

Discipline Hearing Summary – Yanzhen Guan, RMT (Toronto ON) June 19, 2015

The Discipline hearing before a Panel of the Discipline Committee of the College of Massage Therapists of Ontario (CMTO) was held on June 19, 2015.

Allegations of Professional Misconduct

Ms. Yanzhen Guan, a Registered Massage Therapist (RMT), was found to have engaged in the following acts of professional misconduct:

- Signing or issuing a false or misleading document;
- Falsifying a record;
- Failing to keep required records;
- Failing to take reasonable steps to ensure that information provided to the College by the registrant was accurate, and;
- Engaging in disgraceful, dishonourable or unprofessional conduct.

The Facts

The facts in this case were established by an Agreed Statement of Facts, which set out the following:

On April 30, 2013, the College received information from an insurance company indicating that the Oriental Falls Spa of Toronto, Ontario, was providing insurance receipts for treatments falling outside the scope of practice for Massage Therapy. This initiated an informal investigation at the practice location.

An undercover investigator attended the spa on May 27, 2013. She was offered, and did subsequently purchase, a package in which she received \$400 worth of Registered Massage Therapist receipts for a series of one-hour Massage Therapy sessions she did not receive. These receipts were then redeemable by the investigator for any desired treatment provided by the spa, up to the equivalent value of the package. This package was available only to clients with extended health insurance benefits.

Utilizing this package, the investigator received a series of services from the spa including Massage Therapy, performed by both Ms. Guan and other practitioners who were not registered with the College as well as a facial treatment. The dates on the five receipts issued to the undercover investigator do not correspond to any of the dates the undercover investigator actually attended the spa.

On January 20, 2014, the College commenced an investigation into Ms. Guan's practice and appointed a different College investigator. The new investigator went to the spa and requested several files,

including that of the undercover investigator. The undercover investigator's file contained a "tracking sheet" noting that the undercover investigator had purchased the \$400 package of Registered Massage Therapist receipts and tracking the treatments she had actually received.

On February 5, 2014, the second investigator interviewed Ms. Guan, who denied allegations of improper billing and indicated that receipts were always signed and stamped properly. Ms. Guan told the investigator that she had personally performed all of the treatments for the undercover investigator and each on the dates indicated on the five receipts issue. This information was false, as the undercover investigator did not attend the spa on those dates.

During the investigation, Ms. Guan told the College investigator that she does not record the names of clients she has treated in an appointment book, and has not maintained a daily appointment book since her starting practising as an RMT in 2012.

Ms. Guan acknowledged and admitted to each of the allegations of professional misconduct as alleged.

Findings of the Panel, Penalty Order and Cost Award Imposed

Based on the Agreed Statement of Facts and Ms. Guan's admissions, the Panel unanimously found Ms. Guan to have engaged in each of the allegations of professional misconduct.

The Discipline Panel accepted the Joint Penalty Submission of the College and Ms. Guan and imposed the following Penalty Order:

1. Suspension of Ms. Guan's Certificate of Registration for 12 consecutive months.
2. The 12-month suspension can be reduced by two months if Ms. Guan complies with items 4 and 5 below.
3. A public and recorded reprimand that Ms. Guan will attend in person.
4. Ms. Guan must successfully complete a Registrar-approved Professionalism Workshop at her own expense, and provide satisfactory evidence of her successful completion to the College.
5. Ms. Guan must successfully complete a Registrar-approved Record Keeping course at her own expense, and provide satisfactory evidence of her successful completion to the College.
6. Ms. Guan must complete an inspection of her practice at her own expense within six months of the date when she returns to practice after completing her suspension. The costs of this inspection must not exceed \$500.
7. Publication of the Panel's decision to include publication in the *Annual Report* of the College, a Discipline Hearing Summary posted on the College's website, as well as a summary of findings in the College's public register.

Cost Award

The Panel imposed a cost award requiring Ms. Guan to contribute to the College's investigation and prosecution costs in the amount of \$4000.

Reasons for Decision

On a number of occasions, Ms. Guan falsified records, issued false receipts and gave false information to the College. Furthermore, her conduct placed the public at risk, as clients expect to be treated by an RMT when seeking profession services. Ms. Guan submitted receipts to the insurance company seeking payment for service she did not provide – an act constituting fraud.

The lengthy suspension and the required course work will convey to the registrants of the College, the public and the insurance industry, that the College will not accept such conduct by its registrants and will take appropriate actions. Following her suspension, the inspection of Ms. Guan's practice will ensure the protection of the public on a go-forward basis.

Additionally, the Panel believes that related costs are appropriately sought from Ms. Guan and not absorbed by the College.

At the conclusion of the hearing, Ms. Guan waived her right to appeal and an oral reprimand was delivered by the Panel.