

Executive Summary – Zhen Zhong Chen, RMT May 16, 2014

Summary of the Discipline hearing before a Panel of the Discipline Committee of the College of Massage Therapists of Ontario held on **May 16, 2014**

Allegations of Professional Misconduct and Plea

Zhen Zhong Chen entered a guilty plea in relation to the following allegations:

- Failing to maintain records;
- Contravening a standard of practice; and
- Disgraceful, dishonourable or unprofessional

The Facts and Findings of the Panel

During an investigation into another Registrant of the College, information was reviewed to suggest Mr. Chen had failed to maintain client health records as required in relation to a number of clients.

During the course of the investigation, Mr. Chen advised the College appointed Investigator that he did not conduct any of the billing at the Clinic, and he did not issue receipts. While he understood his obligation to write treatment notes, Mr. Chen did not do so, as he often only knew the first names of his clients. Mr. Chen further admitted that he did not know if the patients completed health history or consent forms. Additionally, when reviewing the various client files bearing his professional credentials, Mr. Chen admitted to the investigator that he could not recall if he treated any of those clients. He denied however having written typed treatment notes that appeared on some of the records bearing his registration number.

Mr. Chen suspected that the Operator was misusing R.M.T. numbers, but had no proof. If Mr. Chen were to testify, his evidence would be that the Clinic was his first place of employment after becoming a Registered Massage therapist, and that he regrets allowing the Operator to be the sole controller of the Clinic's records as he did not permit Mr. Chen access client records, when he attempted to access and maintain the records.

Mr. Chen admitted that he failed to maintain records as required by the College's published guidelines and the *Regulated Health Professions Act*.

The Panel found Mr. Chen engaged in acts of professional misconduct based the facts and Mr. Chen's guilty plea as set out in the Agreed Statement of Facts.

Decision of the Panel and Penalty and Cost Award Imposed

The Discipline Panel accepted the Joint Penalty Submission of the College and Mr. Chen and imposed the following penalty:

1. The Member's Certificate of Registration shall be suspended for a period of one (1) month;

2. The following terms, conditions and limitations will be imposed on the Member's Certificate of Registration and shall continue until he complies with the terms, conditions and limitations:
 - (a) The Member shall, within three (3) months of the Discipline Committee's Decision, enroll in, at his own expense, the College's Professionalism Workshop and shall provide satisfactory evidence within 30 days of completing the same;
3. The Member shall complete the course referred to in paragraph 2, above, within one year of the date of the Discipline Committee's Decision;
4. The Member shall submit to one (1) inspection of his practice, at his own expense, within 12 months of completing Term 2(a) set out above. The Cost of the inspection shall not exceed \$500.00;
5. A public and recorded reprimand;
6. Costs in the amount of \$500.00, to be paid no later than two years after the date of the Discipline Committee's Decision; and
7. The publication of this decision in the usual 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 website. Additionally, the College may publish, at the discretion of the Registrar, details of the Member's failure to comply with any terms of the penalty imposed.

Panel's Reasons for Decision

The Panel was of the opinion that failing to maintain records as required is concerning misconduct as it raises public protection issues about the quality of care provided by a Registrant. In light of the serious nature of the concerns the Panel found the penalty imposed to be appropriate. Consideration was given by the Panel in relation to two previous similar cases Sandell (2003) and Pettita (2009) which confirmed the penalty to be in line with previous cases before the College's Discipline Panel.

The Panel noted the Registrant was in a difficult situation with his employer however they wished to send a clear message that as a Registrant of the College there is an expectation that Registrants will uphold the Standards of Practice at all costs and the responsibilities of a regulated health professional cannot be taken lightly. The Panel was of the view the course work and subsequent inspection of the Registrant's practice would serve to protect the public by ensuring the Registrant is complying with his obligations.

A Cost Award was imposed however significantly lower than previous cases given extenuating personal circumstances relating to the Registrant. The Panel was of the opinion some contribution to the College's investigation and prosecution costs was warranted given the facts involved in this case.