

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

B E T W E E N:

COLLEGE OF CHIROPODISTS OF ONTARIO

- and -

HELMUT KELLEN

NOTICE OF HEARING

THE INQUIRIES, COMPLAINTS AND REPORTS COMMITTEE of the College of Chiropractors of Ontario has referred specified allegations against **HELMUT KELLEN** 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:

Alexandra Wilbee
WEIRFOULDS LLP
Barristers & Solicitors
4100-66 Wellington Street West
PO Box 35, TD Bank Tower
Toronto, ON M5K 1B7
t. (416) 619-6295
f. (416) 365-1876
e. awilbee@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: June 3, 2020

A handwritten signature in blue ink that reads "Felecia Smith".

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

TO: Helmut Kellen

STATEMENT OF ALLEGATIONS

1. Helmut Kellen (the “**Member**”) was, at all material times, a chiropodist registered to practise chiropody in the province of Ontario.
2. Between in or about April 2015 and in or about July 2016 (the “**Relevant Period**”), the Member engaged in the practice of chiropody at a variety of locations including Ontario Orthotics Solutions (“**Ontario Orthotics**”) in Timmins, Ontario.
3. During the Relevant Period, the Member and A.C., who are both chiropodists and chiropractors, provided chiropody and/or chiropractic services to some or all of the patients listed in Appendix “A”. With respect to some patients listed in Appendix “A”, the Member acted as chiropodist while for others he acted as chiropractor. Every patient listed in Appendix “A” received both chiropody and chiropractic services. While providing these services:
 - a. invoice(s), prescriptions and/or the patient record inaccurately and/or misleadingly represented that the Member had provided certain services to the patient when he had not done so; and/or,
 - b. invoices, prescriptions and/or the patient record did not accurately reflect the services provided and/or the individual who provided the services.
4. During the Relevant Period, the Member prescribed, recommended and/or invoiced for orthotics, orthopedic shoes and/or compression stockings for some or all of the patients listed in Schedule “A” while at Ontario Orthotics. With respect to some or all of the patients listed in Schedule “A”, prescriptions and/or invoices were signed by the Member without him having performed a chiropody assessment. Some or all of the patients listed in Schedule “A” were not:
 - a. Fitted and dispensed the orthotics and/or orthopedic shoes and/or compression stockings by the Member and/or A.C. to ensure that the device met the prescription and the contours of the patient’s foot. Instead, the orthotics and/or orthopedic shoes and/or compression stockings were mailed directly to the patient; and/or,
 - b. Followed-up with and/or re-assessed by the Member and/or A.C. within a reasonable time or at all after the orthotics and/or orthopedic shoes and/or compression stockings had been prescribed and were received by mail by the patient.

As the Member worked in conjunction with A.C., it is alleged that where the Member was not the prescriber and/or treating chiropodist, that he permitted and/or acquiesced to A.C. committing the conduct alleged.

5. In or about the year 2016, an insurance company conducted an audit of Ontario Orthotics and discovered that many of the patients listed in Appendix “A” had not been dispensed their orthotics despite insurance claims having been made,

contrary to the policy of the insurance company. The insurance company therefore denied coverage to some or all of the patients listed in Appendix "A".

6. In response, the Member., A.C., and/or Orthotics Solutions agreed to buy back the orthotics, issue new prescriptions and have new orthotics manufactured for some or all of the patients listed in Appendix "A". In re-issuing the prescriptions, the Member:
 - a. Did not meet with the patients and/or re-assess and/or re-examine them;
 - b. Redrafted and backdated original prescriptions, invoices and/or parts of the patient record, including the gait analyses, to the original assessment date;
 - c. Signed and issued backdated prescriptions, invoices and/or parts of the patient record where the Member did not prepare and/or sign the original document;
 - d. Permitted the signing by A.C. of backdated prescriptions, invoices and/or supporting assessment records where the Member was the person who prepared and/or signed the original document;
 - e. Did not fit and/or dispense the new orthotics and/or orthopedic shoes and/or compression stockings but instead directed and/or permitted the manufacturer to send the orthotics directly to the patient; and/or,
 - f. Did not conduct follow-up within a reasonable time or at all after the orthotics and/or orthopedic shoes and/or compression stockings had been prescribed and were received by the patient.
7. By reason of the conduct alleged in paragraphs 1-6 above, the Member engaged in professional misconduct in that he violated:
 - a. the following subsections of Ontario Regulation 750/93 under the *Chiropody Act, 1991*:
 - i. 1.2 (Failing to meet or contravening a standard of practice of the profession), and, in particular, the standards pertaining to:
 1. Orthotics and/or Prescription Custom Foot Orthoses; and/or,
 2. Prescription Footwear.
 - ii. 1.18 (Falsifying a record relating to the member's practice);
 - iii. 1.20 (Signing or issuing, in the member's professional capacity, a document that contains a false or misleading statement);

- iv. 1.21 (Submitting an account or charge for services that the member knows is false or misleading);
- v. 1.33 (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).

SCHEDULE "A"

1. L.C.
2. Y.C.
3. J.C.
4. F.O.
5. M.M.
6. R.V.
7. D.S.
8. J.S.
9. G.T.
- 10.L.T.
- 11.J.V.
- 12.S.D.

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Lawyers for the College of
Chiropractors of Ontario