

Hearing Summary – September 18, 2024

Background

The Complaints Director and an Acupuncturist reached an agreement before the hearing, which included facts about the case and a proposed sanction. The agreement was presented to the Hearing Tribunal (Tribunal). The case involves the Acupuncturist's treatment of a patient in March 2023.

Issues identified:

- Not providing proper care to the Patient.
- Inadequate or improper patient record-keeping.
- Issuing false receipts for services.

Allegations

Four allegations were made against the Acupuncturist:

1. On or about March 30, 2023, you failed to provide appropriate professional services to the Patient, particulars of which include one or more of the following:
 - a. Failing to take the necessary precautions for the Patient, a 62-year-old female with long-term (over 40 years) type one diabetes.
 - b. Failing to conduct a thorough diagnostic process to ensure appropriate treatment planning and appropriate needling sites for the Patient, to rule out contraindications to treatment.
 - c. Failing to conduct a detailed circulation assessment, including of the Patient's skin condition.
 - d. Performing electro-stimulation on the Patient, without conducting adequate assessments to ensure patient safety.
2. Between March 30, 2023 and April 1, 2023, you failed to prepare appropriate or adequate patient records for the Patient, particulars of which include one or more of the following:
 - a. Failing to provide sufficient, accurate and/or legible information on the patient file.
 - b. Failing to document all points used during the treatment.
 - c. Failing to record a detailed circulation assessment, including failing to record the Patient's skin condition.
 - d. Failing to document family physician name, past medical history (past serious illnesses, operations, accidents), current medication; emergency

contact information; and/or the patient's name on each page of the patient record.

- e. Failing to document the adverse effects reported by the Patient on April 1, 2023.
 - f. Failing to document prognosis, diagnostic processes, diagnosis and/or treatment notes, including the use of electro-stimulation with corresponding details such as frequency, duration, waveform, intensity and point connections.
 - g. Failing to use terminology, abbreviations or symbols that are understandable to other registered acupuncturists.
 - h. Failing to document relevant subjective, objective, assessment, and plan (SOAP) notes to determine other patterns of diagnosis.
 - i. Failing to document sufficient information to ensure continuity of care in the event of a transfer of care to another registered acupuncturist.
3. On or about March 30, 2023, you created false receipts for the Patient by doing one or more of the following:
- a. Making the receipt out in the name of the Patient's partner.
 - b. Including an incorrect treatment date.
 - c. Recording the treatment as massage therapy instead of acupuncture treatment.
 - d. Recording an inaccurate date for treatment and/or patient name for the purpose of assisting the patient to obtain benefit plan coverage that may not otherwise be available.
 - e. Recording treatment as massage therapy for the purpose of assisting the Patient to obtain benefit plan coverage that may not otherwise be available.
4. Between on or about September 30, 2022 to November 18, 2022, you created false receipts for Patient's partner by doing one or more of the following:
- a. Recording the treatment provided as massage therapy instead of acupuncture treatment for one or more of the following appointment dates: September 30, October 7, October 14, October 18, October 21, October 28, November 18, 2022.
 - b. Recording treatment as massage therapy for the purpose of assisting the Patient to obtain benefit plan coverage that may not otherwise be available.

Admission of Unprofessional Conduct

The Acupuncturist admitted to all four allegations, acknowledging that their actions were unprofessional under the *Health Professions Act (Act)*.

Decision of the Hearing Tribunal on Unprofessional Conduct

The Tribunal accepted the Acupuncturist's admission and determined that the actions were unprofessional, harmful to the profession, and resulted in serious consequences for the Patient. The Acupuncturist's conduct fell below acceptable standards, and the issuance of false receipts was deemed dishonest.

Joint Submission on Sanction

The Acupuncturist agreed to the following sanctions:

1. Receive a reprimand, with the decision serving as the reprimand.
2. Complete courses on diabetes in acupuncture, safety, proper charting, and an ethics course. These courses do not count towards continuing education credits and must be paid for by the Acupuncturist.
3. Complete the coursework by March 31, 2025, unless the Acupuncturist retires by December 31, 2024 as indicated during discussion around these sanctions, and agrees not to re-register in the future.
4. Review the Code of Ethics, Competency and Practice Standard of Practice, Patient Records Standard of Practice and Safety Handbook and submit a written declaration by March 31, 2025, unless the same retirement conditions are met.
5. Pay \$4,000 in fines by December 31, 2024.
6. Pay 50% of investigation and hearing costs by December 31, 2024.

Decision of the Hearing Tribunal on the Joint Submission on Sanction

The Tribunal agreed that the sanctions protect the public and maintain the integrity of the profession. The seriousness of the violations, the acknowledgment of responsibility by the Acupuncturist, and their long career without previous discipline were considered. While the Acupuncturist admitted to their actions, the Tribunal noted that the patient experienced significant harm, including hospitalization. The Tribunal found that the sanctions balanced the need for accountability and the opportunity for the Acupuncturist to improve, without undermining public trust in the profession.