

Executive Summary – Rui Hua Ai, RMT - August 28 and 29, 2013.

Summary of the Discipline hearing before a Panel of the Discipline Committee of the College of Massage Therapists of Ontario held on August 28 and 29, 2013.

Allegations of Professional Misconduct

Twenty (20) allegations of professional misconduct relating to the Member, Rui Hua Ai, RMT, were referred to the Discipline Committee in four (4) separate referrals between 2008 and 2012.

The College withdrew seven (7) and proceeded on the following thirteen (13) allegations of professional misconduct:

- a) two (2) allegations of falsifying a record relating to the Member's practice;
- b) two (2) allegations of signing or issuing in the Member's professional capacity, a document that the Member knows contains a false or misleading statement;
- c) three (3) allegations of engaging in conduct or performing an act in the course of practicing the profession, that having regard to all of the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional;
- d) engaging in conduct that would reasonably be regarded by members as conduct unbecoming a massage therapist;
- e) two (2) allegations of failing to keep records as required;
- f) contravening a standard of practice of the profession or failing to maintain the standard of practice;
- g) failing to permit entry at a reasonable time or to co-operate with an authorized representative of the College; and
- h) contravening the *Massage Therapy Act, 1991*.

The Plea

A not guilty plea in relation to all thirteen (13) allegations of professional misconduct was entered on behalf of the Member. Neither the Member nor a lawyer acting on the Member's behalf attended the hearing.

Preliminary Issues

The College made submissions as to why it was reasonable to proceed in the absence of the Member. The College established that Mr. Ai was notified of the hearing and was unwilling to attend. Accordingly, the Panel determined that the case could proceed in the absence of the Member.

The Facts

The College called several witnesses to testify at the hearing. The evidence established an egregious pattern of non-compliance with practice standards, fraudulent activity and a lack of co-operation with investigators.

[1] TM

TM, a former employee of the College, testified that the College had received a formal complaint letter from Green Shield Canada with respect to Mr. Ai. As a result of this complaint, an investigator, GH, was appointed to serve Mr. Ai with the Notice of Complaint and to collect relevant files from Mr. Ai.

TM's evidence was that Mr. Ai accused the College of harassing him and his family and that he was "afraid to return home". TM responded to Mr. Ai by explaining that the College had appointed an investigator, that he needed to co-operate during the investigation, and that he needed to attend at the College for a meeting. TM formally requested that Mr. Ai appear at the College on December 2, 2010 with certain documentation. Mr. Ai failed to attend the meeting on December 2, 2010.

Another meeting was scheduled on December 9, 2010. Mr. Ai also failed to attend this meeting. TM testified that she subsequently made numerous attempts to contact Mr. Ai and obtain his cooperation. However, Mr. Ai never attended at the College for a meeting or provided the requested documentation.

[2] MR

MR testified that she had received a chair massage from a woman and that after her massage Mr. Ai signed the receipt with his name and RMT number. MR also testified that Mr. Ai failed to complete, review and discuss a health history form with her prior to her appointment.

[3] DP

DP, an investigator from Manulife Financial, testified regarding his investigation. DP's investigation demonstrated that Mr. Ai failed to keep appointment records and that Mr. Ai's manager completed false treatment records that Mr. Ai initialled.

DP also testified that Mr. Ai signed receipts for treatments on the same day in both Ontario and British Columbia on several occasions in November and December, 2010.

DP further testified that Mr. Ai was entirely uncooperative during his investigation: Mr. Ai was evasive and failed to answer any questions regarding insurance claims.

[4] MM

The Panel heard evidence from MM, from Green Shield Canada. MM testified that Mr. Ai failed to remit documentation requested by Green Shield Canada with respect to his clients. MM's evidence was that Mr. Ai would not even confirm that he had treated the clients in question and that Mr. Ai had not provided any follow-up documentation notwithstanding multiple requests made by Green Shield Canada.

[5] GH

The Panel also heard evidence from GH, a College investigator. GH tried to meet with Mr Ai on several occasions, but Mr. Ai failed to attend meetings and he did not return GH's telephone calls.

On November 11, 2010, when GH attended at Mr. Ai's place of business, Mr. Ai eluded GH by exiting the building through a back exit. GH testified that Mr. Ai also failed to attend at the College for meetings on December 2 and December 9, 2010.

GH further testified that Mr. Ai failed to advise the College of his practice locations.

[6] TL

TL testified that she received four (4) massages from a female therapist at Noble Wellness Centre in Markham, Ontario. However, Mr. Ai's stamp was on all four (4) of the receipts. Mr. Ai's signature was also on three (3) of those receipts.

[7] PW

PW, an employee of the College, testified about a written response that Mr. Ai submitted to one of the complaints. PW also testified regarding a published standard of the College regarding client health records.

Decision of the Panel Regarding Penalty and Costs

The Panel found Mr. Ai guilty of all thirteen (13) allegations of professional misconduct.

The Panel unanimously imposed the following penalty:

1. an Order directing the Registrar of the College to revoke the Certificate of Registration of the Member;
2. the Member shall pay costs of \$30,000.00; and
3. publication in the usual manner.

Panel's Reason for Decision

The Panel found that Mr. Ai consistently ignored the standards of the profession and engaged in multiple counts of professional misconduct over a significant period of time. The Panel found that Mr. Ai's behaviour was egregious and that Mr. Ai was ungovernable. A member who blatantly disregards the standards of the profession and ignores the College ought to have his or her Certificate of Registration revoked.

The costs award reflects that Mr. Ai was found guilty of thirteen (13) allegations of professional misconduct which span a lengthy period of time. Significant investigation and prosecution costs were incurred. In addition, Mr. Ai's total unwillingness to cooperate with the College, its investigators and the insurance companies were other factors that influenced the Panel's costs award. The Panel indicated that the profession will not tolerate ungovernable members.