

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

**B E T W E E N:**

**COLLEGE OF CHIROPODISTS OF ONTARIO**

-and-

**FLAVIA STACEY MORTELLITI**

**NOTICE OF HEARING**

**THE INQUIRIES, COMPLAINTS AND REPORTS COMMITTEE** of the College of Chiropractors of Ontario has referred specified allegations against **FLAVIA STACEY MORTELLITI** (Registration #100361) 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  
P.O. Box 35, TD Bank Tower  
Toronto, ON M5K 1B7  
t. (416) 947-5080  
f. (416) 365-1876  
e. [dmckenna@weirfoulds.com](mailto: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:** October 13, 2020



**Felecia Smith, LL.B.**

Registrar

**College of Chiropodists of Ontario**

180 Dundas Street West, Suite 2102

Toronto, ON M5G 1Z8

**TO: FLAVIA STACEY MORTELLITI**

## STATEMENT OF ALLEGATIONS

1. Flavia Stacey Mortelliti (“**Ms. Mortelliti**” or the “**Member**”) was at all material times a registered member of the College.
  
2. During the period between approximately March 2018 and September 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 *Chiroprody 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. Records; and/or
    - iii. 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 20 (signing or issuing, in the member’s professional capacity, a document that contains a false or misleading statement).

- e. paragraph 28 (practising in the employment of or in association with a commercial business);
- f. paragraph 30 (contravening the *Chiropody Act, 1991*, 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 203/94 (General) under the *Chiropody Act, 1991*, and, in particular, Advertising (Part II) and Records (Part III);
  - iii. Section 51(1)(c) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991*; and/or
- g. 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, the Member was a chiroprapist registered with the College to practise chiroprapy in Ontario. She was first registered with the College on or about May 19, 2010.
2. During the Relevant Period, the Member reported to the College that her sole practice location was the Feet in Comfort Foot and Orthotic Clinic, located at 6A – 411 Huronia Road in Barrie, Ontario.
3. The “Feet in Comfort Foot and Orthotic Clinic” (the “**Clinic**”) is a business name registered under the Ontario *Business Names Act*, filed on behalf of Member’s professional corporation, Mortelliti Chiroprapy Professional Corporation.
4. The business name registration for the Clinic was filed on or about July 12, 2018.
5. On or about September 13, 2019, the College received a complaint on behalf of Sun Life Assurance Company of Canada (“**Sun Life**”) about the Member (the “**Complaint**”).
6. As set out in the Complaint, Sun Life regularly conducts claim reviews to ensure the accuracy and validity of claims submitted on behalf of its plan members. As part of its auditing process conducted in 2018 and 2019, Sun Life requested supporting documents and other information in relation to claims submitted for orthotics that had been prescribed by the Member.

7. Among other documents provided in support of the orthotics claims, Sun Life was provided with the Member's biomechanical exam and gait analysis summaries. Those summaries included details about the Member's assessments, as well as information about the orthotics manufacturing.
8. During the course of its audit, Sun Life also interviewed several plan members (the "Patients") to confirm the validity of the orthotic claims and whether or not any incentives had been offered and/or provided to its plan members.
9. The Patients interviewed included the following:

Plan Member	Service Date
A.S.	February 20, 2019
S.G.	January 18, 2019
K.L.	January 18, 2019
L.H.	March 5, 2018
S.W.	August 20, 2018
M.J.	May 18, 2018
S.H.	August 14, 2018

10. As a result of Sun Life's inquiries, it was determined that the Patients had been offered and received free shoes with the purchase of their orthotics.

11. In addition, based on documentation provided to Sun Life, it was determined that the Patients had purchased their orthotics from a company identified as Solely Orthopaedic Inc. (the “**Related Corporation**”).
12. Since in or about 2013, the Member has rented a room in the Clinic space to the Related Corporation. The Related Corporation was incorporated on or about November 5, 2012.
13. While its registered head office is 186 Hanmer Street East in Barrie, Ontario, the Related Corporation operates in the same space as the Clinic. The address of the registered head office is a residential address in Barrie.
14. Both the Clinic and the Related Corporation share reception services and have the same telephone number. The only signage on the facility is for the Clinic.
15. Among other provisions, the College’s Conflict of Interest Policy specifically states as follows:

**A member has a conflict of interest** for the purposes of paragraph 10 of section 2 of O. Reg. 750\93 **where the member** or a related person or a related corporation **has a relationship as a result of which** a reasonable person could conclude that the personal interests of the member, the related person or related corporation **could improperly influence the member’s professional judgment or conflict with his or her duty to act in the best interests of the patient.**

16. The sole director of the Related Corporation is Michael Therrien – the Member’s spouse. Mr. Therrien is not a member of the College nor is he registered to practice in any health profession in Ontario.



17. The Member had knowledge, participated, and/or was complicit in the practice by the Related Corporation of providing incentives to patients who purchased orthotics from the Related Corporation.
18. Some or all of the Patients interviewed by Sun Life also confirmed that the Member dispensed the orthotics purchased from the Related Corporation.
19. In addition, invoices issued by the Related Corporation for the orthotics included a charge of \$150.00 for the 3D casting scan conducted by the Member during her assessment.

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Lawyers for the College of  
Chiropractors of Ontario