

**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 -

PETER WITZ

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, Rebecca Durcan and Anastasia-Maria Hountalas, in this matter:

Steinecke Maciura LeBlanc

**Rebecca Durcan
Anastasia-Maria Hountalas**

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

Telephone: (416) 644-4783
Telephone: (416) 644-4781
Facsimile: (416) 593-7867

Date: January 3, 2022



Ann Zeng

Registrar & CEO

College of Traditional Chinese Medicine
Practitioners and Acupuncturists of Ontario

TO: Mr. Peter Witz
14 Wild Ginger Way
Toronto ON M3H 5X1

STATEMENT OF SPECIFIED ALLEGATIONS

PETER WITZ

The Member

1. Peter Witz (the “Member”) became a General class member (R. Ac) of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario on or about March 29, 2018.
2. The Member is also a registrant of the College of Massage Therapists of Ontario but at the relevant time was not authorized to administer acupuncture as a registrant.

The Patient

3. It is alleged that the Member treated a female Patient (the “Patient”) on or about November 30, 2020. It is alleged that the treatment included Tui Na (Chinese Manipulation Therapy) and/or acupuncture.
4. It is alleged that this was the Patient’s first acupuncture session.
5. It is alleged that during the appointment with the Patient, the Member did one or more of the following:
 - a. Touched the Patient’s armpits close to her breasts without consent;
 - b. Touched the Patient’s upper inner thighs without consent and/or did not ask the Patient to provide written consent;
 - c. Touched the Patient’s groin area without consent;
 - d. Repeatedly brushed his hands and/or fingers against the Patient’s labia over her underwear;
 - e. Massaged and/or squeezed the Patient’s buttocks without consent;
 - f. Exposed the Patient’s buttocks while massaging her legs without consent;
 - g. Pressed on the Patient’s bladder and/or when she told him to stop because it was going to make her urinate, said something in the nature of “I don’t mind”;
 - h. Pressed and/or thrust his genitals against the side of the Patient’s leg;
 - i. Told the Patient to think of a “safe word” she could use if he was causing her too much pain;
 - j. Made comments to the Patient along the lines of: “when someone says ‘no’, sometimes it means ‘yes’” and/or “if a Patient says ‘it’s too deep’ they actually want me to go deeper”;

- k. Ran his fingers up and down the Patient's leg while asking her when she was going to come back for more treatment;
 - l. Asked the Patient if she was going on a romantic vacation when she told the Member that she was leaving on a vacation the following day;
 - m. Did not properly drape the Patient; and/or
 - n. Asked the Patient to come back for treatment on Valentine's Day.
6. It is alleged that the touching and/or behaviour and/or remarks described in paragraph 5 is conduct of a sexual nature and not of a clinical nature appropriate to the service provided.

Alleged Acts of Professional Misconduct

7. It is alleged that the above conduct constitutes professional misconduct pursuant to one or more of the following grounds of misconduct:
- (a) Clause 51(1)(b.1) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991* (the "Code") (sexual abuse of a patient, more specifically, touching of a sexual nature, of the patient by the member and/or behaviour or remarks of a sexual nature by the member towards the patient); and/or
 - (b) Clause 51(1)(c) of the Code 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*:
 - i. **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 including but not limited to:
 - 1. Consent;
 - 2. Diagnosis and Treatment;
 - 3. Maintaining Professional Boundaries; and/or
 - 4. Preventing Sexual Abuse
 - ii. **Paragraph 2.** Abusing a patient or a patient's representative verbally, physically, psychologically or emotionally;
 - iii. **Paragraph 3.** Doing anything to a patient for a therapeutic, preventative, palliative, diagnostic, cosmetic or other health-related purpose except,
 - i. with the informed consent of the patient or the patient's authorized representative, or
 - ii. as required or authorized by law;
 - iv. **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; and/or

- v. **Paragraph 49.** Engaging in conduct that would reasonably be regarded by the profession as conduct unbecoming a practitioner of traditional Chinese medicine or acupuncture.

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.

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

NOTICE OF HEARING

STEINECKE MACIURA LEBLANC

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

Rebecca Durcan
Anastasia-Maria Hountalas

Telephone: (416) 644-4783
(416) 644-4781
Facsimile: (416) 593-7867
Email: rdurcan@sml-law.com
ahountalas@sml-law.com

Lawyers for the College of Traditional Chinese Medicine
Practitioners and Acupuncturists of Ontario