

**DISCIPLINE COMMITTEE OF THE COLLEGE OF TRADITIONAL CHINESE
MEDICINE PRACTITIONERS AND ACUPUNCTURISTS OF ONTARIO**

IN THE MATTER OF MOHMED SHOEB M CHIKHLIKAR

**the *Regulated Health Professions Act, 1991*, S.O. 1991, c.
18, and the *Traditional Chinese Medicine Act, 2006*, S.O.
2006, c. 27**

Decision Date: **July 30, 2025**

Indexed as: **Ontario (College of Traditional Chinese Medicine
Practitioners & Acupuncturists of Ontario) v Mohmed
Shoeb M Chikhlikar, 2025 ONCTCMPAO 29**

Panel:	Matthew Colavecchia	Chairperson, Professional Member
	Judy Cohen	Public Member
	Kevin Ho	Public Member

BETWEEN:

**THE COLLEGE OF TRADITIONAL
CHINESE MEDICINE PRACTITIONERS
AND ACUPUNCTURISTS OF ONTARIO**

-and-

MOHMED SHOEB M CHIKHLIKAR

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(Jaan Lilles and Brianne Westland for
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(Lorne Honickman and Sarah Brown
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(Fredrick Schumann
(Independent Legal Counsel
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(Dates of Hearing: December 16-18,
	2024; January 6, 2025; February 4 and
	10-12, 2025; March 3, 2025

DECISION AND REASONS FOR DECISION

[1] This matter came on for hearing before a panel of the Discipline Committee (the “**Panel**”) of the College of Traditional Chinese Medicine Practitioners and Acupuncturists (the “**College**”), starting on December 16, 2024, via videoconference.

The allegations

[2] The allegations were set out in a Statement of Allegations appended to the Notice of Hearing. The Statement of Allegations is reproduced as **Appendix “A”** to these reasons.

[3] The Statement of Allegations alleges that the Member committed professional misconduct with three Complainants: Complainant A, Complainant B, and Complainant C. The misconduct is alleged to have occurred at a traditional Chinese medicine school, Eight Branches College of Eastern Medicine (“**Eight Branches**”), where the Member was an instructor and student.

[4] Throughout, the burden of proof is proof on a balance of probabilities, and the onus of proof rests on the College. This means that, for us to make a finding of professional misconduct, we must be satisfied, on all the evidence we admitted, that it is more likely than not that the act(s) in question occurred and that they met the definition of professional misconduct.

Overview of the evidence

[5] As well as the three Complainants, the College called two witnesses: Valerie Henderson, the College investigator, and Ryan Brooks, the then-president of Eight Branches. The substantive evidence of Ms. Henderson and Mr. Brooks was introduced by way of affidavits, which they adopted in their examinations-in-chief. The Member’s counsel then cross-examined them.

[6] The defence called the Member and two other witnesses: W.L. and M.L., both students in a class with Complainant B that the Member had taught.

[7] Certain documents and other pieces of evidence were marked as exhibits.

[8] At the outset of the hearing, and on consent, we made a publication ban order, prohibiting the publication of any information that would reveal the identity of any of the three Complainants. We were satisfied that publication of their identity would pose a serious risk to an important public interest, namely their interest in privacy. We were satisfied that the order sought was necessary to prevent this risk, and that the benefits of the order outweighed its negative effects.

[9] A significant part of the defence theory of the case was that another student at Eight Branches, Elijah Miley, played a role in the orchestration of false allegations against the Member. The defence theory was that Mr. Miley had animus towards the Member and sought to influence the Complainants and others to exaggerate or fabricate allegations.

Allegations of Complainant C

[10] Complainant C was the College’s first witness. The Statement of Allegations in the Notice of Hearing makes the following allegations of fact about Complainant C:

12. Complainant C was, at all material times, an employee at Eight Branches.

13. Between January 2022 and March 2022, Mr. Chikhlikar made inappropriate comments towards Complainant C and/or touched Complainant C on her back and/or buttocks without her consent on one or more occasions.

14. On or around March 24, 2022, Mr. Chikhlikar touched Complainant C's buttocks without consent.

Evidence relevant to allegations of Complainant C

[11] In summary, Complainant C testified as follows:

(a) At the time of the hearing, she was 24 years old. She worked at the front desk at Eight Branches. She worked the evening shifts from 5:30 p.m. to 10:30 p.m.

(b) Her interactions with the Member were professional at first. She interacted with him because of his work running the student clinics. They became more comfortable with one another, and he would ask about her studies. He started to make jokes and comments that were less professional, although she could not remember any in particular. Then his jokes and comments became sexual, in her view. She gave an example where she was holding disinfectants and he said, "what other big things can you hold?" She interpreted it as a sexual remark. She didn't say anything back.

(c) She remembers the Member making jokes about her pants. In February or March 2022, he talked about the pockets being big, and touched the pockets of the pants she was wearing. He made contact with her body over the pants. She felt uncomfortable and didn't say anything back. He touched her again like this three or four times. He would touch the pocket and make a joke about it, however each time she could feel him touching her body.

(d) On March 24, 2022, Complainant C was working at the front desk and the Member was running the student clinic. She told him that he could leave and didn't have to wait for her. He was standing behind her and put his right hand into the pocket of her hoodie jacket. She turned off her laptop and they went downstairs together to leave the building. In the building's lobby, he touched her buttocks area with his hand. It felt like a grab or squeeze, but happened very quickly. She shoved her laptop behind herself and shifted her body. He went down the stairs to go to the building's garage. She went back upstairs to the premises of Eight Branches.

(e) Once there, Complainant C texted C., her friend and co-worker, about what had happened. She then spoke with C. on the phone from the (unisex) bathroom. She was scared that the Member would come back upstairs too and find her. She was upset and crying.

(f) Within a week, Eight Branches' teaching coordinator and the school's owner each spoke with Complainant C about what had happened. The owner showed her footage from the lobby showing her and the Member leaving. Complainant C filed a complaint with Eight Branches.

(g) In cross-examination, Complainant C agreed that she and the Member joked around frequently and he had a "chill attitude" with her, as he did with others. She also testified that the touches before March 24 were "taps", not "grabs." She agreed that the jokes the

Member would make about her pants were to suggest that she would steal things and hide them in the pockets of her pants. She agreed that, on March 24, the comments the Member made about her pants were to the effect of “what do you have in your pockets? What are you going to steal?” In cross-examination, she remained firm in her recollection that, on March 24, he grabbed her buttocks. She testified that she never consented to the Member touching her buttocks on March 24, or at any other time.

(h) Complainant C was cross-examined about Elijah Miley. She testified that she remembered him but didn’t know him very well, although they had a lot of conversations. She knew that he didn’t like the Member, but didn’t know anything more than that. She did not recall speaking with Mr. Miley soon after the March 24 incident to tell him what had happened. She was shown an email from Mr. Miley to the College dated March 31, 2022, in which it appears that Mr. Miley may have been referring to Complainant C’s allegations. She said that she was not close to Mr. Miley and did not tell him what had happened, but that her friend C. was, and that she remembers C. telling her that C. had told Mr. Miley what had happened. She disagreed that she colluded with Mr. Miley.

[12] The text messages between Complainant C and her friend C. were marked as an exhibit on consent (exhibit 2). We did not rely on the text messages as a prior consistent statement; in other words, we did not rely on them for the truth of their contents, or on their consistency with Complainant C’s testimony as corroboration of her testimony. However, we did have regard to Complainant C’s expressed emotional state in the text messages. That is circumstantial evidence that an upsetting event had occurred. Specifically, Complainant C stated:

- (a) “I feel so uncomfortable now”
- (b) “I just broke tofay” [sic]
- (c) “I’m just scared”

[13] Complainant C’s messages with C. can also refute an allegation of recent fabrication. Specifically, because they were sent very shortly after the alleged incident, they tend to show that Complainant C cannot have fabricated her allegations because of influence by Mr. Miley, unless that influence occurred before the incident on March 24.

[14] The building’s video footage of the lobby was also filed on consent (exhibit 3). It is roughly 13 seconds long. It shows Complainant C and the Member walking out through the lobby. The Member is walking to the right of, and slightly behind, Complainant C. He reaches out with his left hand in the direction of her left buttock. His fingers extend and contract. Her left hand, which is carrying a grey rectangular bag, moves in the direction of his hand. He moves his hand back but then reaches out again towards her right buttock.

[15] On April 1, 2022, the Member sent an email to Ryan Brooks in which he wrote:

I was briefed about the recent incident and was told that [you] strongly suggested that I should be given a second chance.

I would like to heartily thank you for your trust and support throughout my journey. I still remember coming to your office at the old dojo to discuss my financial

difficulty as a student and it was with your kindness that I was able to complete my studies uninterrupted and eventually be who I am today.

I feel ashamed to put you in such situation and I assure you that there will not be a second time.

[16] The College submitted that this email was an apology and admission by the Member that he had behaved inappropriately with Complainant C.

[17] On April 6, 2022, the Member resigned from his teaching position with Eight Branches.

[18] In relation to Complainant C, the Member testified as follows:

(a) At the time, he was 34 years old.

(b) He did not touch Complainant C inappropriately, on the buttocks or elsewhere, and denied having spoken to her inappropriately in sexualized language or jokes.

(c) His relationship with Complainant C was always friendly and jovial. He has a sense of humour, and he jokes with everyone.

(d) He would often go down with Complainant C to the parking garage after work. Sometimes he would help her carry out garbage bags.

(e) On March 24, 2022, he and Complainant C were both wearing hoodie jackets. She said that his hoodie was very colourful. He responded, “unlike yours, which is very boring.” He said, “you can’t even put this water bottle in your hoodie’s front pocket – look, I can put it in mine.” He tried to put the water bottle in her hoodie’s pocket and couldn’t. She said that she could still put the clinic’s phone in. She was laughing. She said these were her favourite pants: cargo pants. He said that they were perfect for stealing. This was a running joke between the two of them; he would describe her pants as “perfect thief pants.”

(f) The Member then used two of his fingers to pull the flap of the pocket down. Complainant C laughed and giggled, pushing his hands away. He reached out for the pockets on the other side, as if to say, “what are you stealing?” She said, “nothing today.”

(g) They then went to the parking garage, Complainant C entered her car but then came out again. She told the Member that she had forgotten to leave the clinic’s phone in the office. He said, “so you did steal something after all!” She laughed and smiled.

(h) He did not ask her if he could touch either of her pockets. He did not see anything wrong with doing that, given their relationship and the interaction that evening about the water bottle and the hoodie pocket. He felt he did not need her consent for those actions.

(i) In relation to the email to Ryan Brooks, the Member said he did not have full information about the complaint at the time. In the email, he meant that he was ashamed not of what he’d done, but of the fact that a serious complaint had been made and that he had to defend himself. He believed that there must have been a misunderstanding that he could correct.

Findings in relation to Complainant C

[19] We find that the Member touched Complainant C on the buttocks without consent.

[20] We make this finding on the applicable standard of proof, namely a balance of probabilities.

[21] The key evidence was Complainant C's testimony itself and the video footage of the incident.

[22] We did not believe the Member's version of events. He testified that he used two of his fingers to pull down the flap of the pocket of Complainant C's pants. However, the video footage shows that he reached out with the fingers of his hand spread. That is much more suggestive of a touch or grab of the buttocks than an attempt to pull down the pocket of a pant with two fingers.

[23] While we did not use it as evidence of the truth of its contents, Complainant C's text messages to C. were some circumstantial evidence of her emotional state, and, therefore, some circumstantial evidence that an upsetting event had occurred.

[24] The Member's counsel made certain arguments about the lack of video footage of Complainant C going to the washroom. We did not see this as undermining the reliability of her account, as corroborated by the video footage. In any event, her text messages demonstrate that she was upset.

[25] The Member's counsel also pointed out that the College had not called C. as a witness. In our view, C.'s testimony would have added, at most, little to the record before us. C. was not a witness to the incident on March 24. In any event, if the Member felt that it was important to hear from C., he could have called her himself.

[26] In relation to Complainant C's evidence that, before March 24, the Member had made inappropriate comments towards her and touched her without consent, in our view this evidence and/or conduct was not sufficiently clear to allow us to make findings of professional misconduct on a balance of probabilities.

Allegations of Complainant A

[27] The Statement of Allegations in the Notice of Hearing makes the following factual allegations about Complainant A:

3. Complainant A was, at all material times, a student at Eight Branches. While Complainant A was a student at [Eight Branches], Mr. Chikhlikar taught courses in which Complainant A was a student.

4. From in or around December 2019 to in or around February 15, 2022, Mr. Chikhlikar sent inappropriate messages to Complainant A on or around the following dates:

(a) December 22, 2019;

(b) March 2020;

(c) October 14, 2020;

(d) January 1, 2021;

(e) July 14-16, 2021; and

(f) February 15, 2022.

5. Mr. Chikhlikar continued to send Complainant A messages after Complainant A asked Mr. Chikhlikar to stop.

Evidence in relation to the allegations of Complainant A

[28] The key points of Complainant's testimony were the following:

(a) She was a student at Eight Branches from September 2018 to 2021.

(b) The Member taught her in a neuroanatomy course in 2019. He was also her instructor for a graduate review course in her last year, and did some of her clinical supervision.

(c) On October 16-17, 2019, Complainant A and the Member exchanged a series of emails, which were marked (exhibit 20). In essence, Complainant A told him that she would not be able to write an exam for medical reasons, and asked to schedule a re-write.

(d) On November 27, 2019, Complainant A sent the Member an email attaching a presentation of hers. She wrote: "Hey Mohamed, Attached is my pressy! Thanks!" A copy of this email was marked (exhibit 21).

(e) In December 2019, the Member spoke with her in person at the beginning of a neuroanatomy class. She was sitting at the front of the class. He asked her if she ever wanted to hang out with him outside of school. She had no interest in doing so.

(f) The Member's version of this interaction was put to Complainant A, which is described below (i.e., that she had invited him out for a drink at a Christmas party held at Eight Branches, that he had said he didn't drink, and that she had responded by saying that his liver must be "pretty healthy" and inviting him to go with her to a strip club). She testified that she does not remember saying those things. While she conceded that they were "possible", she did not believe she would have said them.

(g) A few days later, she received an email from the Member following up on the conversation. This email was filed in evidence (exhibit 5). It was dated December 22, 2019, and had the subject "Meetup!" The email said:

Hey [Complainant A's first name],

Hope you're enjoying the weekend. Catching up to see when you are free to hangout. Let me know your availability and I will arrange something fun for us.

Also, here's my contact: [omitted], make sure to send #cute[Complainant A's first name]pic so that I know it's you ;)

Happy Holidays,

Mohmed

(h) Complainant A interpreted this as a flirtatious message asking her out on a date. She pointed to the request for a "#cute[name]pic" and the winking emoji. She was surprised and did not respond.

(i) In 2020, during the COVID-19 pandemic, Complainant A was taking an herbal class and the Member was auditing that class. It was taught over Zoom. Complainant A would have her video on because this was the instructor's preference for all students.

(j) She testified that she received private Zoom chat messages from the Member and that they were inappropriate, to the point that she turned off her video for the rest of the semester. She remembered the messages. She had screenshots that were filed as Exhibits 6, 7, and 8.

(k) Exhibit 6 shows the following messages:

From Mohmed to Me: (Privately)

Is that how you made through [sic] university? ;)

From Mohmed to Me: (Privately)

you left your mic on... we can hear your moans ;)

(l) Exhibit 7 shows the following messages:

From Mohmed to [name] (Privately): Are you still mad at me? You know I was kidding about the university thingy... right?

From [name] to Mohmed (Privately): Those messages aside, it was your last message that was very inappropriate.

From Mohmed to [name] (Privately): Didn't mean to be inappropriate

From Mohmed to [name] (Privately): Just being a little man to woman ;)

From Mohmed to [name] (Privately): I like the energy between us, you should give me your number!

From [name] to Mohmed (Privately): There is no energy between us and I'm not giving you my number. Please stop.

From Mohmed to [name] (Privately): thanks for clarification

(m) Exhibit 8 appears to be another screenshot of the same conversation as in Exhibit 7.

(n) Complainant A testified that, once you exit Zoom and restart it, you cannot see previous Zoom chat conversations. She testified that Exhibit 6 was a photograph she took of the Zoom chat window. By contrast, she captured Exhibits 7-8 by using a Zoom function to save the chat. She then took a photograph of the result. As a result, Exhibits 7-8 have a slightly different appearance from Exhibit 6. Exhibits 7-8 appear to be screenshots of content from Zoom exported into a text editor. Exhibit 6 says “to Me” whereas Exhibits 7-8 say “to [Complainant A]”. Exhibits 7-8 have timestamps, whereas Exhibit 6 does not.

(o) The title bar of the window in Exhibits 7-8 says “meeting_saved_chat.txt – Edited”. Complainant A did not know the meaning of the “edited” indication, and there was no evidence presented in the hearing about its meaning.

(p) Complainant A testified that Exhibits 6-8 accurately reflected the messages that she received, that her computer and Zoom software were working properly at the time, and that she did not alter the messages before taking the photographs, or alter the photographs after taking them.

(q) Complainant A testified that, soon after taking the photographs, she sent them in a Facebook group chat to a group of her friends. Screenshots from that group chat were marked as Exhibit 22. Exhibit 22 contains the screenshot that was marked as Exhibit 6, then, later, shows Complainant relating to the chat and typing out the messages in Exhibits 7-8. The very first messages in Exhibit 22 do not have the date and time visible, but on page 5 of the Exhibit the date and time displayed are April 16, 2022, at 2:40 p.m. The surrounding messages suggest that Complainant A sent these messages very soon after she received them. She testified in re-examination that she sent the first message in Exhibit 22 “pretty much right after I received it.”

(r) Complainant A testified that, on October 14, 2020, she received a Facebook message from a username “Abdullah Ibn Adam”, but she knew that it was from the Member because of the profile picture and their mutual friends. The message simply said: “Two truths one lie.” She does not know why he sent her that message, but believes it was a reference to a game in which one person makes three statements and others must guess which statement is the lie.

(s) Complainant A testified that, on January 1, 2021, she received another Facebook message from the Member. It said: “Happy New Year [Complainant A] [fireworks emoji]”. A screenshot of the October 14, 2020 message and the January 1, 2021 message was marked (exhibit 9).

(t) Complainant A also testified about an email exchange with the Member in mid-July 2021. By that time, she was his student in her graduate review class. She asked to retake an examination. He responded: “Yeah! We can arrange a special accommodation for a small brownie fee.. he he”. After some discussion about scheduling, he wrote: “Alright Alright, why are you so difficult! Quiz is open as of now and will be available until Tuesday noon. Better make sure my brownies are homemade organic ;)”. She

interpreted this last message as flirtatious. A copy of this email chain was marked (exhibit 10).

(u) In cross-examination, a version of this email chain with additional messages was put to Complainant A and marked (exhibit 23). Exhibit 23 has two subsequent messages from July 16. These messages were not captured in Exhibit 10 because Exhibit 10 was created when Complainant A forwarded the Member's "homemade organic" message to the College investigator. The two additional messages from July 16 in Exhibit 23 were:

Complainant A: Haha thank you – where can I find it on Moodle?

Member: Use the link below: [link] Don't forget to do your weekly quiz for next week. Will be up from Sunday – Tuesday noon.

(v) Complainant A testified that, even though she said "haha" in her email, she did not find the "homemade organic" remark funny, and she meant to brush it off.

(w) After Complainant A graduated in 2021, she received an email from the Member in February 2022. The email stated: "Hey [Complainant A]! It was valentines yesterday and I couldn't stop thinking about the passionate connection that we shared. I kinda miss the sparkle in those eyes every time I witnessed them, it's absolutely euphoric. We should give this another chance, don't you think...". A copy of this message was marked (exhibit 11).

(x) In April 2022, Complainant A sent an email to Ryan Brooks complaining about the Member. She testified that she had heard through a student representative, Mr. Miley, that a couple of other students were upset at his behaviour. This made her want to come forward. She copied Mr. Miley on her complaint email. She did not know Mr. Miley well. She copied him because he was the student representative who had told her about the other complaints.

[29] The Member testified as follows about events with Complainant A:

(a) He was her teacher between September 2019 and December 2019, and then again between April 2021 and August 2021. They attended a class together in the winter semester of 2020.

(b) They had several conversations leading up to the October 16-17, 2019 email (exhibit 20). At first, Complainant A asked him questions about the class, but then began to discuss her personal life in general, including about romantic relationships (e.g., about an ex-boyfriend or about being single). She would always sit in the front row. She would look at him "a certain way", play with her hair, and engage in "suggestive body language", such as spreading or shaking her legs. He interpreted this as a bid for his attention. In cross-examination, he described these as "choosing signals."

(c) The Member interpreted the November 27, 2019 email (exhibit 21) in which Complainant A said "attached is my pressy" as a sexual innuendo. He said in cross-examination that he interpreted it as a play on the term "pussy."

(d) On December 20, 2019, there was a party at the school for the end of the semester. He started talking to another student, and Complainant A started looking at him and making “suggestive leg movements.” He went over to talk to her. During the conversation, he said that they should hang out sometime. She responded, “let’s go for a drink.” He said he did not drink alcohol. She said, “you must have a very healthy liver.” She then said, “let’s go to a strip club.” He was very shocked and taken aback, and he left.

(e) He was no longer an instructor as of December 22, since his contract had expired. He started teaching again in January 2020, although he did not have Complainant A in any of his courses that semester.

(f) Thinking that Complainant A might have felt rejected or judged, he sent her the email marked as Exhibit 5. He wanted her to know that just because he didn’t drink and wouldn’t go to a strip club, he wasn’t rejecting her.

(g) The Member denied sending the Zoom chat messages to Complainant A that were marked as Exhibits 6-8. He agreed that using a winking emoji was typical of his writing style. He agreed that the messages would be inappropriate for an instructor at a school to send to a student. He agreed that he knew how to send Zoom private messages.

(h) He testified that the “Two truths one lie” message was him checking in on her, and that he hoped that she would engage. The January 1, 2021 message was similar in intent.

(i) He testified that the “brownie fee” email messages were sent in jest. He was referring to Complainant A’s earlier statements that she made good brownies. He denied that he was saying, indirectly, that he wanted to go out with her, or that he was asking her for a sexual favour.

(j) In February 2022, he referred to “brownie overdue” as a fun way to try to strike up a conversation. He thought about Complainant A because he saw someone on the subway platform who looked like her. He remembered how she looked at him and how her face and eyes would light up when she looked at me. He knew she was no longer a student and he would “just put it out there and let it go.”

[30] The Member objected to the admission of Exhibits 6-8. We admitted them because there was, in our view, evidence capable of supporting a finding that each of those documents was what it purported to be (i.e., that it represented Zoom messages that Complainant A had actually received from the Member). In our view, the low threshold of authentication was met by Complainant A’s evidence that she had received the messages from the Member and had captured them by, in one case, taking a photograph of the messages as displayed in Zoom, and, in the other case, by exporting the messages to a text editor and taking a photograph of that window.

[31] Further, in our view, Exhibits 6-8 satisfied the best evidence rule, since they were the best version of the messages that the nature of the case would allow.

Findings in relation to Complainant A

[32] Except for the Zoom chat messages, the electronic messages from the Member to Complainant A that were the subject of the allegations in the Statement of Allegations were not in dispute. In other words, it was agreed that they were sent as indicated on their face.

[33] In relation to the Zoom messages, we find that they were sent by the Member as described by Complainant A. The following were the key pieces of evidence that supported that finding:

- (a) Complainant A's testimony, which was unshaken in cross-examination, that she received the messages.
- (b) Complainant A's near-contemporaneous Facebook messages to her friends, in which she recounted the messages. While these were not evidence of the truth of their contents, her expressions of emotional upset were circumstantial evidence that an upsetting event had occurred. The Facebook messages also rebut any suggestion that she later fabricated the Zoom messages and her testimony about them.
- (c) The winking face emoji in the Zoom messages is consistent with Member's other messages to Complainant A (e.g., exhibit 5, exhibit 10) and with his admitted writing style.
- (d) The messages are consistent with the Member's acknowledged romantic interest in Complainant A, his belief that she was romantically interested in him, and his interpretation of the word "pressy" in the email she had sent.

[34] Accordingly, we do not believe the Member's denial that he sent the Zoom messages.

Allegations of Complainant B

[35] The Statement of Allegations in the Notice of Hearing makes the following factual allegations about Complainant B.

- 7. Complainant B was, at all material times, a student at Eight Branches. While Complainant B was a student at Eight Branches, Mr. Chikhlikar taught at least one course in which Complainant B was a student.
- 8. In or around January 2022, Mr. Chikhlikar made an inappropriate, sexual comment to Complainant B while demonstrating a procedure.
- 9. On or around February 2, 2022, while performing a procedure on Complainant B, Mr. Chikhlikar positioned his genitals to touch Complainant B.
- 10. On or around February 23, 2022, during a class taught by Mr. Chikhlikar and attended by Complainant B, Mr. Chikhlikar touched Complainant B's buttocks and/or lower back area.

Evidence in relation to the allegations of Complainant B

[36] The key points of Complainant B's testimony were the following:

- (a) She was a student at Eight Branches from September 2021 until her graduation in August 2024. She is now 27 years old.
- (b) The Member taught two of her courses, both in the semester beginning in January 2022: Acupuncture Allied Therapy and Acupuncture Safety and Jurisprudence.
- (c) The Acupuncture Allied Therapy course was practical and hands-on. It was about various techniques beyond acupuncture: e.g., cupping, moxibustion, and gua sha. Class was once a week from 1:30 p.m. to 5:30 p.m.
- (d) The classes were in the clinic room. The clinic room is a big room with eight sections that can be closed off with curtains. In each section is a treatment table and a cart with supplies.
- (e) Complainant B found the Member very charismatic. His manner evolved through the semester: he began to make jokes that she perceived as sexual in nature. For instance, she testified about an incident in January, when she was doing cupping and he said she was going too fast. She said, to confirm the instruction, “so you need to start slow and finish fast?” He responded, “that’s how you make her finish.” She interpreted this as a sexual innuendo.
- (f) During class on February 2, 2022, the Member was demonstrating bloodletting on Complainant B’s right foot. Her left foot was free. He positioned his body close to the end of the table, so that her foot pressed against his genital area. This lasted for 2-3 minutes. She did not say anything to him about it, and did not report the incident, because she felt “unsure” and was “second-guessing” herself about what had happened.
- (g) She agreed that she had not told Eight Branches about the bloodletting incident. She said that she had not realized its significance at the time and only realized it in hindsight.
- (h) During this demonstration, there were a couple of students around, but not the whole class.
- (i) During class on February 23, 2022, the students were practicing gua sha. This is a technique in which the practitioner scrapes along the patient’s back to remove heat, increase circulation, and relax muscles. Traditionally, it is done with a stone, although students used bottle caps in the class. The students were divided into pairs. The curtains were drawn because the students playing the role of patients had removed their tops.
- (j) Complainant B was practicing gua sha on her partner’s back when the Member came into their section. He positioned his body against Complainant B’s body and put his right hand on her right hand, ostensibly to show her how to do the gua sha strokes properly. With his left hand, he first grazed her buttocks, then fully grabbed her buttocks and rubbed. This lasted for a couple of minutes. Complainant B felt in shock and very violated. She had not agreed to being touched in that manner.
- (k) When this took place, Complainant B was standing directly in front of the table, at the head of the table. The Member was directly beside her, on her right side. As he touched

her, he made remarks about how to perform the technique that Complainant B interpreted as veiled references to what he was doing. At one point, he asked her “do you like popping bottles?” She responded that she did not.

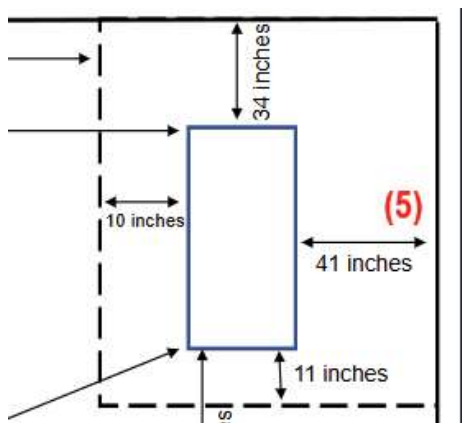
(l) The Member then left the section, and on the way out, he gave her buttocks a little tap. Then, Complainant B’s partner had to get changed, so Complainant B stepped outside the curtain and held it closed for her. The Member walked by and tapped her buttocks, again, in the same way.

(m) Complainant B texted her roommate, V., right after class ended, while she was still there. These text messages were marked as an exhibit (exhibit 24). On their face, they say they were sent and received on Wednesday, February 23, at 4:47 p.m.

(n) In the messages, Complainant B related what had happened, and stated:

I am still in class but I am in shock ... I feel so uncomfortable ... Like I want to cry and puke kinda ... what is happening ... I don’t even know how to describe it ... I know I was like kinda out of my body ... I really just cannot believe it happened ... And I’m already fragile ... I want to dry ... Cry.

(o) In cross-examination, Complainant B said that the February 23 incident had happened at the station labelled #5 in the drawing of Valerie Henderson (the College’s investigator). Complainant B said that she was standing between the end of bed #5 and the wall of the room. That end of the bed has a headrest that can be lifted up and used. Ms. Henderson measured a distance of 34 inches from the end of bed #5 to the wall of the room, and that distance would be reduced if the headrest was in use:



(p) Complainant B testified that, during the February 23 touching incident, the Member was standing at the left corner of bed #5. It was suggested to her that there was not enough space for him to be there with her. She disagreed. She pointed out that the beds were not fixed to the floor, but could be moved.

(q) It was also suggested to her that the curtains were open at the time, not closed. She unequivocally disagreed. She agreed that the curtains were usually open, but they were closed on February 23 because students had to take their shirts off.

(r) Complainant B knew who Mr. Miley was, but did not speak to him about her allegations against the Member.

[37] The text messages between Complainant B and V. were the subject of a *voir dire*. The Member's counsel objected to their admission on the ground that they were a prior consistent statement. As with the text messages of Complainant C and Complainant A, we admitted them primarily as evidence of Complainant B's emotional state in the immediate aftermath of the alleged touching incident, and therefore as circumstantial evidence that an upsetting event had occurred. We also recognized that, depending on how the case evolved, they might be used to rebut an allegation of recent fabrication, if one was made. However, no such allegation had been made at the time of the *voir dire*.

[38] The defence called two witnesses other than the Member in respect of Complainant B's allegations: W.L. and M.L. W.L.'s evidence can be summarized as follows:

(a) She was a student at Eight Branches from April 2021 to July 2023. The Member taught her Allied Therapy class. She took that class in 2022, with Complainant B. Her usual partner in that class was M.L.

(b) W.L. testified that, in the Allied Therapy class, students sometimes needed to remove or put on clothes. When they did so, they would close the curtain or cover themselves with a bedsheet. After removing clothes, if they were well-covered with a bedsheet, or if they didn't need to expose their backs, they would leave the curtains open. W.L. and her partner would only close the curtains when they needed to remove their shirts. They would then open them up again. She said, for the most part, others in the class had the same practice. However, she said in cross-examination that some of her classmates did want privacy, and so some did actually close the curtains partially when they were doing something that required them to expose their skin.

(c) W.L. remembered the bloodletting demonstration on Complainant B. She did not see the actual procedure. She went over because she heard other students saying the treatment had been successful in reducing the swelling in Complainant B's ankle. She saw a group of students surrounding Complainant B and went over. Complainant B seemed very happy with the treatment.

(d) She didn't remember whether she was in class on February 23, but she remembers the gua sha class. She doesn't recall if there were multiple classes on gua sha.

[39] M.L. testified as follows:

(a) She studied at Eight Branches and took the Allied Therapy class in 2022, taught by the Member, with W.L. and Complainant B. W.L. was her partner in the class.

(b) She remembered the bloodletting demonstration on Complainant B, but didn't watch it. Complainant B spoke positively about the treatment afterwards. She didn't remember if one or more than one student was there.

(c) During practice, the room's curtains were open. They would be closed when students were changing, except for one person who kept them closed for religious reasons.

In cross-examination, she was asked whether Complainant B left the curtains open when doing the gua sha technique with her partner, and she answered that she couldn't say for sure. She didn't have a specific recollection of that day and wasn't watching Complainant B; she was focused on learning the technique with her own partner.

(d) She believes she was there on February 23 because she didn't miss classes but doesn't recall the specific date. She remembers that W.L. brought in a special gua sha tool to use. She said that the curtains would have been open during the demonstration.

(e) She knew Mr. Miley, who had spoken to her about his strong dislike of the Member. A text exchange between Mr. Miley and M.L. was filed (exhibit 25). In it, Mr. Miley says that the Member "molested someone", a person on "staff", and that the Member gave someone a serious injury. Mr. Miley says "Mo will def loose [sic] his licence. I'll see to it." He said, "I'm reporting him to the college ... I'll kick up a shit storm." M.L. responds, "As the woman first is my suggestion. If you haven't already." Mr. Miley responds: "we're in cahoots about it." The Member's counsel said she was relying on this exchange only as evidence of the conversation between Mr. Miley and M.L., not as truth of its contents, i.e., not as evidence that Mr. Miley actually was in "cahoots" with anyone.

[40] The Member's testimony about Complainant B was as follows:

(a) He never made inappropriate sexualized jokes to Complainant B.

(b) He never touched Complainant B in any way, as alleged or otherwise.

(c) He required curtains to be open during his classes so that he could effectively instruct the students; there was one exception where the student had a religious reason to keep them closed.

(d) He recalled the bloodletting demonstration on Complainant B. There were other students around, watching the demonstration. Her foot did not come into contact with his genital or groin area. However, in his interview with the College investigator, he said he could not specifically recall a time when he performed bloodletting on her.

(e) When he observes and evaluates a student's technique, he would stand face-to-face, so the student could see what he is doing. There would be no reason to angle himself closer to a student or to stand beside a student if she were standing at the head of the clinical table.

(f) He would not put his hand on a student's hands to demonstrate the gua sha technique. The technique requires two hands. Rather, he would perform it himself and then watch the student do it.

(g) He does not recall ever assisting or looking at Complainant B's gua sha technique, but does not recall that class. So, he could not say whether the curtains were open, closed, or partially closed, on that date.

(h) He testified about his prior conflict with Mr. Miley. Mr. Miley claimed that a treatment by the Member had made him worse. Mr. Miley falsely alleged that the Member had given someone a serious injury.

(i) He recalled a cupping demonstration on Complainant B in which he instructed her to go slow and finish fast. In his interview with the College investigator, however, he said he did not recall a particular situation or scenario in which he assisted Complainant B in performing cupping.

(j) He agreed that the tables in the clinic room could be moved around.

Findings in relation to Complainant B

[41] On a balance of probabilities, the evidence did not satisfy us that the Member made a sexualized joke to Complainant B during a cupping demonstration in January 2025. Whatever the Member said, we were not satisfied on a balance of probabilities that it was sufficiently sexual to be interpreted as amounting to professional misconduct.

[42] The evidence also did not satisfy us that the Member positioned his genital area to touch Complainant B's foot during a bloodletting demonstration. The evidence was equivocal about whether deliberate and sustained contact had occurred, or whether there had been contact that had been incidental to the demonstration, which Complainant B interpreted later, in the light of the events of February 23.

[43] However, the evidence did satisfy us that the Member touched Complainant B's buttocks during a gua sha demonstration. The key pieces of evidence in that regard were:

(a) Complainant B testified that the Member touched her buttocks. She was unshaken in cross-examination. Her evidence was detailed and plausible in terms of the physical layout of the room. We did not find the Member's arguments about the space around the tables compelling.

(b) Complainant B's text messages to V., sent shortly after the alleged incident, are circumstantial evidence that an upsetting event had occurred. They also rebut any suggestion that she later fabricated this allegation.

(c) While the Member and the witnesses M.L. and W.L. testified that curtains were generally open during the classes, their evidence was somewhat vague and equivocal on this point. It seemed plausible that the curtains were closed during a demonstration in which students had removed their tops. In any event, even if the curtains were open, the fact that the head of bed #5 was beside the wall or window meant that it would not have been easy for other participants to see what was going on behind Complainant B as she stood at the head of bed #5.

[44] Accordingly, we did not believe the Member's denials that he had touched Complainant B as alleged.

Overarching arguments of the Member

[45] The Member made three other overarching arguments:

- (a) He argued that Elijah Miley was behind the complaints and the evidence of the Complainants. He pointed to evidence of Miley's animus towards him and also pointed to evidence that Elijah Miley was involved in, or privy to, some of the complaints.
- (b) He argued that the investigation by Eight Branches and/or the investigation by the College were inadequate.
- (c) He argued that the College's failure to call certain witnesses should give rise to an adverse inference against the College.

[46] We did not find any of these arguments sufficiently convincing.

Elijah Miley

[47] First, with respect to Elijah Miley, although there was evidence of his animus towards the Member and his knowledge or even involvement with the Complaints, all three Complainants testified credibly about their own experiences, and none of them gave evidence that Mr. Miley had influenced them.

[48] As well, for each of the Complainants, there was independent evidence of their complaint, which would have pre-dated any involvement by Miley. For Complainant C, there were her text messages with C and the surveillance footage of the incident. For Complainant A, there were the electronic communications from the Member and her Facebook messages to her friends about those communications. For Complainant B, there were her text messages with her friend V. In each case, these communications rebut any allegation that the complaints were later fabricated because of the influence of Miley.

Alleged inadequate investigations

[49] Second, with respect to the alleged inadequacy of the investigations by Eight Branches and/or the College, our view is that any such inadequacy would bear only indirectly on our decision. It would not be relevant in its own right, as a "stand-alone" defence, but would only be relevant to the extent it bore on whether the evidence established the alleged conduct on a balance of probabilities.

[50] The Member's complaints about the investigation fall into several categories:

- (a) Eight Branches personnel did not have training in investigations and Eight Branches did not have a policy about how to conduct investigations.
- (b) The College investigator, Ms. Henderson, did not assess the credibility of what she was told by witnesses, but simply gathered it to provide it to the College.
- (c) Ms. Henderson did not go back to the Complainants after interviewing them, to relate to them the Member's response to their allegations.
- (d) Ms. Henderson did not interview Mr. Miley and did not take any other steps to find out if he had been influencing the Complainants.

(e) Ms. Henderson did not ask Eight Branches if there were other video cameras beyond the one in the lobby that captured the March 24, 2022 incident between the Member and Complainant C.

(f) Before interviewing the Member, Ms. Henderson did not provide him with information from Complainant A or Complainant B, and did not screen share the video of the March 24, 2022 incident with Complainant C.

[51] In our view, these alleged shortcomings in the investigations did not affect our ability to make findings to the required standard. We were satisfied with the evidence before us, including all the documentary exhibits and witness testimony. The Complainants and the Member were all examined about the relevant events, their evidence was tested through cross-examination, and we were able to hear their evidence and assess their credibility. As set out above, we were not persuaded that Mr. Miley did or could have played a significant role in affecting the evidentiary record before us. At the end of the day, the question for us was whether we could be satisfied based on the evidence before us, on balance of probabilities, that certain acts occurred. Despite the issues with the investigation set out above, we were satisfied to that standard in making our findings.

Adverse inference

[52] Finally, the Member argued that the College's failure to call witnesses should lead the Panel to draw an adverse inference against it. He made this argument in relation to the following potential witnesses:

(a) Complainant B's partner, who the Member submitted could have testified about whether the curtains around the bed were closed or open during the gua sha session on February 23, 2022;

(b) Ravee Chen, the CEO of Eight Branches, who the Member submitted could have testified about Eight Branches' investigation, especially in areas where Mr. Brooks testified that he did not know or did not remember something;

(c) C., whom Complainant C messaged and called just after the incident on March 24, 2022; and

(d) Elijah Miley, who the Member submitted could have testified about the alleged collusion with, and influence on, the Complainants.

[53] An adverse inference may only be drawn against a party if the witness not called is "reasonably assumed to be favourably disposed to that party", or if the witness is within the party's "exclusive control." An adverse inference should only be drawn with the greatest of caution. It should only be drawn if there is no plausible reason for not having called the witness. It should not be drawn if "either party could have called that evidence if they thought it was important."

[54] None of the persons listed above can be reasonably assumed to be favourably disposed towards the College. Certainly, the College did not have control over them. All witnesses are third parties. As such, the Member could have called any of these witnesses if he felt their evidence was important. He chose not to do so.

[55] Further, the only one who was present during an alleged incident was Complainant B's partner on February 23, 2022. Even for her, there is no indication of what she would recall about that class, if anything. We view it as unlikely that the evidence of these persons would have materially added to the relevant evidence before the Panel.

[56] Accordingly, we decline to draw any adverse inference in connection with these four witnesses.

Decision on professional misconduct

[57] From the facts found above, the Panel finds that the following acts of the Member constitute professional misconduct:

- (a) On March 24, 2022, the Member touched Complainant C's buttocks without consent (Statement of Allegations, paragraph 14).
- (b) The Member sent inappropriate messages to Complainant A on December 22, 2019 (exhibit 5) and in April 2020 (exhibits 6-8) (Statement of Allegations, paragraph 4).
- (c) On February 23, 2022, the Member touched Complainant B's buttocks and/or lower back area.

[58] In relation to Complainant C, we find that the touching was without consent and for a sexual purpose. The video also shows Complainant C trying to push the Member's hand away, but that he reached out to touch her again. This is clearly professional misconduct in that it is conduct unbecoming for a practitioner to touch someone for a sexual purpose without consent. There was also an unequal power relationship between the Member and Complainant C at the time, since he was considerably her senior and an instructor in a workplace where she was a receptionist.

[59] In relation to Complainant A, we find that the Member committed professional misconduct by sending these messages:

- (a) On December 22, 2019, his teacher-student relationship with Complainant A was either in effect or very recently ended. It is not appropriate for a practitioner to pursue a romantic relationship with someone who is, or until days ago was, their student.
- (b) In April 2020, although the Zoom messages were sent in the context of a class that the Member was taking with Complainant A, he was still an instructor at the school where she was a student. Certainly, from her perspective, he still had the status of an instructor in relation to her. It was still inappropriate for him to make romantic or sexual overtures to her, especially a frank sexual remark of the kind in the Zoom messages.

[60] In relation to Complainant B, as with Complainant A, it is clearly professional misconduct to touch someone for a sexual purpose without consent. As well, the Member was Complainant B's teacher at the time and the touching occurred in a class he was teaching, in the guise of instruction.

[61] We find that all these acts were both conduct unbecoming and conduct relevant to the practice of the profession that the profession would reasonably regard as disgraceful,

dishonourable, or unprofessional. The conduct was “relevant to the practice of the profession” in each case, because:

(a) The Member touched Complainant C in a workplace where he was teaching the practice of the profession. As well, his inclination to engage in non-consensual sexual touching is relevant to the practice of the profession, in which patients trust members to touch them appropriately.

(b) The Member sent messages to Complainant A in a workplace where he was teaching the practice of the profession. As well, his inclination to romantically pursue people in such a setting, in an inappropriate manner, is relevant to the practice of the profession, in which members work alongside others, some of whom may be vulnerable to inappropriate advances.

(c) The Member touched Complainant B in a workplace where he was teaching the practice of the profession, and in which he was in a teacher/student relationship with her. As well, his inclination to engage in non-consensual sexual touching is relevant to the practice of the profession, in which patients trust members to touch them appropriately.

[62] The Member argued that, in some cases, the conduct disclosed by the evidence was not the same as the conduct charged in the Notice of Hearing’s Statement of Allegations, and therefore no finding could fairly be made.

[63] We were not persuaded by this argument. In our view, each of the findings we have made above falls within the particulars in the Statement of Allegations:

(a) We have found that, on March 24, 2022, the Member touched Complainant C’s buttocks without consent. The Statement of Allegations alleges, in paragraph 13, “[o]n or about March 24, 2022, Mr. Chikhlikar touched Complainant C’s buttocks without consent.”

(b) We have found that the Member sent inappropriate messages to Complainant A on December 22, 2019 and in April 2020. The Statement of Allegations alleges that the Member sent inappropriate messages to Complainant A “on or around the following dates: (a) December 22, 2019; (b) March 2020 ...”. In our view, the discrepancy between March 2020 (in the Statement of Allegations) and April 2020 (in the evidence) is not material and would not have misled the Member. We note that the Statement of Allegations uses the qualifier “on or around.”

(c) We have found that, on February 23, 2022, the Member touched Complainant B’s buttocks and/or lower back area. The Statement of Allegations alleges that “[o]n or around February 23, 2022, during a class taught by Mr. Chikhlikar and attended by Complainant B, Mr. Chikhlikar touched Complainant B’s buttocks and/or lower back area.”

[64] Thus, in each case, the finding we have made falls within the particulars in the Statement of Allegations. Even if that was not so, we do not believe that the Member could have reasonably been misled or confused about what was alleged in each case. In no way do the findings go beyond the allegations in the Statement of Allegations.

[65] The parties shall contact the College's hearing coordinator so that a penalty hearing can be scheduled.

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

Date: July 31, 2025

Signed:

Signed by:

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Matthew Colavecchia
Judy Cohen
Kevin Ho

APPENDIX “A” – STATEMENT OF ALLEGATIONS

1. Mr. Mohamed Shoeb M Chikhlikar (“**Mr. Chikhlikar**”) is a registered acupuncturist (R. Ac.) and Traditional Chinese Medicine Practitioner (R. TCMP) with the College of Traditional Chinese Medicine and Acupuncturists of Ontario (the “**College**”).

2. Mr. Chikhlikar was employed as an instructor at Eight Branches College of Eastern Medicine (“**Eight Branches**”) from approximately 2018 to April 2022.

Complainant A

3. Complainant A was, at all material times, a student at Eight Branches. While Complainant A was a student at Eight Branches, Mr. Chikhlikar taught courses in which Complainant A was a student.

4. From in or around December 2019 to in or around February 15, 2022, Mr. Chikhlikar sent inappropriate messages to Complainant A on or around the following dates:

(a) December 22, 2019;

(b) March 2020;

(c) October 14, 2020;

(d) January 1, 2021;

(e) July 14-16, 2021; and

(f) February 15, 2022.

5. Mr. Chikhlikar continued to send Complainant A messages after Complainant A asked Mr. Chikhlikar to stop.

6. It is alleged that this 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*, S.O. 1991, c. 18 in that, Mr. Chikhlikar:

(a) Engaged in conduct 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, contrary to section 1(48) of *Ontario Regulation 318/12*;

(b) Engaged in conduct that would reasonably be regarded by the profession as conduct unbecoming a practitioner of traditional Chinese medicine or acupuncture, contrary to section 1(49) of *Ontario Regulation 318/12*.

Complainant B

7. Complainant B was, at all material times, a student at Eight Branches. While Complainant B was a student at Eight Branches, Mr. Chikhlikar taught at least one course in which Complainant B was a student.

8. In or around January 2022, Mr. Chikhlikar made an inappropriate, sexual comment to Complainant B while demonstrating a procedure.

9. On or around February 2, 2022, while performing a procedure on Complainant B, Mr. Chikhlikar positioned his genitals to touch Complainant B.

10. On or around February 23, 2022, during a class taught by Mr. Chikhlikar and attended by Complainant B, Mr. Chikhlikar touched Complainant B's buttocks and/or lower back area.

11. It is alleged that this 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*, S.O. 1991, c. 18 in that, Mr. Chikhlikar:

(a) Engaged in conduct 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, contrary to section 1(48) of *Ontario Regulation 318/12*;

(b) Engaged in conduct that would reasonably be regarded by the profession as conduct unbecoming a practitioner of traditional Chinese medicine or acupuncture, contrary to section 1(49) of *Ontario Regulation 318/12*.

Complainant C

12. Complainant C was, at all material times, an employee at Eight Branches.

13. Between January 2022 and March 2022, Mr. Chikhlikar made inappropriate comments towards Complainant C and/or touched Complainant C on her back and/or buttocks without her consent on one or more occasions.

14. On or about March 24, 2022, Mr. Chikhlikar touched Complainant C's buttocks without consent.

15. It is alleged that this 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*, S.O. 1991, c. 18 in that, Mr. Chikhlikar:

(a) Engaged in conduct 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, contrary to section 1(48) of *Ontario Regulation 318/12*;

(b) Engaged in conduct that would reasonably be regarded by the profession as conduct unbecoming a practitioner of traditional Chinese medicine or acupuncture, contrary to section 1(49) of *Ontario Regulation 318/12*.