

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

B E T W E E N:

COLLEGE OF CHIROPODISTS OF ONTARIO

- and -

MICHAEL HENRY PATRICK DOHERTY

NOTICE OF HEARING

THE INQUIRIES, COMPLAINTS AND REPORTS COMMITTEE of the College of Chiropractors of Ontario (the "**College**") has referred specified allegations against **Michael Henry Patrick Doherty** (Registration #910338) 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 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 lawyer 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
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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: August 19, 2020



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

TO: Michael Henry Patrick Doherty

STATEMENT OF ALLEGATIONS

1. At all material times, Michael Henry Patrick Doherty (“**Mr. Doherty**” or the “**Member**”) was a registered member of the College.

2. During the period of time from approximately January 2019 to December 2019 (the “**Relevant Period**”), Mr. Doherty 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*:
 - (i) paragraph 1 (contravening a term, condition or limitation imposed on the member’s certificate of registration);

 - (ii) 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. Records; and/or

 - iii. Code of Ethics;

 - (iii) paragraph 10 (practising the profession while the member is in a conflict of interest);

 - (iv) paragraph 18 (falsifying a record relating to the member’s practice);

- (v) paragraph 20 (signing or issuing, in the member's professional capacity, a document that contains a false or misleading statement);

- (vi) paragraph 30 (contravening the Act, the *Regulated Health Professions Act, 1991* or the regulations under either of those Acts), specifically:
 - i. Ontario Regulation 750/93 (Professional Misconduct) under the *Chiropody Act, 1991*, as specified in this Notice of Hearing;

 - ii. Ontario Regulation 830/93 (Registration) under the *Chiropody Act, 1991*;

 - iii. Ontario Regulation 203/94 (General) under the *Chiropody Act, 1991*;

 - iv. Section 51(1)(c) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991*; and/or

- (vii) 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

1. At all material times, Mr. Doherty was a chiropodist registered with the College to practise chiropody in the Province of Ontario.
2. During the Relevant Period, the Member engaged in the practice of chiropody at the University Dundas Health Centre, also referred to as the University Foot Clinic, located in Toronto, Ontario (the "**Clinic**").

A. Section 85.5 Report

3. On or about December 3, 2019, the College received a report from the Clinic, under section 85.5 of the *Health Professions Procedural Code*, advising that the Member's employment had been terminated due to professional misconduct (the "**Report**").
4. Following receipt of the Report, the Registrar commenced an investigation.
5. As set out in the Investigation Report, the Member's employment with the Clinic was governed by the terms of an employment contract entered into on or about September 30, 2014.
6. Under the terms of his contract with the Clinic, the Member was paid \$65.00 an hour and was generally required to be at the Clinic during the hours of 8:00 a.m. to 6:00 p.m. to service the core business requirements of the Clinic.

7. The Member's employment was terminated by the Clinic on or about November 12, 2019. The reasons for termination included the following:
 - (a) The Member failed to maintain professional liability insurance;
 - (b) The Member created fake patient files and scheduled appointments for the fake patients during key times when he was expected to be seeing patients of the Clinic;
 - (c) The Member stole approximately \$50.00 out of petty cash from the Clinic;
and
 - (d) The Member arrived late and left work early on numerous occasions.

B. Fake Patient Records

8. With respect to the fake patient records, the Member created patient files and/or caused the Clinic staff to create patient files in the names of Shelly Myrna Stober, Larry Jacobs, and Greg Grierson (the "**Fake Patients**").
9. During the Relevant Period, the Member booked appointments at the Clinic for the Fake Patients using an email account that he accessed and/or controlled. The Member then subsequently cancelled and/or rescheduled the appointments for the Fake Patients at the Clinic.

10. When confronted by the Clinic management about the Fake Patients, the Member admitted that he had created the Fake Patient appointments to “buy him time” and/or block off time for when he needed to leave the Clinic during business hours and/or to leave the Clinic early.

C. Professional Liability Insurance

11. During the Relevant Period, the College’s by-law required that:

A member shall not practice unless the member provides the College with satisfactory evidence of,

1. professional liability insurance coverage of at least \$2,000,000; and/or
 - 2, coverage of at least \$2,000,000 under a liability insurance policy carried by the member’s employer.
12. This by-law required the Member to carry a minimum of \$2,000,000.00 liability insurance. The by-law also required that the Member to declare that he carried professional liability insurance in accordance with the College’s by-law.
 13. The Member knew or ought to have known that it was his professional obligation to have professional liability insurance while practising.

14. During the period from approximately July 1, 2019 to October 30, 2019, the Member practiced chiropody at the Clinic, but he failed to maintain professional liability insurance.

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Chiropodists of Ontario
