

THE COLLEGE OF TRADITIONAL CHINESE MEDICINE PRACTITIONERS AND ACUPUNCTURISTS OF NEWFOUNDLAND AND LABRADOR

PROFESSIONAL MISCONDUCT REGULATION – EXPLANATION AND RATIONALE

1	The following are acts of professional misconduct for the purposes of Part V 2010 cH-1.02 Health Professions Act	Under the Health Professions Act a few matters of professional misconduct are listed (e.g. sexual abuse of patients, relevant convictions, failing to cooperate with the Quality Assurance Program of the College). Other matters of professional misconduct are supposed to be set out in regulations made by the College and the government. Every health College has made such a regulation. The Discipline Advisory Committee of the College uses this regulation in its hearings when deciding whether the member did anything wrong
2	Contravening, by act or omission, a standard of practice of the profession or failing to maintain the standard of practice of the profession.	Standards of practice for a profession can be written or unwritten. They reflect the shared understanding of the profession as to how to practice safely and effectively. Where the standard of practice is unwritten, an expert witness testifies as to what the shared view of the profession would be in the circumstances. This is a common provision. It is often used in discipline hearings. Members are expected to learn, through their training, research and professional interactions, the basic principles of practising the profession safely and effectively.
3	Abusing a patient or a patient's representative verbally, physically, psychologically or emotionally.	This provision deals with forms of abuse other than sexual abuse For example, it deals with non-sexual abuse. It also deals with abuse of a patient's representative (e.g., the parent of a child patient). "Abuse" refers to conduct that is clearly inappropriate and is potentially harmful. It does not refer to a simple lapse in politeness. This is a common provision. No person dealing with a practitioner should have to undergo abuse. The recipient of the abuse, by being a patient or a representative of a patient, is often physically and emotionally vulnerable already.
4	Doing anything to a patient for a therapeutic, preventative, palliative, diagnostic, cosmetic or other health- related purpose except, i. with the informed consent of the patient or the patient's authorized representative, or ii. as required or authorized by law.	This provision requires members to have informed consent whenever providing services to a patient. Consent can be obtained in writing, verbally or by implication (e.g., a patient answering a question of why they have come is implied consent for obtaining that part of their history). To be informed, the patient has to understand what is going to be done, why, any material risks and side effects, and the alternatives. In some circumstances consent is not required by law (e.g., where the patient is unconscious in an emergency). This is a common provision. Informed consent is an essential component of health care services. People have the right to choose whether they will be assessed or treated and to have control over their bodies and their health information.
5	Failing to reply appropriately to a reasonable request by a patient or a patient's authorized representative for information respecting a service or product provided or recommended by the member.	Even if the ingredients of a remedy have traditionally been kept secret, a member must appropriately divulge the necessary information, if asked, so that a patient can make an informed decision to take a product or choose a service. A patient cannot make an informed decision, and a member cannot obtain informed consent, unless the patient has all of the necessary information. As such, members must divulge this information. Patients need all of the relevant information in order to make informed decisions about their health care. This provision ensures that the member provides all reasonable information to the patient upon request.
6	Giving information about a patient to a person other than the patient or the patient's authorized representative except with the consent of the patient or the authorized representative or as required or authorized by law.	Although confidentiality has always been a hallmark of health care, it has been further codified in the Personal Health Information Protection Act, 2004. As such, a member cannot divulge any patient information, including the patient's contact information, without the consent of the patient, the patient's representative or as required by law (e.g., summons, court order, etc.) This is a common provision. Patients need to know that their information will be kept confidential in order to have the trust necessary to disclose it. Without this confidence, members will not receive the information they need to provide safe and effective service.
7	Discontinuing professional services that are needed unless the discontinuation would reasonably be regarded by members as appropriate having regard to, i. the member's reasons for discontinuing the services, ii. the condition of the patient, iii. the availability of alternate services, and iv. the opportunity given to the patient to arrange alternate services before the discontinuation.	This provision gives guidance to the member as it demonstrates what constitutes a good reason for discontinuing services. The type of reason for the member wishing to discontinue services can affect how quickly the services can be discontinued. For example, if the patient assaults the member, services can often be discontinued immediately. If the patient has obviously lost confidence in the member (e.g. a lack of willingness to consider reasonable recommendations), the services can be discontinued fairly quickly. Where the patient is unable to pay the member's accounts, the member does not have to continue treatment indefinitely, but the member should provide a reasonable period of time for the patient to locate another practitioner. Once a member agrees to provide professional services to a patient, the patient comes to rely upon the member. Members are expected not to unilaterally discontinue required services to patients without good reason.
8	Recommending or providing unnecessary treatment	Unnecessary treatments involve services where there is no reasonable prospect of benefit for the patient. This is a common provision. Unnecessary treatment has the risk of harm for the patient, may provide false expectations and often wastes the patient's time and money.
9	Attempting to treat a condition that the member knows or ought to know he or she does not have the knowledge, skills or judgment to treat.	Members will be held to an objective standard. If a member encounters a patient who has needs beyond the member's capabilities, the member must refer the patient to someone who is competent to provide those services. Please see subsection (3) below which explains how continuing education is one of the ways to meet this expectation. This is a common provision. Members are expected to only provide services that are within their abilities and to know when they are out of their depth.

10	Failing to advise a patient or the patient's authorized representative to consult another member of a health profession, where the member knows or ought to know that the patient requires a service that the member does not have the knowledge, skills or judgment to offer or is beyond his or her scope of practice	This mandates that a member must refer the patient to another qualified health professional when the patient needs services beyond that which can be provided by the member.	This is a common provision. It requires members to put the patient's interests first. The member cannot allow any reluctance to admit limitations in the member's skills or any concern that the member might lose the patient as a customer to stand in the way of the patient's best interests.
11	Performing a controlled act that the member is not authorized to perform	Most regulated health professionals are allocated certain "controlled acts." Controlled acts are procedures which have an implicit risk of harm and therefore require a certain level of skill to perform. Members of this College are authorized to perform two controlled acts when engaging in the practice of traditional Chinese medicine: (1) Performing a procedure on tissue below the dermis and below the surface of a mucous membrane for the purpose of performing acupuncture (2) Communicating a traditional Chinese medicine diagnosis identifying a body system disorder as the cause of a person's symptoms using traditional Chinese medicine techniques. In addition, there are circumstances in which a member may perform other controlled acts (e.g. under delegation, in an emergency). This provision does not prohibit members from performing other controlled acts when there is legal authorization for doing so. However, the member must still do so within generally accepted standards of practice.	This is a common provision. It requires members to comply with the legal requirements surrounding controlled acts. It also helps ensure that members provide only competent care.
12	Delegating a controlled act unless it is appropriate in all of the circumstances to do so including that the member has taken and documented reasonable measures to ensure that the person receiving the delegation has the knowledge, skills and judgment to perform the procedure	Members should not delegate a controlled act unless the member has done the following: • Considered the circumstances to determine if delegation would be safe and effective • Ensured that the person performing the delegated controlled act has the knowledge, skills and judgment to perform the procedure (for example, checking the person's training, providing on-the-job training, having evaluated the person's abilities to perform the procedure and identified complications or contra-indications)	This provision balances the safety of the public receiving treatment from unauthorized individuals and permitting the provision of services to patients, thereby ensuring their timely access to care. It sets out safeguards to ensure that any delegation is well-considered and done appropriately
13	Failing to appropriately supervise a person whom the member has delegated or assigned tasks related to the practice of the profession.	In addition to delegating, a member may also assign certain tasks which are not controlled acts and that are related to the member's practice, to a person. Supervision is expected for all delegated or assigned procedures. The degree of supervision will vary depending on the circumstances including the skills of the person receiving the delegation or assignment and the risks inherent in the procedure	Regardless of whether the procedure is a controlled act or not, the member has responsibility for what is done on his or her behalf. One of the ways of assuming that responsibility is to provide an appropriate level of supervision.
14	Permitting, counselling or assisting a person who is not a member to represent himself or herself as such or to perform controlled acts which the person is not authorized or competent to perform	This provision is intended to prevent members from condoning misleading, illegal or dangerous activities by others. The words "permitting, counselling or assisting" puts the onus on the member to intervene where the member sees such conduct occurring in a setting, such as the member's office or clinic, where the member can prevent the conduct from occurring. The conduct that cannot be condoned is where an unregistered person: - Holds out that he or she is registered - Performs a controlled act without legal authority - Performs a controlled act with authority (e.g., delegation) but the person is not competent to do so	Members give status and legitimacy to those around them. If a patient hears a representation made in the office or clinic of a member, the patient will assume that it is true because the member is affiliated with the location. Similarly, if a patient receives a service at a location associated with a member, the patient will assume that the service is being performed legally and competently. This provision is needed to ensure that a member does not condone such misleading and unsafe conduct.
15	Failing to advise a patient, a patient's authorized representative or a member of the public, when requested, of his or her right to file a complaint with the Council.	When someone tells a member that they want to know who they can complain to about the member's professional conduct, the member must advise the patient to contact the Registrar of the Council.	As the College is new, patients and the public may be unaware of its existence. As such, it is important for the member to advise the patient/public about the College and its role in regulating the member. This provision also supports the member's accountability to the College.
16	Failing to provide a patient, a patient's authorized representative or a member of the public, when requested, with the address and telephone number of the College.	In light of this provision, the member should have readily available the contact information of the College. Currently it is as follows: THE COLLEGE OF TRADITIONAL CHINESE MEDICINE PRACTITIONERS AND ACUPUNCTURISTS OF NEWFOUNDLAND AND LABRADOR 47 Leslie Street St. John's NL, A1E 2V7 Ph: 709-738-0158 Fax: 709-722-5527	If a member knows that a person wishes to complain about his or her professional conduct, it would be unprofessional for the member to impede a person's ability to do so.
17	Acting or being in a conflict of interest.	The definition of conflict of interest focuses on the activities where the personal interest of the member could reasonably influence the performance of his or her professional duty.	To assure the public that the member will always put the interest of his or her patient above the self-interest of the member.
18	Submitting an account or charge for services that the member knows or ought to know is false or misleading	This provision requires members to issue his or her accounts carefully and prudently to ensure that they are accurate. If the member should have known that the account or charge was false or misleading, the member will have contravened this provision. The "ought to know" language means that a member cannot simply avoid responsibility by blaming an assistant. The member needs to have a system that ensures accurate accounts are prepared. However, an isolated instance of normal human error is not captured by this wording.	To assure the patient that he or she will be charged appropriately and accurately for any services rendered. False accounts are dishonest. It also betrays the trust of those who pay for the services, including third party family members and insurers. It is the responsibility of members to ensure that their accounts are accurate to the extent humanly possible.

19	Charging a fee that would be regarded by members as excessive in relation to the service provided.	Although a member is entitled to set reasonable fees for his or her services, the member cannot charge an excessive amount. High fees are permitted; excessive fees are not. If the member is concerned about his or her fees, he or she should canvass other members to ensure that the fees are within a comparable range.	Excessive fees affect access to necessary health care services. In addition, the reputation of the profession could be sullied if members were allowed to charge exorbitant fees. Therefore, this provision ensures that a member will not charge an excessive fee.
20	Failing to advise a patient or a patient's authorized representative, prior to providing a service, of the fee to be charged for the service or of any penalties that will be charged for late payment of the fee.	This provision requires that members discuss the fee for the service, and the payment terms, before providing the service. This ensures that the patient has all of the necessary information before a decision is made to proceed with the service.	Part of informed choice is that the patient knows the cost of services before agreeing to receive them. Patients have the right to have monetary matters handled fairly, transparently and accurately.
21	Failing to itemize an account for professional services if requested to do so by the patient or the person or agency who is to pay, in whole or in part, for the services, or if the account includes items that are not professional services, failing to itemize those items at the actual cost to the member.	If a patient asks, the member must detail each good and service provided and the charge for each. If a product is sold, the actual cost of the product must be set out so that the patient can determine how much of the fee is for the product and how much is for the professional service of the member. Overhead expenses (e.g., staff time) can be included in the cost so long as the expense is real. As a matter of good practice, the member may choose to itemize the account even if not asked specifically by the client.	The first part of this provision is common. It provides transparency to patients so that they know what they are getting and can compare costs or choose to receive some but not all services. The second part of the provision takes the approach that profits should be contained in the service fees and that all products and supplies should be sold at cost. This approach ensures the transparency of fees to patients. It promotes patient choice and avoids conflicts of interest
22	Offering or giving a reduction for prompt payment of an account.	A member cannot reduce, or offer to reduce, an account in exchange for receiving "prompt payment" from a patient. This provision still permits a member to charge interest on accounts that are not paid within a reasonable time. <i>Payment terms should be transparent, universal and common to all patients</i>	Giving a reduction for prompt payment favours the wealthy and, in effect, results in a higher fee for patients who cannot afford to pay immediately. Health care services should be equally available to all.
23	Breaching, without reasonable cause, an agreement with a patient or a patient's authorized representative relating to professional services for the patient or fees for such services.	Members need to fulfill their agreements with clients. For example, if a member promises to provide a course of treatment or to charge a set fee, the member should do so. However, where there is a significant change in circumstances (e.g. the proposed treatment is no longer suitable for the patient, the patient assaults the member), then the member can decline to fulfill the agreement	This is a common provision. A member should keep his or her promises.
24	Failing to keep records in accordance with the standards of the profession	Record keeping must comply with the generally accepted expectations of the profession. College policy will set out additional guidance as to the standards expected for record keeping	This is a common provision. The rationale for maintaining the record is to ensure that all necessary information related to the patient's care is contained in the record. Record keeping facilitates future care for the patient, allows the member to explain (and sometimes defend) what was done and why and facilitates accountability of the member for the service.
25	Signing or issuing, in his or her professional capacity, a document that the member knows or ought to have known contains a false or misleading statement.	The member must be diligent in ensuring that he or she only signs and sends out documents that contain correct information. If he or she knows, or should have known, that the document contains a false or misleading statement, the document should not be signed or sent out. This can extend to notes to an employer, letters to lawyers and reports to insurance companies.	The credibility and honesty of the member can be called into question if he or she signs a document that is false. Patients and third parties rely on the integrity of members' statements.
26	Falsifying a record relating to the member's practice.	This provision is usually triggered when a member attempts to cover up an error (e.g., whiting out a date and replacing it with another date, charting an appointment that did not occur, charting a conversation with a patient that did not occur, rewriting a chart entry). This should never occur.	A member of the College is expected to act honestly and with integrity. All documents and records are to be completed honestly and accurately. Falsification of any kind is strictly prohibited.
27	Making a claim about a remedy, treatment, device or procedure other than a claim that can be supported as reasonable professional opinion.	Members should not make unverifiable claims about their products or services. An example would be to say that a particular herbal remedy cures cancer. An example of a reasonable professional opinion is to say that a particular herbal remedy that one has researched builds up one's natural immunity to fight off some types of viruses.	The public needs to be able to trust the profession to provide balanced and accurate information. Claims based on considerations other than reasonable professional opinion (e.g., higher sales) can exploit the public, result in ineffective or even harmful treatment choices and erode the public's faith in the profession.
28	Permitting the advertising of the member or his or her practice in a manner that is false or misleading or that includes statements that are not factual and verifiable.	The member is allowed to advertise. However, the member cannot allow any false or misleading statements in his or her advertising such as: • Promising a result that cannot always be delivered • Providing before and after pictures or other visual information about a cosmetic treatment • Using comparisons, superlatives, suggestion of uniqueness, appealing to a person's fears or creating an unreasonable expectation of a favorable result The College has included specific guidance on the appropriate and acceptable methods of advertising. Please refer to the College's policy on Advertising.	This is a common provision. The public could be duped into purchasing or believing in unwarranted and unproven/unreasonable treatments if such advertising were permitted. Misleading advertisements can exploit the public and can result in ineffective or even harmful treatment choices. The reputation of the member and the profession could be harmed if false or misleading advertising is permitted.
29	Using or permitting the use of a testimonial from a patient, former patient or other person in respect of the member's practice.	A testimonial is a statement from another person as to the quality of the member's services. Testimonials are subjective and unreliable.	This is a common provision. Testimonials are inherently unverifiable and are not useful in choosing a practitioner because each patient, and each situation, can be unique. Further, a member is not to place any undue pressure on a patient to become a "spokesperson" for the member and his or her treatments. This provision prevents this from occurring.
30	Soliciting or permitting the solicitation of an individual in person, by telephone, through electronic communications or by similar means. This provision does not prevent a member from providing a reminder or notification to a patient about follow up or recurring services.	This provision does not prevent the member from advertising to the general public or calling a patient to remind him or her of an upcoming appointment/service. Rather, the member should refrain from targeted advertising to individuals or from using communications techniques that can pressure potentially vulnerable persons. Please note that this extends to "electronic communications", hence, emails, text messages, etc., would also fall within the prohibition.	This is a common provision. Members are not to pressure patients or prospective patients into using their services. This is especially true for vulnerable patients. Such pressure can result in unnecessary services being provided and in patients losing their freedom of choice.
31	Inappropriately using a term, title or designation in respect of the member's practice.	The title that a member can use will depend on their class of registration. Upon registration, clear guidance will be given as to what title should be used. The use of consistent, appropriate and clear titles will help the public know who they are dealing with and prevent confusion. These restrictions apply to the use of terms, titles or designations in all languages.	The use of consistent, appropriate and clear titles will help the public know who they are dealing with and prevent confusion. The public tends to place a great deal of weight on, and trust in, certain titles, especially the title "Dr". This term is statutorily protected and cannot be used without legal permission.

32	Practising the profession or offering to provide services using a name other than the member's name as entered in the register	The name the member uses with his or her patients must be recorded in the College's register. The member provides the name(s) he or she will use in the application for registration and on annual renewal It is acknowledged that some members may use a nickname with his or her patients. The College will permit members to register nicknames with the College. It is recommended that the legal name (along with any nickname) be indicated on official documents	Patients and the public are entitled to know who they are dealing with. Also, since the register will be on the College's website, it is important that the public be able to verify the registration status of all members. In addition, the College needs to be able to identify a member if a complaint or report is made to the College.
33	Failing, without reasonable cause, to provide a report or certificate relating to a TCM diagnosis or to a treatment performed by the member, within a reasonable time, to a patient or the patient's authorized representative after the patient or authorized representative has requested such a report or certificate.	A member must provide a requested report to the patient, or patient's authorized representative (which may be a lawyer or insurance company) within a reasonable time period (usually no more than 30 days). The member should have an effective system within his or her office to track such requests to ensure that the reports, etc., are provided in a timely manner. An example of reasonable cause not to provide a report promptly is if some critical information needed to make the report is unavailable or if the member is so ill that he or she cannot practice	This provision ensures that patients receive necessary information in a timely manner. When such reports are requested, they are usually required for a legal proceeding, or an employment/insurance matter. If the member delays or refuses to provide such reports in a timely manner, the patient could be seriously prejudiced. In addition, the patient may wish to have such a report in order to hold the member accountable for his or her decisions and the member should not be able to thwart that desire by withholding the report.
34	If the member intends to close his or her practice, failing to take reasonable steps to give appropriate notice of the intended closure to each patient for whom the member has primary responsibility or failing to, i. ensure that every current patient's records are transferred to the member's successor or to another member, if the patient so requests, or ii. ensure that each patient's records are retained or disposed in a secure manner.	A member is obligated to advise his/her patients if the member intends to close his/her practice. The notice should occur well in advance of the scheduled closure and should reach each patient. Examples of such notice include signs in the office well in advance of the closure date, individual mailings to patients, individual telephone calls to patients, and/or advertisements in local papers. The member needs to ensure that the patient's records are either transferred to the member's successor, to a member requested by the patient or stored properly in a secured fashion, retained or disposed of in a secured manner.	The patient needs to know where the record is so that he or she can access it for future treatment or other reasons. The information in the patient's chart is confidential and contains information necessary to continue the care of the patient. Therefore proper transfer or storage in a manner known by the patient is essential.
35	Failing to promptly report to the College an incident of unsafe practice by another member.	Members have an obligation to report a colleague's behaviour where there is likelihood that someone has suffered or will suffer serious damage as a consequence of improper conduct. The member needs to have reasonable and probable grounds that such an incident occurred before having to make a report. The member does not have to have personally observed the incident. Reasonable and probable grounds include apparently reliable information about an incident from another person (including the patient). The member is not obligated to investigate suspected conduct – only to report conduct that the member has learned about. Please note that any such report must be made "promptly". Delay in making such a report could also constitute professional misconduct.	This provision balances the need to protect the public from inappropriate conduct against requiring the member to report every minor transgression. Requiring that incidents of unsafe practice be reported enables the College to take appropriate action to prevent such incidents from occurring in the future. Self-regulating professionals have a responsibility to ensure that the public is being protected. Further, this provision facilitates the ability of the College to regulate the profession.
36	Practising the profession while the member's ability to do so is impaired or adversely affected by any condition or dysfunction which the member knows or ought to have known impairs or adversely affects his or her ability to practice.	This provision applies where the member chooses to provide services while impaired. The incapacity provision applies where the impairment prevents the member from taking appropriate action to avoid practising while impaired. For example, if one is going to a party and planning to drink alcohol, one needs to plan in advance to ensure that the member does not go to work the next day while still impaired or while experiencing a hangover.	The rationale behind this provision is that the public must be protected from members who are not capable of practising. Choosing a course of action that will likely place oneself in circumstances where one will be practising while impaired, is unprofessional.
37	Contravening, by act or omission, a provision of the Act, Part V 2010 cH-1.02 Health Professions Act or the regulations under the Act	The "Act" refers to the Part V 2010 cH-1.02 Health Professions Act. Members are expected to be familiar with the requirements of the statutes and regulations that apply to their practice (e.g., when a mandatory report must be made; the duty to cooperate with an investigator appointed by the College). The College will provide "jurisprudence" members upgrade their knowledge of the requirements of the legislation. A member cannot plead ignorance to the obligations under these Acts and should be familiar with the relevant provisions.	This is a common provision. Members of a regulated profession have to know the rules that apply to them and know that breaching those rules is professional misconduct.
38	Contravening, by act or omission, a law if, i. the purpose of the law is to protect or promote public health, or ii. the contravention is relevant to the member's suitability to practise.	In addition to being subject to the RHPA and the Part V 2010 cH-1.02 Health Professions Act, members are subject to other laws including laws relating to drugs and herbal remedies and laws relating to sanitation and sterility. Members need to be aware of all relevant laws that affect their practice and the health of their patients. As noted above, the College will be providing "jurisprudence" resources to assist members. Please note that a member can contravene an act by either doing something ("by act") or by failing to do something ("by omission").	This is a common provision. Members of a regulated profession have to know the rules that apply to them and know that breaching those rules is professional misconduct.
39	Contravening, by act or omission, a term, condition or limitation on the member's certificate of registration.	The College will issue a Certificate of Registration to members. The member must adhere to all terms, conditions or limitations on the Certificate. For example, some classes of certificates require that the member practise under supervision or with someone who speaks English or French. Some terms, conditions and limitations are imposed by regulation (e.g., if the member is disciplined in another jurisdiction, one has to report this to the College). Some are imposed by a committee (e.g., a Discipline Advisory Committee order to successfully complete a course). If the member disagrees with a term, condition or limitation, he or she must take the appropriate appeal measures and not unilaterally breach the term, condition or limitation.	Terms, conditions and limitations are imposed to protect the public. Any breach of them must be enforceable through discipline. In addition, this provision reinforces the authority of the College.

40	Practising the profession while the member's certificate of registration has been suspended	The College has the sole authority to issue a certificate of registration. Correspondingly, it has the ability to suspend a Certificate of Registration. To be effective, the member whose certificate is suspended must refrain from practising. If the member disagrees with the suspension, he or she must take the appropriate appeal measures and cannot practise until the certificate has been re-issued	This is a common provision. The provision reinforces the authority of the College. If the College has decided to suspend the member's certificate, the member cannot practice. This reassures the public that only practitioners who are authorized by the College, will be able to practice.
41	Directly or indirectly benefiting from the practice of the profession while the member's certificate of registration is suspended unless full disclosure is made by the member to the College of the nature of the benefit to be obtained and prior approval is obtained from the Executive Committee.	When suspended the member should not receive any benefits from the practise of the profession. If the member hires someone to operate his or her practice during a suspension, the member must ensure that he or she does not derive an income from it. The Executive Committee can permit exceptions in compassionate circumstances (e.g., if the member's spouse is also registered with the College, it would be unfair to prohibit the spouse from practising during the suspension just because the family will receive some income from the spouse's work).	This is a common provision. A suspension is intended to prevent the member from benefiting from his or her professional status. The purpose of a suspension is defeated if the member profits from the operation of his or her practice by others. The provision ensures that a member does not circumvent the suspension.
42	Failing to comply with an order of a panel of the College.	Panels are sub-groups of the committees of the Council There are several committees within the College/Council that have the ability, and the responsibility, to issue orders that are binding on members. If a member does not agree with an order, he or she must take the appropriate appeal route and cannot simply disregard or ignore the order.	In accepting a certificate of registration from the College, the member is obtaining certain privileges (i.e., the ability to practice TCM or Acupuncture) and, therefore, accepting certain obligations. One such obligation is to accept the authority of the College. If a member fails to comply with an order of the College or a panel of the Council, the member is openly challenging the authority of the College/Council. This compromises the public protection provided by the panel's order and would erode the public's confidence in the College to regulate the profession.
43	Failing to appear before a panel of the Inquiries, Complaints and Reports Committee to be cautioned	The Complaints Advisory Committee (CAC) deals with complaints or reports about a member's alleged misconduct, incompetence or incapacity. If a complaint or report raises concerns that warrant educational action short of discipline, the CAC can require the member to attend before it to be cautioned (i.e., a verbal warning). This is not a penalty. It does not occur in public and is intended to be remedial and advisory. If the member refuses or fails to attend before the CAC, the member can be found to have committed professional misconduct.	The provision reinforces the authority of the Council. When the CAC decides to issue a caution, it is reaching out to the member to provide direction and assistance so that the member can discharge his or her duties and the public can be better protected and served. If a member refuses to adhere to the CAC's request, he or she is repudiating the authority of the Council and refusing required assistance. The public is not served by such behaviour.
44	Failing to carry out or abide by an undertaking given to the College/Council or breaching an agreement with the College/Council	An undertaking is a promise made by the member to the College/Council. Undertakings are often negotiated as an alternative to formal disciplinary action. It is considered a very serious matter for a member to break the promise. If the member breaches the undertaking, the member has committed professional misconduct.	It is unprofessional for a member not to fulfill a promise to the College/Council. This provision reinforces to the member that such agreements are to be taken seriously and that failure to abide by such agreements could result in a finding of professional misconduct.
45	Failing to co-operate with a College investigation.	A member is expected to fully co-operate with the College/Council during an investigation. The investigation can be of the member or of another member. It is expected that the member will co-operate in a timely manner. This includes providing access to the facilities, records, herbs or equipment relevant to the investigation. It is expected that the member exhibit appropriate behaviour during the investigation and not subject the investigator to rude, threatening or obstructionist behaviour.	Every member has an obligation to co-operate with the College/Council. This provision reinforces the importance of assisting the College/Council in adhering to its purpose of protecting the public by investigating any complaint or report.
46	Failing to co-operate with the inspection program of the College.	Inspection programs involve a College-appointed inspector examining the physical aspects of the practice (including the record system, product storage, equipment, sterility practices, etc.). The inspection program is intended to help members ensure that their practices meet basic requirements. The College will develop and provide details of the inspection program.	The College is new and members have not been subject to such statutory requirements in the past. The inspection program will provide an introductory-level regulatory engagement to assist members, and protect the public, by ensuring that the premises and practices of the members meet an acceptable standard. Cooperation with the inspection program is essential for the profession to accept its newly-regulated role
47	Failing to reply appropriately, fully, accurately and within a reasonable time to a written inquiry or request from the College.	If the College formally contacts a member in writing, the member has to respond. An appropriate response is complete (i.e., provides all the information requested), accurate, made in writing and timely.	This provision reinforces the importance of assisting the College when asked. A fundamental attribute of governability is responding to inquiries from the College. Otherwise the member cannot be regulated.
48	Failing to co-operate with an investigator of the College or of another regulated health profession who produces evidence of his or her appointment under section 43 of the Health Professions Act	The Registrar of all of the health regulatory Colleges can appoint an investigator to determine if a member has committed an act of professional misconduct or is incompetent. Once evidence of this appointment is made known to the member, he or she needs to co-operate with the requests of the investigator (as described in paragraph 45, above).	This provision encourages inter-professional collaboration and ensures that all health care professionals act in the public interest at all times. Having such reciprocal provisions ensures that all available information is obtained in such investigations.
49	Engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded by the profession as disgraceful, dishonourable or unprofessional	This is a "catch-all" or "basket" clause that captures any misconduct that is not specifically described above. It refers to conduct in which there is a consensus within the profession that is unacceptable. This provision is not intended to capture the legitimate exercise of professional discretion or mere errors of judgment.	This provision is universal among regulated professions and is derived from a leading 1894 court case. There are situations where a member has committed an act of misconduct, however, it does not fit within an established provision. Therefore, this "catch all" provision is intended to capture any improper conduct that is not caught by the wording of the specific definitions of professional misconduct.
50	Engaging in conduct that would reasonably be regarded by the profession as conduct unbecoming practitioner of traditional Chinese medicine or acupuncture	This provision is intended to capture conduct that is outside the practice of the profession (e.g., misbehaving in a manner that reflects poorly on one's integrity). Generally it applies to conduct that is dishonest (e.g., fraud) or that involves a serious breach of trust (e.g., child abuse).	This common and historically tested provision ensures that unbecoming conduct, which is not enunciated in this Regulation, and warrants a finding of professional misconduct, will not be outside the scope or reach of the College.