

Executive Summary – Kun Ma, RMT January 17, 2013

Summary of the Discipline hearing before a Panel of the Discipline Committee of the College of Massage Therapists of Ontario held on January 17, 2013

Allegations of Professional Misconduct and Plea

Mr. Ma entered a guilty plea in relation to the following allegations:

- contravening a standard of practice of the profession;
- falsifying a record;
- signing or issuing a false or misleading statement ;
- contravening the Act, the *Regulated Health Professions Act, 1991* or the regulations under either of those Acts.
- 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 members as disgraceful, dishonourable or unprofessional

The Facts

The College and Mr. Kun entered an Agreed Statement of Facts, which set out the following facts.

The College received information regarding concerns with inappropriate billing practices occurring at a named spa in Toronto. A College investigator attended the spa and received treatment from an unidentified individual who called herself “Lin”. At the conclusion of the appointment, a receipt was issued to the investigator which included Mr. Ma’s name and registration number. Mr. Ma was in attendance at the time of the appointment and prepared the receipt in his name prior to treatment being performed with the knowledge that treatment would be performed by another individual.

Following receipt of this information an investigation was commenced. An appointed College investigator attempted to retrieve client health records from the Operator of the spa at which time of the 23 client records requested only records relating to 14 clients identified could be located. Additionally, in relation to the client health records obtained there were deficiencies found in terms of the record keeping requirements established by the standards and regulations. It was further noted that Mr. Ku failed to advise the College of this practice location for a period of a significant period of time despite the requirement to provide within 14 days of any practice locations.

Immediately upon receiving a summary of the allegations of professional misconduct arising from the investigation, Mr. Ku (through his counsel) was cooperative, conceded wrongdoing, was remorseful and voluntarily agreed to take remedial action and enrolled in continuing education courses to rectify the deficiencies which were discovered in the course of the investigation. Mr. Ku completed the Professionalism Workshop and the Recordkeeping Course offered by the College and expressed responsibility, remorse and admitted to a significant lapse in his judgment and in his professionalism.

Decision of the Panel and Penalty and Cost Award Imposed

The Panel accepted Mr. Ku's plea and found him guilty of professional misconduct in relate to each allegation.

The Panel accepted a Joint Penalty Submission from the College and Mr. Ku and imposed the following penalty:

1. Mr. Ku's Certificate of Registration shall be suspended for a period of three (3) months;
2. Mr. Ku shall submit to two inspections of his practice, at his own expense, within approximately 18 months of resuming practice. The cost of each inspection shall not exceed \$500;
3. A public and recorded reprimand;
4. The publication of the decision in the ordinary course, which includes publication in the Annual Report of the College, an Executive Summary posted on the College's website, as well as a summary of findings, also accessible through the College's website; and
5. The Member shall pay costs of \$1,000, payable within 60 days of the decision of the Committee becoming final.

Panel's Reasons for Decision

The Panel acknowledged Mr. Ma's cooperation from the outset of the investigation as well as the completion of a record keeping course and the College's Professionalism Workshop prior to the hearing.

The Panel found the falsifying records and failing to maintain records to be very serious allegations. It was noted that Mr. Ma was a recent graduate that demonstrated a serious lapse in judgment at the commencement of his career. For this reason, the Panel felt the length of suspension was appropriate and an adequate deterrence for Mr. Ma and other registrants of the profession making it clear that the College will not tolerate this type of behaviour.

Additionally, the Panel noted that the imposition of an inspection of Mr. Ma's practice would provide assurances that he will learn from this experience and return to practice with an improved understanding of his professional responsibilities.

Costs were imposed at \$1000 to help offset the College's costs for the investigations and prosecution of this case and the Panel found the imposition of a cost award was appropriate given the expense incurred by the College for the investigation and hearing.