

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

B E T W E E N :

COLLEGE OF TRADITIONAL CHINESE MEDICINE PRACTITIONERS AND
ACUPUNCTURISTS OF ONTARIO

- and -

KYUNG CHUN OH

NOTICE OF HEARING

The Inquiries, Complaints and Reports Committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario (the “College”) has referred specified allegations against you to the Discipline Committee of the College. The allegations were referred in accordance with section 26 of the *Health Professions Procedural Code* which is Schedule II to the *Regulated Health Professions Act, 1991* (referred to as the “Code”). The statement of allegations is attached to this notice of hearing. A discipline panel will hold a hearing under the authority of sections 38 to 56 of the Code, as amended, for the purposes of deciding whether the allegations are true. A **pre-hearing conference** will be held at a date and location to be set by the Registrar. A discipline panel will convene at the offices of the College at 705 - 55 Commerce Valley Drive West, Thornhill, Ontario at **9:30 a.m. on a date to be set by the Registrar**, or as soon thereafter as the panel can be convened, for the purposes of conducting the **discipline hearing**.

IF YOU DO NOT ATTEND ON THE DATE FOR THE HEARING IN ACCORDANCE WITH THE PRECEDING PARAGRAPH, THE DISCIPLINE PANEL MAY PROCEED IN YOUR ABSENCE AND YOU WILL NOT BE ENTITLED TO ANY FURTHER NOTICE IN THE PROCEEDINGS.

If the discipline panel finds that you have engaged in professional misconduct, it may make one or more of the following orders:

1. Direct the Registrar to revoke the member's certificate of registration.
2. Direct the Registrar to suspend the member's certificate of registration for a specified period of time.
3. Direct the Registrar to impose specified terms, conditions and limitations on the member's certificate of registration for a specified or indefinite period of time.
4. Require the member to appear before the panel to be reprimanded.
5. Require the member to pay a fine of not more than \$35,000 to the Minister of Finance.
6. If the act of professional misconduct was the sexual abuse of a patient, require the member to reimburse the College for funding provided for that patient under the program required under section 85.7.
7. If the panel makes an order under paragraph 6, require the member to post security acceptable to the College to guarantee the payment of any amounts the member may be required to reimburse under the order under paragraph 6.

The discipline panel may, in an appropriate case, make an order requiring you to pay all or part of the College's costs and expenses pursuant to section 53.1 of the *Code*.

You are entitled to disclosure of the evidence against you in accordance with section 42(1) of the *Code*, as amended.

You must also make disclosure in accordance with section 42.1 of the *Code*, which states as follows:

Evidence of an expert led by a person other than the College is not admissible unless the person gives the College, at least ten days before the hearing, the identity of the expert and a copy of the expert's written report or, if there is no written report, a written summary of the evidence.

Further, you must also make disclosure in accordance with rules 11, 12 and 13 of the *Rules of Procedure of the Discipline Committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario*, which state as follows:

11.1 Each party to a proceeding shall deliver to every other party (a) a list of, and (b) if not previously produced, copies of, all documents that the party intends to produce or enter as evidence at the hearing, as soon as is reasonably practicable after the Notice of Hearing is served, and in any case, at least 10 days before the commencement of the hearing on the merits.

11.2 A party who does not disclose a document or thing in compliance with sub-rule 11.1 may not refer to the document or thing or introduce it in evidence at the hearing without leave of the Panel, which may be on any conditions that the Panel considers just.

12.1 A party to a proceeding shall serve every other party a list of the witnesses the party intends to call to testify on the party's behalf at the hearing, at least 10 days before the commencement of the hearing.

12.2 If no affidavit has been served in accordance with rule 27, and material matters to which a witness is to testify have not otherwise been disclosed, a party to a proceeding shall provide to every other party a summary of the evidence that the witness is expected to give at the hearing, at least 10 days before the commencement of the hearing.

12.3 A witness summary shall contain:

- (a) the substance of the evidence of the witness;
- (b) reference to any documents to which that the witness will refer; and
- (c) the witness's name and address or, if the witness's address is not provided, the name and address of a person through whom the witness can be contacted.

12.4 A party who does not include a witness in the witness list or provide a summary of the evidence a witness is expected to give in accordance with these rules may not call that person as a witness without leave of the Panel, which may be on any conditions as the Panel considers just.

12.5 A witness may not testify to material matters that were not previously disclosed without leave of the Panel, which may be on any conditions that the Panel considers just.

13.1 A party who intends to call an expert to give expert opinion evidence at a hearing shall:

- (a) inform the other parties of the intent to call the expert;
- (b) identify the expert and the issue(s) on which the expert's opinion will be tendered;
- (c) serve the other parties with a copy of the expert's written report or, if there is no written report, an affidavit in accordance with rule 27, or a witness summary in accordance with sub-rule 12.3; and
- (d) file an "Acknowledgement Form – Expert's Duty" signed by the expert, in the form appended to these rules;

at least 10 days before the commencement of the hearing.

13.2 A party who fails to comply with sub-rule 13.1 may not call the expert as a witness or file the expert's report or affidavit without leave of the Panel, which may be on any conditions that the Panel considers just.

You, or your representative, may contact the solicitor for the College, Anastasia-Maria Hountalas, in this matter:

Steinecke Maciura LeBlanc

Barristers & Solicitors
401 Bay Street
Suite 2308, P.O. Box 23
Toronto, ON M5H 2Y4

Telephone: (416) 644-4781
Facsimile: (416) 593-7867

Date: October 29, 2021



Ann Zeng
Registrar & CEO
College of Traditional Chinese Medicine
Practitioners and Acupuncturists of
Ontario

TO: KYUNG CHUN OH
4801 Steeles Avenue West, Unit 13
North York, Ontario
M9L 2W1

STATEMENT OF ALLEGATIONS

The Member

1. Kyung Chun Oh (the “Member”) became a Grandparented member (R. Ac) of the College on or about June 1, 2014 and transferred to the General class (R. Ac) on or about November 6, 2017.
2. At the material times, the Member worked as an acupuncturist at a clinic in North York, Ontario.

The Patient

3. In or around 2003, the Patient had both of his thyroids removed as a result of thyroid cancer. From in or around 2003 to in or around February 2020, the Patient had been taking thyroid medication daily as his body was unable to produce any thyroid hormone on its own.
4. The Member treated the Patient from in or around February 2020 to in or around June 2020. It is alleged that:
 - a. The Member advised the Patient that acupuncture would help re-grow the Patient’s thyroid glands; and/or
 - b. The Member advised the Patient to stop taking the Patient’s daily thyroid medication while undergoing acupuncture treatment; and/or
 - c. The Member told the Patient that the acupuncture treatment would not be effective if provided while the medication was still being taken; and/or
 - d. The Patient followed the Member’s treatment advice to stop taking the Patient’s thyroid medication.
5. On or about May 2 and/or May 16 and/or June 2, 2020, the Patient advised the Member that the Patient was experiencing problematic symptoms, including tinnitus, blurred vision, swollen eyes, low energy and/or shoulder pain. It is alleged

that the Member failed to refer the Patient to another health professional after the Patient presented with symptoms that required such a referral.

6. On or about June 6, 2020, the Patient was suddenly unable to walk or speak properly and was taken to the hospital as a result. The Patient had several manifestations of severe hypothyroidism, including cognitive impairment.

Record-Keeping

7. It is alleged that the Member failed to keep records in accordance with the standards of the profession, in particular by failing to record all information related to the Member's treatment of the Patient's thyroid condition.
8. The Patient's treatment records from on or about April 18 and/or April 25 and/or May 2 and/or May 16, 2020 state that the Member recommended that the Patient get a blood test. It is alleged that the Member did not advise the Patient to get a blood test for the purpose of checking the Patient's thyroid hormone levels as described in the Patient's treatment records.

Professional Misconduct Alleged

9. It is alleged that the above conduct constitutes professional misconduct pursuant to one or more of the following: Clause 51(1)(c) of the Health Professions Procedural Code, being Schedule 2 to the *Regulated Health Professions Act, 1991*, and as defined 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 for Record-Keeping); and/or
 - b. paragraph 7 (recommending or providing unnecessary treatment when the member knows or ought to know that the recommendation or the provision of treatment is unnecessary); and/or

- c. paragraph 9 (failing to advise a patient or the patient's authorized representative to consult another member of a health profession within the meaning of the Regulated Health Professions Act, 1991, where the member knows or ought to know that the patient requires a service that the member does not have the knowledge, skills or judgment to offer or is beyond his or her scope of practice); and/or
- d. paragraph 8 (treating or attempting to treat a condition that the member knows or ought to know he or she does not have the knowledge, skills or judgment to treat); and/or
- e. paragraph 25 (failing to keep records in accordance with the standards of the profession); and/or
- f. paragraph 27 (falsifying a record relating to the member's practice); and/or
- g. paragraph 28 (making a claim about a remedy, treatment, device or procedure other than a claim that can be supported as reasonable professional opinion); and/or
- h. 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).

APPENDIX

1. The documents to be tendered in evidence at the hearing have been sent with this Notice of Hearing.
2. The *Rules of Procedure of the Discipline Committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario* have been sent with this Notice of Hearing.
3. Take notice that the documents that have been and may later be disclosed to you will be tendered as business documents pursuant to the *Evidence Act* of Ontario.
4. All documents that are disclosed to you in this matter are disclosed on the basis that they are to be used solely for the purpose of this proceeding and for no other purpose.

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DISCIPLINE COMMITTEE OF THE
COLLEGE OF TRADITIONAL CHINESE
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