

The Allegations

[2] The allegations were set out in the Statements of Allegations appended to two Notices of Hearing. The Statements of Allegations are reproduced as Appendix “A” to these reasons.

Member’s Position

[3] The Member admitted certain of the allegations in the Notice of Hearing with number 4-0116. The remaining allegations in that Notice of Hearing, and all the allegations in the Notice of Hearing with number 5-0149, were withdrawn.

[4] The panel conducted a plea inquiry and was satisfied that the Member’s admissions were voluntary, informed and unequivocal. We therefore accepted his admissions.

Publication Ban

[5] The College sought a publication ban under s. 45(3) of the Health Professions Procedural Code being Schedule 2 to the *Regulated Health Professions Act, 1991*, SO 1991, c 18 (the “Code”). The requested order would prohibit the publication of the name and identity of the Patient in relation to whom the Member was making admissions. We granted that publication ban because, in our view, the harm that would flow from the disclosure of the Patient’s identity would outweigh the infringement of the general principle that hearings be open to the public.

The Evidence

[6] The evidence was tendered by way of an Agreed Statement of Facts. The substantive portion of the text of the Agreed Statement of Facts is reproduced as Appendix “B” to these reasons.

Decision of the Panel

[7] The panel found that the Member had engaged in professional misconduct as admitted in the Agreed Statement of Facts.

Reasons for Decision – Professional Misconduct

[8] The Member admitted that he had made comments about the Patient’s breasts, including that they were big, about the Patient’s skin, and about the Patient’s body, including that she had a good figure. He also admitted that this was behaviour or remarks of a sexual nature that was not of a clinical nature appropriate to the service being provided.

[9] Given these admissions, we had no difficulty in concluding that the member had committed sexual abuse as defined in the Code.

[10] Further, the Member admitted that he failed to maintain professional boundaries with the patient, by engaging in personal communications with her, by engaging in business activities with her, and by making the sexual comments referred to above, during the treating relationship.

[11] We had no difficulty in concluding that, by these acts, the member had contravened a standard of practice of the profession; that he had acted in a professional capacity while in a

conflict of interest; that he had acted in a way that would reasonably be regarded by the professional as disgraceful, dishonorable, or unprofessional; and that he had engaged in conduct that would reasonably be regarded by the profession as unbecoming a practitioner.

[12] We therefore found that the Member had committed professional misconduct.

Penalty and Costs Submissions

[13] The Member and the College agreed on a joint submission on penalty and costs. The Joint Submission was signed by the Member on November 18, 2024 and the substantive portion of the Joint Submission is as follows:

1. The Member is required to appear before a panel of the Discipline Committee immediately following the hearing of this matter to be reprimanded, with the fact of the reprimand and a summary of the reprimand to appear on the public register of the College.

2. The Registrar is directed to suspend the Member's Certificate of Registration commencing December 23, 2024, at 12:01 a.m. and continuing for a period of four (4) months or until the requirements in paragraph 3(a) are satisfied, whichever is longer. One (1) month of the suspension will be remitted if the Member satisfies the terms, conditions and limitations in paragraph 3(a) below within three (3) months of the date of the Order.

3. The Registrar is directed to immediately impose the following specified terms, conditions and limitations on the Member's Certificate of Registration:

a. Requiring that the Member successfully complete an ethics course, pre-approved by the Registrar, at his own expense, within three (3) months of the date of the Order of the Discipline Committee.

4. The Member is required to reimburse the College for funding provided to the Patient for therapy and counselling provided under the program established under section 85.7 of the Health Professions Procedural Code, being Schedule 2 of the Regulated Health Professions Act, 1991, up to the maximum allowable amount of \$17,370.00

5. The Member is required to pay to the College costs in the amount of \$6,000.00, with \$3,000 of the costs being payable on the date of the Order of the Discipline Committee and the remaining balance being payable within three (3) months of the date of the Order of the Discipline Committee.

Penalty and Costs Decision

[14] After considering the joint submission and the submissions of the parties, the Panel decided to accept the Joint Submission, and therefore made an order in the terms of the Joint Submission.

[15] The Member waived his right to appeal the reprimand portion of the penalty, and so the reprimand ordered by the Panel was delivered at the conclusion of the hearing.

Reasons for Penalty and Costs Decision

[16] We were required to accept the joint submission unless to do would bring the administration of justice into disrepute or be contrary to the public interest: *R v Anthony-Cook*, 2016 SCC 43; *Ontario (College of Traditional Chinese Medicine Practitioners & Acupuncturists of Ontario) v Xu*, 2020 ONCTCMAO 12.

[17] We concluded that the joint submission would not bring the administration of justice into disrepute or be contrary to the public interest. Based on the cases cited by College counsel, it is in line with the penalties imposed in similar cases.

[18] We considered the recommended costs award to be reasonable and made an order in its terms.

I, Kimberley Bishop, sign this decision as chairperson of the Panel and on behalf of the Panel members listed below.

Date: December 2, 2024

Signed:

Signed by:
Kimberley Bishop
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Kimberley Bishop
Terry Hui
Iftikhar Choudry

APPENDIX “A” – STATEMENTS OF ALLEGATIONS

STATEMENT OF SPECIFIED ALLEGATIONS – NOTICE OF HEARING 4-0116

The Member

1. Delon Dik-Lung Cheng (the “Member”) became a Grandparented member (R. TCMP, R. Ac) of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario on or about July 11, 2013. He transferred to the General class (R. TCMP, R. Ac) on or about June 27, 2016.
2. At the material times, the Member practised at D.L. Healing Clinic in the Splendid China Mall in Toronto, Ontario.

Behaviour or Remarks of a Sexual Nature

3. The Member provided treatment to a female patient (the “Patient”) from in or around August 2020 to in or around October 2021.
4. In or around May or June 2021 to in or around October 2021, it is alleged that the Member did the following to the Patient:
 - a. made comments about the Patient’s breasts, including that they were big (or words to that effect);
 - b. made comments about the Patient’s skin;
 - c. made comments about the Patient’s body, including that she had a good figure (or words to that effect);
 - d. asked the Patient how often she had sex with her husband (or words to that effect);
 - e. on one occasion, the Member told the Patient that she would have good luck if she had sex with the Member (or words to that effect);
 - f. on one occasion, on or about October 9, 2021, the Member climbed onto the treatment table and straddled the Patient while providing treatment to her. The Patient was wearing only a bra at this time; and/or
 - g. made a comment that if she screamed during treatment, he would climb on top of her (or words to that effect).
5. It is alleged that the conduct in paragraph 4 was behaviour or remarks of a sexual nature and was not of a clinical nature appropriate to the service provided.

Failing to Maintain Professional Boundaries

6. It is alleged that the Member failed to maintain professional boundaries with the Patient, including as follows:

- a. during the course of the Member's treating relationship with the Patient, the Member engaged in personal activities with the Patient, which included socializing and exchanging personal text messages with the Patient. In or around October 2021, the Member sent photographs of two women to the Patient and engaged in a text exchange with the Patient about the two women, including about their appearance;
- b. during the course of the Member's treating relationship with the Patient, the Member engaged in business activities with the Patient, including introducing the Patient to a multi-level marketing business and investing in two condominiums with the Patient; and/or
- c. by engaging in the behaviour and/or making the remarks set out above in paragraph 4.

Acts of Professional Misconduct

7. It is alleged that the above conduct constitutes professional misconduct pursuant to s 51(1)(b.1) of the Health Professions Procedural Code, being Schedule 2 to the Regulated Health Professions Act, 1991 (the "Code") (the member has sexually abused a patient, more specifically, behaviour or remarks of a sexual nature by the member towards the patient).
8. It is alleged that the above conduct constitutes professional misconduct pursuant to s 51(1)(c) of the Code, as set out in one or more of the following paragraphs of section 1 of Ontario Regulation 318/12 made under the Traditional Chinese Medicine Act, 2006:
 - a. Paragraph 1: Contravening, by act or omission, a standard of practice of the profession or failing to maintain the standard of practice of the profession;
 - b. Paragraph 18: Acting in a professional capacity while in a conflict of interest;
 - c. Paragraph 48: Engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded by the profession as disgraceful, dishonourable or unprofessional; and/or
 - d. Paragraph 49: Engaging in conduct that would reasonably be regarded by the profession as conduct unbecoming a practitioner of traditional Chinese medicine or acupuncture.

STATEMENT OF SPECIFIED ALLEGATIONS – NOTICE OF HEARING 5-0149

The Member

1. Delon Dik-Lung Cheng (the "Member") became a Grandparented member (R. TCMP, R. Ac) of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario on or about July 11, 2013. He transferred to the General class (R. TCMP, R. Ac) on or about June 27, 2016.

Inappropriate Conduct toward Patient

2. The Member provided treatment to a male patient (the “Patient”) from in or around 2018 to 2021 at D.L. Healing Clinic in the Splendid China Mall in Toronto, Ontario.
3. It is alleged that during an appointment, the Member showed the Patient sexualized images of women on the Member’s cell phone. It is further alleged that the Member made a comment to the effect that the Patient could meet the women if the Patient paid \$200.

Acts of Professional Misconduct

4. It is alleged that the above conduct constitutes professional misconduct pursuant to s 51(1)(c) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991* (the “Code”), as set out in one or more of the following paragraphs of section 1 of Ontario Regulation 318/12 made under the *Traditional Chinese Medicine Act, 2006*:
 - a. Paragraph 48: Engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded by the profession as disgraceful, dishonourable or unprofessional; and/or
 - b. Paragraph 49: Engaging in conduct that would reasonably be regarded by the profession as conduct unbecoming a practitioner of traditional Chinese medicine or acupuncture.

APPENDIX “B” – AGREED STATEMENT OF FACTS

The Member

1. At all material times, Delon Dik-Lung Cheng (the “Member”), was a member of the College. The Member became a Grandparented member (R. TCMP, R. Ac) of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario on July 11, 2013. He transferred to the General class (R. TCMP, R. Ac) on June 27, 2016. A copy of the Member’s public register profile is attached as **Tab “A”**.
2. At all material times, the Member practised at D.L. Healing Clinic (the “Clinic” in the Splendid China Mall in Toronto, Ontario).

Behaviour or Remarks of a Sexual Nature

3. The Member provided treatment to a female patient (the “Patient”) from in or around August 2020 to in or around October 2021.
4. In May or June 2021 to in or around October 2021, it is agreed that the Member did the following to the Patient:
 - a. made comments about the Patient’s breasts, including that they were big (or words to that effect);
 - b. made comments about the Patient’s skin; and
 - c. made comments about the Patient’s body, including that she had a good figure (or words to that effect).
5. It is agreed that the conduct in paragraph 4 was behaviour or remarks of a sexual nature and was not of a clinical nature appropriate to the service provided.

Failing to Maintain Professional Boundaries

6. It is agreed that the Member failed to maintain professional boundaries with the Patient, including as follows:
 - a. during the course of the Member’s treating relationship with the Patient, the Member engaged in personal activities with the Patient, which included socializing and exchanging personal text messages with the Patient. In or around October 2021, the Member sent photographs of two women to the Patient and engaged in a text exchange with the Patient about the two women, including about their appearance;
 - b. during the course of the Member’s treating relationship with the Patient, the Member engaged in business activities with the Patient, including introducing the Patient to a multi-level marketing business and investing in two condominiums with the Patient; and
 - c. by engaging in the behaviour and/or making the remarks set out above in paragraph 4.

Admission of Professional Misconduct

7. It is agreed that the above-noted conduct constitutes professional misconduct pursuant to section 51(1)(b.1) of the Health Professions Procedural Code (the “Code”), being Schedule 2 to the *Regulated Health Professions Act, 1991* (the member has sexually abused a patient, more specifically, behaviour or remarks of a sexual nature by the member towards the patient).

8. It is agreed that the above-noted conduct constitutes professional misconduct pursuant to section 51(1)(c) of the Health Professions Procedural Code (the “Code”), being Schedule 2 to the *Regulated Health Professions Act, 1991* (the “RHPA”) and as set out in the following paragraphs of section 1 of Ontario Regulation 318/12 made under the *Traditional Chinese Medicine Act, 2006* (the “Act”):
 - a. **Paragraph 1:** Contravening, by act or omission, a standard of practice of the profession or failing to maintain the standard of practice of the profession;

 - b. **Paragraph 18:** Acting in a professional capacity while in a conflict of interest;

 - c. **Paragraph 48:** Engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded by the profession as disgraceful, dishonourable or unprofessional; and

 - d. **Paragraph 49:** Engaging in conduct that would reasonably be regarded by the profession as conduct unbecoming a practitioner of traditional Chinese medicine or acupuncture.