



## Mélanie Guérin

### **Discipline Committee Decision Summary**

On December 2, 2015, a panel of the Discipline Committee of the College of Midwives of Ontario found Ms. Mélanie Guérin guilty of professional misconduct for i) contravening the *Midwifery Act, 1991*, the *Regulated Health Professions Act* or the regulations thereunder (specifically, practising illegally); ii) practising midwifery while her certificate of registration was suspended; and iii) engaging in disgraceful, dishonourable or unprofessional conduct.

### **Facts**

The Member admitted that she engaged in professional misconduct and the Member and the College jointly agreed to the following facts:

1. At the material times Mélanie Guérin ("Ms. Guérin") was practising midwifery at Pratique de sage-femme de Hearst Midwifery Practice in Hearst, Ontario, a clinic Ms. Guérin owns. Ms. Guérin is a sole practitioner and works under an approved Alternative Practice Arrangement (APA) – Type 2.
2. Ms. Guérin has been registered by the College of Midwives of Ontario since 2003.
3. Section 13 of the *Health Professions Procedural Code* (the "Code"), being Schedule 2 to the *Regulated Health Professions Act, 1991*, provides that a person registered by a College is a member of that College. However, subsection 13(2) of the Code goes on to provide that a person whose certificate of registration is suspended is not a member.

### **Practising While Suspended - 2012**

4. On or about December 13, 2012, Ms. Guérin's certificate of registration was suspended by the College of Midwives of Ontario ("CMO") for non-payment of fees. Despite this, Ms. Guérin continued to practise midwifery while she was suspended and was accordingly, not a member of the CMO.
5. Ms. Guérin's certificate of registration was reinstated on or about December 21, 2012.
6. Ms. Guérin provided midwifery care to approximately seven clients, including attending the births for two of those clients, between December 13, 2012 and December 21, 2012, while her certificate of registration was suspended and while she was not a member of the CMO.

### **Practising while Suspended - 2013**

7. On or about November 28, 2013, Ms. Guérin's certificate of registration was again suspended for non-payment of fees. Despite this, Ms. Guérin continued to practise midwifery while she was suspended and was accordingly, not a member of the CMO.
8. Ms. Guérin's certificate of registration was reinstated on or about December 12, 2013.
9. Ms. Guérin provided midwifery care to approximately 13 clients, including attending the birth for one of those clients, between November 28, 2013 and December 12, 2013, while she was not a member of the CMO.

#### **Practising While Suspended – 2014/2015**

10. On or about December 2, 2014, Ms. Guérin's certificate of registration was again suspended for non-payment of fees. Despite this, Ms. Guérin continued to practise midwifery while she was suspended and was accordingly, not a member of the CMO.
11. Ms. Guérin paid her fees on December 23, 2014 and completed her registration renewal form on January 7, 2015. Ms. Guérin's certificate of registration was reinstated on or about January 8, 2015.
12. Ms. Guérin provided midwifery care to approximately 11 clients, including attending the birth for one of those clients, between December 2, 2014 and January 8, 2015, while her certificate of registration was suspended and while she was not a member of the CMO.
13. Ms. Guérin sincerely regrets that she was late in making her annual payments to the CMO and that she continued to practise midwifery while her certificate of registration was suspended. If Ms. Guérin were to testify, her evidence would be that she was experiencing severe financial difficulties and family problems during the times in question. She is extremely embarrassed that she was unable to pay her dues at the time and has now repaid all of the dues.

#### **The Findings**

It was clear to the Panel that the Member practised midwifery while her Certificate of Registration was suspended for non-payment of fees. While the Panel acknowledged extenuating circumstances in the Member's life that might have contributed to her conduct, they were satisfied that a finding of professional misconduct was warranted. The Panel regarded the Member's conduct as undermining the public's confidence in the College's ability to self-regulate and exposing the public to unnecessary danger.

## **Penalty**

Based on a joint submission by the College and the Member, the Panel made the following order:

1. Requiring Ms. Guérin to appear before a panel of the Discipline Committee to be reprimanded, with the fact of the reprimand to appear on the public register of the College;
2. Directing the Registrar to suspend Ms. Guérin's certificate of registration for six (6) weeks, to be served on dates set by the Registrar. Two (2) weeks of the suspension will themselves be suspended (i.e. so that Ms. Guérin would serve four (4) weeks suspension) if Ms. Guérin successfully completes the Jurisprudence Course and Exam by April 2, 2016, failing which she will be required to serve the remaining two (2) weeks of suspension beginning immediately on April 2, 2016;
3. The Registrar is directed to impose the following terms, conditions and limitations on Ms. Guérin's certificate of registration:
  - a. Ms. Guérin is required to successfully complete, at her own expense and to the Registrar's satisfaction, the College's Jurisprudence Course and Exam no later than June 2, 2016;
4. Ms. Guérin is required to pay to the College costs in the amount of \$1,000.00, by way of post-dated cheques in the amount of \$41.66 each beginning January 1, 2016, and running consecutively for 24 months thereafter until paid in full.

The Panel was satisfied that this order met the principles of protecting the public, general deterrence, specific deterrence and remediation.

In particular, the Panel was confident that upon completing the jurisprudence course, the Member would understand and meet her professional obligations, which in turn would ensure public protection. They were also confident that the order would make it clear to the membership that failure to maintain registration with the College while practising midwifery constitutes professional misconduct. They were further satisfied that the order would prevent the Member from repeating such conduct in the future and that the educational component of the order would enable the Member to better meet her professional obligations and responsibilities going forward.

Following the hearing, Ms. Guérin waived her right to appeal and the Panel delivered the oral reprimand.

**Note:** A copy of the panel's decision and reasons is available upon request by contacting [iandh@cmo.on.ca](mailto:iandh@cmo.on.ca).