

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

<b>PANEL:</b>	Henry Maeots	Chairperson, Public Member
	Xianmin Yu	Professional Member
	Barrie Haywood	Public Member

**BETWEEN:**

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

	( Robin McKeckney for the College
	(
	(
<b>-and-</b>	( Member not Present
	(
	(
<b>ROCHEL YAKOBOV</b>	( Edward Marrocco
	( Independent Legal Counsel
	(
	(
	( Date: October 10, 2017

**ORDER**

**THIS MATTER** was heard on October 10, 2017 by the Discipline Committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario at 55 Commerce Valley Drive West, Unit 705, Thornhill, Ontario.

**ON READING** the Notice of Hearing dated February 21, 2017, and Undertaking of Rochel Yakobov signed on June 2, 2017, and on hearing the submissions of counsel for the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario (the “College”), no one appearing for Rochel Yakobov despite having been advised as to the date of this hearing:

**THE DISCIPLINE COMMITTEE ORDERS** that the proceedings arising out of the allegations of professional misconduct contained in the Notice of Hearing dated February 21, 2017

be stayed on the basis of the terms of the said Undertaking signed on June 2, 2017, attached hereto as Schedule "A" to this order.

**I, Henry Maeots**, sign this order as Chair of the panel of the Discipline Committee on behalf of the members of the panel that heard this matter.

October 19, 2017  
Date

A handwritten signature in black ink, appearing to read "H. Maeots". The signature is stylized with a large "H" and a cursive "Maeots".

Chairperson, Discipline Panel



College of Traditional Chinese Medicine  
Practitioners and Acupuncturists of Ontario

Ordre des praticiens en médecine traditionnelle  
chinoise et des acupuncteurs de l'Ontario

**COLLEGE OF TRADITIONAL CHINESE MEDICINE  
PRACTITIONERS AND ACUPUNCTURISTS OF ONTARIO (the  
"College")**

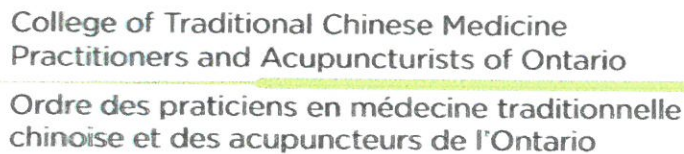
**AND**

**ROCHEL YAKOBOV**

**UNDERTAKING and SURRENDER AGREEMENT**

I, Rochel Yakobov, hereby acknowledge and undertake as follows:

1. I acknowledge that several specified allegations of professional misconduct against me were referred to the Discipline Committee. Attached as Exhibit A is a copy of the Notice of Hearing.
2. A discipline hearing has not yet been scheduled (the Hearing ).
3. In consideration for the College seeking a stay of the discipline hearing, I agree to the following:
  - a. To surrender my Certificate of Registration to the College no later than June 6, 2017;
  - b. To immediately resign from the College;
  - c. To immediately cease using the title acupuncturist, and performing Traditional Chinese medicine (TCM) acupuncture or communicating a TCM diagnosis;
  - d. To immediately refrain from practising and/or holding myself out as a TCM practitioner or acupuncturist in Canada, the United States of America and any other jurisdiction;
  - e. To never apply for registration, licensure or similar status with the College or any other licensing body in any other jurisdiction that governs the practice of TCM or acupuncture;
  - f. To never issue receipts for acupuncture or TCM to patients;






College of Traditional Chinese Medicine  
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- d. A breach of any of the terms of this Undertaking may constitute professional misconduct on my part for which the College may take action against me and this Undertaking is admissible in any such proceeding.


Signed this 2nd day of June, 2017

  
Rochel Yakobov

Emanuel Yakobov  
Witness to the signature of Rochel Yakobov

  
Witness print name

Signed this 2nd day of June, 2017.

  
Allan Mak  
Registrar of the College of Traditional Chinese Medicine Practitioners and  
Acupuncturists of Ontario

  
Witness to the signature of  
Allan Mak

MPIERAGOSTINI  
Witness print name



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

**BETWEEN:**

COLLEGE OF TRADITIONAL CHINESE MEDICINE PRACTITIONERS AND  
ACUPUNCTURISTS OF ONTARIO

- and -

ROCHEL YAKOBOV

**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 Rochel Yakobov 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 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 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, in this matter:

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

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

Date:

Feb 21/2017



Allan Mak  
Registrar  
College of Traditional Chinese Medicine  
Practitioners and Acupuncturists of  
Ontario

TO:

Rochel Yakobov  
55 Carl Tennen Street  
Vaughan, ON L4J 7B8

## **STATEMENT OF ALLEGATIONS**

### **The Member**

1. At all material times Rochel Yakobov was a member of the College (the "Member").

### **Failure to formulate a TCM diagnosis**

2. The Member provided acupuncture treatment to Patient #2, Patient #4, Patient #5 and/or Patient #6 without first formulating, communicating and/or charting a traditional Chinese medicine diagnosis.
3. For this reason it is alleged that the Member engaged in professional misconduct pursuant to subsection 51(1)(c) of the Code, namely:
  - 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; and/or
  - b. 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 of section 1 of Ontario Regulation 318/12.

### **Failure to keep records in accordance with standards**

4. The Member did not create individualized treatment plans but used pre-populated treatment plans for Patient #1, Patient #2, Patient #3, Patient #4, Patient #5 and/or Patient #6.
5. Despite using the pre-populated treatment plans as the patients' treatment plans, the Member did not always adhere to the pre-populated treatment plans.
6. The Member advised the College investigator that if he deviated from the pre-populated treatment plans it would not be indicated in the patient chart.
7. The Member performed laser therapy on Patient #1, Patient #2, Patient #3, Patient #4, Patient #5 and/or Patient #6 and did not document that he provided laser therapy in the patient chart.
8. The Member did not maintain a patient chart for each patient but grouped family members together in one chart.
9. The Member did not complete all entries in patient charts and would have another person in the office complete them.

10. The Member did not consistently review the entries made by others and verify their accuracy.
11. The Member was not always able to identify who made the chart entries.
12. The Member was not always able to verify the accuracy of the entries as English is not his first language.
13. The Member advised the College investigator that treatment notes weren't important.
14. For each of these reasons it is alleged that the Member engaged in professional misconduct pursuant to subsection 51(1)(c) of the Code, namely:
  - 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;
  - b. Paragraph 25: Failing to keep records in accordance with the standards of the profession;
  - c. 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
  - d. Paragraph 49: Engaging in conduct that would reasonably be regarded by the profession as conduct unbecoming a practitioner of traditional Chinese medicine or acupuncture of section 1 of Ontario Regulation 318/12.

#### **Providing acupuncture without informed consent**

15. The Member utilized a consent form which did not indicate that patients were made aware of the material side effects, alternative courses of action and/or the likely consequences of not having acupuncture and/or laser acupuncture.
16. There is no evidence in the patient charts of Patient #1, Patient #2, Patient #3, Patient #4, Patient #5 and/or Patient #6 that the issues identified in paragraph 15 were discussed with the patients.
17. For each of these reasons it is alleged that the Member engaged in professional misconduct pursuant to subsection 51(1)(c) of the Code, namely:
  - 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;
  - b. Paragraph 3(i): Doing anything to a patient for a therapeutic, preventative, palliative, diagnostic, cosmetic or other health-related purpose except with the informed consent of the patient or the patient's authorized representative;

- c. 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
- d. Paragraph 49: Engaging in conduct that would reasonably be regarded by the profession as conduct unbecoming a practitioner of acupuncture of section 1 of Ontario Regulation 318/12.

### **Signing a document that contains a false or misleading statement**

#### *Incomplete Patient Charts*

- 18. On or about June 17, 2015, the Member signed a letter to Blue Cross Insurance and enclosed copies of the patient records for Patient #1, Patient #2, Patient #3, Patient #4, Patient #5 and/or Patient #6. The Member advised Blue Cross Insurance that the copies were "true, accurate and complete."
- 19. On or about July 7, 2016, the College investigator retrieved the file of Patient #3.
  - a. The Patient Entrance Forms dated November 4, 2013 and March 6, 2014 for Patient #3 are different than the one submitted to Blue Cross Insurance on or about June 17, 2015; and/or
  - b. The consent form and/or the Confirmation of Acupuncture Sessions form for Patient #3 was present in the file and was not submitted to Blue Cross Insurance on or about June 17, 2015.

#### *Failure to write, sign and date all entries*

- 20. On or about November 4, 2015, the Member signed a letter to the Inquiries, Complaints and Reports Committee of the College that stated he "wrote ... signed and dated all clinical notes myself."
- 21. On or about July 12, July 13 or July 18, 2016, the Member subsequently admitted to the College investigator that he did not write, sign and date all of his clinical notes himself.
- 22. For each of these reasons it is alleged that the Member engaged in professional misconduct pursuant to subsection 51(1)(c) of the Code, namely:
  - a. Paragraph 26: Signing or issuing, in his or her professional capacity, a document that the Member knows or ought to know contains a false or misleading statement;
  - b. 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

- c. Paragraph 49: Engaging in conduct that would reasonably be regarded by the profession as conduct unbecoming a practitioner of traditional Chinese medicine or acupuncture of section 1 of Ontario Regulation 318/12.

#### **Performing an unauthorized controlled act**

- 23. On or about May 20, 2016, the Member performed the controlled act of moving the joints of the spine beyond a patient's usual physiological range of motion using a fast, low amplitude of thrust (the "controlled act").
- 24. The Member did not obtain informed consent from the patient prior to performing the controlled act.
- 25. The Member is not authorized to perform the controlled act as he is not a member of the following:
  - a. College of Chiropractors of Ontario
  - b. College of Physicians and Surgeons of Ontario
  - c. College of Naturopaths of Ontario
  - d. College of Physiotherapists of Ontario.
- 26. For this reason it is alleged that the Member engaged in professional misconduct pursuant to subsection 51(1)(c) of the Code, namely:
  - 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;
  - b. Paragraph 3(i): Doing anything to a patient for a therapeutic, preventative, palliative, diagnostic, cosmetic or other health-related purpose except with the informed consent of the patient;
  - c. Paragraph 10: Performing a controlled act that the member is not authorized to perform;
  - d. 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
  - e. Paragraph 49: Engaging in conduct that would reasonably be regarded by the profession as conduct unbecoming a practitioner of traditional Chinese medicine or acupuncture of section 1 of Ontario Regulation 318/12.

#### **Using the title Massage Therapist**

- 27. On or about May 10, 2016, an undercover investigator obtained a copy of the Member's business card at or near the Member's clinic which identified the Member as a massage therapist.

28. On or about July 7, 2016, a College investigator obtained a copy of the same business card as described in paragraph 6 at or near the Member's clinic which identified the Member as a massage therapist.
29. On or about July 7, 2016, a College investigator obtained a copy of another business card at or near the Member's clinic which identified the Member as a massage therapist.
30. The Member is not authorized to use the protected title "massage therapist" as he is not a member of the College of Massage Therapists of Ontario.
31. For each of these reasons it is alleged that the Member engaged in professional misconduct pursuant to subsection 51(1)(c) of the Code, namely:
  - 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;
  - b. 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
  - c. Paragraph 49: Engaging in conduct that would reasonably be regarded by the profession as conduct unbecoming a practitioner of traditional Chinese medicine or acupuncture of section 1 of Ontario Regulation 318/12.



## 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.

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

and

**ROCHEL YAKOBOV**

**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**

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

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