

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

<b>PANEL:</b>	Henry Maeots	Chairperson, Public Member
	Xianmin Yu	Professional Member
	Barrie Haywood	Public Member

**BETWEEN:**

<b>THE COLLEGE OF TRADITIONAL CHINESE MEDICINE PRACTITIONERS AND ACUPUNCTURISTS OF ONTARIO</b>	(	
	(	Robin McKechny for the College
	(	
	(	Member not Present
	(	
<b>-and-</b>	(	
	(	
<b>DINA IFRAIMOV</b>	(	Edward Marrocco,
	(	Independent Legal Counsel
	(	
	(	
	(	Date of Hearing: October 10, 2017

**DECISION AND REASONS FOR DECISION**

This matter came on for hearing before a panel of the Discipline Committee (the “Panel”) on October 10, 2017 at the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario (the “College”).

Dina Ifraimov (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**

On January 13, 2017, 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*, in that:

### **False or misleading billing practices**

1. On or about July 11, 2016, the Member advised a College investigator that:
  - (a) she provided acupuncture receipts to patients who instead received permanent make up services. The receipts were false as no acupuncture treatment had been provided. The Member advised the College investigator that this had been occurring for years; and/or
  - (b) she provided permanent make up to Patient #1 on or about December 9, 2014 and provided Patient #1 with a signed receipt for acupuncture services. The signed receipt was false as no acupuncture treatment had been provided on that date.
2. For each of these reasons it is alleged that the Member engaged in professional misconduct pursuant to subsection 51(1)(c) of the Code, namely:
  - (a) Paragraph 1: Contravening a Standard of the Profession;
  - (b) Paragraph 19: Submitting an account or charge for services that the member knows or ought to know is false or misleading;
  - (c) Paragraph 26: Signing or issuing a document that the member knows or ought to know contains false or misleading information;
  - (d) Paragraph 27: Falsifying a record relating to the Member's practice;
  - (e) 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 as disgraceful, dishonourable or unprofessional; and/or
  - (f) Paragraph 49: Engaging in conduct that would reasonably be regarded by the profession as conduct unbecoming a practitioner of acupuncture of section 1 of Ontario Regulation 318/12.

### **Failure to formulate a TCM diagnosis**

3. The Member provided acupuncture treatment to Patient #2 and Patient #3 without first formulating, communicating and/or charting a traditional Chinese diagnosis.

4. For each of these reasons it is alleged that the Member engaged in professional misconduct pursuant to subsection 51(1)(c) of the Code, namely:
  - (a) Paragraph 1: Contravening a Standard of the Profession;
  - (b) 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 as disgraceful, dishonourable or unprofessional; and/or
  - (c) Paragraph 49: Engaging in conduct that would reasonably be regarded by the profession as conduct unbecoming a practitioner of acupuncture of section 1 of Ontario Regulation 318/12.

### **Failure to Keep/Falsifying Records**

5. On or about July 11, 2016, the Member advised a College investigator that:
  - (a) she did not create individualized treatment plans for her patients but, instead, utilized pre-populated treatment plans;
  - (b) she did not ask a patient to complete an intake form unless the patient agreed to a treatment plan consisting of numerous acupuncture treatments;
  - (c) she did not document individual acupuncture treatment unless the patient agreed to a treatment plan consisting of numerous acupuncture treatments;
  - (d) she did not complete all portions in the patient chart and when she was too busy would ask her assistant to complete the chart;
  - (e) she did not record a TCM diagnosis in the patient record;
  - (f) she did not keep separate financial records;
  - (g) her appointment book does not capture all visits of all acupuncture patients; and/or
  - (h) She compiled a false patient chart for Patient #1 indicating that acupuncture services had been provided on or about November 21, 25, 28, December 2, 5 and/or 9, 2014 when in fact this was false.
6. For each of these reasons it is alleged that the Member engaged in professional misconduct pursuant to subsection 51(1)(c) of the Code, namely:
  - (a) Paragraph 1: Contravening a Standard of the Profession;
  - (b) Paragraph 25: Failing to Keep Records in accordance with the standards of the profession;
  - (c) Paragraph 27: Falsifying a record relating to the Member's practice;

- (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 as disgraceful, dishonourable or unprofessional; and/or
- (e) Paragraph 49: Engaging in conduct that would reasonably be regarded by the profession as conduct unbecoming a practitioner of acupuncture of section 1 of Ontario Regulation 318/12.

### **Providing acupuncture without informed consent**

- 7. The Member utilized a consent form which did not indicate that Patient #2 and Patient #3 were made aware of the material side effects, alternative courses of action and/or the likely consequences of not having acupuncture.
- 8. There is no evidence in the patient chart of Patient #2 and Patient #3 that the issues identified in paragraph 7 were discussed with the patients.
- 9. For each of these reasons it is alleged that the Member engaged in professional misconduct pursuant to subsection 51(1)(c) of the Code, namely:
  - (a) Paragraph 1: Contravening a Standard of the Profession;
  - (b) Paragraph 3(i): Doing anything to a patient for a therapeutic, preventative, palliative, diagnostic, cosmetic or other health-related purpose except with the informed consent of the patient;
  - (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 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 acupuncture of section 1 of Ontario Regulation 318/12.

### **Signing a document that contains false or misleading information**

- 10. On or about June 25, 2015, the Member signed a letter to Blue Cross Insurance and advised that Patient #1 received six acupuncture treatments on or about November 21, 25, 28, December 2, 5 and/or 9, 2014 when in fact Patient #1 did not receive said acupuncture treatments.
- 11. On or about November 9, 2015, the Member signed a letter to the Inquiries, Complaints and Reports Committee of the College and:
  - (a) Inferred that Patient #1 had received acupuncture treatments on or about November 21, 25, 28, December 2, 5 and/or 9, 2014 as set out in the chart; and
  - (b) Confirmed that the handwriting in patient charts #1, #2 and #3 were hers alone.

12. On or about July 11, 2016, the Member advised a College investigator that:
  - (a) her assistant would complete portions of the chart when she was too busy;
  - (b) she would photocopy treatment notes written by other people because she would utilize the same treatment protocols; and/or
  - (c) she created a patient record and signed an account for Patient #1 that was false.
13. For each of these reasons it is alleged that the Member engaged in professional misconduct pursuant to subsection 51(1)(c) of the Code, namely:
  - (a) Paragraph 26: Signing or issuing a document that the Member knows or ought to know contains false or misleading information;
  - (b) 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 as disgraceful, dishonourable or unprofessional; and/or
  - (c) Paragraph 49: Engaging in conduct that would reasonably be regarded by the profession as conduct unbecoming a practitioner of traditional Chinese medicine or acupuncture of section 1 of Ontario Regulation 318/12.

#### **Failure to obtain informed consent and breach of standards**

14. On or about May 10, 2016, an undercover College investigator attended the Member's clinic posing as a patient (the "Patient"). During the appointment, the Patient expressed a fear of needles to the Member.
15. During the appointment, the Member inserted an acupuncture needle into the Patient. The Member then twisted the needle. Before inserting the needle, the Member:
  - (a) Did not obtain informed consent from the Patient;
  - (b) Did not wash her hands; and/or
  - (c) Did not clean the site with a cleaning agent or alcohol.
16. When the Member returned to the Patient five minutes later the Patient advised the Member that the needle was making her tense. The Member twisted the needle again and then proceeded to remove the needle.
17. On or about July 11, 2016, the Member failed to provide a copy of the records taken during the Patient's visit to the College investigator.
18. For each of these reasons it is alleged that the Member engaged in professional misconduct pursuant to subsection 51(1Xc) of the Code, namely:

- (a) Paragraph 1: Contravening a Standard of the Profession or failing to maintain a standard of practice of the profession;
- (b) Paragraph 3(i): Doing anything to a patient for a therapeutic, preventative, palliative, diagnostic, cosmetic or other health-related purpose except with the informed consent of the patient;
- (c) Paragraph 25: Failing to keep records in accordance with the standards of the profession; and/or
- (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 as disgraceful, dishonourable or unprofessional of section 1 of Ontario Regulation 318/12.

### **Falsifying information on College Annual Renewals**

- 19. On or about July 11, 2016, a College investigator attended the Member's clinic. The Member advised the investigator that she falsified her practice hours on one or more College annual renewals.
- 20. The Member could not provide any documentation arising from the Patient's appointment with the Member on or about May 10, 2016.
- 21. For each of these reasons, it is alleged that the Member engaged in professional misconduct pursuant to subsection 51(1)(c) of the Code, namely:
  - (a) Paragraph 1: Contravening a Standard of the Profession or failing to maintain a standard of practice of the profession;
  - (b) Paragraph 26: Signing or issuing, in her professional capacity, a document that the member knows or ought to know contains a false or misleading statement;
  - (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 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 of section 1 of Ontario Regulation 318/12.

### **The Motion**

The Member was not present and did not enter a plea to the allegations at this hearing. Rather, the College brought a motion to stay the proceedings on the basis of an Undertaking and Surrender Agreement signed by the Member on May 2, 2017 (the "Agreement").

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 in Canada, the United States of America or any other jurisdiction in order to avoid having the allegations in the Notice of Hearing considered by the Discipline Committee in a full and open hearing.

In consideration of the College's agreement to stay the proceedings at this time, the Member agreed to:

- To surrender her Certificate of Registration to the College no later than May 4, 2017;
- To resign from the College effective May 5, 2017 (the "Effective Date");
- As of the Effective Date, to cease using the title acupuncturist, and performing Traditional Chinese medicine (TCM) acupuncture or communicating a TCM diagnosis;
- As of the Effective Date to 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, to 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, to never issue receipts for acupuncture or TCM to patients;
- As of the Effective Date, to pay \$1000.00 (via money order or certified cheque) to the College to partially offset the College's costs of investigating this matter and acknowledging that the College was accepting such a small quantum in light of her severe financial circumstances; and
- To have the Agreement and/or its terms posted on the College Register, Website and publications.

In the Agreement, the Member further acknowledged that she understands and agrees to additional terms and conditions, including the following:

- 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 reason to deny the Member's application.
- Should the Member ever reapply for membership, registration, licensure or similar status with the College or a regulator of TCM or acupuncture in the future, the College will be entitled to proceed with the Hearing (as described in the Notice) as well as for the breach of the Agreement and that the College will be entitled to rely upon the Agreement for that purpose.

## Decision

Having considered the materials filed and the submissions of College counsel, the panel finds that it is in the public interest to grant the relief requested. The panel orders that the allegations of professional misconduct against the Member set out in the Notice of Hearing dated January 13, 2017 are stayed in accordance with the terms set out in the Undertaking and Surrender Agreement signed by the Member on May 2, 2017.

## Reasons for Decision

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, the United States of America and any other jurisdiction, 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, Henry Maeots, sign this Decision as Chairperson of this Discipline panel and on behalf of the members of the Discipline panel as listed below:

October 19, 2017  
Date



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Henry Maeots, Chairperson

Panel Members:      Henry Maeots  
                              Xianmin Yu  
                              Barrie Haywood