made contact with the outer edge of the client's breasts near her shoulders and between her breasts.

- He referred to the client as a “lioness.” The context of this reference is in dispute.
- He shared details of his personal life with the client, including that he had a partner and was going to become a father.

[26] Additionally, there is no dispute that the client and the registrant at times corresponded by text and email. The relevant correspondence is discussed below.

### Texts

[27] The client and the registrant exchanged hundreds of texts between April 2015 and June 2018. Many of the texts were for appointment scheduling purposes. We highlight some of the more problematic texts below. While the context and meaning of the texts is at times in dispute, there is no dispute that these text messages were exchanged.

- In April 2015, the registrant texted the client to remind her “to be the lioness.” He added: “You entered last week talking about cats and left embodying lioness. It is your animal nature. Nobody can take away your inheritance.”
- In May 2015, the client texted the registrant on a Saturday, needing some “pseudo dad advice.” A few days later, she asked to cancel an appointment adding that she was in a good place, making him proud. The registrant replied that he was “glad to be a proud papa.”
- On May 14, 2015, after the client texted the registrant that she preferred not to come to therapy on Wednesday because it was her day off when she did not leave the house, he replied that she could “come in her pajamas if you like.”
- On May 19, 2015, after a texting exchange where the client asked the registrant not to get mad at her about cancelling an appointment, the registrant wrote, “I love that you think I’m gonna go all bad dad on you.” He ended the message by writing, “I think you can get used to some really powerful male support...”
- On April 20 and 21, 2016, the client texted the registrant to inform him that she was sick and might not be able to attend their next session. She ended one of

these texts with a heart emoji. On April 21, 2016, the registrant replied, "Miss you! Rest up and recover."

- On June 19, 2016, the client wished the registrant a happy Father's Day and thanked him for filling that role in her life. She ended her message "with love." The registrant replied thanking her for the message and added, "So happy to full [sic] this role for you and any others I provide. Keep growing !!!! you're an inspiration. Love ya back."

### Letters and Reports

[28] The registrant completed a "Therapy Report" for the client on April 1, 2019, in support of the client's claim to the Criminal Injuries Compensation Board regarding her sexual assault. He checked off the box "therapist" in response to the report's question on his type of practice. In response to what form of treatment had been provided, the registrant wrote, "weekly psychotherapy with focus on trauma recovery." He provided the treatment dates as May 2014 to July 10, 2018.

[29] The registrant also wrote letters for the client to provide to Ontario Works. The client testified that she required these letters to be reimbursed for her travel expenses to attend therapy. The letters, dated November 5, 2014, January 14, 2015 and April 24, 2017, are similar. The letterhead for the first two letters refers to the registrant as a "psychotherapist and visionary craniosacral work." The letterhead for the letter of April 24, 2017, refers to him as a "registered psychotherapist" and lists his College registration number. It too also refers to visionary craniosacral work. In all of three reports, the registrant wrote that he is the "primary therapist" for the client and that they do "a combination of psychotherapy and craniosacral therapy treatments."

### Disputed and Testimonial Evidence

[30] The client testified that the discussions and the body contact during the treatment sessions became increasingly sexual over time. While it was a progression, she dated it to around the time that the registrant became her primary therapist and around the time that she suffered a sexual assault in May 2015.



### Talk and body therapy

- [31] The client testified that there was no distinction between talk and body therapy; the therapy varied between body therapy, talk therapy and a combination of the two depending on the session. She denied that the registrant ever told her that the work was separate and distinct from psychotherapy or that she was charged different rates for her treatment sessions.
- [32] The registrant testified that he kept the practices of psychotherapy and craniosacral therapy separate and distinct and charged different rates depending on the therapy given. While he agreed that his letterhead included both, he said that this changed over the years. By 2017, he stopped using a business card that mentioned both psychotherapy and craniosacral therapy.
- [33] The registrant testified that there was no touching during psychotherapy. In respect of craniosacral therapy, the registrant acknowledged that the therapy he practised (visionary craniosacral therapy) included a talk component. He described the craniosacral therapy as talk, touch and debrief. He maintained, however, that it was separate from psychotherapy and that there was no mixture of the two. He agreed that the client and he discussed multiple topics, such as life challenges and coping strategies, during the craniosacral therapy debrief.
- [34] At other times in describing the various physical contacts that he initiated with the client, the registrant referred to techniques of emotional body work, biosynthesis and biodynamic body massage.
- [35] The registrant testified that the “vast majority” of the treatment he provided to the client was craniosacral therapy as opposed to psychotherapy. He indicated that it was a mistake for him to write in the Criminal Injuries Compensation Board therapy report that he had provided the client with weekly *psychotherapy* sessions.
- [36] In response to questions regarding how it was communicated to the client whether he was providing her with talk or body therapy, the registrant explained that they decided at the outset of the session depending on what was going on in the client’s life. If the client was undergoing a major life event and needed psychotherapy, the registrant provided her with psychotherapy counselling.

### Clothing removal

- [37] The client testified that the registrant asked her to remove her clothing so that the treatment could be more effective. The registrant denied asking the client to remove her clothing.
- [38] The client explained that the registrant suggested needing access to certain body parts and then asked her to remove various clothing articles such as pants, bras and underwear, depending on the session. He did not always leave the room while she undressed.
- [39] The registrant testified that it was the client's decision to disrobe, either fully or partially. He added that the client and he discussed clothing removal as an "option." He agreed that at times the client was fully unclothed but added that it was not necessary for her to remove all her clothes for the treatment. He also testified, however, that skin-to-skin contact could be beneficial with certain techniques.
- [40] When discussing some of the pelvic area craniosacral therapy holds, however, the registrant testified that the client needed to be partially clothed for him to do the work. He testified that he left the room while the client removed whatever amount of clothing she was comfortable with and lay on the table between two flannel sheets.

### Genital area touching

- [41] The client testified that depending on the session, the registrant touched her anywhere from her head down to her feet. On a few occasions, he touched her vulva and vagina. He started at the pelvis and moved down to her genitals. He touched her with an open hand on her genitals while encouraging her to breathe, to process what was going on, and to stay connected to him. She testified that the registrant explained that he was touching that area to release trauma in the body and to "open up" her sexuality. On one occasion, he smelled his fingers after placing his hands on her vagina.
- [42] The client believed that he touched her genital area not only over her clothes but also under her clothes on bare skin but admitted that it was hard to recall. She indicated that these touches felt uncomfortable and sexual but that the registrant explained that the treatment was therapeutic. She indicated that the registrant never penetrated her vagina with his fingers. However, he offered to do an internal

vaginal massage. He told her that there were professionals trained in this technique and while he was not so certified, he was willing to perform the massage.

[43] The registrant agreed that in the 2014-2015 period he introduced additional sacral holds. Prior to doing so, he testified that he showed the client Chapter 22 entitled “The Sacrum” from a book by Hugh Milne: “The Heart of Listening, A Visionary Approach to Craniosacral Work – Anatomy, Technique, Transcendence.”<sup>2</sup>

[44] Referencing techniques found in Chapter 22, the registrant testified that he performed the “Sacrum Coupled with Anterior Superior Iliac Spine” and the “Sacrum Coupled with Symphysis Pubis” techniques. Both techniques required the registrant to place one arm between the client’s legs to reach behind her back area underneath the sacrum. The other hand, depending on the technique, either spanned the pelvic brim (the side and front edges of the pelvis) or applied force at the symphysis pubis (the bottom of the pelvis). While the registrant agreed that his hands were on a vulnerable part of the client’s body and near her genitals, he disagreed ever placing his hands on her genitals, or of smelling his fingers or of offering to massage the vagina internally.

*Pressing his penis against her and asking her to touch his penis*

[45] The client testified that on one occasion, the registrant bent her over the massage table and pressed his penis into her “bum” while she was fully clothed. On other occasions, while she was lying face down on the table, the registrant lay on top of her, pressing his penis into her bum. When doing so, he asked her to arch her back and physically move her body. She explained that at this time, they were working on the theme of sexual empowerment, and he wanted her to evoke the “lioness,” a primal reaction. The registrant was not certain about the number of times that this occurred – she “believed” that it occurred multiple times.

[46] The client said that once, after body work, the registrant asked her to look at his penis. She also thought that he once asked her to put her hand on his penis over

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<sup>2</sup> While we entered this chapter as an exhibit as a testimonial aid and as evidence of one of the sources of the registrant’s knowledge about craniosacral therapy, we were clear that the chapter was not being entered nor would be considered as expert evidence nor evidence of an acceptable standard of practice of the profession.

his clothing to see how she aroused him. When asked if he had an erection, the client replied that she believed that something was happening but could not recall for sure. He was talking about the impact she had on him and how she aroused him.

[47] The client also testified that there were some occasions when she was lying face up on the massage table while the registrant was standing behind her at her head. At times, while working on her body, his pelvic area was over her head and face. She testified that it felt awkward and there was a sexualized energy to it but also acknowledged that the pelvic area over her face and head could have been accidental because the registrant had to lean over her body to perform the craniosacral therapy holds.

[48] The registrant denied bending the client over the treatment table and pressing his penis from behind. He agreed that on one occasion, he was lying on top of the client while she was face down. He described it as mimicking the effect of a “weighted blanket” and added that it can be “safety inducing.” However, within the first few “seconds or minutes,” the client indicated that she was not comfortable and did not wish to continue. He denied pressing his penis into her, asking her to arch her back, asking her to react physically or referring to the lioness at this time. Rather, he testified, the lioness comments arose at a different time and in a different treatment context. He explained that “lioness” embodied one aspect of her personality, which was very strong and confident, but which she did not always have access to. The purpose of referring to the lioness was to remind her of this aspect of her personality. He denied that it had a sexual connotation.

[49] The registrant denied asking the client to look at or touch his penis. He also denied telling the client that she aroused him.

#### *Touching of the breasts*

[50] The client testified that once, after entering the registrant’s office, she sat in the chair beside the door. The registrant came from behind and put his hands down her shirt and touched her breasts under her clothes while standing over top of her. He had not warned her that he would be touching her breasts. She was in shock after this touch but did not say anything. The registrant denied this incident.

[51] The client testified that several times while on the treatment table, the registrant suggested doing body work on her shoulders but then gradually moved to her breasts, grabbing them over and under her clothes. He told her that he was touching her breasts to release trauma stored in the body, adding that breasts hold a lot of tension and memory, which he was trying to release.

[52] The registrant denied deliberately touching the client's breasts but acceded that there was a "remote" possibility that he had inadvertently touched the client's breasts while performing craniosacral techniques on the client's shoulders and pectoral muscles. Referencing another hold - "Ventral Sacred Energy Vessel Hold" - found in Chapter 22, he described that one of the techniques he performed on the client involved placing the fingers of one hand over her forehead while the other hand was positioned flat between her breasts. In addition to denying deliberately touching the client's breasts, the registrant also denied telling the client that breasts hold a lot of tension, which he wanted to release.

### Holds

[53] The client testified that the registrant joined her on the massage table suggesting that they practice holds. He explained that it was to practice being held by the "masculine." She and the registrant were clothed during the holds.

[54] On another occasion, the client testified that the registrant asked her to sit on his lap so that they could practice holding each other. It was again explained as a practice of being held by the masculine. While she did not recall vocalizing her discomfort with the holds, she said that her discomfort was obvious because she held her breath. The registrant would then encourage her to breathe or to trust. They would continue the hold longer until her body relaxed.

[55] The registrant testified that whether they were doing craniosacral work or holds, he always discussed the upcoming treatment with the client at the beginning of the session and the client decided whether to proceed and could also stop the treatment at any time. He added that the client was well versed in multiple techniques from her own education and training.

[56] The registrant agreed that the holds were done in intimate positions. He agreed that he lay on the table with the client "many times." He said that this technique was not

part of craniosacral work but rather, “emotional bodywork” training. He testified that he explained the purpose of the holds prior to doing them and that after the holds, the client described feeling release of the pain she carried.

[57] The registrant also agreed that the client sat on his lap on one occasion. He testified that this was a “biosynthesis” technique whose purpose was to establish eye contact. He denied that it was of a sexual nature.

### Scar

[58] The client testified that in 2016, she was left with a scar on her tailbone/left buttock area. She was very insecure about it. The registrant offered to see it and kiss it. She showed it to him but to her recollection the registrant did not kiss it. She indicated that the comment was not made jokingly in that she believed that the registrant would have kissed the scar if she accepted the offer.

[59] The registrant agreed that the scar, the result of two surgical interventions to remove a cyst, was a source of embarrassment for the client and that he asked to see it. He said that the client believed that there was a relationship between the cyst/scar and her history of trauma and was seeking further therapeutic treatment. The registrant, however, was of the view that no further treatment was available to cure what the client viewed to be the cause of the scar. In a moment of frustration having exhausted treatment options, he told her in a sarcastic tone that he could “kiss it better.”

### Sexualized and affectionate comments

[60] The client testified that the registrant used terms of endearment with her. He expressed how much he appreciated her in their sessions and told her he loved her. He told her that he filled many roles for her such as father, mother, brother, sister, boyfriend and lover. He often encouraged her to view him as a father figure. He commented on her appearance, told her how attracted he was to her and said that she brought “sex into the room.” She denied the registrant’s evidence that the discussion about bringing sex into the room was a comment about her dating preferences as part of their treatment discussions. The client testified that the registrant said things like her “ass” was his.

- [61] On one occasion, while she was showing the registrant a physical fitness video of her, he commented on her “bum” as seen on the video. The client also testified that the registrant encouraged her to masturbate after the treatment sessions and told her that he would be masturbating to her after the session.
- [62] The registrant denied telling the client that her ass was his, denied telling her that he was physically or sexually attracted to her, denied being shown a fitness video or commenting on one, and denied the masturbation comments.
- [63] He acknowledged telling the client that she brought sex into the room but not in the sense of bringing sex into the treatment room. He explained that the client had talked about her dating life and expressed not attracting the sexual attention that she wanted when walking into social situations. The registrant told her that she brought sex into the room in the sense that she could take responsibility for this. He denied that the reference to “room” meant the treatment room.
- [64] The registrant denied saying that he filled the roles of a boyfriend or lover. He acknowledged making comments along the lines of being a father figure as part of craniosacral therapy and in a healing rather than a possessive sense.
- [65] The registrant acknowledged writing “*love ya back*” in the text message referenced earlier and acknowledged that it was a little too familiar. He added, however, that he had a good rapport with the client and that it was within the treatment paradigm of craniosacral therapy. He explained that within craniosacral therapy and from a therapeutic perspective, there was transference around a father figure but that he was clear with the client that he was not her actual father.

### **Credibility**

- [66] We must decide whether the College has proved on a balance of probabilities that the events in dispute happened based on clear, cogent and reliable evidence.
- [67] We have assessed the honesty and reliability of the evidence of the client and the registrant considering their ability to recall the events, the internal consistency of their evidence, whether their evidence was consistent with other evidence, any exaggeration of the evidence, and common-sense principles. In so doing, we are mindful of not judging credibility based solely on the client’s behaviour or any expected behaviour of the stereotypical victim of sexual abuse.

## Client's Evidence

[68] We generally found the client's evidence to be credible.

[69] She readily acknowledged when she could not fully remember an incident, which would be expected given the amount of time that has passed since the events in question and the fact that she was attempting to remember what occurred during therapy sessions held on a weekly basis for many years. For example, the client testified that she could not remember if the registrant touched her genital area underneath her clothes. She could not remember the number of times the registrant lay on top of her. She was not entirely certain whether the registrant had an erection when he asked her to touch his penis.

[70] On the other hand, the client was able to clearly remember an incident that had particularly struck her as being sexual at the time: the episode when the registrant grabbed her breasts from behind without warning while she was sitting on a chair. It made sense that the client would be able to more clearly remember an incident that occurred once and had particularly shocked her at the time as compared with other instances where the behaviour occurred more than once and where the registrant told her that the contact was for therapeutic purposes.

[71] We also found that the client provided her evidence without exaggeration. For example, when testifying about the registrant's pelvic area leaning over her head and face, she readily acknowledged that the leaning could have been accidental even though she also felt that there was a sexualized energy to it.

[72] The text messages also support the client's version of events. The text messages were overly friendly with at times a flirtatious tone: "I love that you think I'm gonna go all bad dad on you" followed by, "I think you can get used to some really powerful male support..." The registrant's "love ya back" and "miss you!" texts also support the client's evidence that the registrant used terms of endearment with her. The texts further support her evidence that he encouraged her to evoke the "lioness" and to look up to him as a father figure and other roles. In his text message of June 19, 2016, the registrant wrote that he was happy to fill the role of a father "and any others I provide," which supports the client's evidence that the registrant told her he filled not just a father role, but other roles such as mother, brother, sister, boyfriend and lover.



[73] The registrant submitted that the client had an ulterior purpose for filing her complaint against him, relating to school issues and her distrust of him once he assumed the clinical director role at this school. We find that even if the client had non-therapy related reasons for not trusting the registrant and for complaining to the College, her complaint about the therapy the registrant provided her is credible. Given her vulnerability as a victim of trauma and her long-standing relationship with the registrant, it is not surprising that it was only after the therapy relationship ended for other reasons that the client was able to process what had occurred and that it started to feel very wrong to her.

#### Registrant's Evidence

[74] There were significant issues with the registrant's credibility.

[75] The registrant's evidence that the craniosacral therapy treatment was separate and distinct from psychotherapy (talk therapy) was not internally consistent nor consistent with reports he wrote. He acknowledged that the type of therapy was decided at the outset of each session; the client did not schedule different types of appointments before the sessions. He acknowledged that the craniosacral therapy he provided included a talk component that might address the same types of issues addressed in psychotherapy such as various life challenges and coping strategies. The registrant also sought to connect other problematic areas of his talk therapy, such as fulfilling the role of a father figure, to craniosacral therapy. In essence, if he believed that the therapy could be problematic from a psychotherapy point of view, he called it something else.

[76] In his report of 2019 to the Criminal Injuries Compensation Board, the registrant wrote that he had provided "weekly psychotherapy" to the client. His testimony at the hearing that this notation was not correct was self-serving and not credible. The registrant also acknowledged that some of the physical contact was not part of craniosacral therapy; rather it was emotional body work, biosynthesis or biodynamic massage. In essence, he asserted that any time he touched the client, it was not psychotherapy. Given the number of techniques he used with the client, the client's evidence that the entire treatment was psychotherapy makes more sense. In other words, the client sought help to assist her with trauma through psychotherapy treatment.

[77] The registrant's evidence regarding the clothing removal was inconsistent. He denied asking the client to remove her clothing but then also testified that the client had to be partially clothed for some of the craniosacral therapy holds. He further acknowledged that skin-to-skin contact could be beneficial. The client's evidence that the registrant asked her to remove various articles of clothing because he needed access to certain body parts was more credible than that of the registrant. The registrant also could not explain why the client was fully unclothed at times when it was not necessary for the treatment.

[78] Finally, it was absurd that the registrant would describe lying on top of the client, a victim of sexual assault, as mimicking the effect of a "weighted blanket" and "security inducing."

### Credibility Conclusion

[79] Ultimately, we accept the client's evidence. It has not been necessary for us to make a finding on every fact alleged in the Notice of Hearing. Where we have not relied on an aspect of the client's testimony, it is because of reliability rather than honesty concerns. As noted earlier, in some instances, the client's recollection of the event was incomplete. We have focused our findings on the most egregious incidents where the client's evidence was clear, cogent and reliable.

## **Findings**

### Craniosacral Work not Practised Distinctly and Separately from Psychotherapy

[80] Relying on the client's testimony and the documentary evidence, we conclude that the treatment the registrant provided to the client during the relevant period was intermingled with talk and body therapy such that any craniosacral therapy techniques were not practised separately and distinctly from talk therapy and were thus part of the regulated profession of psychotherapy.

### Sexual Abuse

[75] Sexual abuse is defined in ss. 1(3) and (4) of the Code:

(3) "sexual abuse" of a patient by a member means,

(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.

[81] Relying on the partial agreed statement of facts and the client’s testimony, we conclude that the registrant did the following during the treatment sessions with the client:

- touched the client near and on her genital area over her clothes;
- offered to massage her vagina;
- touched the client’s breasts, once when she was sitting on a chair, and a few other times when she was lying on the treatment table;
- on at least one occasion, lay on top of the client, pressed his penis into her buttocks, and encouraged her to arch her back and to react in a physical way;
- referred to the client as a lioness;
- bent the client over the treatment table and pressed his penis into her from behind;
- asked the client to look at his penis;
- on at least one occasion, had the client sit on his lap;
- held the client many times in full body-to-body contact, standing and lying down;
- asked the client to remove her clothes;
- asked to see the client’s scar located on her left buttock cheek and offered to kiss it. We do not find the tone in which these comments were made to be particularly relevant given our overall finding.

- encouraged the client to masturbate to him and told her he would masturbate to her;
- used terms of endearment and commented on the client's bum when shown a video of her; and
- told the client he fulfilled the role of a father and other roles including that of a boyfriend and lover.

[82] We conclude that the registrant's actions and comments, taken as a whole, meet the definition of sexual abuse. The touching and comments were not of a clinical nature appropriate to the treatment provided. We are particularly troubled by the fact that the client sought help from the registrant to deal with childhood trauma, relationship issues and a sexual assault, only to again find herself the victim of sexual abuse during her therapy treatment.

Contravening or Failing to Maintain a Standard of Practice of the Profession, Physical Abuse, and Disgraceful, Dishonourable or Unprofessional Conduct

[83] We find that in addition to the sexual abuse, the registrant's conduct contravened the standards of practice of the profession and would reasonably be regarded by registrants as disgraceful, dishonourable or unprofessional (Regulation, ss. 1(1) and (52)).

[84] Standard 1.5 of the *Professional Practice Standards for Registered Psychotherapists* explains disgraceful, dishonourable or unprofessional conduct as behaviour that:

... goes beyond legitimate professional discretion, or errors in judgment, and constitutes misconduct as defined by the profession – as opposed to the public. This standard reassures the public that members of the College share a vision of respect for clients, and a commitment to practising with integrity and professionalism.

[85] It is obvious that sexual abuse of a client would reasonably be regarded by registrants as disgraceful, dishonourable or unprofessional. Additionally, we are of the view that the conduct and comments that the registrant acknowledged, such as intimate full body holds, lying on top of the client, having the client sit on him, and touching her near her genitals, in the absence of a documented comprehensive conversation about consent and the potential benefits and harm of such treatment,

would themselves reasonably be regarded by registrants as disgraceful, dishonourable or unprofessional.

[86] It is also professional misconduct to abuse a client verbally, physically, psychologically or emotionally) (paragraph 2 of the Regulation). Standard 1.8 deals with unfair influence and abuse, noting that clients “may be emotionally or otherwise vulnerable,” making them potentially “particularly influenced by the views or suggestions of their therapist.” It prohibits verbal, psychological, emotional and sexual abuse. In sexually abusing the client by touching her breasts and genital area in a sexual way, the registrant violated her physical integrity and physically abused the client. It is not necessary for us to make a finding as to whether he also abused her verbally, psychologically or emotionally.

[87] Standard 1.7 states that registrants “should avoid dual or multiple relationships with clients in addition to their professional one,” including as a friend. The registrant’s use of terms of endearment, his texts that he missed her, loved her and that she could come to an appointment in her pyjamas, his encouragement that she view him as a father figure, and his many body-to-body holds, support at a minimum a friend relationship, which is against the standard. As with the sexual abuse, the misconduct flows from the registrant’s actions combined. We do not need to consider whether any of this conduct, on its own, would be inappropriate or professional misconduct. For instance, while there was an allegation that the registrant shared details of his personal life with the client, including that he had a partner and was going to become a father, it is not necessary for us to conclude whether such an allegation on its own would constitute professional misconduct.

[88] Given the multiple findings of misconduct, we do not feel it necessary to also address the allegation found in the Notice of Hearing of whether the registrant acted in a professional capacity while in a conflict of interest or being in a conflict of interest while acting in a professional capacity (paragraph 16 of the Regulation).

### Conduct Unbecoming

[89] Finally, we conclude that sexually abusing a client is conduct that would reasonably be regarded by members as conduct unbecoming a member of the profession.

[90] Standard 1.5 explains that while the Professional Practice Standards are generally concerned with conduct in the course of professional practice, actions outside the practice of psychotherapy may be regarded as unbecoming a member of the profession, reflecting poorly on the member's integrity and the profession as a whole.

[91] Even if we had accepted the registrant's argument that the physical contacts he initiated with the client occurred outside the scope of psychotherapy, our finding of sexual abuse leads us to the conclusion that such conduct is unbecoming a member of the profession.

### **Conclusion**

[92] The College has proven the allegations of sexual abuse, failing to meet the standards of practice of the profession, failing to keep written records, disgraceful, dishonourable or unprofessional conduct, and conduct unbecoming a member of the profession.

[93] Under ss. 61 (4.2) and (5) of the Code, the panel must immediately make an order suspending a registrant's certificate of registration if it finds there was touching of a sexual nature of a patient's genitals, anus, breasts or buttocks. Accordingly, we order that the member's certificate of registration be suspended effective immediately. The hearings office will schedule a hearing on penalty and costs.

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Sophie Martel, on behalf  
of the panel