

**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 2, 2022

Indexed as: Ontario (College of Traditional Chinese Medicine Practitioners & Acupuncturists of Ontario) v Yaqing Sun, 2022 ONCTCMPAO 19

Panel:	Justin Lee	Chairperson, Professional Member
	Maureen Morton	Public Member
	Judy Cohen	Professional Member

BETWEEN:

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

-and-

YAQING SUN

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(Brianne Westland and Blerta Gjoci
((Student-at-Law) for the College
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Self-represented

Fredrick Schumann
Independent Legal Counsel

Date of Hearing: November 10, 2022

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 November 10, 2022, 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.

Member’s Position

[3] 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

[4] 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:

BACKGROUND

1. Ms. Yaqing Sun (“**Ms. Sun**”) is a Registered Acupuncturist, and has been registered with the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario (the “**College**”) since July 4, 2013.
2. Ms. Sun is also a registered massage therapist (“**RMT**”) with the College of Massage Therapists of Ontario (“**CMTO**”).
3. Ms. Sun practices out of a home-based clinic located at 5779 Greensboro Drive, Mississauga (the “**Home Clinic**”). Ms. Sun has also provided massage therapy and acupuncture through other clinics. These clinics include:
 - a. Evergreen Wellness Centre located at 1205 Hurontario Street (“**Evergreen**”) from late 2018 until at least October 2019;
 - b. Blue Rain Spa & Wellness located at 414 Plains Road East, Unit 1, Burlington (“**Blue Rain**”) from late 2017 until at least August or October 2019;
 - c. Angel Mandarin Spa & Health Inc. located at 195 Plains Road East, Unit 2, Burlington (“**Angel Spa**”) from late 2017 until at least October 2019.

CONDUCT

Blank Receipts

4. Ms. Sun left numerous stamped receipts with her billing number and signed them with her signature, leaving the information for service provided blank (“**Blank Receipts**”). The stamp on the Blank Receipt reads:

Yaqing Sun

Registered Acupuncturist

Registration with CTCMPAO: 1032

Signature:

5. Photographs of the Blank Receipts stamped with Ms. Sun’s College registration number are attached as **Tab 1**.
6. Ms. Sun also issued Blank Receipts bearing her CMTO registration number and her signature. Photographs of the Blank Receipts stamped with Ms. Sun’s CMTO registration number are attached as **Tab 2**.
7. By signing the Blank Receipts, Ms. Sun signed and issued a document, in her professional capacity, that she knew was false and misleading, as the Blank Receipts did not reflect a provided service.
8. Ms. Sun maintained numerous blank receipts at her Home Clinic. Ms. Sun also distributed the Blank Receipts to Evergreen, Angel Spa, and Blue Rain.
9. By distributing the Blank Receipts, Ms. Sun did not retain control over how the Blank Receipts were used. In failing to do so, Ms. Sun failed to take reasonable precautions to prevent her certification number and signature from being used.

Record Keeping

10. Ms. Sun failed to maintain a complete patient record. Ms. Sun:
 - a. Failed to maintain Patient Health History forms and/or treatment notes for all patients.
 - b. Failed to maintain accurate and/or complete appointment and billing records of her patients.
 - c. Failed to maintain patient health and financial records for a 10-year period from the date of the last patient visit.

INVESTIGATION

11. On November 15, 2019, the CMTO notified the College of an investigation they had undertaken which had uncovered concerns about Ms. Sun. An investigator retained by the CMTO indicated that Ms. Sun's RMT Certificate of Registration had been observed at Blue Rain and Angel Spa, which were being investigated by the Halton Police Service.

Evergreen

12. On October 17, 2019, Ms. Laura Hutchinson ("**Ms. Hutchinson**"), an Investigator from Barker Hutchinson, attended Evergreen in the course of a separate investigation.
13. With respect to Ms. Sun's records, Ms. Hutchinson found:
 - a. Four 50-page, carbon-paper receipt books containing Ms. Sun's signature and stamp for either completed massages or acupuncture; and
 - b. Blank Receipts signed and stamped by Ms. Sun which stated the address of her Home Clinic.
14. The Memorandum from Ms. Hutchinson dated October 21, 2019 is attached as **Tab 3**. The content of the report is true and accurate.

Blue Rain

15. On October 28, 2019, Ms. Lardner attended Blue Rain with Barker Hutchinson Investigator Mr. Greg Hutchinson ("**Mr. Hutchinson**").
16. Ms. Lardner and Mr. Hutchinson collected health history and consent forms from prior to August 24, 2019, which belonged to Ms. Sun. Ms. Chloe Dong, the spa manager, stated that Ms. Sun's treatment notes were not stored at Blue Rain.
17. Helen, who worked at the reception desk, stated that she had been working at the spa for a few months and she had never heard of Ms. Sun.
18. In her subsequent interview, Ms. Sun stated that she began leaving pre-signed receipts at the reception desk after about six months of working there, and the staff kept her receipts in a locked drawer which she did not have access to.
19. In a subsequent interview, Ms. Sun stated that she "started getting loose and lazy" with her billing practices as she got busier.
20. The investigation at Blue Rain is accurately documented in Barker Hutchinson's investigation report dated March 28, 2021 ("**Investigation**

Report"). This report is attached as **Tab 4**. The content of the report is true and accurate.

Angel Spa

21. On October 28, 2019, Ms. Lardner attended Angel Spa with Mr. Hutchinson to collect records. The investigators collected nine health history forms for massage and acupuncture and spoke with the clinic manager Cherry and a worker named Mila. Cherry stated that Ms. Sun had resigned from the clinic in August 2019.
22. Ms. Sun's RMT Certificate of Registration was displayed at the clinic. Ms. Sun left pre-signed receipts at Angel Spa, which Angel Spa still possessed.
23. The investigators contacted Ms. Sun's patients. The investigators interviewed Patient 1, who, according to Ms. Sun's records, had been treated by her for RMT and acupuncture on six occasions at Angel Spa. However, Patient 1 did not recognize Ms. Sun's picture. Ms. Sun did not treat Patient 1.
24. The investigation at Angel Spa is accurately documented in the Investigation Report.

Home Clinic

25. On October 29, 2019, Ms. Lardner and Mr. Hutchinson attended Ms. Sun's home clinic to collect records and speak with Ms. Sun.
26. Ms. Sun kept her patient records in banker's boxes throughout her house. These records included patient health history forms, consent forms and receipts from her home practice as well as other locations.
27. Ms. Sun did not fill out patient treatment notes for every patient she treated. Ms. Sun stated that she kept her patient treatment notes on her laptop's OneNote software, however, many records on her laptop were missing treatment notes.
28. Ms. Sun did not retain all records from prior to 2019. In failing to do so, she failed to maintain her records for a period of 10 years following the last patient visit, in breach of the Standards of the Profession.
29. Ms. Sun retained a booklet of Blank Receipts in her treatment room.
30. Ms. Sun allowed patients to pre-pay for a number of treatments in order to receive a discount.
31. The investigation at Ms. Sun's Home Clinic is accurately documented in the Investigation Report.

Client Files

32. In addition to the records obtained at the four clinics, the investigators obtained the Green Shield, Manulife, and Sun Life records of various patients and found the following:
- a. Six client records contained treatment dates prior to the date the health history form was signed. For example, Patient 2 received treatment on seven dates between January 26, 2018 and February 20, 2018. Patient 2's health history form was dated February 21, 2018.
 - b. Eight client records contained a signed health history form without a corresponding treatment note. For example, Patient 3 signed his health history form on March 10, 2018, but there are no treatment notes.
 - c. One client record contained health history and consent forms which were signed on separate dates.
 - d. Sixteen client records were missing some or all treatment notes for corresponding treatment dates. For example, Patient 1 appears to have received treatment on February 12, March 13, and August 5, 2019 per insurance claim forms, but no treatment notes exist for those dates.
 - e. Ten client records contain both RMT and acupuncture services on the same date. For example, Patient 4 received both services on twenty dates.
33. The client file analysis completed by Barker Hutchinson is attached as Tab 5. The content of the chart is true and accurate.

ADMISSIONS TO ALLEGATIONS

34. With respect to the Notice of Hearing dated December 13, 2021, Ms. Sun acknowledges and pleads that based on the facts set out above, she had engaged in professional misconduct as follows:
- a. Signed and issued in her professional capacity, documents that she knew or ought to have known contain a false or misleading statement contrary to section 1(26) of Ontario Regulation 318/12;
 - b. Contravened a standard of practice of the profession and failed to maintain the standard of practice of the profession contrary to section 1(1) of Ontario Regulation 318/12;
 - c. Failed to keep records in accordance with the standards of the profession contrary to section 1(25) of Ontario Regulation 318/12;

- d. 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.

35. Throughout the course of the period covered by the College's investigation, it is acknowledged that Ms. Sun:

- a. Was unaware that her Blank Receipts were utilized by any of the clinics inappropriately; and
- b. Did not benefit financially from any misuse by the clinics or their clients of the Blank Receipts.

Decision of the Panel on Misconduct

[5] The Panel found that the Member had engaged in professional misconduct as alleged in the Statement of Allegations and as admitted in the Agreed Statement of Facts.

Reasons for Decision on Misconduct

[6] On the basis of the Agreed Statement of Facts, the Panel was satisfied that Ms. Sun signed or issued in her professional capacity documents that she knew or ought to have known contain a false or misleading statement. Ms. Sun signed blank receipts, which gave a false or misleading statement that a service was provided by Ms. Sun when no service had been provided. Although her practice became busier, Ms. Sun should not have compromised her use of receipts.

[7] The Panel was also satisfied that Ms. Sun failed to keep records in accordance with the standards of the profession. Ms. Sun failed to retain patient files over a ten-year period from the last treatment date, as she was missing many patient files prior to 2019. Ms. Sun was found to have been missing treatment records for some patient visits, and failed to consistently document the health history of each patient at their first visit. These actions are in breach of the College's Record Keeping Standard of Practice.

[8] The same facts show that Ms. Sun contravened, or failed to maintain, a standard of practice of the profession.

[9] Finally, the conduct admitted is conduct that, having regard to all the circumstances, the profession would reasonably regard as unprofessional, dishonourable, or disgraceful. Specifically, the Panel found that Ms. Sun's conduct would be regarded as dishonourable and unprofessional, but not disgraceful.

Penalty and Costs Submissions

[10] The Member and the College agreed on a joint submission on penalty and costs. The substantive portion of the joint submission is as follows:

1. Ms. Sun will attend before the Discipline Committee for a public and recorded reprimand.
2. Ms. Sun's Certificate of Registration will be suspended for a period of four (4) months commencing immediately following the date of the Order of the Discipline Committee.
3. The Registrar will impose the following terms, conditions and limitations on Ms. Sun's Certificate of Registration;
 - (a) Requiring that Ms. Sun successfully complete a course in professional ethics approved by the College, at her own expense, within four (4) months of the date of the Order of the Discipline Committee;
 - (b) Requiring that Ms. Sun successfully complete a course on Record-Keeping approved by the College, at her own expense, within four (4) months of the date of the Order of the Discipline Committee;(c) Require that Ms. Sun submit to a practice audit, to be conducted following twelve (12) months following her return to practice, and at Ms. Sun's expense.
36. Ms. Sun must successfully fulfill the requirements in paragraph 3 (a) and (b) prior to the conclusion of the suspension of her Certificate of Registration, failing which her Certificate of Registration will continue to be suspended until such time as those requirements are fulfilled.
37. Ms. Sun shall pay the College costs in the amount of \$5,000 thirty (30) days following the date of the Order of the Discipline Committee.

Penalty and Costs Decision

[11] 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 accordance with the terms of the joint submission.

[12] The Member waived her right to appeal the reprimand portion of the penalty, and so the reprimand ordered by the Panel was delivered at the conclusion of the hearing.

Reasons for Penalty and Costs Decision

[13] The Panel was required to accept the joint submission unless to do would bring the administration of justice into disrepute or be contrary to the public interest: *R v Anthony-Cook*, 2016 SCC 43; *Ontario (College of Traditional Chinese Medicine Practitioners & Acupuncturists of Ontario) v Xu*, 2020 ONCTCMAPO 12.


[14] The Panel concluded that the joint submission would not bring the administration of justice into disrepute or be contrary to the public interest. The record-keeping course will help Ms. Sun review the appropriate standard of record-keeping she needs to maintain in her clinic

regarding patient records and receipts. The ethics course will help Ms. Sun to avoid conduct that may be unethical going forward. The practice audit will ensure that Ms. Sun has taken action to ensure that appropriate measures are made in her practice to ensure adequate record keeping of patient files, and to confirm that Ms. Sun is not continuing to issue blank receipts. Ms. Sun's conduct could have led to serious consequences related to insurance fraud. However, Ms. Sun did not benefit financially in any way from the blank receipts. She was also unaware of any misuse of the blank receipts, for example, being utilized in any way to conduct insurance fraud. Ms. Sun understood and apologized for her actions at the hearing.

[15] The Panel therefore accepted the joint submission and made an order in accordance with its terms.

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

Date: Dec 2/20 22

Signed: 
Justin Lee
Maureen Morton
Judy Cohen

APPENDIX “A” – STATEMENT OF ALLEGATIONS

1. Ms. Yaqing Sun (the “**Member**”) is an R.TCMP and R.Ac who practices out of a home-based clinic located at 5779 Greensboro Dr., Mississauga, Ontario (the “**Clinic**”). The Member has also worked at the following locations:
 - (a) Evergreen Wellness Centre located at 1205 Hurontario Street (“**Evergreen**”);
 - (b) Blue Rain Spa & Wellness located at 414 Plains Road East, Unit 1, Burlington (“**Blue Rain**”);
 - (c) Angel Mandarin Spa & Health Inc. located at 195 Plains Road East, Unit 2, Burlington (“**Angel Spa**”).
2. The Member first registered with the College of Traditional Chinese Medicine and Acupuncturists of Ontario (the “**College**”) on July 4, 2013.

Failure to Keep Records in Accordance with the Standards of the Profession

3. The Member did not maintain treatment records in accordance with the standards of practice of the profession.
4. The Member did not always maintain a complete patient record for each patient, including, but not limited to, maintaining records for a period of 10 years as is required by the Standard of Practice for Record Keeping.
5. 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, Ms. Sun:
 - (a) Failed to keep records in accordance with the standards of the profession, contrary to Section 1(25) of *Ontario Regulation 318/12*.
 - (b) 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, dishonourable or unprofessional contrary to section 1(48) of *Ontario Regulation 318/12*.

Contravening a Standard of Practice of the Profession and signing or issuing, in her professional capacity, a document that the Member knew or ought to have known contained a false or misleading statement

6. The Member routinely issued blank receipts with her certification number and signature. The Member kept the blank, signed receipts at her Clinic, Evergreen, Blue Rain, and Angel Spa.
7. The Member failed to take reasonable precautions to prevent the blank receipts containing the Member's certification number and signature from being misused.
8. The Member failed to issue accurate receipts reflecting the service provided.
9. 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, Ms. Sun:
 - (a) Contravened, by act or omission, a standard of practice of the profession or failed to maintain the standard of practice of the profession, contrary to Section 1(1) of *Ontario Regulation 318/12*.
 - (b) Signed or issued, in her professional capacity, documents that the member knew or ought to have known contained a false or misleading statement contrary to section 1(26) of *Ontario Regulation 318/12*.
 - (c) 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, dishonourable or unprofessional contrary to section 1(48) of *Ontario Regulation 318/12*.