

**EXECUTIVE SUMMARY – SANDY CHEN, RMT
DISCIPLINARY HEARING CONDUCTED AUGUST 24
AND SEPTEMBER 22, 2011**

The Member, Sandy Chen, RMT, was charged with three counts of professional misconduct: signing or issuing, in the Member's professional capacity, a document that she knew contained false or misleading statements; falsifying records relating to the Member's practice; and engaging in disgraceful, dishonourable or unprofessional conduct.

THE PLEA

The Member entered a not guilty plea to all of the allegations of professional misconduct.

THE FACTS

The Panel heard evidence from four witnesses, including the Member. The Member had been a RMT since 2007 and worked at various locations, including the Mona Lisa Spa (the "Spa").

A College investigator testified that he received a massage treatment at the Spa on April 17, 2009 from a woman who identified herself as "Cindy". He requested a receipt and was told to come back another day. Upon return, he was provided with a receipt signed and stamped with the Member's name Sandy Chen and her registration number, although Ms. Chen had not given him the massage. The investigator noted two other blank receipts that were purportedly stamped and signed by Ms. Chen.

A second College investigator testified that she attended the Spa for a massage treatment on January 13, 2010. She completed a health history and consent form. She received the massage from "Cindy", and was provided with a receipt under the Member's name and registration number. Cindy advised that the receipt belonged to and was in the name of the Spa's part-time therapist.

A third College investigator testified as to her interview with the Member on May 28, 2010. In the interview, Ms. Chen reviewed the first receipt provided and confirmed that it contained her signature and that the handwriting on the receipt was hers. The Member also verified that the second receipt also contained her signature. Ms. Chen advised that she was certain she had treated "Ms. Suzanna Oram" (the second investigator), but she did not remember treating the first investigator. Ms. Chen signed a written statement with respect to this information.

The Member advised that she had no client files at the Spa and that she did not have any appointment books. All her client files were located at another practice location, and from that location she delivered a copy of a Suzanna Oram file. This contained a Health History, Treatment Plan and Treatment Notes. The investigator confirmed that this Health History was the same one that she had completed.

The Member subsequently provided to the College a copy of the second receipt, which had been with her accountant. In testimony, the Member confirmed that she had created the treatment notes that accompanied the Oram Health History. She testified that she would never complete these forms without seeing a client. She conceded that the second receipt must have also come from her files.

The Member testified that she did not have an Appointment Book as she is so busy, notwithstanding that this is required by the standards.

FINDING OF GUILT

The Panel found the Member guilty on all allegations. In respect of the first allegation of signing or issuing in her professional capacity a document that she knows contains a false or misleading statement, the Panel considered three questions: did the Member sign or issue the receipt or document; is the receipt or document false; and did the Member know that the receipt or document she signed or issued was false?

The Panel found that Ms. Chen had issued and signed the receipt provided to the first investigator. The receipt was false, as the Member had not treated the investigator. The Member knew that the document was false, because she issued and signed the receipt when she had not treated him.

The Panel also considered the two copies of the receipt pertaining to the second massage treatment. It found that the Member had issued the receipt in question as one copy came from her accountant and the Member acknowledged that it was her signature. The Panel was satisfied that it was a false receipt, and the Member knew this.

The Panel concluded that the Treatment Notes produced by the Member were false as she had not treated the investigator. This was a creation of a false document, which met the requisite intent element. Creation of these notes also contravened the allegation of falsifying a record relating to the Member's practice. The Panel was satisfied that the Member had created the notes after she realized that the College would require Ms. Oram's chart.

Finally, the Panel found that the falsification of the record and issuance of a false or misleading document constituted conduct that Members of the profession would reasonably regard as a serious offence and is disgraceful, dishonourable and unprofessional. The Panel also noted that maintaining accurate records and issuing true receipts were part of an RMT's job.

THE SENTENCING HEARING

A Joint Submission respecting penalty was presented to the Discipline Panel. The Panel accepted the recommendation and imposed the following penalty:

1. The member's Certificate of Registration shall be suspended for a period of six (6) months however, such suspension shall be remitted for a period of two (2) months if the Member complies with the terms, conditions, and limitations imposed on her Certificate of registration below.
2. The following terms, conditions and limitations shall be imposed on Ms. Chen's certificate of registration:
 - a. Within four (4) months of the date of the Hearing, Ms. Chen shall enroll in and successfully complete, at her own expense, the College's Professionalism workshop and shall provide satisfactory evidence of the same;
 - b. Ms. Chen shall submit to one inspection of her practice, at her own expense, within approximately six (6) months of her return to practice following the completion of her suspension. The cost of the inspection shall not exceed \$275;

- c. Ms. Chen shall pay costs in the amount of \$4000 with equal payments over a period of (24) twenty-four months.
3. Ms. Chen is to appear before a panel of the Discipline Committee to receive a public and recorded reprimand; and
4. Publication of the results of the Hearing, in the usual course.

In its reasons for accepting the Joint Submission, the Panel noted that it felt that this was on the light side of the penalty range given the seriousness of the behaviour.

It noted that falsifying records is a very serious charge, for which a suspension is appropriate. The length of the suspension should provide adequate deterrence to the Member and other Members of the profession that this behaviour will not be tolerated by the College.

The Panel noted that by issuing massage therapy receipts for work that she did not perform, the public's safety was put in jeopardy. The public attends an RMT for a massage and expects a certain standard of training and professionalism. By allowing non RMTs to perform massage on clients who seek treatment from a registered massage therapist, a RMT exposed to such clients and the public to risk of injury. This also damages the reputation of the profession.

The suspension, coursework and future inspection of the Member's practice should convey to the Member and the public that this offence will be treated very seriously. It also demonstrates to the insurance industry that the College will take action against its Members.