

**DISCIPLINE COMMITTEE
OF THE ONTARIO COLLEGE OF TEACHERS**

IN THE MATTER OF the *Ontario College of Teachers Act, 1996*, and the Regulation (Ontario Regulation 437/97) thereunder;

AND IN THE MATTER OF a discipline proceeding against Annmarie Yolanda Gauthier (Mele), Member of the Ontario College of Teachers.

PANEL: Brent Hamelin, Chair
 Tammy Bush
 John Tucker

BETWEEN:)	
)	
)	
ONTARIO COLLEGE OF TEACHERS	)	Dianne Paquette,
	)	Dispute Resolution Officer,
	)	Ontario College of Teachers
)	
- and -	)	Bernard Hanson,
	)	Cavalluzzo Hayes Shilton
ANNMARIE YOLANDA GAUTHIER	)	McIntyre & Cornish LLP,
(MELE)	)	for Annmarie Yolanda Gauthier (Mele)
(CERTIFICATE #282053))	
)	
	)	Paul Le Vay,
	)	Stockwoods LLP,
	)	Independent Legal Counsel
)	
	)	Heard: May 20, 2009
)	

REASONS FOR DECISION, DECISION AND ORDER

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on May 20, 2009 at the Ontario College of Teachers (the “College”) at Toronto.

Annmarie Yolanda Gauthier (Mele) (the “Member”) was not in attendance at the hearing, nor was her counsel, Bernard Hanson.

A *Notice of Hearing* dated May 8, 2009 was served on the Member, requesting attendance before the Discipline Committee of the Ontario College of Teachers on May 20, 2009 for the hearing of this matter.

THE ALLEGATIONS

The allegations in the *Notice of Hearing* May 8, 2009 are as follows:

IT WAS ALLEGED that Annmarie Yolanda Gauthier (Mele) is guilty of professional misconduct as defined as defined in subsection 30(2) of the *Ontario College of Teachers Act, 1996* (the “Act”) in that:

- (a) she failed to maintain the standards of the profession, contrary to Ontario Regulation 437/97, subsection 1(5);
- (b) she failed to comply with the *Act*, the regulations or the bylaws, contrary to Ontario Regulation 437/97, subsection 1(14);
- (c) she engaged in a behaviour that caused or may have caused a student who was under the Member’s professional supervision to be put at or to remain at risk, contrary to Ontario Regulation 437/97, subsection 1(17); and
- (d) she engaged in conduct unbecoming a Member, contrary to Ontario Regulation 437/97, subsection 1(19).

MEMORANDUM OF AGREEMENT

The Dispute Resolution Officer for the College advised the Committee that subject to ratification by the Committee, agreement had been reached on the facts and introduced a *Memorandum of Agreement (MOA)*, (Exhibit 3) which provides as follows:

Agreed Statement of Facts

The parties hereby agree to the truth and accuracy of the facts that are hereinafter expressed and agree to the receipt of this document by the Discipline Committee.

1. On two occasions, once in March 2007 and once in May 2007, the Member provided her own prescription medication to be administered to a [XXX] old male [XXX] student, [XXX]
2. The medication provided by the Member was of the same strength and dosage as what was prescribed for [XXX]
3. The Member failed to verify with [XXX]'s parent if consent was granted and ensure that [XXX]'s Ritalin requirements had not changed.
4. The Member did not cooperate with Children's Aid Society of Algoma ("CAS") and thus CAS reported the matter to the Sault Ste-Marie Police Service.
5. The Sault Ste-Marie Police Service determined that no criminal charges would be laid against the Member because there was no evidence of intent by the Member to administer an illegal substance.
6. In cases where students were required to take medication during school hours, parents were requested to provide the School with a 2 week supply of medication. During the course of the 2006/2007 school year, [XXX]'s parents frequently neglected to provide the School with [XXX]'s Ritalin medication, which resulted in the medication not being administered to [XXX].
7. By this document, the Member pleads guilty to professional misconduct as alleged in the Notice of Hearing, issued on May 8, 2009 and attached as Appendix "A", and in so doing, accepts as true the particulars set out in this section of the MOA.
8. The Member voluntarily admits the above particulars and understands that by doing so, she is waiving the right to require the College to prove the case against her and the right to a contested hearing.

Joint Submission on Resolution

The parties agree to resolve the matter as follows:

9. The Member agrees and understands that upon ratification of this MOA, the Discipline Committee shall find her guilty of professional misconduct.

10. The Member agrees that upon ratification of this MOA, the Discipline Committee shall admonish her, with respect to the above particulars.
11. The Member agrees and understands that, within 90 calendar days of ratification of this MOA, she shall successfully complete a counseling session, with a practitioner, pre-approved by the Registrar, covering “*Teacher’s ethics concerning students’ medication*”.
12. The Member agrees and undertakes that, within 120 calendar days of ratification of this MOA, the Registrar be provided with a written report by the course practitioner confirming the successful completion of the counseling session mentioned above.
13. The Member agrees and undertakes to immediately notify the Registrar of any additional complaints against her of a similar nature since May 2007 addressed to her employer.
14. The Member agrees and understands that upon ratification of this MOA, a notation on the public register maintained by the Registrar, in accordance with section 23 of the *Ontario College of Teachers Act, 1996*, shall include the following information:

On May 20, 2009 the Discipline Committee found the Member guilty of professional misconduct.
15. The Member agrees and understands that upon ratification of this MOA, the College shall publish without her name, a summary of the complaint and its resolution as contained in this MOA. Such publication shall be made in the College’s official publication, *Professionally Speaking/Pour parler profession*, on the College web site, and in such other manner as deemed appropriate by the Registrar.
16. The Member agrees and understands that upon ratification of this MOA, the College will maintain a copy of the Reasons for Decision, Decision and Order of the Discipline Committee, including this MOA, in the College’s Margaret Wilson Library. The Decision and Reasons will be available for review by the public.
17. The Member agrees and understands that for the purpose of considering this matter, the Discipline Committee will be provided with this MOA and the Notice of Hearing, which will be marked as Exhibits and will constitute the evidence upon which the guilty plea will be accepted, the finding of guilt will be made, and the penalty will be imposed.
18. The parties agree and understand that if any phrase or paragraph of this MOA is deemed null and void, the MOA shall be read as though the phrase or paragraph was stricken from the MOA and the amended MOA shall remain in force and effect.

19. The Member agrees and understands that this MOA is the entire agreement between herself and the College and that there have been no oral or written representations made by the College as an inducement or threat to enter into this MOA.
20. The Member agrees and understands that, in the event she breaches a term of this MOA, she is estopped from alleging, by way of defence, that the College failed to investigate or dispose of the complaint in a timely manner with respect to the period between the resolution of the complaint and the date on which the College became aware of such a breach.
21. The Member agrees and understands that, in the event she breaches a term of this MOA, the College may provide the Investigation, Executive, Discipline or Fitness to Practise Committee with all the information necessary to fulfil its statutory mandate; and
22. The parties agree and undertake that upon ratification of this MOA, there shall be no further action taken, no appeal to any forum, and no application for judicial review of the terms of the MOA.

DECISION

Having examined the Exhibits filed, and based on the *Memorandum of Agreement*, the guilty plea, and the submissions made by the College's Dispute Resolution Officer, the Committee ratifies the *Memorandum of Agreement* and finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Annmarie Yolanda Gauthier (Mele) committed acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(14), 1(17), and 1(19).

REASONS FOR DECISION

The Committee accepts the Member's guilty plea and the agreed facts contained in the *Memorandum of Agreement*. (*Exhibit 3*)

On two occasions when the parents had not supplied the necessary medication for a [XXX] old, male, [XXX] student, the Member provided her own prescription medication to the student. The Member failed to obtain parental consent to administer her own medication in this manner and did not ensure that the drug requirements had not changed, even though the student was on the same strength and dosage as her own. Such actions might have endangered the health and well being of the student and amount to acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(14), 1(17), and 1(19).

PENALTY DECISION

The Committee makes the following order as to penalty:

1. Following the completion of the hearing of this matter, the Member is to appear before a member of the Committee to be admonished within 90 days of ratification of the MOA and the fact of the admonishment is to be recorded on the Register of the Ontario College of Teachers.
2. The findings and order of the Committee shall be published in summary, without the name of the Member, in the official publication of the College, Professionally Speaking/Pour parler profession.

REASONS FOR PENALTY DECISION

The Member's behaviour caused a student to be put at risk. The Member displayed poor judgment, given her ten years of experience and as such the Committee deems that

admonishment is necessary in order to communicate to the Member the seriousness of her actions. Supplying medication in any circumstances without authorization and confirmation from parents cannot be tolerated by the profession.

Publication of the findings and order, without the name of the Member, provides a general deterrent to the profession from engaging in similar behaviour. It serves to inform and educate the profession on the dangers of administering medication to students in an inappropriate manner. Publication provides transparency of the process and serves to protect the public interest.

The Committee finds specific deterrence is achieved by the notation on the public register of the finding of professional misconduct and admonishment of the Member.

Date: May 20, 2009

Brent Hamelin
Chair, Discipline Panel

Tammy Bush
Member, Discipline Panel

John Tucker
Member, Discipline Panel