

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

PANEL:	Henry Maeots	Chairperson, Public Member
	Feng Li Huang	Professional Member
	Yvonne Blackwood	Public Member

BETWEEN:

THE COLLEGE OF TRADITIONAL CHINESE MEDICINE PRACTITIONERS AND ACUPUNCTURISTS OF ONTARIO	(
	(Kelly Hayden for the College
	(
	(Member not Present
	(
-and-	(
	(
PHILLIP TRAN	(Aaron Dantowitz,
	(Independent Legal Counsel
	(
	(Date of Hearing: March 21, 2018

DECISION AND REASONS FOR DECISION

This matter came on for hearing before a panel of the Discipline Committee (the “Panel”) on March 21, 2018 at the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario (the “College”).

Phillip Tran (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 panel was satisfied that it could proceed in the Member’s absence.

The Allegations

On September 26, 2016, the College issued an Amended Notice of Hearing against the Member (the “Notice”), 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 the Member:

1. Contravened a standard of practice of the profession contrary to section 1(1) of *Ontario Regulation 318/12*;
2. Failed to keep records in accordance with the standards of the profession, contrary to Section 1(25) of *Ontario Regulation 318/12*;
3. Contravened, by act or omission, a law if,
 - a. the purpose of the law is to protect or promote public health,
 - or
 - b. the contravention is relevant to the member’s suitability to practise;contrary to section 1(40) of *Ontario Regulation 318/12*;
4. Contravened, by act or omission, a term, condition or limitation on the member’s certificate of registration contrary to section 1(41) of *Ontario Regulation 318/12*;
5. Failed to comply with an order of a panel of a committee of the College contrary to section 1(44) of *Ontario Regulation 318/12*;
6. Permitted, counselled or assisted a person who is not a member to represent himself or herself as a member or to perform a controlled act that the person is not authorized to perform under the *Health Professions Act* contrary to section 1(15) of the *Ontario Regulation 318/12*; and
7. 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*.

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. The basis of the request for a stay was that the Member’s Certificate of Registration with the College had been revoked in August 2017, as a result of an earlier proceeding in which the Discipline Committee made a finding that Mr. Tran had engaged in professional misconduct including sexual abuse of a patient. In the College’s submission, in these circumstances, it would not be in the public interest to expend the resources necessary to mount a discipline hearing on the present allegations.

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:

1. the allegations of professional misconduct against the Member set out in the Notice of Hearing dated September 23, 2016 are stayed;
2. the College may seek to lift the stay of proceedings on these allegations if the Member applies for and is issued a new certificate of registration with this College.

Reasons for Decision

It is the College's duty 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 proven, any concerns regarding the member's misconduct or incompetence are allayed by the existing revocation of the Member's certificate of registration and the provision that the College may seek to lift the stay of proceedings on these allegations if the Member applies for and is issued a new certificate of registration with this College. As such, it is not in the public interest to expend further resources to proceed at this time.

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:

April 4, 2018



Henry Maeots, Chairperson

Panel Members: Henry Maeots
 Feng Li Huang
 Yvonne Blackwood