

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

BETWEEN:

**COLLEGE OF CHIROPODISTS OF ONTARIO
("College")**

-and-

**IVAN MORAVAC
("Mr. Moravac")**

Panel Members:	Ray Ferraro	Chair, Public Member
	Meera Narenthiran	Professional Member
	Sarah Kerwin	Professional Member
	Sarma Donepudi	Public Member
	Esrick Quintyn	Public Member
Present:	Felecia Smith	Registrar of the College
	Julie Maciura	Counsel for the College
	Ivan Moravac	In person [Not represented by Counsel]
	Alan L. Bromstein	Independent Counsel to the Panel

This matter came on for hearing on November 30, 2006. The Discipline Panel considered the submissions of Counsel for the College of Chiropodists of Ontario and Mr. Moravac. The Discipline Panel found Mr. Moravac is guilty of professional misconduct pursuant to paragraph 10 (conflict of interest), paragraph 20 (signing or issuing a document that contains a false or misleading statement), and paragraph 33 (disgraceful, dishonourable or unprofessional conduct) of section 1 of Ontario Regulation 750/93, as amended.

B. THE DISCIPLINE COMMITTEE ORDERS THE FOLLOWING PENALTY:

1. Mr. Moravac will receive a reprimand on a date to be set by the Registrar, the fact of which will be recorded on the College's register.
2. Mr. Moravac's certificate of registration will be suspended for five months on a date to be set by the Registrar but in any event to be fully served no later than 10 months from the date the Discipline panel's order becomes final.

3. There will be a specified term, condition and limitation on Mr. Moravac's certificate of registration that he must practice under supervision for a period of two years upon completion of the suspension referred to in paragraph 2 herein. The terms of the supervision will be set by the Registrar and will take into account Mr. Moravac's work environment at the time. Mr. Moravac will be responsible for the costs of the supervision and will fully reimburse the College for these costs within 30 days of receiving an invoice from the College for the supervision. Failure to pay any of these invoices from the College within 30 days will result in Mr. Moravac's certificate of registration being automatically suspended until such invoices are fully paid.
4. There will be specified terms, conditions and limitations on Mr. Moravac's certificate of registration that he must successfully complete, at his cost, an ethics course acceptable to the Registrar and a record-keeping course acceptable to the Registrar within 6 months of the completion of the suspension referred to in paragraph 2.
5. There will be a specified term, condition and limitation on Mr. Moravac's certificate of registration that he will be subject to monitoring of his practice for a period of two years after the completion of the period of supervision described in paragraph 3. The monitoring will consist of visits to Mr. Moravac's practice up to two times per year by a monitor chosen by the College. Mr. Moravac will be responsible for the costs of the monitoring and will fully reimburse the College for these costs within 30 days of receiving an invoice from the College for the monitoring. Failure to pay any of these invoices from the College within 30 days will result in Mr. Moravac's certificate of registration being automatically suspended until such invoices are fully paid.
6. Mr. Moravac agrees to pay to the College costs in the amount of \$8,000.00, payment of which must be made in full within 30 months of the completion of the suspension referred to in paragraph 2 herein. The costs will be paid pursuant to a payment schedule of 29 consecutive monthly payments of \$266.66 and the 30th consecutive monthly payment of \$266.86. The first of these monthly payments will be made no later than the 1st day of the month following the completion of

Mr. Moravac's suspension. Mr. Moravac's certificate of registration will be automatically suspended if he does not fully pay the costs described in this paragraph within 30 months of the completion of his suspension and Mr. Moravac's certificate of registration will not be reinstated until he fully pays the costs described herein.

7. The term, condition and limitation in paragraph 3 of this order will be removed from Mr. Moravac's certificate of registration when the term, condition and limitation therein has been complied with.
8. The terms, conditions and limitations in paragraph 4 of this order will be removed from Mr. Moravac's certificate of registration when Mr. Moravac successfully completes the courses described in paragraph 4.
9. The term, condition and limitation in paragraph 5 of this order will be removed from Mr. Moravac's certificate of registration when the term, condition and limitation therein has been complied with.
10. If the member disputes the reasonableness of the supervision or the costs required by paragraph 3, such dispute shall be brought before a panel of the Discipline Committee for determination.

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Present:	Felecia Smith	Registrar of the College
	Julie Maciura	Counsel for the College
	Ivan Moravac	In person [Not represented by Counsel]
	Alan L. Bromstein	Independent Counsel to the Panel
Hearing Date:	November 30, 2006	

**DECISION AND REASONS FOR THE DECISION
of the Panel of the Discipline Committee**

This matter came before a panel of the Discipline Committee ("Panel") at a hearing, which was held on November 30, 2006. Mr. Moravac was present but was not represented by legal counsel.

A Notice of Hearing containing a Statement of Allegations and an Affidavit of Service were filed together as Exhibit No. 1.

A Statement of Agreed Facts was filed on the consent of both parties as Exhibit No. 2. It contained the following agreed upon facts:

“1. Ivan Moravac (Mr. Moravac) is a chiroprapist registered to practice in Ontario.

2. At the material times, Mr. Moravac was associated with Healthworks Wellness Centre, T.O. Foot Clinics and Moravac Chiropractic Professional Corporation in Toronto, Ontario.

Preparing Prescriptions for Clients Not Seen by Mr. Moravac

3. In or about 2004, Mr. Moravac wrote prescriptions for orthotics for the following patients despite not having seen them:
 - a. L S-W;
 - b. G F;
 - c. B R;
 - d. DL; and
 - e. JM.
4. The above conduct constitutes professional misconduct pursuant to paragraph 20 (signing or issuing a document that contains a false or misleading statement) of section 1 of Ontario Regulation 750/93, as amended.

False or Misleading Records

5. In or about 2004, Mr. Moravac created false or misleading records that implied that he had seen the following patients when he had not:
 - a. L S-W;
 - b. G F;
 - c. BR;
 - d. DL; and
 - e. JM.
6. The above conduct constitutes professional misconduct pursuant to paragraph 20 (signing or issuing a document that contains a false or misleading statement) of section 1 of Ontario Regulation 750/93, as amended.

Billing for Orthotics Not Yet Paid For by Client

7. In or about June 2004, Mr. Moravac permitted to be issued a statement of account to L S-W indicating that she had paid for orthotics when she had not in fact paid for orthotics.
8. In or about September 2003, and in or about June 2004, Mr. Moravac permitted to be issued a statement of account to GF indicating that he had paid for orthotics when he had not in fact paid for orthotics.
9. Mr. Moravac takes the position that he was not involved in the billing done in relation for LS-W or GF. The College takes the position that Mr. Moravac should have taken steps to ensure that billing was done properly for any patient with whom he had involvement.

Conflict of Interest

10. In or about 2004, Mr. Moravac was paid approximately \$50.00 by Healthworks Wellness Centre for each prescription for orthotics that he wrote.
11. The above conduct constitutes professional misconduct pursuant to paragraph 10 (conflict of interest) of section 1 of Ontario Regulation 750/93, as amended.

False or Misleading Statement to Investigator

12. On or about February 27, 2006, Mr. Moravac made a misleading statement to an investigator for the College when he stated that in 2004 he saw patients at Healthworks Wellness Centre on Tuesday and Thursdays.
13. The above conduct constitutes professional misconduct pursuant to paragraph 33 (disgraceful, dishonourable or unprofessional conduct) of section 1 of Ontario Regulation 750/93, as amended."

After giving both parties an opportunity to make submissions respecting the finding of professional misconduct, the Panel withdrew to deliberate.

DECISION ON FINDING OF PROFESSIONAL MISDCONDUCT

The Panel was satisfied that the conduct described in the Statement of Agreed Facts constituted professional misconduct as defined by paragraphs 20, 10 and 33 of section 1 of Ontario Regulation 750/93, as amended, under the Chiropractic Act, 1991. It, therefore, found Mr. Moravac had committed acts of professional misconduct.

PENALTY

The parties filed a Joint Submission on Penalty and Costs, which was marked as Exhibit No. 3. The Joint Submission suggested that the following penalty would be appropriate in the circumstances of this case:

- "1. Mr. Moravac will receive a reprimand, the fact of which will be recorded on the College's register.
2. Mr. Moravac's certificate of registration will be suspended for five months on a date to be set by the Registrar but in any event to be fully served no later than 10 months from the date the Discipline panel's order becomes final.

3. There will be a specified term, condition and limitation on Mr. Moravac's certificate of registration that he must practice under supervision for a period of two years upon completion of the suspension referred to in paragraph 2 herein. The terms of the supervision will be set by the Registrar and will take into account Mr. Moravac's work environment at the time. Mr. Moravac will be responsible for the costs of the supervision and will fully reimburse the College for these costs within 30 days of receiving an invoice from the College for the supervision. Failure to pay any of these invoices from the College within 30 days will result in Mr. Moravac's certificate of registration being automatically suspended until such invoices are fully paid.
4. There will be specified terms, conditions and limitations on Mr. Moravac's certificate of registration that he must successfully complete, at his cost, an ethics course acceptable to the Registrar and a record-keeping course acceptable to the Registrar within six months of the completion of the suspension referred to in paragraph 2.
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7. The term, condition and limitation in paragraph 3 of this order will be removed from Mr. Moravac's certificate of registration when the term, condition and limitation therein has been complied with.
8. The terms, conditions and limitations in paragraph 4 of this order will be removed from Mr. Moravac's certificate of registration when Mr. Moravac successfully completes the courses described in paragraph 4.

9. The term, condition and limitation in paragraph 5 of this order will be removed from Mr. Moravac's certificate of registration when the term, condition and limitation therein has been complied with."

Prior to completing its deliberation on penalty, the Panel requested that the parties consider adding an additional paragraph. The Panel did so because it was concerned that there was no mechanism to resolve any dispute which Mr. Moravac might have respecting the supervision and the costs associated with that supervision as proposed in paragraph 3. The parties were specifically asked whether they would consent to the inclusion of the following paragraph:

"10. If the member disputes the reasonableness of the supervision or the costs required by paragraph 3, such a dispute shall be brought before a panel of the Discipline Committee for determination."

The parties agreed to its inclusion in the Order and the panel agreed to the issuance of an order as set out in the Joint Submission on Penalty and Costs subject to the addition of paragraph 10 as set out above.

PENALTY DECISION

Counsel for the College submitted that where a hearing involved a Joint Submission on Penalty, the Panel should accept the proposal if it is within a reasonable range of penalties for similar conduct. She also submitted that it was not the Panel's role to make minor changes to a penalty when that penalty had been jointly submitted and that so long as the penalty would not bring the administration of the proceedings into disrepute, the penalty should be accepted by the Panel. The Panel understood by this that it should accept the Joint Submission on Penalty and Costs unless the proposed result would compromise the integrity of the process thereby causing the public to lose trust in the College's ability to self-regulate.

The Panel was of the view that the penalty and costs Order being jointly submitted for was appropriate having regard for the facts of this case.

The Panel, therefore, accepted the Joint Submission on Penalty and Costs and issued that Order with the additional paragraph 10 added on the consent of both parties as referred to above.

REASONS FOR THE PENALTY

There are several audiences for this Order on Penalty.

- The public which has to be assured that the College takes this misconduct very seriously and that it is capable of policing the profession and protecting the public.

- The profession which must be sent a message, in the strongest of terms, that this type of behaviour is totally unacceptable.
- The member, who must suffer consequences for his actions to ensure that the behaviour will not reoccur but who, at the same time, should be provided with an opportunity for rehabilitation.

In the Panel's view, the penalty imposed constituted a fair one which balanced all of the principles of sentencing. The conduct, which Mr. Moravac engaged in, was a serious breach of his professional and ethical obligations. The Panel is hopeful that members of the profession reading this Decision will understand that conduct of this nature will not be tolerated. At the same time, however, the Panel believed that the penalty ordered gave recognition to Mr. Moravac's co-operation with the College as well as other mitigating circumstances.