

College of Chiropractors of Ontario v Suzanne Tanaka
Summary of the Decision of the Panel of the Discipline Committee

This matter came on for hearing on June 26, 2006. The Discipline Panel considered the submissions of Counsel for both the College of Chiropractors of Ontario and Ms. Tanaka. The Discipline Panel found Ms. Tanaka guilty of professional misconduct for failing to keep records as required by the regulations and for disgraceful, dishonourable or unprofessional misconduct.

The discipline panel ordered the following penalty:

1. Ms. Tanaka was required to appear before the panel to be reprimanded;
2. Ms. Tanaka's certificate of registration be suspended for 8 weeks to be fully served no later than 15 months from the date of the Discipline panel's order;
3. The imposition of specified terms, conditions and limitations on Ms. Tanaka's certificate of registration namely that she must successfully complete an ethics course and a record keeping course, at her own cost, within 12 months of the discipline panel's order, that she must submit to monitoring of her practice to a maximum of two times per year over the course of two years from the date the suspension is fully completed; and
4. Ms. Tanaka to pay to the College \$3,500.00 in costs.

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

BETWEEN:

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

-and-

**SUZANNE TANAKA
("Ms. Tanaka")**

Panel Members:	Norm Baker, (Chair)	Public Council Member
	Ray Ferraro	Public Council Member
	Julie Levesque-De Simone	Chiropracist

Counsel Present:	Counsel for the College	Julie Maciura
	Counsel for Ms. Tanaka	Michael B. Miller
	Counsel for the Panel of the Discipline Committee	Alan L. Bromstein

Hearing Date: June 26, 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 June 26, 2006.

A Notice of Hearing containing a Statement of Allegations was filed as Exhibit No. 1.

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

1. Suzanne Tanaka is a chiropracist registered to practice in Ontario.
2. At all material times Ms. Tanaka was employed at the The Scarborough Hospital in Scarborough, Ontario.

3. In or about May and June 2004 the chiropody clinics at the Grace and General sites of The Scarborough Hospital were being consolidated into one clinic at the Grace campus.
4. As a senior employee Ms. Tanaka was invited to transfer to the Grace campus and was also asked to assist in compiling patient lists that would be used to notify patients of their eligibility for chiropody services within the newly consolidated clinics.
5. In or about June 2004, Ms. Tanaka wrote to patients of The Scarborough Hospital for the purposes of informing those clients about her new private chiropody practice. Ms. Tanaka used confidential hospital records to obtain patient names and addresses. Ms. Tanaka also used hospital resources to mail the letters without having permission to do so.
6. Ms. Tanaka's letter to patients suggested that the chiropody clinic at the General site had simply closed when in fact it had consolidated with the Grace site.
7. Ms. Tanaka agrees that the conduct described above constitutes professional misconduct pursuant to paragraph 33 (disgraceful, dishonourable or unprofessional conduct) of Section 1 of O. Reg. 750/93, as amended, under the Chiropody Act, 1991.
8. In or about May and/or June 2004, Ms. Tanaka accepted payment directly from at least three patients (R.D., J.T., and/or C.W.) for orthotics that were to be ordered through The Scarborough Hospital for those patients. The receipts provided to the patients by Ms. Tanaka made it appear that those payments were being made to the hospital.
9. Ms. Tanaka did not follow the usual procedure of having the patients pay for the orthotics at the hospital billing office.
10. Ms. Tanaka did not remit to the hospital the money that the patients paid directly to her. Instead, on or about July 5, 2004, approximately nine days after her employment was terminated, Ms. Tanaka made an anonymous payment or donation of \$2250.00 to The Scarborough Hospital Foundation, a charitable foundation which operates separately from The Scarborough Hospital.
11. Ms. Tanaka agrees that the conduct described above constitutes professional misconduct pursuant to paragraph 33 (disgraceful, dishonourable or unprofessional conduct) of Section 1 of O. Reg. 750/93, as amended, under the Chiropody Act, 1991.
12. Ms. Tanaka did not keep records in relation to patients R.D., J.T., and/or C.W. as required by sections 13 through 17 of the College's Records Regulation, O. Reg. 203/94, as amended, under the Chiropody Act, 1991.

13. Ms. Tanaka agrees that the conduct described above constitutes professional misconduct pursuant to paragraph 17 (failing to keep records as required by the regulations) of Section 1 of O. Reg. 750/93, as amended, under the Chiropractic Act, 1991.

An Agreed Book of Documents was filed on consent of both parties as Exhibit No. 3. After giving both Counsels an opportunity to make submissions respecting the finding of professional misconduct, the Panel withdrew to deliberate.

DECISION ON FINDING OF PROFESSIONAL MISCONDUCT

The Panel was satisfied that the conduct described in the Agreed Statement of Facts constituted professional misconduct as defined by paragraphs 33 and 17 of section 1 of Ontario Regulation 750/93, as amended, under the Chiropractic Act, 1991. It, therefore, found Ms. Tanaka had committed acts of professional misconduct.

PENALTY

The parties filed a Joint Submission on Penalty and Costs which was marked as Exhibit No. 4. The Joint Submission suggested that the following penalty would be appropriate in the circumstances of this case:

1. Ms. Tanaka appeared before the Panel to be reprimanded;
2. Ms. Tanaka's certificate of registration be suspended for 8 weeks, to be served at a time determined by the Registrar but in any event, to be fully served no later than 15 months from the date of the Panel's order;
3. That a term, condition, limitation be imposed upon Ms. Tanaka's certificate of registration that she successfully complete (at her cost) an ethics course approved by the Registrar, within 12 months of the Panel's order;
4. That a term, condition, limitation be imposed upon Ms. Tanaka's certificate of registration that she successfully complete (at her cost) a record keeping course approved by the Registrar, within 12 months of the Panel's order;
5. That a term, condition, limitation be imposed upon Ms. Tanaka's certificate of registration that she submit to monitoring by way of inspections (at her cost) of her practice, wherever that may be located, such inspections to be done upon at least 24 hours notice to her, a maximum of two times per year over the course of two years from the date the suspension is fully completed; and

6. Ms. Tanaka pay to the College the amount of \$3500.00 in contribution towards the costs of the investigation and prosecution of this matter, such costs to be payable in three installments of \$1000.00 and one installment of \$500.00. The first installment of \$1000.00 is to be made no later than the first day of the fifth month following the date of the Panel's order. The second installment of \$1000.00 is to be made no later than the first day of the tenth month following the date of the Panel's order and the third installment of \$1000.00 is to be made no later than the first day of the fifteen month following the date of the Panel's order. The fourth installment of \$500.00 is to be made no later than the first day of the eighteenth month following the date of the Panel's order.

Prior to completing their submissions on penalty, the parties agreed that any order which the Panel might make involving the imposition of any terms, conditions or limitations should include paragraphs dealing with when those terms, conditions or limitations should be removed from Ms. Tanaka's certificate of registration. As a result, the parties agreed that two additional paragraphs should be added to any such order, namely:

7. The terms, conditions and limitations in paragraphs 3 and 4 will be removed from Ms. Tanaka's certificate of registration when each of the courses has been successfully completed.
8. The terms, conditions and limitations in paragraph 5 will be removed 2 years following the completion of Ms. Tanaka's suspension.

Ms. Tanaka appeared as a witness in support of the submissions that the Panel accept the Joint Submission on Penalty and Costs.

A brief summary of her evidence was as follows:

Ms. Tanaka was a graduate of the Chiropody program at George Brown College. She was also trained as a registered nurse. She has practised as a chiropodist for over 16 years and currently has both a private practice and one associated with a community health centre. She has been married for 9 years and has one daughter age 4. Ms. Tanaka indicated that this occurrence and the uncertainty of these proceedings has had a substantial negative impact on her personal and professional life. She advised the Panel that she had never previously been the subject matter of any complaint or had any other difficulty with the College. She also advised the Panel that she was truly remorseful and assured the Panel that an incident such as this would never happen again.

PENALTY DECISION

The Panel understood from the submissions 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. It also understood that it was not its role to make minor changes to a penalty when jointly submitted and that so long as the penalty would

not bring the administration of the proceedings into disrepute, it should accept the Joint Submission. This Panel believed that it should not accept a Joint Submission as to Penalty where the penalty would compromise the integrity of the process thereby causing the public to lose trust in the College's ability to self-regulate.

The Panel recognized that Joint Submissions of this type are an important part of all levels of justice and that in the context of a discipline proceeding it is important that members can be reasonably assured when they enter into an agreement with the College that it will be accepted by the Discipline Committee.

The Panel concluded that the penalty being jointly submitted [as amended by the addition of paragraphs 7 and 8] was a both serious penalty and 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 two additional paragraphs added on consent 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 her actions to ensure that the behaviour will not occur again and who, at the same time, shall 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 Ms. Tanaka engaged in is a serious breach of her professional and ethical obligations. The Panel also wanted members of the profession to know that conduct of this nature would not be tolerated. At the same time, however, the Panel believed that the penalty gave recognition to Ms. Tanaka's remorse, her restitution and her co-operation with the College as well as other mitigating circumstances.