

Discipline Decisions 2008

Member: James Zhan, RMT

Hearing Date(s): June 20, 2008

Allegation(s) of Professional Misconduct:

1. Failing to maintain records as required;
2. Falsifying records relating to the Member's practice;
3. Signing or issuing, in the Member's professional capacity, a document that he knew contained false or misleading statements and;
4. Engaging in disgraceful, dishonourable and unprofessional conduct.

Brief Synopsis of Facts:

The evidence was presented by way of an Agreed Statement of Facts and the Member's guilty plea in relation to each count of professional misconduct. The Agreed Facts established the following:

- The Member was first registered with the College in September of 2002 and practiced at the Acupuncture and Massage Clinic located in Niagara Falls, Ontario.
- In June of 2006, the College received information that a client had been issued a receipt under the Member's registration number for treatment that had been provided by someone other than the Member.
- A College Investigator received two treatments at the Member's practice location and on each occasion someone associated with the Member, but who was not a registered massage therapist provided the treatments and receipts were issued with the Member's name and registration number. It was noted that the appointments for these treatments were booked with the Member.
- During the course of the College's investigation the member admitted to the College that there was no excuse for his conduct and he felt deep remorse for his conduct and for any damage caused to the profession of massage therapy. The member also expressed remorse for failing to obey the College's standards and regulations as well as for not maintaining records.
- The member voluntarily dissociated himself and his massage therapy practice from the associate that had provided treatment to the College's investigator and he completed on his own initiative the College's Professionalism Workshop.

Decision:

On the basis of the Member's guilty plea and its review of the Agreed Statement of Facts the Panel unanimously found the Member guilty of all the allegations of professional misconduct.

Penalty:

The College and the Member presented a joint submission respecting penalty which was accepted by the Panel and the following penalty was imposed:

- a) 6 month suspension of the Member's Certificate of Registration;
- b) A period of three months of the suspension shall be remitted, in the event that the Member complies with the terms, conditions and limitations imposed on the Certificate of Registration;
- c) The following terms, conditions and limitations shall be imposed on the Member's Certificate of Registration:
 - a) The Member will enrol in and complete the web-based education course "Standards and Regulations workshop" within six months' time;
 - b) The Member will enrol in and complete a Registrar-approved record keeping course within six months' time;
 - c) The Member agrees that the College is entitled to contact the facilitators at the above-listed programs, and request a report to the Registrar of the Member's participation in the courses which, if unsatisfactory, will constitute a breach of paragraphs (a) and (b) above; and
- d) The Member will contribute to the investigation and prosecution costs of the College in the amount of \$1,000, to be paid within 30 days of the decision becoming final;
- e) A public and recorded Reprimand and;
- f) Publication of the Decision

The Reprimand

Immediately following the Hearing, Mr. Zhan waived his right of appeal and a public reprimand was administered by the panel.

Panel's reasons for Decision and Penalty:

The Panel was of the view that the penalty imposed in this matter affirmed the seriousness of the allegations and how such unprofessional behaviour erodes the profile of the profession in the minds of the public, other health care professionals and insurance providers. The Panel recognized how remorseful the Member was in relation to his conduct and his co-operative attitude displayed throughout the proceedings and they took into account these issues when determining the appropriateness of the penalty imposed. The Panel stated that the public interest will be protected by the suspension imposed as well as the course work and would act as a deterrent for others in the profession from engaging in similar conduct.

EDITORIAL NOTE

The *Zhan* decision emphasizes the importance of maintain professional behaviour to protect the integrity of the profession in the minds of the public, other health professionals and insurance providers. The

signing of false receipts will be viewed as a most serious violation, for which a lengthy suspension is warranted. The Panel made note of the evident remorse of the Member and his cooperation with the College process, which served to mitigate the penalty imposed to some degree.