

Publication Ban

At the request of the College, the panel made an order prohibiting the publication and/or broadcasting of the name of the patient identified in this hearing, as well as any information that would reasonably identify the patient.

The Allegations

At the outset of the hearing, College Counsel asked for leave to withdraw certain allegations made against Alan Canon (the “Member”). The panel granted this request. The remaining allegations against the Member as set out in the Notice of Hearing dated April 17, 2015 are as follows.

IT IS ALLEGED THAT you are guilty of professional misconduct under the *Traditional Chinese Medicine Act* (the “Act”), S.O. 2006, c. 27 and the Regulations thereto, all as amended.

THE PARTICULARS OF THE ALLEGATIONS of professional misconduct are that you, on or about December 2013:

1. Used a prohibited title contrary to s. 33(1) of the RHPA and sections (1)32 and (1)39 of *Ontario Regulation 318/12*;
2. *Withdrawn*;
3. *Withdrawn*;
4. *Withdrawn*;
5. Contravened the RHPA by performing an unauthorized controlled act, contrary to section 27(1) of the RHPA and sections 1(10) and 1(39) of *Ontario Regulation 318/12*;
6. *Withdrawn*;
7. Engaged in conduct or performed an act relevant to the practice of the profession which, having regard to all the circumstances would reasonably be regarded by a member as disgraceful, dishonourable, or unprofessional, contrary to section 1(48), of *Ontario Regulation 318/12*.

Member's Position

The Member admitted the allegations of professional misconduct in paragraphs 1, 5 and 7 of the Notice of Hearing. The Panel conducted an oral plea inquiry and was satisfied that the Member's admissions were voluntary, informed and unequivocal.

The Evidence

The evidence was tendered by way of an Agreed Statement of Facts. The Agreed Statement of Facts is reproduced below, with all names other than the Member's name redacted, and without the attachments referred to in the Agreed Statement of Facts.

OVERVIEW

1. Mr. Alan Canon ("Mr. Canon") has been a Member of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario ("the College") since 2013. Mr. Canon's Certificate of Registration number is 3312.
2. At the relevant time, Mr. Canon practiced at the Aquas Cosmetic Centre, located at 114- 2065 Dundas Street East, Mississauga, Ontario (the "Clinic"), which was operated by Ms. B.D. ("Ms. D.").
3. The Inquiries, Complaints and Reports Committee of the College has referred Mr. Canon to the Discipline Committee on the basis of allegations of professional misconduct, as set out in the Notice of Hearing, attached at Tab A:

IT IS ALLEGED that you are guilty of professional misconduct under the *Traditional Chinese Medicine Act*, (the "Act"), S.O. 2006, c. 27 and the Regulations thereto, all as amended.

THE PARTICULARS OF THE ALLEGATIONS of professional misconduct are that you, on or about December 2013:

1. Used a prohibited title contrary to s. 33(1) of the RHPA and sections (1)32 and (1)39 of *Ontario Regulation 318/12*;
2. Contravened a standard of practice of the profession contrary to section 1(1) of *Ontario Regulation 318/12*;
3. Failed to obtain informed consent for a procedure in respect of patient B.N. contrary to section 1(3) of *Ontario Regulation 318/12*;
4. Abused patient B. N. verbally contrary to s. (1)2 of *Ontario Regulation 318/12*.

5. Contravened the RHPA by performing an unauthorized controlled act, contrary to section 27(1) of the RHPA and sections 1(10) and 1(39) of *Ontario Regulation 318/12*;
 6. Failed to keep records in accordance with the standard of the profession in respect of patient B.N. contrary to section 1(25) of *Ontario Regulation 318/12*;
 7. Engaged in conduct or performed an act relevant to the practice of the profession which, having regard to all the circumstances would reasonably be regarded by a member as disgraceful, dishonourable, or unprofessional, contrary to section 1(48), of *Ontario Regulation 318/12*.
4. The allegations referred to the Discipline Committee arose out of the following facts.

FACTS

The Complaint

5. This matter came to the College's attention by way of a complaint from Ms. B.N. ("Ms. N."). Ms. N. complained that Mr. Canon had performed a procedure called a "thread lift" on her despite not being a physician. She stated that she paid \$1500 for the procedure. Ms. N. alleged that Mr. Canon's secretary referred to him as "Dr.", as did his business card. Ms. N. also complained that Mr. Canon was rude and "ignorant" when she complained about the procedure. Attached at Tab B is a copy of Ms. N.'s initial complaint.

6. Attached to Ms. N's complaint were photographs of Mr. Canon's business card, which used the title "Dr." in his email address and website. Ms. N. also attached a brochure from the Clinic which advertised the thread lift procedure as a "non-invasive technique of face and neck lift" that "lifts the skin by specially intended thread to rectify sagging skin and wrinkles".

7. In his response, Mr. Canon admitted to performing the thread lift procedure on Ms. N., which he referred to as the "Aptos" method. He agreed that the procedure does not constitute acupuncture. Mr. Canon denied that he was rude to Ms. N. and denied that he represented himself as an MD. He stated that he is a neurologist and doctor of medicine in Russia. Attached at Tab C is a copy of Mr. Canon's response.

8. Ms. N. maintained that Mr. Canon represents himself as a doctor, and was adamant about his lack of professionalism. Attached at Tab D is a copy of Ms. N.'s response.

The Investigation

9. As a result of the information received by Ms. N., the College commenced an investigation pursuant to section 75(1)(c) of the *Health Professions Procedural Code*. Attached at Tab E is a copy of the Appointment of Investigators.

10. The Member was interviewed in furtherance of the investigation. During an interview with the College investigator, Mr. Canon explained that the thread lift procedure involves inserting needles under the skin for cosmetic benefit. He estimated that he has performed as many as ten thread lift procedures. He also stated that the procedure “has nothing to do with Chinese medicine”.

11. When asked about possible side effects and whether Ms. N. was advised of them, Mr. Canon said that bruising is the only side effect. Mr. Canon was unable to provide Ms. N.’s patient records, claiming he did not have them because she is not his patient. Attached at Tab F is a copy of the Investigator's Report dated November 17, 2014.

12. On January 26, 2015 the investigator met with Ms. D. to locate Ms. N.’s patient chart, which Ms. D. did not have. A copy of the Investigator's Report dated February 4, 2015 is attached at Tab G.

ADMISSIONS TO ALLEGATIONS

13. With respect to the allegations set out in the Notice of Hearing dated April 17, 2015, the Member acknowledges and pleads that he has engaged in professional misconduct as follows:

- (a) Mr. Canon performed an unauthorized controlled act, contrary to section 27(1) of the RHPA and sections 1(10) and 1(39) of *Ontario Regulation 318/12* in that he performed the thread lift procedure, which involves inserting needles under the surface of the skin but does not constitute acupuncture;
- (b) Mr. Canon used a prohibited title contrary to s. 33(1) of the RHPA and sections (1)32 and (1)39 of *Ontario Regulation 318/12* in that he used the title “Dr.” on his business card; and
- (c) Mr. Canon engaged in conduct or performed an act relevant to the practice of the profession which, having regard to all the circumstances would reasonably be regarded by a member as disgraceful, dishonourable, or unprofessional, contrary to section 1(48), of *Ontario Regulation 318/12*.

Decision

Having considered the admissions of the Member, the evidence contained in the Agreed Statement of Fact and the submissions of counsel, the Panel found that the Member committed professional misconduct as alleged in paragraphs 1, 5 and 7 of the Notice of Hearing.

Reasons for Decision

The Panel considered the Agreed Statement of Facts and the Member's plea and finds that this evidence supports findings of professional misconduct as alleged in the amended Notice of Hearing.

Allegation 1 is supported by paragraph 6 in the Agreed Statement of Facts. Mr. Canon used the title "Dr." on his business card and on his email and website addresses.

Allegation 5 is supported by paragraphs 7 and 10 in the Agreed Statement of Facts. Mr. Canon admits having performed a procedure called a "thread lift" or "Aptos" method despite not being a physician. The procedure is not a part of Chinese Medicine or Acupuncture.

Allegation 7 is supported by the above referenced paragraphs as well as Mr. Canon's admission in paragraph 13 of the Agreed Statement of Facts that he has engaged in conduct or performed acts relevant to the practice of the profession which would reasonably be regarded by a member of the profession as disgraceful, dishonourable or unprofessional.

Penalty Submission

The parties were in agreement on the issue of penalty, and jointly proposed that this Panel make an order as follows:

1. The Member shall attend in person before the Panel to receive a public and recorded reprimand;
2. The Member's Certificate of Registration shall be suspended for a period of fourteen (14) consecutive months to commence immediately;
3. The fourteen (14) month suspension referred to in clause 2, above, shall be remitted by (two) months to twelve (12) months upon the Member complying with the conditions described in clause 4, below;
4. The Member shall enroll in and successfully complete the following College-approved courses at his own expense:
 - (a) Ethics;
 - (b) Recordkeeping;
 - (c) A refresher course in traditional Chinese medicine fundamentals in respect of which the Member will submit a proposal to the Registrar

contemplating a 40-60 hour program. The proposal will include the name of the school and or other educational institution where the coursework will be provided;

5. There shall be a term, condition or limitation placed on the Member's Certificate of Registration which contemplates the reassessment of the Member's practice six (6) months following his return to practice at the end of the period of suspension; and

6. The Member shall contribute to the investigation and prosecution costs of the College in the amount of \$5,000, which must be paid in three (3) equal monthly installments of \$1,666.67; and

7. The Discipline Committee's decision shall be published in the ordinary course, which includes publication in the Annual Report of the College, an Executive Summary posted on the College's website, as well as a summary of findings also accessible through the College's website.

College Counsel, in presenting the Joint Submission on Penalty, noted the proposed penalty was designed to protect the public, maintain high professional standards and preserve public confidence in the ability of the College to regulate its members in the public interest. Counsel submitted cases to the Panel from other colleges to demonstrate that the proposed penalty fell within the range of similar cases.

Penalty Decision

Having considered the findings of professional misconduct, the relevant evidence and the submissions of the parties, the panel ordered as follows.

1. The Member shall attend in person before the panel to receive a public and recorded reprimand.
2. The Registrar of the College is directed to suspend Mr. Canon's Certificate of Registration for a period of fourteen (14) consecutive months to commence immediately.
3. The fourteen (14) month suspension referred to in clause 2, above, shall be remitted by two (2) months to twelve (12) months upon Mr. Canon complying with the conditions described in clause 4, below.
4. The Registrar is directed to impose terms, conditions and limitations on Mr. Canon's Certificate of Registration, requiring Mr. Canon to enroll in and successfully complete the following College-approved courses at his own expense:
 - a. Ethics;

- b. Recordkeeping; and
 - c. A refresher course in traditional Chinese medicine fundamentals in respect of which the Member will submit a proposal to the Registrar contemplating a 40-60 hour program. The proposal will include the name of the school and or other educational institution where the coursework will be provided.
5. The Registrar is directed to impose a term, condition or limitation on Mr. Canon's Certificate of Registration which contemplates the reassessment of Mr. Canon's practice six (6) months following his return to practice at the end of the period of suspension.
 6. Mr. Canon shall contribute to the investigation and prosecution costs of the College in the amount of \$5,000, which must be paid in three (3) equal monthly installments of \$1,666.67.

The Panel did not incorporate into its order a requirement that the Discipline Committee's decision be published. Publication is mandated by the legislative regime governing this College, and will occur as a matter of course regardless of the panel's order.

Reasons for Penalty Decision

The Panel recognized that the penalty should maintain high professional standards, preserve public confidence in the ability of the College to regulate its members, and, above all, protect the public. This is achieved through a penalty that considers the principles of general deterrence, specific deterrence and, where appropriate, rehabilitation and remediation of the Member's practice. The Panel also considered the principle that the panel should accept the joint submission on penalty unless it was contrary to the public interest and would bring the administration of justice into disrepute.

The Panel concluded that the proposed penalty is reasonable and in the public interest. The Member has cooperated with the College and, by agreeing to the facts and proposed penalty, has accepted responsibility. The Panel finds that the penalty satisfies the principles of specific and general deterrence, rehabilitation and remediation, and public protection.

The Panel believes that the reprimand, suspension and publication will act as a deterrent to the Member to similar behavior in the future. We are encouraged that he has recognized his mistakes through his cooperation in this matter.

We further find that the profession as a whole will likewise view the reprimand, suspension and publication as deterrents to engaging in similar behavior.

The public's confidence in the ability of the College to regulate its members and to protect the public is enhanced by the remedial provisions of the penalty as outlined in paragraph 4 and the safeguards implemented by paragraph 5.

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I, Henry Maeots, sign this Decision as Chairperson of the panel and on behalf of the panel members listed below.

Date: November 12, 2015

Signed: _____

A handwritten signature in black ink, appearing to read "H. Maeots", written over a horizontal line.

Panel Members

Terry Hui

Christine Fung

Ming Cha

Ferne Woolcott