

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

IN THE MATTER OF
the Regulated Health Professions Act, 1991, S.O. 1991, c.
18, and the Traditional Chinese Medicine Act, S.O. 2006,
c.27

Decision Date: August 30, 2019

Indexed as: Ontario (College of Traditional Chinese Medicine
Practitioners & Acupuncturists of Ontario) v Svetlana
Sheina, 2019 ONCTCMPAO 6

Panel:	Barrie Haywood	Chairperson, Public Member
	Matthew Colavecchia	Professional Member
	Henry Maeots	Public Member

BETWEEN:

THE COLLEGE OF TRADITIONAL CHINESE MEDICINE PRACTITIONERS AND ACUPUNCTURISTS OF ONTARIO	((Anastasia Hountalas for the College ((((((
-and-	((((
SVETLANA SHEINA Reg. No. 968	(Member not present (((Edward Marrocco, (Independent Legal Counsel ((Date of Hearing: July 10, 2019

DECISION AND REASONS FOR DECISION

[1] This matter came on for hearing before a panel of the Discipline Committee (the “Panel”) on July 10, 2019 at the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario (the “College”).

- [2] Svetlana Sheina (the “Member”) was not present, and not represented by counsel, despite having been advised as to, and provided with notice of, the date of the within hearing.

The Allegations

- [3] On June 27, 2018, the College issued a Notice of Hearing against the Member (the “Notice”), alleging that the Member had engaged in professional misconduct under the *Traditional Chinese Medicine Act, 2006* (the “Act”).
- [4] The Member was alleged to have failed to make required disclosure in her application for registration to the College and thereby contravened, by act or omission, a provision of the Act, the *Regulated Health Professions Act, 1991* (“RHPA”) or the regulations under either of those Acts, and specifically subsection 3(2) of *Ontario Regulation 27/13* contrary to section 1(39) of *Ontario Regulation 318/12* made under the Act.
- [5] In subsequently renewing her College registration in 2014, 2015, 2016 and/or 2017, the Member allegedly committed further acts of professional misconduct by:
- (a) Contravening, by act or omission, a standard of practice of the profession or failing to maintain a standard of practice of the profession contrary to section 1(1) of *Ontario Regulation 318/12*;
 - (b) Signing or issuing, in her professional capacity, a document that she knew or ought to have known contained a false or misleading statement contrary to section 1(26) of *Ontario Regulation 318/12*; and/or
 - (c) Engaging in conduct or performing acts relevant to the practice of the profession as particularized in the Notice 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*.
- [6] Between 2013-2017, the Member allegedly performed unauthorized controlled acts as set out in paragraph 12 of the Notice and failed to maintain records as set out in paragraph 13 of the Notice and thereby committed professional misconduct by:
- (a) Contravening, by act or omission, a standard of practice of the profession or failing to maintain a standard of practice of the profession contrary to section 1(1) of *Ontario Regulation 318/12*;
 - (b) Performing a controlled act that the Member was not authorized to perform as per section 27(2) of the RHPA and thereby contravening section 1(10) of *Ontario Regulation 318/12*;
 - (c) Failing to keep records in accordance with the standards of the profession in contravention of section 1(25) of *Ontario Regulation 318/12*; and/or
 - (d) Engaging in conduct or performing acts relevant to the practice of the profession as particularized in the Notice 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.

The Motion

- [7] This matter was addressed on July 10, 2019. At that time, the College brought a motion to stay the proceedings on the basis of an Undertaking and Surrender Agreement signed by the Member, dated March 14, 2019 (the “Agreement”). The Member was not present on July 10 and did not enter a plea to the allegations.
- [8] In the Agreement, the Member indicated she wished to surrender her Certificate of Registration and to forever withdraw from the practice of traditional Chinese medicine and acupuncture in the province of Ontario, or elsewhere in Canada, the United States of America and any other jurisdiction.
- [9] In consideration of the College’s agreement to stay the proceedings at this time, the Member agreed to:
- Surrender her Certificate of Registration to the College by no later than March 30, 2019;
 - Resign from the College effective March 15, 2019 (the “Effective Date”);
 - As of the Effective Date, cease using the title acupuncturist, and performing Traditional Chinese medicine (TCM) acupuncture or communicating a TCM diagnosis;
 - As of the Effective Date, refrain from practising and/or holding herself out as a TCM practitioner or acupuncturist in Canada, the United States of America and any other jurisdiction;
 - As of the Effective Date, never apply for registration, licensure or similar status with the College or any other licensing body in any other jurisdiction that governs the practice of TCM or acupuncture;
 - As of the Effective Date, never issue receipts for acupuncture or TCM to patients;
 - As of April 1, 2019, to pay \$500.00 (**via money order or certified cheque**) to the College to partially offset the College's costs of investigating this matter; and
 - Have the Agreement and/or its terms posted on the College Register, Website and publications.
- [10] In the Agreement, the Member further indicated that she understands and agrees to additional terms and conditions, including:
- That breaching the Agreement may constitute professional misconduct on the part of the Member;

- That should the Member ever reapply for membership, registration, licensure or similar status with the College in the future, the College will be entitled to rely upon the Agreement in any registration or other similar proceeding as a reason to deny the Member's application; and
- That in the event of any reapplication, the College will be entitled to proceed with a hearing pursuant to the Notice as well as any applicable proceeding for breach of the Agreement.

Decision

[11] Having considered the materials filed and the submissions of College counsel, the Panel finds that it is in the public interest to grant the motion and the relief requested.

[12] The Panel hereby orders that the allegations of professional misconduct against the Member set out in the Notice are stayed in accordance with the terms set out in the Agreement signed by the Member on March 14, 2019.

Reasons for Decision

[13] The provisions of the Agreement both protect and inform the public. With respect to public protection, if the Member attempts to reapply for registration to the College, the Agreement can be relied upon to deny that application. Similarly, the public will be well informed about what has occurred in this matter. The Agreement ensures a transparent process in that it will be available to the public by being posted on the College's web site

[14] The Agreement does not extinguish the within matter arising under the Notice. The Member has agreed that, in the event of any reapplication for membership, registration, licensure or similar status with the College or another regulator of TCM or acupuncture in the future, the College will be entitled to proceed on the within matter, as well as potentially proceed against the Member for Breach of the Agreement. The structure of the Agreement accordingly ensures both that the Agreement cannot be frustrated and assures the public that steps have been taken to regulate the profession in the respect of the allegations contained in the Notice

[15] The scope of the Agreement is also appropriately broad so as to not to be evaded by moving jurisdictions. Pursuant to the Agreement the member agrees to surrender her Certificate of Registration with the College, to resign from the College and to cease from practising and/or holding herself out as a TCM practitioner or acupuncturist in Canada, the United States of America and any other jurisdiction. Lastly, operation of the Agreement is sufficiently detailed so as to ensure that the prohibition it triggers will have teeth and that the underlying misconduct cannot reoccur. For example, the Member agrees to never issue receipts for acupuncture or TCM. This kind of specific prohibition goes to the heart of certain misconduct at issue in this case.

[16] This further insures that the public is adequately protected against the type of misconduct raised in this matter

[17] The Panel is satisfied the public is protected by the imposition of the terms and conditions arising under the Agreement.

[18] The Panel therefore concludes that in light of the Agreement it is not in the public interest to proceed with a hearing in this matter at this time.

I, Barrie Haywood, sign this Decision as Chairperson of this Discipline panel and on behalf of the members of the Discipline panel as listed below:

August 30, 2019
Date



Barrie Haywood, Chairperson

Panel Members: Barrie Haywood
 Henry Maeots
 Matthew Colavecchia