

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

B E T W E E N:

COLLEGE OF CHIROPODISTS OF ONTARIO

-and-

BARBARA SLIWA

NOTICE OF HEARING

The Inquiries, Complaints and Reports Committee of the College of Chiropractors of Ontario has referred specified allegations against **BARBARA SLIWA** (Registration #120010) 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
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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: November 29, 2019



Felecia Smith, LL.B.
Registrar
College of Chiropodists of Ontario
180 Dundas Street West, Suite 2102
Toronto, ON M5G 1Z8

TO: Barbara Sliwa
48 Nugent Drive
Hamilton, Ontario
L8H 2M8

STATEMENT OF ALLEGATIONS

1. Barbara Sliwa (“**Ms. Sliwa**” or “**Member**”) was at all material times a registered member of the College.

2. During the period from June 1, 2015 to December 12, 2017, 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 *Chiropody 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. Assessment and Management;
 - ii. Patient Relations;
 - iii. Records;
 - iv. Prescription Custom Foot Orthoses; and/or
 - v. Prescription Footwear;

 - b. paragraph 10 (practising the profession while the member is in a conflict of interest);

 - c. paragraph 14 (providing treatment to a patient where the member knows or ought to know that the provision of the treatment is ineffective, unnecessary or deleterious to the patient or is inappropriate to meet the needs of the patient);

 - d. paragraph 17 (failing to keep records as required by the regulations);

 - e. paragraph 18 (falsifying a record relating to the member’s practice);

- f. paragraph 20 (signing or issuing, in the member's professional capacity, a document that contains a false or misleading statement);
- g. paragraph 21 (submitting an account or charge for services that the member knows is false or misleading);
- h. paragraph 22 (charging a fee that is excessive in relation to the services or devices charged for);
- i. 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 under the *Chiropody Act, 1991*, as specified in this Notice of Hearing;
 - ii. Ontario Regulation 203/94 under the *Chiropody Act, 1991*, and, in particular, the advertising and records provisions therein; and/or
 - iii. section 51(1)(c) of the Health Professions Procedural Code, being Schedule 2 to the *Regulated Health Professions Act, 1991*; and/or
- j. 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 chiropodist registered with the College to practise chiropody in Ontario.
2. In or about the period from June 1, 2015 to December 12, 2017 (the “**Relevant Period**”), the Member was engaged in the practice of chiropody at The Cayden Clinic located in Hamilton, Ontario (the “**Clinic**”).
3. On or about December 12, 2017, the College received a complaint from Green Shield Canada (“**GSC**”) about the Member (the “**Complaint**”).
4. As set out in the Complaint, GSC regularly conducts reviews with respect to the services and/or products that are provided to GSC plan members and/or their dependents.
5. In or about 2017, GSC conducted a review in relation to the Member.
6. Specifically, as part of a claims verification process, GSC reviewed the claims for custom orthotics and orthopaedic footwear that identified the Member as the treating/dispensing practitioner at the Clinic.
7. From approximately June 1, 2015 to June 20, 2017, there were approximately 2091 claims submitted to GSC (the “**Claims**”).
8. Almost all of the Claims were on behalf of plan members belonging to the same sponsored benefit plan for Hamilton Health Sciences Centre (“**HHSC**”). The benefit plan coverage for HHSC included two (2) pairs of orthopaedic shoes every twelve (12) month period and two (2) pairs of custom-made foot orthotics every three (3) calendar years per plan member.
9. The Claims were submitted to GSC manually using the insurer’s standard claims form for custom-made orthotics and orthopaedic footwear (“**Claims Form**”).

10. The Claims were all signed by the Member. Among other information provided, the Claim Form certified that the Member provided the treatments and the Claims were accurate.
11. The total value of the Claims was approximately \$1,127,341.51. As a result of the Claims, GSC paid \$1,055,471.38 to the Clinic directly via electronic funds transfer.
12. On or about February 27, 2017, GSC issued confirmation of services requests to 147 plan members randomly selected from the Claims (“**Confirmation Requests**”).
13. As summarized in Appendix “A”, the responses to the Confirmation Requests on behalf of 75 patients confirmed the following information:
 - (a) the patients ranged in age from 6 to 68 years old;
 - (b) 46 patients were prescribed two pairs of orthopaedic shoes;
 - (c) of those 46 patients who were prescribed two pairs of orthopaedic shoes, 15 patients were also prescribed orthotics;
 - (d) all or most of the patients were prescribed over-the-counter shoes;
 - (e) 20 patients were prescribed both orthopaedic shoes and orthotics;
 - (f) 7 patients were prescribed two pairs of orthotics; and
 - (g) there were approximately 18 plan members for which multiple members of the family were prescribed orthopaedic shoes and/or custom orthotics by the Member.
14. On or about March 6, 2017, GSC requested that the Member provide supporting documents for the treatments provided to 58 patients (the “**Records Request**”).
15. The information sought for the Records Request included preliminary assessment records, treatment plans, clinical records, prescriptions, attendance records,

financial records, and supplier invoices. A list of the Records Request is attached as Appendix "B".

16. The Member responded to the Records Request in or about April 2017.
17. As the records provided in reply to the Records Request were incomplete and/or lacked the necessary treatment details, GSC representatives attended at the Clinic on or about June 20, 2017 to conduct an onsite audit of a limited number of patient files.
18. During the audit, GSC representatives sought to review any additional documents available in order to verify the treatments provided by the Member. However, the information provided and reviewed was identical to the documents previously produced by the Member in response to the Records Request.
19. While conducting the audit, the GSC representatives also spoke to the Member. At that time, the Member made comments to the affect that she had delegated the dispensing of products to the Clinic staff.
20. Contrary to the information contained in the Claims Forms, orthotics prescribed by the Member were not dispensed by the Member. Rather, orthotics prescribed by the Member were dispensed to her patients by the Clinic staff who were not members of the College.
21. In particular, the following patients were dispensed orthotics by the Clinic staff:
 - M.D. (dispensed on 2016.12.03)
 - J.K. (dispensed on 2017.01.06)
 - K.M. (dispensed on 2017.01.12)
 - A.P. (dispensed on 2016.12.30)
 - C.R. (dispensed on 2016.12.28)
 - E.R. (dispensed on 2016.12.28)

- R.S. (dispensed on 2017.01.11)
- L.S. (dispensed on 2016.12.28)
- S.S. (dispensed on 2016.12.30)

22. In addition, as described in the Complaint, GSC confirmed through its claims verification process that several of the Member's patients had been offered and/or received incentives, including offers of free shoes and/or compression stockings and/or other benefits.

23. In particular, the following patients were identified as having been offered and/or received incentives:

- L.M. (date of service – 2016.09.21)
- A.P. (date of service – 2016.12.30)
- A.P. (date of services – 2016.01.20)
- J.P. (date of service – 2016.01.15)
- K.T. (date of service – 2016.09.27)
- M.T. (date of service – 2016.09.27)
- N.T. (date of service – 2016.09.16)
- S.D. (date of service – 2016.09.16)

Appendix “A” – Confirmation Requests

Name	Age	Dispense Date	Prescription	Claim
F.A.	12	2016/06/20	Footwear, orthopedic (2)	\$600.00
F.A.	13	2016/10/18	Foot orthotics, custom-made	\$475.00
G.A.	10	2016/06/20	Footwear, orthopedic (2)	\$600.00
N.A.	7	2016/06/20	Footwear, orthopedic	\$300.00
N.A.	7	2016/10/18	Foot orthotics, custom-made	\$475.00
S.B.	12	2016/01/25	Footwear, orthopedic (2)	\$600.00
M.B.	56	2016/06/02	Footwear, orthopedic (2)	\$600.00
L.C.	34	2016/04/20	Footwear, orthopedic (2)	\$600.00
L.C.	35	2016/10/11	Foot orthotics, custom-made	\$475.00
Z.-A.C.	7	2016/09/13	Footwear, orthopedic	\$300.00
Z.-A.C.	7	2016/10/25	Footwear, orthopedic (2)	\$600.00
Z.C.	46	2016/09/29	Footwear, orthopedic (2)	\$600.00
M.D.	10	2016/05/17	Footwear, orthopedic	\$300.00
S.D.	20	2016/05/09	Foot orthotics, custom-made	\$475.00
L.D.	8	2016/12/28	Footwear, orthopedic (2)	\$600.00
B.D.	10	2016/09/16	Footwear, orthopedic	\$300.00
E.D.	7	2016/09/16	Footwear, orthopedic	\$300.00
S.D.	36	2016/09/16	Footwear, orthopedic (2)	\$600.00
A.F.	37	2016/05/12	Footwear, orthopedic (2)	\$600.00
A.F.	38	2016/12/12	Foot orthotics, custom-made	\$475.00
T.G.	15	2016/08/16	Footwear, orthopedic	\$300.00
A.H.	18	2016/07/07	Foot orthotics, custom-made	\$475.00
P.H.	9	2016/07/07	Foot orthotics, custom-made	\$475.00
P.K.	15	2016/12/09	Foot orthotics, custom-made	\$475.00
P.K.	15	2016/12/19	Footwear, orthopedic	\$300.00
A.K.	53	2016/11/09	Foot orthotics, custom-made	\$475.00

Name	Age	Dispense Date	Prescription	Claim
A.K.	53	2016/11/10	Footwear, orthopedic (2)	\$600.00
K.K.	52	2016/05/10	Footwear, orthopedic (2)	\$600.00
E.L.	10	2016/02/22	Footwear, orthopedic	\$300.00
E.L.	10	2016/03/01	Foot orthotics, custom-made	\$475.00
M.L.	61	2016/11/08	Foot orthotics, custom-made	\$475.00
K.M.	54	2017/01/10	Footwear, orthopedic (2)	\$600.00
L.M.	28	2016/09/21	Foot orthotics, custom-made	\$475.00
L.M.	50	2016/12/28	Footwear, orthopedic (2)	\$600.00
E.M.	9	2016/10/28	Foot orthotics, custom-made	\$475.00
P.M.	48	2016/01/20	Foot orthotics, custom-made (2)	\$950.00
K.M.	17	2016/01/25	Footwear, orthopedic (2)	\$600.00
K.M.	49	2016/01/19	Footwear, orthopedic (2)	\$600.00
K.M.	49	2016/01/19	Footwear, orthopedic (2)	\$600.00
A.M.-M.	8	2016/01/20	Foot orthotics, custom-made	\$475.00
L.M.-M.	11	2016/01/20	Foot orthotics, custom-made	\$475.00
T.M.	43	2016/06/27	Footwear, orthopedic (2)	\$600.00
A.M.	7	2016/09/02	Footwear, orthopedic	\$300.00
C.M.	38	2016/05/27	Footwear, orthopedic (2)	\$600.00
J.M.	53	2016/11/08	Footwear, orthopedic (2)	\$600.00
J.M.	53	2016/11/08	Foot orthotics, custom-made (2)	\$950.00
B.N.	60	2016/05/11	Footwear, orthopedic (2)	\$600.00
D.N.	60	2016/04/08	Footwear, orthopedic	\$300.00
D.N.	60	2016/04/08	Foot orthotics, custom-made	\$475.00
H.O.	69	2016/02/16	Foot orthotics, custom-made (2)	\$950.00
H.O.	61	2016/02/16	Foot orthotics, custom-made (2)	\$950.00
S.P.	34	2016/06/14	Foot orthotics, custom-made	\$475.00
S.P.	34	2016/06/14	Footwear, orthopedic (2)	\$600.00

Name	Age	Dispense Date	Prescription	Claim
A.P.	9	2016/09/06	Footwear, orthopedic	\$300.00
A.P.	10	2016/12/30	Foot orthotics, custom-made	\$475.00
A.P.	9	2016/04/14	Footwear, orthopedic	\$300.00
C.P.	41	2016/09/06	Footwear, orthopedic (2)	\$600.00
C.P.	40	2016/04/06	Footwear, orthopedic (2)	\$600.00
Z.P.	8	2016/09/06	Footwear, orthopedic	\$300.00
Z.P.	8	2016/04/14	Footwear, orthopedic	\$300.00
A.P.	17	2016/01/20	Foot orthotics, custom-made	\$475.00
A.P.	17	2016/03/10	Footwear, orthopedic (2)	\$600.00
J.P.	15	2016/01/15	Foot orthotics, custom-made	\$475.00
J.P.	15	2016/03/03	Footwear, orthopedic (2)	\$600.00
L.P.	59	2016/03/03	Footwear, orthopedic (2)	\$600.00
L.P.	59	2016/03/31	Foot orthotics, custom-made	\$475.00
D.P.	6	2016/09/26	Footwear, orthopedic	\$300.00
K.R.	53	2016/11/11	Footwear, orthopedic (2)	\$600.00
R.R.	57	2016/03/28	Foot orthotics, custom-made (2)	\$950.00
G.R.	53	2016/03/08	Footwear, orthopedic	\$300.00
G.R.	53	2016/03/08	Foot orthotics, custom-made	\$475.00
T.S.	45	2016/11/01	Footwear, orthopedic(2)	\$600.00
B.S.	52	2016/02/09	Footwear, orthopedic (2)	\$600.00
G.S.	52	2016/02/25	Foot orthotics, custom-made	\$475.00
G.S.	53	2016/03/03	Footwear, orthopedic (2)	\$600.00
E.S.-R.	22	2016/03/22	Foot orthotics, custom-made	\$475.00
E.S.-R.	23	2016/10/06	Foot orthotics, custom-made	\$475.00
G.S.	61	2016/10/20	Footwear, orthopedic (2)	\$600.00
V.S.	65	2016/10/20	Footwear, orthopedic (2)	\$600.00
A.S.	64	2016/04/05	Footwear, orthopedic (2)	\$600.00

Name	Age	Dispense Date	Prescription	Claim
M.S.	68	2016/04/05	Footwear, orthopedic (2)	\$600.00
R.S.	53	2016/11/01	Foot orthotics, custom-made	\$475.00
J.S.	64	2016/08/16	Footwear, orthopedic (2)	\$600.00
K.T.	39	2016/09/27	Foot orthotics, custom-made	\$475.00
M.T.	38	2016/09/27	Foot orthotics, custom-made	\$475.00
N.T.	25	2016/09/16	Foot orthotics, custom-made	\$475.00
A.U.	37	2016/02/22	Footwear, orthopedic (2)	\$600.00
A.U.	37	2016/10/20	Foot orthotics, custom-made	\$475.00
D.V.H.	52	2016/06/06	Footwear, orthopedic (2)	\$600.00
J.V.H.	24	2016/07/13	Footwear, orthopedic (2)	\$600.00
M.V.H.	54	2016/07/13	Footwear, orthopedic (2)	\$600.00
M.V.H.	54	2016/07/13	Foot orthotics, custom-made	\$475.00
D.W.	9	2016/02/11	Foot orthotics, custom-made	\$475.00
D.W.	9	2016/12/29	Footwear, orthopedic (2)	\$600.00
A.W.	38	2016/01/25	Footwear, orthopedic	\$300.00
A.W.	38	2016/01/25	Footwear, orthopedic	\$300.00
J.W.	48	2016/09/21	Footwear, orthopedic (2)	\$600.00
C.W.	60	2016/03/22	Footwear, orthopedic (2)	\$600.00
C.W.	60	2016/03/22	Foot orthotics, custom-made (2)	\$950.00

Appendix “ B” – Records Request

G.A.

N.A.

M.B.

Z.-A.C.

M.D.

R.D.

M.D.

L.D.

J.D.

B.D.

E.D.

L.F.

X.F.-H.

R.X.F.

S.H.

G.J.

E.K.

A.K.

J.K.

M.K.

F.K.

K.K.

E.L.

M.L.

E.L.

K.M.

L.M.

E.M.

K.M.

A.M.-M.

A.A.M.

J.M.

D.N.

H.O.

M.P.

A.P.

Z.P.

J.P.

D.P.

L.R.

T.R.

R.R.

K.R.

E.R.

C.R.

B.S.

R.S.

M.S.

R.S.

J.S.

S.S.

L.S.

S.T.

D.V.H.

D.W.

J.W.

C.W.

B.W.

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- and -

BARBARA SLIWA

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

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