

**DISCIPLINE COMMITTEE OF
THE COLLEGE OF CHIROPODISTS OF ONTARIO**

B E T W E E N:

COLLEGE OF CHIROPODISTS OF ONTARIO

- and -

ALAN MOSES

NOTICE OF HEARING

THE INQUIRIES, COMPLAINTS AND REPORTS COMMITTEE of the College of Chiropractors of Ontario has referred specified allegations against **ALAN MOSES** (Registration #830111) to the Discipline Committee of the College. The allegations were referred in accordance with paragraph 26(1)1 of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991*. Further information about the allegations is contained in the Statement of Allegations which is attached to this Notice of Hearing. A discipline panel will hold a hearing under the authority of sections 38 to 56 of the *Health Professions Procedural Code* for the purposes of deciding whether the allegations are true.

IF YOU DO NOT ATTEND AT THE HEARING IN ACCORDANCE WITH THE PRECEDING PARAGRAPH, THE DISCIPLINE PANEL MAY PROCEED IN YOUR ABSENCE AND YOU WILL NOT BE ENTITLED TO ANY FURTHER NOTICE IN THE PROCEEDINGS.

If the discipline panel finds that you have engaged in professional misconduct, it may make one or more of the following orders:

1. Direct the Registrar to revoke your certificate of registration.

2. Direct the Registrar to suspend your certificate of registration for a specified period of time.
3. Direct the Registrar to impose specified terms, conditions and limitations on your certificate of registration for a specified or indefinite period of time.
4. Require you to appear before the panel to be reprimanded.
5. Require you to pay a fine of not more than \$35,000 to the Minister of Finance.

The discipline panel may, in an appropriate case, make an order requiring you to pay all or part of the College's costs and expenses pursuant to section 53.1 of the *Health Professions Procedural Code*.

You are entitled to disclosure of the evidence against you in accordance with section 42(1) of the *Health Professions Procedural Code*, as amended. You, or your representative, may contact the solicitor for the College in this matter:

Debra McKenna
WEIRFOULDS LLP
Barristers & Solicitors
4100-66 Wellington Street West
PO Box 35, TD Bank Tower
Toronto, ON M5K 1B7
t. (416) 947-5080
f. (416) 365-1876
e. dmckenna@weirfoulds.com

You must also make disclosure in accordance with section 42.1 of the *Health Professions Procedural Code*, which states as follows:

Evidence of an expert led by a person other than the College is not admissible unless the person gives the College, at least ten days before the hearing, the identity of the expert and a copy of the expert's written report or, if there is no written report, a written summary of the evidence.

Date: April 3, 2020

A handwritten signature in blue ink that reads "Felecia Smith". The signature is written in a cursive style with a light blue background behind the text.

Felecia Smith, LL.B., Registrar
College of Chiropodists of Ontario
180 Dundas Street West
Toronto, ON M5G 1Z8

TO: Alan Moses

STATEMENT OF ALLEGATIONS

1. At all material times, Alan Moses (“**Mr. Moses**” or “**Member**”) was a registered member of the College of Chiropractors of Ontario (the “**College**”).
2. During the period from approximately February 2018 to April 2019 (the “**Relevant Period**”), the Member engaged in professional misconduct within the meaning of the following paragraphs of section 1 of the *Professional Misconduct Regulation*, O. Reg. 750/93 under the *Chiropractic Act, 1991*:
 - a. paragraph 2 (failing to meet or contravening a standard of practice of the profession), and, in particular, the College’s standards pertaining to:
 - i. Patient Relations;
 - ii. Assessment and Management;
 - iii. Records; and/or
 - iv. Prescription Custom Foot Orthoses;
 - b. paragraph 10 (practising the profession while the member is in a conflict of interest);
 - c. paragraph 17 (failing to keep records as required by the regulations);
 - d. paragraph 18 (falsifying a record relating to the member’s practice);

- e. paragraph 20 (signing or issuing, in the member's professional capacity, a document that contains a false or misleading statement);
- f. paragraph 21 (submitting an account or charge for services that the member knows is false or misleading);
- g. paragraph 22 (charging a fee that is excessive in relation to the services or devices charged for);
- h. paragraph 30 (contravening the *Chiropody Act, 1991*, the *Regulated Health Professions Act, 1991*, or the regulations under either of those Acts), and in particular:
 - i. Ontario Regulation 750/93 (Professional Misconduct) under the *Chiropody Act, 1991*, as specified in this Notice of Hearing;
 - ii. Ontario Regulation 203/94 (General); and/or
 - iii. Section 51(1)(c) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991*; and/or
- i. paragraph 33 (engaging in conduct or performing an act, in the course of practising the profession that, having regard to all the circumstances, would

reasonably be regarded by members as disgraceful, dishonourable, or unprofessional).

PARTICULARS OF THE ALLEGATIONS

A. Background

1. At all material times the Member was a chiropodist registered with the College to practise chiropody in the Province of Ontario.
2. During the Relevant Period from approximately February 2018 to April 2019, the Member was engaged in the practice of chiropody at the Ortho Centre located at 221 Glendale Avenue, Unit 111, in St. Catharines, Ontario (the “**Clinic**”).
3. The Member was compensated by the Clinic in the amount of approximately \$100.00 per pair of orthotics.
4. In addition to practising at the Clinic, the Member also practised chiropody during the Relevant Period at other locations, including:
 - (a) Van Rehab Physiotherapy – 150 West Drive, Unit 100, in Brampton
 - (b) Van Rehab Physiotherapy – 8897 The Gore Road, Unit 26, in Brampton
 - (c) Centrepont Clinic – 6464 Yonge Street, Unit 161A, in Toronto

B. The Complaint

5. On or about April 2, 2019, the College received a complaint from a representative from BioPed Footcare (“**PH**”) with respect to the Member (the “**Complaint**”).

6. In the Complaint, PH advised that a representative from Moyer Diebel (“**SC**”) had expressed concerns to her about the Member and/or his business practices.
7. Moyer Diebel is a company located in St. Catharines, Ontario. Moyer Diebel provides a health benefit plan to its employees through its insurer, Equitable Life Insurance Company of Canada (“**Equitable Life**”).
8. In particular, SC raised concerns about the volume of orthotics that the Member had prescribed to the employees at Moyer Diebel, for which benefit claims were submitted to Equitable Life.
9. In addition to the volume of orthotics, SC also raised concerns about information that Moyer Diebel employees had been offered and/or received shoes and/or other incentives from the Clinic and/or the Member with the purchase of their orthotics.

C. Equitable Life Investigation

10. Prior to the filing of the Complaint, Equitable Life conducted an investigation in or about August to October 2018.
11. During its investigation, Equitable Life determined the following:
 - Multiple family members (if not all family members) submits claims for orthotics.
 - All family members submitted claims from the Clinic.
 - All family members were seen by the Member who prescribed the orthotics.

- All family members had the same medical condition – plantar fasciitis.
 - All family members submitted claims for three pairs of orthotic each.
12. Upon completion of its investigation, the Member and the Clinic were delisted by Equitable Life on or about October 2, 2018.
 13. The Member was delisted by Equitable Life on the basis that he provided and/or offered a fraudulent prescription and/or provided orthotics without a valid medical condition.
 14. During the course its investigation, an investigator from Equitable Life (“**JM**”) contacted the Clinic.
 15. During a covert call to the Clinic, JM (using the pseudonym Jay Lang) spoke to the Clinic owner, Mohammed. JM advised Mohammed that he was an employee at Moyer Diebel and that he wanted to obtain orthotics and running shoes.
 16. During the conversation between JM and Mohammed, Mohammed stated the following, or words to that effect:

JM: Only question. The guys from work said don’t worry about it; it’s not a big deal. Alan will help you out. I don’t really need the orthotics.

M: Just as formality, whether you want them or not, you are just gonna be given them It just need to be done for the insurance to cover things. That

is something we are going to do. You are also going to get shoes and all of the other stuff. You just need that done for them to pay.

JM: Sounds good. He will be able to do the prescription or what?

M. Ya we will take care all of that.

17. On or about September 25, 2018, JM attended the Clinic, at which time he spoke to Mohammed again and Mohammed confirmed that the Member would do his assessment.

18. During his assessment, JM told the Member that he was, “basically, just coming to get the running shoes”, to which the Member laughed and stated the following, or words to that effect:

AM: Ok that’s what I like, straight forward.

JM: No beating around the bush.

AM: In order to get running shoes, I just have to do this, but I’ll do it fast.

19. The Member then assessed the investigator’s feet, which took approximately four minutes. During the assessment, the Member advised the investigator that his feet were “normal”.

20. At the end of the assessment, the Member advised JM to go see Mohammed and he would arrange for the running shoes.

21. During the Relevant Period, the Member was aware of the Clinic's practice to offer and/or provide free shoes and other incentives to patients with the purchase of orthotics.

D. College's Investigation

22. Following its delisting by Equitable Life, the Clinic closed and the Member ceased to practice at the Clinic in or about December 2018.
23. Since his departure from the Clinic, the Member does not have the records for the patients he treated at the Clinic, nor does he know where his patient records are.
24. As summarized in Appendix "A" attached, the orthotics that were prescribed by the Member ranged in price from \$500.00 to \$650.00 a pair.
25. According to the Member's prescriptions, all of the patients identified in Appendix "A" were prescribed orthotics to treat plantar fasciitis.
26. All of the Member's patients identified in Appendix "A" sought reimbursement from Equitable Life for three pairs of orthotics each.
27. In addition, the patients identified in Schedule "A" also sought reimbursement for a chiropody fee in the range of \$90.00 to \$100.00. Many of the patients also sought reimbursement from Equitable Life for an "assessment follow-up" fee", which corresponds with the dispensing date for the orthotics.

28. Several of the orthotics prescribed by the Member, as set out in Appendix “A”, were purportedly manufactured by the Ortho Centre In-House Lab – a laboratory operated by the Clinic.
29. In prescribing orthotics, it was the Member’s practice to obtain an impression of his patient’s feet with the use of a foam box.
30. As indicated on the “Proof of Manufacture” for the orthotics prescribed by the Member, some of the patients identified in Appendix “A” have an identical order number for their orthotics.
31. in addition to having the same manufacturing information, the patients (who are from different families) also have the same patient number, as follows:

Patient	Patient	Patient #	Order #
C.B	L.F	SC15133	100308752
B.B	J.F	SC15134	100308753

Appendix “A” – Prescriptions

Patient Name	Date of Birth	Assessment Date	Diagnosis	Prescription	Cost	Order No.
M.L.	01/17/05	02/15/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,500.00	100322487
E.L.	04/12/01	02/15/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,500.00	100322484
R.L	07/30/74	02/15/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,500.00	100322485
D.L	04/07/75	02/15/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,500.00	100322486
S.H	11/25/89	03/23/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100322525
A.H	07/28/92	01/17/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100350999
L.K	09/04/82	04/23/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100322643
H.P	01/20/82	04/24/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	10322644
M.C	09/16/79	07/24/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100395740
B.D	07/12/06	07/7/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100401527
S.D	10/11/04	07/21/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100395748
S.D	12/11/79	07/21/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100395752
J.F	04/16/73	07/11/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100308753
J.F	07/14/11	07/11/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	Not provided
Y.F	01/23/75	07/11/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100308750
L.F	07/14/11	07/11/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100308752
A.F	09/04/06	07/11/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	Not provide
G.O	03/11/04	08/01/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100398766
C.S	10/23/80	08/01/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100398762

Patient Name	Date of Birth	Assessment Date	Diagnosis	Prescription	Cost	Order No.
S.S	0/28/75	08/01/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100399442
D.S	03/26/09	08/01/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100399443
L.S	07/11/11	08/01/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100398758
R.B	08/09/69	08/13/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100308754
B.B	08/15/70	08/13/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100308753
C.B	01/30/01	08/13/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100308752
J.N	01/11/72	08/13/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100401577
T.N.	01/29/73	08/13/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100401575
J.N.	11/20/03	08/13/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100402695

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