

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

PANEL: Grace King - Public Member, Chair
Jim Daley - Public Member
Peter Guy – Professional Member
Tony Merendino – Professional Member

BETWEEN:

COLLEGE OF CHIROPODISTS OF) Jordan Glick for the College of Chiropractors
ONTARIO) of Ontario

-and-)

JOHN MANHAEVE, D. Ch.) Karim Bhaloo, for the Member

) Luisa Ritacca, Independent Legal Counsel

Heard: June 20, 2017

DECISION AND REASONS

This matter came on for hearing before a panel of the Discipline Committee on June 20, 2017 at Victory Verbatim, in Toronto

The Allegations

The allegations against John Manhaeve (the “Member”) as stated in the Notice of Hearing dated February 23, 2017 (Exhibit 1, tab 1), are as follows.

IT IS ALLEGED THAT:

1. John Manhaeve (the “Member”) is (and was at all materials times) a chiropodist registered to practise chiropody in the Province of Ontario.

Undercover Investigation Number 1

2. In or about October of 2013, an undercover investigator (“UI1”), retained by an insurance company, attended City View Health Center (“City View”) where he was recruited to submit a false insurance claim for orthotics. UI1 was counseled as to how to obtain a prescription for orthotics and was advised that once a prescription was issued, City View would assist in making an insurance claim for orthotics though no orthotics would be dispensed.

3. In or about December 2013, UI1 returned to City View with a valid prescription. The private investigator was not examined at City View, nor was he cast for orthotics. Nonetheless, a claim was submitted to the insurance company for two pairs of orthotics on UI1’s behalf. Attached to the claim was a receipt indicating a charge of \$1,000 for services including an initial assessment, biomechanical gait analysis, casting using a foam impression, manufacturing, dispensing, fitting and follow-up. None of these services were performed.

4. In or about January 2014, UI1 returned to City View where he selected “off the shelf” shoes. No orthotics were dispensed and no further examinations was conducted.

5. In or about May and June of 2016, the Member falsely indicated to the insurance company that he performed the gait analysis and biomechanical assessment on UI1 and that he fitted and dispensed two pairs of custom orthotics.

Undercover Investigation Number 2

6. In or about November of 2015, a second undercover investigator (“UI2”), retained by the same insurance company, attended at Total Family Wellness Clinic (“Wellness Clinic”) where he was recruited to submit a false insurance claim for orthotics. UI2 was advised that while a claim would be made for orthotics, the orthotics would not be dispensed. In turn, UI2 would receive fifty percent of the proceeds of the insurance claim.

7. In or about December of 2015, the Wellness Clinic submitted a claim to the insurance company for orthotics on behalf of UI2. The documents supplied to the insurance company included a prescription for orthotics as a result of a diagnosis of pes planus. The documents indicated that the Member had conducted

a bio-mechanical assessment and gait analysis and a three dimensional casting of UI2's foot on or about November 11, 2015. A receipt for \$500 was supplied indicating that the Member had fitted and dispensed the orthotics to UI2 on or about November 25, 2015.

8. The Member never spoke to UI2, never conducted an assessment or casting and never fitted or dispensed orthotics to UI2.

9. By virtue of the conduct described in paragraphs 2 to 8 of this Statement of Allegations, Mr. Manhaeve engaged in professional misconduct within the meaning of paragraphs 20 (Signing or issuing, in the member's professional capacity, a document that contains a false or misleading statement), 21 (Submitting an account or charge for services that the member knows is false or misleading) and 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) of section 1 of Ontario Regulation 750/93 under the Chiropractic Act, 1991.

Member's Plea

The Member admitted the facts as set out in the Agreed Statement of Facts and that these facts constitute professional misconduct as alleged in paragraph 9 of the Notice of Hearing, save and except that he denied that the conduct would be regarded by members of the profession as disgraceful or dishonourable, as provided for in paragraph 33 of section 1 of Ontario Regulation 750/93 under the Chiropractic Act, 1991.

The panel conducted an oral plea inquiry and was satisfied that the Member's admissions were voluntary, informed and unequivocal.

Agreed Statement of Facts

Counsel for the College and Member advised the panel that agreement had been reached on the facts and introduced an Agreed Statement of Facts (Exhibit 1, tab 2) which provided as follows.

1. John Manhaeve (the "**Member**") is (and was at all material times) a chiropractor registered to practise chiropractic in the Province of Ontario.

Undercover Investigation Number 1

2. In October of 2013, an undercover investigator (“**UI1**”), retained by an insurance company, attended City View Health Center (“**City View**”) where he was recruited to submit a false insurance claim for orthotics. UI1 was counseled as to how to obtain a prescription for orthotics and was advised that once a prescription was issued, City View would assist in making an insurance claim for orthotics though no orthotics would be dispensed.

3. In December 2013, UI1 returned to City View with a valid prescription. The private investigator was not examined at City View, nor was he cast for orthotics. Nonetheless, a claim was submitted to the insurance company for two pairs of orthotics on UI1’s behalf. Attached to the claim was a receipt indicating a charge of \$1,000 for services including an initial assessment, biomechanical gait analysis, casting using a foam impression, manufacturing, dispensing, fitting and follow-up. None of these services were performed.

4. In January 2014, UI1 returned to City View where he selected “off the shelf” shoes. No orthotics were dispensed and no further examinations was conducted.

5. In 2016, the Member falsely indicated to the insurance company that he performed the gait analysis and biomechanical assessment on UI1 and that he fitted and dispensed two pairs of custom orthotics. Attached as **Appendix “A”** is a copy of the Member’s response to the insurance company’s inquiries.

6. If the Member were to testify, he would indicate that he had no knowledge that City View was recruiting individuals to submit false insurance claims. He would further state that he was led to believe that the insurance company was aware that he had not seen UI1 as a client but that for processing purposes, a chiroprapist’s signature was required on the file.

Undercover Investigation Number 2

7. In November of 2015, a second undercover investigator (“**UI2**”), retained by the same insurance company, attended at Total Family Wellness Clinic (“**Wellness Clinic**”) where he was recruited to submit a false insurance claim for orthotics. UI2 was advised that while a claim would be made for orthotics, the orthotics would not be dispensed. In turn, UI2 would receive fifty percent of the proceeds of the insurance claim.

8. In December of 2015, the Wellness Clinic submitted a claim to the insurance company for orthotics on behalf of UI2. The documents supplied to the insurance company included a prescription for orthotics as a result of a diagnosis of pes planus. The document, attached at **Appendix “B”**, indicated that the Member had conducted a bio-mechanical assessment and gait analysis and a three

dimensional casting of UI2's foot on November 11, 2015. A receipt for \$500 was supplied indicating that the Member had fitted and dispensed the orthotics to UI2 on November 25, 2015.

9. The Member never spoke to UI2, never conducted an assessment or casting, never prescribed orthotics and never fitted or dispensed orthotics to UI2. However, in response to an inquiry by the insurance company in 2016, and as indicated in **Appendix "C"**, the Member, falsely represented that he assessed and issued a prescription to UI2.

ADMISSIONS OF PROFESSIONAL MISCONDUCT

10. By reason of the conduct above, the Member acknowledges having engaged in professional misconduct in that he violated paragraphs 20 (Signing or issuing, in the member's professional capacity, a document that contains a false or misleading statement), 21 (Submitting an account or charge for services that the member knows is false or misleading) and 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) of section 1 of Ontario Regulation 750/93 under the *Chiropody Act, 1991*.

11. The Member acknowledges that his conduct should be characterized as "unprofessional" but disputes that his conduct was either "disgraceful" or "dishonourable" with respect to paragraph 33 of section 1 of Ontario Regulation 750/93 under the *Chiropody Act, 1991*.

MEMBER'S ACKNOWLEDGEMENTS

1. The Member understands the nature of the allegations that have been made against him and that by voluntarily admitting to these allegations; he waives his right to require the College to otherwise prove the case against him.
2. The Member understands that the Discipline Committee can accept that the facts herein constitute professional misconduct.
3. The Member understands that depending on any penalty ordered by the Discipline Committee, the panel's decision and reasons may be published, including the facts contained herein and his name.
4. The Member understands that any agreement between him and the College does not bind the Discipline Committee.

Reasons for Decision

In coming to this decision, the panel considered the Member's admission of professional misconduct, the Agreed Statements of Facts, and counsel's submissions.

Following deliberations the panel was satisfied that the conduct described in the Agreed Statement of Facts did constitute professional misconduct as alleged in the Notice of hearing and as admitted by the member. The panel found that having regard to all the circumstances members of the profession would find this conduct, disgraceful, dishonourable and unprofessional.

The Discipline Committee takes this conduct very seriously. Failing to provide truthful information to insurers does not engender confidence in this profession. The College has a responsibility to its membership and to the public of ensuring that members act with the utmost care and professionalism in providing services.

As a health professional, the duty and responsibility is on the shoulders of the member and it is his to ensure that all aspects of the care and services provided patients are in keeping with the standards required by the College.

Penalty

Counsel for the parties advised the panel that a Joint Submission as to Penalty and Costs had been agreed upon. The Joint Submission as to Penalty and Costs provides as follows:

Penalty Submissions

Counsel for the parties advised the panel that a Joint Submission as to Penalty and Costs had been agreed upon. The Joint Submission as to Penalty and Costs provides as follows:

1. The College of Chiropractors of Ontario (the "**College**") and Mr. John Manhaeve (the "**Member**") agree and jointly submit for the Discipline Committee to make the following order:

(a) Directing the Registrar to suspend the Member's certificate of registration for a period of eight (8) months, one month of which shall be remitted in the event that the Member complies with paragraph 2(a) below.ⁱ The suspension shall begin on August 1st, 2017.

2. Directing the Registrar to impose a term, condition and limitation on the Member's certificate of registration:

(a) Requiring the Member to complete the ProBe ethics course at his own expense and provide proof thereof to the Registrar before the completion of the compulsory seven (7) month term of suspension.ⁱⁱ

(b) Restricting the Member from imaging, casting, prescribing, constructing, fitting, dispensing and/or ordering the fabrication of orthotics, prescription footwear, custom shoes and/or modified orthopaedic shoes for a period of nine (9) months (the "**Restricted Period**"), which period begins to run at the conclusion of the suspension period. The Member is additionally not entitled to assign these duties to anyone else in his clinic, regardless of whether he receives a fee, during the Restricted Period but shall refer such duties to another chiroprapist in good standing at another clinic not affiliated with the Member's clinic.

(c) Requiring the Member's practice to be supervised for a period of twelve (12) months, which period begins to run at the conclusion of the Restricted Period, on the following terms:

(A) The supervisor shall be appointed by the Registrar and shall be a professional member of the College of Chiroprapists of Ontario;

(B) The Member must identify to the supervisor and the Registrar his schedule of practice for seeing patients and identify the locations where patients are seen and where patient records are kept. In the event that the Member's schedule changes, he must immediately identify such changes to the Registrar and to his supervisor;

(C) The supervisor shall visit with the Member in person on four occasions at the Member's site(s) of practice on four (4) occasions to be spread out at approximately months 1, 4, 8 and 12 of the supervision period;

(D) The supervisor shall determine the length of each visit;

ⁱ In the event that paragraph 2(a) is not complied with within the timeframe provided, any further period of suspension shall be served immediately following the compulsory seven month suspension.

ⁱⁱ For greater clarity, the Member must complete the ProBe ethics course whether or not the additional month of suspension is served.

(E) In conducting site visits, the supervisor shall engage the Member in discussions regarding ethics and ethical issues, practice management, record keeping, proper delegation and the orthotics standard;

(F) The supervisor shall prepare a report to the Registrar every other session detailing what occurred at the prior two (2) supervisory sessions.ⁱⁱⁱ

(G) The Member shall pay the costs of the supervision (to a maximum of \$350 per site visit and \$350 per supervisory report) and shall fully reimburse the College for these costs within thirty (30) days of receiving an invoice from the College for the supervision; and,

3. Directing the Member to appear before the panel to be reprimanded and the fact of the reprimand to be recorded on the Public Register of the College.

4. Directing the Member to pay the College's costs fixed in the amount of \$12,000 of which \$6,000 must be paid by certified cheque or credit card immediately upon the rendering of an oral decision provided this proposed penalty is accepted and the remaining \$6,000 to be paid within 90 days of the rendering of the oral decision.

5. The Member acknowledges that pursuant to section 56 of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991*, the decision and reasons, or a summary thereof, will be published in the College's annual report and may be published in any other publication of the College with the Member's name.

6. The Member acknowledges that this Joint Submission as to Penalty is not binding upon the Discipline Committee.

7. The Member acknowledges that he has had the chance to receive independent legal advice and did so before agreeing to this Joint Submission.

Penalty Decision

The panel accepts the Joint Submission as to Penalty and accordingly orders the following:

ⁱⁱⁱ For clarity, in the event that the supervisory reports suggest further professional misconduct by the Member, the supervisory reports may be relied upon by the Registrar in considering whether there are reasonable and probable grounds to suggest that the Member has committed an act of professional misconduct and therefore request approval from the Inquiries, Complaints and Reports Committee of the appointment of an Investigator, pursuant to section 75(1)(a) of the *RHPA Procedural Code*.

1. That the Registrar shall suspend the Member's certificate of registration for a period of eight (8) months, one month of which shall be remitted in the event that the Member complies with paragraph 2(a) below.^{iv} The suspension shall begin on August 1st, 2017.
2. That the Registrar shall impose a term, condition and limitation on the Member's certificate of registration:
 - (a) The Member is required to complete the ProBe ethics course at his own expense and provide proof thereof to the Registrar before the completion of the compulsory seven (7) month term of suspension.^v
 - (b) The Member is restricted from imaging, casting, prescribing, constructing, fitting, dispensing and/or ordering the fabrication of orthotics, prescription footwear, custom shoes and/or modified orthopaedic shoes for a period of nine (9) months (the "**Restricted Period**"), which period begins to run at the conclusion of the suspension period. The Member is additionally not entitled to assign these duties to anyone else in his clinic, regardless of whether he receives a fee, during the Restricted Period but shall refer such duties to another chiropodist in good standing at another clinic not affiliated with the Member's clinic.
 - (c) The Member's practice is required to be supervised for a period of twelve (12) months, which period begins to run at the conclusion of the Restricted Period, on the following terms:
 - (A) The supervisor shall be appointed by the Registrar and shall be a professional member of the College of Chiropodists of Ontario;
 - (B) The Member must identify to the supervisor and the Registrar his schedule of practice for seeing patients and identify the locations where patients are seen and where patient records are kept. In the

^{iv} In the event that paragraph 2(a) is not complied with within the timeframe provided, any further period of suspension shall be served immediately following the compulsory seven month suspension.

^v For greater clarity, the Member must complete the ProBe ethics course whether or not the additional month of suspension is served.

event that the Member's schedule changes, he must immediately identify such changes to the Registrar and to his supervisor;

- (C) The supervisor shall visit with the Member in person on four occasions at the Member's site(s) of practice on four (4) occasions to be spread out at approximately months 1, 4, 8 and 12 of the supervision period;
- (D) The supervisor shall determine the length of each visit;
- (E) In conducting site visits, the supervisor shall engage the Member in discussions regarding ethics and ethical issues, practice management, record keeping, proper delegation and the orthotics standard;
- (F) The supervisor shall prepare a report to the Registrar every other session detailing what occurred at the prior two (2) supervisory sessions.^{vi}
- (G) The Member shall pay the costs of the supervision (to a maximum of \$350 per site visit and \$350 per supervisory report) and shall fully reimburse the College for these costs within thirty (30) days of receiving an invoice from the College for the supervision; and,

3. That the Member be directed to appear before the panel to be reprimanded and the fact of the reprimand to be recorded on the Public Register of the College.
4. That the Member is to pay the College's costs fixed in the amount of \$12,000 of which \$6,000 must be paid by certified cheque or credit card immediately upon the rendering of

^{vi} For clarity, in the event that the supervisory reports suggest further professional misconduct by the Member, the supervisory reports may be relied upon by the Registrar in considering whether there are reasonable and probable grounds to suggest that the Member has committed an act of professional misconduct and therefore request approval from the Inquiries, Complaints and Reports Committee of the appointment of an Investigator, pursuant to section 75(1) (a) of the *RHPA Procedural Code*.

an oral decision provided this proposed penalty is accepted and the remaining \$6,000 to be paid within 90 days of the rendering of the oral decision.

Reasons for Penalty Decision

The panel concluded that the proposed penalty is reasonable and in the public interest and accepted the Joint Submission as to Penalty. The Panel's reasons for accepting the Joint Submission as to Penalty are as follows:

1. The penalty order proposed in the joint submission is reasonable and just. Mr. Manhave has practiced for 25-years, as such he ought to have known his conduct would be regarded as disgraceful, dishonourable and unprofessional, as his actions appear to be entirely financially motivated. His actions bring shame to his fellow members and to the public. His behaviour has required investigation and ultimately this hearing which results in significant economic cost that other members must bear. It raises the question of doubt with the public regarding the Profession. The terms of the penalty addresses these concerns directly.
2. The penalty incorporates elements of both general and specific deterrence, which will know doubt be viewed by both the Member and the membership at large as severe, namely;
 - (a) Suspension of the Member's certificate of registration for eight months.
 - (b) Member must complete ProBe ethics course at his own expense
 - (c) Supervision again at the Member's expense for a period of 12 months upon the conclusion of the restricted period.
 - (d) Restriction on the Member from imaging, casting, prescribing, constructing, fitting dispensing and/or ordering fabrication of orthotics, prescription footwear, customs hoes and /or modified orthopaedic shoes for a period of 9 months (the restricted period) which begins to run at the conclusion of the suspended period for 9 months.

3. The Member's suspension and practice restriction, coupled with the costs ordered, will be a significant financial strain on the Member. This sends a clear message to the membership that such conduct will not be tolerated by the College and that there should be no incentive to behave in such a manner for short-term financial gain.

I, Grace King, sign this decision and reasons for the decision as Chairperson of this Discipline panel and on behalf of the members of the Discipline panel as listed below:

Grace King

Grace King, Chairperson

June 29, 2017

Date

Jim Daley
Peter Guy
Tony Merendino