

**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: January 11, 2019

Indexed as: Ontario (College of Traditional Chinese Medicine Practitioners & Acupuncturists of Ontario) v Dongxia Zhao, 2019 ONCTCMPAO 5

Panel:	Martial Moreau	Chairperson, Public Member
	Barrie Haywood	Public Member
	Lihui Guo	Professional Member

BETWEEN:

THE COLLEGE OF TRADITIONAL CHINESE MEDICINE PRACTITIONERS AND ACUPUNCTURISTS OF ONTARIO	(
	(Kelly Hayden, for the College
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	(
-and-	(
	(
DONGXIA ZHAO	(Member not present or represented
	(
	(
	(Fredrick Schumann
	(Independent Legal Counsel
	(
	(Date of Hearing: January 11, 2019

DECISION AND REASONS FOR DECISION

[1] This matter came on for hearing before a panel of the Discipline Committee (the “**Panel**”) on January 11, 2019 at the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario (the “**College**”).

[2] Dongxia Zhao (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 March 26, 2018, the College issued a Notice of Hearing (the “**Notice**”) against the Member, alleging that the Member had engaged in professional misconduct under the Traditional Chinese Medicine Act, 2006 (the “**Act**”) and related regulations pursuant to sections of the Health Professions Procedural Code (the “**Code**”) which is Schedule 2 to the *Regulated Health Professions Act, 1991*. Specifically, the Notice alleged that:

1. The Member had used a prohibited title, contrary to section 33(1) of the Act and section 1(32) and (39) of Ontario Regulation 318/12;
2. The Member had permitted, counselled, or assisted a person who is not a member to represent himself as a member or to perform a controlled act that the person is not authorized to perform, contrary to Section 1(15) of Ontario Regulation 318/12;
3. The Member had failed to keep records in accordance with the standards of the profession, contrary to Section 1(25) of Ontario Regulation 318/12; and
4. The Member had engaged in conduct or performed 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, dishonorable or unprofessional, contrary to Section 1(48) of Ontario Regulation 318/12.

[4] The Notice of Hearing also set out particulars of the allegations.

The Stay Motion

[5] The Member was not present and did not enter a plea to the allegations at this hearing. Rather, the College requested that the Panel stay the proceedings on the basis of an Undertaking and Surrender Agreement signed by the Member on October 23, 2018 (the “**Agreement**”).

[6] In the Agreement, the Member indicated she agreed 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 and the United States in exchange for the College staying the discipline proceedings in relation to the allegations outline above.

[7] In consideration of the College’s agreement to stay the proceedings at this time, the Member agreed:

- a) To surrender her Certificate of Registration with the College;
- b) To refrain from practicing and/or holding herself out as a traditional Chinese medicine practitioner or acupuncturist or any variation thereof, anywhere in the Province of Ontario, elsewhere in Canada, or in the United States of America;
- c) To refrain now, and in the future, from applying for the reinstatement of any Certificate of Registration with the College, or from applying for registration with any other licensing body governing the practice of traditional Chinese medicine or acupuncture, in the Province of Ontario, or elsewhere in Canada, or in the United States of America; and
- d) To contribute the amount of \$4,000 to partially offset the College's overall costs of investigation into the matter within 30 days of executing this Undertaking/Agreement. The payment shall not constitute an admission of liability and truthfulness of the allegations as presented herein.

Decision

[8] Having considered the materials filed and the submissions of College counsel, the Panel finds that it is in the public interest to stay the proceedings as requested. Accordingly, the Panel orders that the allegations of professional misconduct against the Member set out in the Notice of Hearing dated March 26, 2018 are stayed in accordance with the terms set out in the Undertaking and Surrender Agreement signed by the Member on October 23, 2018.

Reasons for Decision

[9] The College's duty is to protect the public from professional misconduct and/or incompetence by its members. While a hearing has not been conducted and as such the allegations of misconduct have not been found proven, any concerns regarding the Member's misconduct or incompetence are allayed by the terms of the Undertaking and Surrender Agreement. Thereby the Member is, by consent, barred from practicing as a TCM practitioner or acupuncturist in Ontario, elsewhere in Canada, and the United States of America, a restriction that surpasses any possible order resulting from a discipline hearing before this College. By agreeing to contribute a sum to partially offset the College's costs of investigating this matter, the Member also lessens the cost to be borne by the other members of this College.

I, Martial Moreau, sign this Decision as Chairperson of this Discipline Panel and on behalf of the members of the Discipline Panel as listed below:

February 15, 2019
Date

Martial Moreau

Martial Moreau, Chairperson

Panel Members: Martial Moreau
 Lihui Guo
 Barrie Haywood