

**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***

BETWEEN:

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

-and-

PHILLIP TRAN

AMENDED NOTICE OF HEARING

TO: Phillip Tran
104B-3025 Hurontario St.
Mississauga, ON L5A 2H1

THE INQUIRIES, COMPLAINTS AND REPORTS COMMITTEE OF THE COLLEGE OF TRADITIONAL CHINESE MEDICINE PRACTITIONERS AND ACUPUNCTURISTS OF ONTARIO (the "College") has directed that specified allegations of professional misconduct be referred to the Discipline Committee of the College, in accordance with section 26(1) para 1 of the *Health Professions Procedural Code* (the "Code"), which is Schedule 2 to the *Regulated Health Professions Act, 1991, S.O. 1991, C. 18* (the "RHPA"). The statement of specified allegations is attached to this Notice of Hearing as Schedule "A".

IT IS ALLEGED that you are guilty of professional misconduct under the *Traditional Chinese Medicine Act*, (the "Act"), S.O. 2006, c. 27 and the Regulations thereto, all as amended.

THE PARTICULARS OF THE ALLEGATIONS of professional misconduct are that you, on or about January 30, 2014:

1. Sexually abused patient D. K. contrary to section 51(1) (b.1) of the Code and section 1(2) of the *Ontario Regulation 318/12*;
2. Contravened the RHPA by performing an unauthorized controlled act, contrary to section 27(1) of the RHPA and sections 1(10) and 1(39) of the *Ontario Regulation 318/12*;
3. Contravened a standard of practice of the profession contrary to section 1(1) of *Ontario Regulation 318/12*;
4. Contravened a standard of practice of the profession contrary to section 1(6) of *Ontario Regulation 318/12* by failing to keep appropriate records;
5. Contravened the RHPA by using the title "Dr." contrary to section 33(1) of the RHPA and section 32 of *Ontario Regulation 318/12*;
and
6. Engaged in conduct or performed an act relevant to the practice of the profession which, having regard to all the circumstances would reasonably be regarded by a member as disgraceful, dishonourable, or unprofessional, contrary to section 1(48), of *Ontario Regulation 318/12*.

A PANEL OF THE DISCIPLINE COMMITTEE WILL HOLD A HEARING under the authority of sections 38 to 56 of the Code for the purpose of deciding whether the allegations are true.

TAKE NOTICE THAT you are required to appear in person or be represented before a panel of the Discipline Committee of the College on a date to be determined by the College at the College, 55 Commerce Valley Drive West, Suite 705, Thornhill, Ontario. The panel may, on that date, either hear evidence and make its determination respecting the allegations set out above or set a further date for such hearing and determination.

YOU ARE ENTITLED to be present at the Hearing, and to be represented by legal counsel. If you fail to attend at the time and place set for the Hearing, the Hearing may proceed in your absence and you will not be entitled to any further notice of the proceedings.

SUBSECTION 51(2) OF THE CODE PROVIDES THAT if the panel of the discipline panel finds you guilty of professional misconduct, it may make an order, doing one or more of the following:

1. Directing the Registrar to revoke your certificate of registration.
2. Directing the Registrar to suspend your certificate of registration for a specific period of time.
3. Directing the Registrar to impose specified terms, conditions and limitations on your certificate of registration for a specified or indefinite period of time.
4. Requiring you to appear before the panel to be reprimanded.
5. Requiring you to pay a fine of not more than \$35,000 to the Minister of Finance.
 - 5.1 If the act of professional misconduct was the sexual abuse of a patient, requiring you to reimburse the College for funding provided for that patient under the program required under section 85.7.
 - 5.2 If the panel makes an order under paragraph 5.1, requiring you to post security acceptable to the College to guarantee the payment of any amounts you may be required to reimburse under the order under paragraph 5.1 1991, c. 18, Sched. 2, s. 51 (2); 1993, c. 37, s. 14 (2).

SUBSECTION 51(5) OF THE CODE PROVIDES THAT if the panel of the Discipline Committee finds that you committed an act of sexual abuse, it shall do the following in addition to what it can do pursuant to s. 51(2) of the Code

1. Reprimand you.
2. Revoke your certificate of registration if the sexual abuse consisted of, or included, any of the following:
 - i. sexual intercourse,
 - ii. genital to genital, genital to anal, oral to genital, or oral to anal contact,
 - iii. masturbation of the member by, or in the presence of, the patient,
 - iv. masturbation of the patient by the member,
 - v. encouragement of the patient by the member to masturbate in the presence of the member.


TAKE NOTICE that, pursuant to paragraph 53.1 of the Code, the Discipline Panel may make an order requiring you to pay all or part of the College's legal costs and expenses, including the College's costs and expenses incurred in investigating the matter and incurred in conducting the Hearing.

AND TAKE NOTICE that the College intends to introduce any writings and/or records that were made in the usual and ordinary course of business as business records under section 35 of the *Evidence Act*, R.S.O. 190, c. E.23, as amended.

YOU ARE ENTITLED, as a member whose conduct is being investigated in proceedings before a Discipline panel, to disclosure of evidence under ss. 42(1) of the Code. You or your representative may contact counsel for the College in this matter for this purpose:

Jaan Lilles
Lenczner Slaght Royce Smith Griffin LLP
130 Adelaide Street West, Suite 2600
Toronto, Ontario, M5H 3P5
(416) 865-3552

DATED at Toronto this ²⁵ day of *October*, 2016.



ALLAN MAK, REGISTRAR
THE COLLEGE OF TRADITIONAL
CHINESE MEDICINE PRACTITIONERS AND
ACUPUNCTURISTS OF ONTARIO

SCHEDULE "A"

1. Mr. Phillip Tran holds a certificate of registration in the grandparent class. Mr. Tran's primary practice location is 104B-3025 Hurontario St., Mississauga, Ontario L5A 2H1.
2. On or about January 30, 2014 Mr. Tran sexually abused patient D.K., by among other things touching her vagina and clitoris and digitally penetrating her during the course of an acupuncture treatment;
3. On or about January 30, 2014, Mr. Tran fell below the standard of practice in his treatment of patient D.K. by, among other things, touching her vagina and clitoris, and digitally penetrating her, and by placing acupuncture needles in and around her vagina.
4. On or about January 30, 2104, Mr. Tran performed a controlled act he was not authorized to perform in respect of patient D.K., by among other things, touching her vagina and clitoris, and digitally penetrating her.
5. Mr. Tran failed to keep any patient records in respect of patient D.K. contrary to the professional standards of practice of the profession.
6. Mr. Tran, in the course of treating patient D.K. used the restricted title "Dr."