

**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: December 4, 2020

Indexed as: Ontario (College of Traditional Chinese Medicine
Practitioners & Acupuncturists of Ontario) v Brusentseva,
2021 ONCTCMPO 1

Panel:	Pixing Zhang	Chairperson, Public Member
	Deborah Sinnatamby	Public Member
	Richard Dong	Professional Member

BETWEEN:

THE COLLEGE OF TRADITIONAL CHINESE MEDICINE PRACTITIONERS AND ACUPUNCTURISTS OF ONTARIO	(
	(Anastasia-Maria Hountalas for the
	(College
	(

-and-

LIUDMILA BRUSENTSEVA	(
	(Evgene Jakubov for the Member
	(Liudmila Brusentseva
	(
	(
	(Aaron Dantowitz
	(Independent Legal Counsel

Date of Hearing: December 4, 2020

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”), on December 4, 2020, via videoconference.

Publication Ban

[2] In the course of the hearing, the parties jointly requested a ban on the publication of the names of any patients identified in the documents filed at the hearing. The panel was satisfied that the criteria under s. 45(3) of the Health Professions Procedural Code were met, and therefore made an order prohibiting the publication of the names of any patients identified in the documents filed at the hearing, and of information that could tend to identify those individuals.

The Allegations

[3] The allegations were set out in a Statement of Allegations appended to the Notice of Hearing dated June 15, 2020. At the hearing, the College sought the withdrawal of allegation 6(c), which was granted by the panel. The remaining allegations, after the withdrawal, were as follows:

The Member

1. Liudmila Brusentseva (the “Member”) became a Grandparented member of the College (R. Ac) in May 2013. She transferred to the General class (R. Ac) in March 2018.
2. The Member is employed at Life Gate Clinic at 7777 Keele Street, Unit 210 in Concord, Ontario (the “Clinic”).

Insurance Fraud and Record-Keeping

3. On or about April 16, 2019, the College received a complaint from an insurer alleging that the Member may have engaged in insurance fraud and submitted claims for treatments not actually rendered at the Clinic.
4. Specifically, the insurer reported that it identified 15 patient records that used four stock templates for initial assessment and treatment notes where the Member only changed the date and patient name.

Record-Keeping

5. Between in or about January 2018 and July 2019, the Member failed to keep records as required. Specifically:
 - a. The Member failed to maintain treatment notes as required;
 - b. The Member failed to maintain appointment records; and/or
 - c. The Member failed to maintain complete and/or accurate billing records.

Acts of Professional Misconduct

6. It is alleged that the above conduct constitutes professional misconduct pursuant to section 51(1)(c) of the Code, being Schedule 2 of the *Regulated Health Professions Act* (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 (in particular, Standard of Practice (5) - Record Keeping); and/or
 - b. **Paragraph 25:** Failing to keep records in accordance with the standards of the profession; and/or
 - c. **[withdrawn]**
 - d. **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.

Member’s Position

[4] The Member admitted the allegations in the Notice of Hearing. The panel conducted a plea inquiry and was satisfied that the Member’s admissions were voluntary, informed and unequivocal.

The Evidence

[5] The evidence was tendered by way of an Agreed Statement of Facts. The substantive portion of the Agreed Statement of Facts is reproduced below, without the attachments referred to in the Agreed Statement of Facts.¹

The Member

1. At all material times, Liudmila Brusentseva (the “Member”) was a member of the College. Attached as **Tab “A”** is a copy of the Member’s Public Register Profile.
2. The Member became a Grandparented member of the College (R. Ac) in May 2013. She transferred to the General class (R. Ac) in March 2018.
3. The Member is employed at Life Gate Clinic at 7777 Keele Street, Unit 210 in Concord, Ontario (the “Clinic”).

Submitting Inaccurate Records to Insurer

¹ At the hearing, a correction was made to the references in the Agreed Statement of Facts to Tab E and F, which had inadvertently been reversed. The version of the Agreed Statement of Facts appearing here is the corrected version.

4. It is agreed that on or about April 16, 2019, the College received a complaint from an insurer.
5. Specifically, the insurer reported that it identified 15 patient records that contained a photocopy of one of four stock templates for initial assessment and treatment notes where the Member only changed the date and patient name.
6. It is agreed that the Member used stock templates for initial assessment and treatment notes and that these records did not reflect the actual condition of the patient. A copy of 13 patient records containing stock initial assessment and treatment notes is attached as **Tab “B”**.
7. It is agreed that the initial assessment and treatment notes are records issued by the Member in her professional capacity.
8. It is further agreed that some of the patients of the Member would submit refund claims under their extended health benefits coverage to their respective insurers. While the Member did not take part in the submission process and was unaware of which patients submit which claims to which insurers, when requested by the insurer, the Member submitted these records that did not reflect the actual condition of the patient to the insurer.

Record-Keeping

9. It is agreed that between in or about January 2018 and July 2019, the Member failed to keep records as required. Specifically:

Treatment Notes

10. As detailed above at paragraphs 6-7, it is agreed that the Member used stock templates for initial assessment and treatment notes and that these records did not reflect the actual condition of the patient.
11. It is therefore agreed that the Member failed to meet the standards of preparing and maintaining treatment notes as required and set out in:
 - a. The College’s Standard of Practice (5) - Record Keeping, attached as **Tab “C”**, which states that members must create and maintain a comprehensive file for each patient in accordance with the record keeping guidelines established by the College; and
 - b. The College’s Record Keeping Guideline, attached as **Tab “D”**, which states that members must ensure that the initial assessment, treatment record and any follow up treatment record, are accurate, confidential, and up-to-date. Initial assessments and treatment records must contain the following information:
 - i. Patient history;
 - ii. Initial assessment/diagnosis and treatment; and

- iii. Treatment by other health care providers.

2018 and 2019 Appointment Books

12. It is agreed that the Member failed to maintain a 2018 appointment book with entries for each appointment. While the Member maintained the record of her working dates, she did not detail each appointment as required by the Guidelines. A copy of the Member's 2018 appointment book is attached as **Tab "F"**.
13. It is further agreed that the Member failed to maintain a 2019 appointment book with entries for each appointment. A copy of the Member's original appointment book, provided by the Member to the College on or about August 12, 2019, is attached as **Tab "E"**.
14. It is therefore agreed that the Member failed to maintain appointment records as required and set out in:
 - a. The College's Standard of Practice (5) - Record Keeping (attached as Tab "C"), which states that members must maintain a written or electronic daily appointment log that outlines the date, name, and the time of the appointment for each respective patient; and
 - b. The College's Record Keeping Guideline (attached as Tab "D"), which states that members must ensure that the daily appointment log is accurate, confidential, and up-to-date. Appointment records must contain the following information:
 - i. Date in the format of "DD/MM/YY" for consistency of records;
 - ii. The surname, first name and/or initials of each patient; and
 - iii. The time and/or duration of appointment of each patient.

Billing Records

15. It is agreed that the Member did not provide a receipt for each treatment session. Rather, the Member produced a "summary receipt" document comprising of several months of treatment sessions.
16. It is therefore agreed that the Member failed to maintain complete and accurate billing records as required and set out in:
 - a. The College's Standard of Practice (5) - Record Keeping (attached as Tab "C") which states that members must maintain complete and accurate records related to billing or payment for goods or services provided by the practitioner to the patient in accordance with the record keeping guidelines established by the College. Records must always be accurate, complete, legible and timely.

Professional Misconduct

17. It is agreed that the above conduct (the “Agreed Facts”) constitutes professional misconduct pursuant to section 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 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 (in particular, Standard of Practice (5) - Record Keeping);
- b. **Paragraph 25:** Failing to keep records in accordance with the standards of the profession; and
- 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.

[6] Regarding Paragraph 48 of the Regulation, both parties submitted that the Member’s conduct would reasonably be regarded as unprofessional, but not disgraceful or dishonourable, given that there was no evidence of deceit or dishonesty.

Decision of the Panel

[7] The panel found that the Member had engaged in professional misconduct as alleged in paragraphs 6 a, b, and d of the Statement of Allegations, and as admitted in paragraphs 17 a, b, and c of the Agreed Statement of Facts. Regarding Paragraph 48 of the Regulation, the panel found that the Member’s conduct would reasonably be regarded as unprofessional, but not disgraceful or dishonourable.

Reasons for Decision

[8] As this is an uncontested hearing where the Member Ms. Brusentseva and the CTCMPAO have provided an Agreed Statement of Facts and Admission, the Panel is in agreement that the facts as admitted fit each of the categories of professional misconduct. The Panel agrees with the Counsels’ submissions that Ms. Brusentseva’s actions were unprofessional but not disgraceful or dishonourable; because there was no evidence of dishonesty or fraud, those adjectives do not apply. It is also evident that Ms. Brusentseva has taken steps to correct her record-keeping and patient notes.

Penalty and Costs Submissions

[9] The Member and the College agreed on a joint submission on penalty and costs. The Joint Submission was signed by the Member on November 23, 2020 and the substantive portion of the Joint Submission is reproduced below:

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 immediately suspend the Member's Certificate of Registration for a period of one (1) month, to commence on January 1, 2021 or as the Registrar otherwise finds fit.
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 the PROBE ethics course, at her own expense, within six (6) months of the date of the Order of the Discipline Committee.
 - b. Requiring that the Member successfully complete the College's Record Keeping E-Workshop, at her own expense, within three (3) months of the date of the Order of the Discipline Committee.
 - c. Requiring that the Member complete a 2000-word reflective essay demonstrating her understanding of her ethical and record-keeping obligations as a member of the College, within one (1) month of completing the coursework set out in paragraphs 3(a) and 3(b) above.
 - d. Requiring that the Member complete up to three (3) practice inspections, at the Member's expense, within two (2) years of the date of the Order of the Discipline Committee.
4. The Member is required to pay to the College costs in the amount of \$3,000.00 in six (6) equal monthly installments of \$500.00, with the first payment due one (1) month from the date of the Order of the Discipline Committee.

Penalty and Costs Decision

[10] 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.

Reasons for Penalty and Costs Decision

[11] After considering the Agreed Statement of Facts, the Joint Submission on Penalty and Costs, and the Book of Authorities, the Panel decided to accept the Joint Submission on Penalty and Costs, and therefore made an order in the terms of the Joint Submission on Penalty and Costs.


[12] The Panel is satisfied that, in this matter, ordering costs in the amount of \$3,000.00 was appropriate as the costs of the hearing were mitigated by the Member's full cooperation. We order that the Member successfully complete the PROBE ethics course within six (6) months, complete the College's Record Keeping E-Workshop, within three (3) months (both at her own expense). We require the Member complete a 2000-word essay demonstrating her understanding of her ethical and record-keeping obligations as a member of the College, within one (1) month of completing the coursework set out above. Also, we require the Member

complete up to three (3) practice inspections, at the Member's expense, within two (2) years of the date of the Order of the Discipline Committee. The Panel agrees this penalty is also appropriate as it adequately met the goals of specific deterrence, general deterrence and rehabilitation.

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

Date: Jan 15. 2024

Signed: _____


PixingZhang, Chair
Deborah Sinnatamby
Richard Dong