

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

BETWEEN:

COLLEGE OF CHIROPODISTS OF ONTARIO

- and -

TOAN TRAN

NOTICE OF HEARING

The Inquiries, Complaints and Reports Committee of the College of Chiropractors of Ontario has referred specified allegations against **TOAN TRAN** 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 a Schedule 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 of you to pay a fine of not more than \$35,000 to the Minister of Finance.

If the discipline panel finds that you are incompetent, 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 and to specify criteria to be satisfied for the removal of the suspension.

3. Direct the Registrar to impose specified terms, conditions and limitations on your certificate of registration for a specified or indefinite period of time, and to specify criteria to be satisfied for the removal of the terms, conditions and limitations.

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:

Jordan Glick
WEIRFOULDS LLP
Barristers & Solicitors
4100-66 Wellington Street West
PO Box 35, TD Bank Tower
Toronto, ON M5K 1B7

Telephone: (416) 947-5082
Facsimile: (416) 365-1876
Email: jglick@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: August 30, 2017



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

TO: Toan Tran
c/o Gordon A. Meiklejohn
Brannan Meiklejohn, Barristers
Rosedale Square
200 – 1055 Yonge Street
Toronto, ON M4W 2L2

Statement of Allegations

Background

1. Toan Tran (the “**Member**”) was, at all material times, a chiroprapist registered to practise chiropody in the province of Ontario.
2. Within the years 2014 to 2016 (the “**Relevant Period**”), the Member engaged in the practice of chiropody and/or represented that he was engaged in the practice of chiropody at some or all of the following locations (the “**Practice Locations**”):
 - a. Scarborough Foot Health Centre;
 - b. ABSB Wellness Centre;
 - c. Elite Foot Care
 - d. JR Wellness Clinic;
 - e. Trustway Health Centre;
 - f. RD Health & Wellness Group;
 - g. Active Stance Inc;
 - h. Aligntech Orthopedics Inc;
 - i. Livingwell and Healthcare; and,
 - j. Healthy Fit.
3. The Member did not inform the College of Chiroprapists of Ontario that he practised at some of the Practice Locations and/or ceased to practice at some of the Practice Locations and/or that the Practice Location changed their name and/or location.

Healthy Fit

4. In July of 2015, an investigation conducted by Toronto Police Services (“**TPS**”) led to criminal charges being laid against the owner of Healthy Fit. The charges alleged that

Healthy Fit defrauded an insurance company (the “**Insurer**”) of upwards of four million dollars through a benefits scam. The scam involved employees and family members of the Toronto Transit Commission (the “**TTC Employees**”) being issued prescriptions for unnecessary medical treatments and devices. The TTC Employees were assisted in making insurance claims to the Insurer where services were not provided and/or medical devices were not dispensed. Healthy Fit then shared the insurance money with the TTC Employees.

5. The TPS investigation revealed that benefits claims were commonly made for orthotics, orthopaedic shoes and/or compression stockings which were often prescribed to TTC Employees as well as their family members in a manner which maximized the insurance claim.
6. Mr. Tran was employed by Healthy Fit between May and July 2015 wherein he worked for about ten total days, each for about a three hour shift though occasionally he worked for a longer period of time. While Mr. Tran was employed by Healthy Fit:
 - a. he was paid \$100 per orthotic prescription and was otherwise not remunerated;
 - b. he met with patients typically for a total of ten to fifteen minutes before issuing a prescription for orthotics and/or orthopaedic shoes after taking a foam box impression. He prescribed orthotics to as many as twenty-eight patients in a single day;
 - c. approximately half of his patients were TTC employees;
 - d. he told every patient that they required orthotics. Across about ten days of practice, he provided services to about 135 patients and prescribed orthotics and orthopaedic shoes to all of them;
 - e. he did not fit or dispense orthotics to any patients or engage in any follow-up at all;

- f. On several days, a portion of the biomechanical examination which appeared in patient files contained identical “tick boxes”, used to describe the shape and condition of the patient’s feet including:
 - i. July 3, 2015 – ten out of ten biomechanical examinations had the same tick boxes selected;
 - ii. July 5, 2015 – fifteen out of sixteen biomechanical examinations had the same tick boxes selected; and,
 - iii. July 12, 2015 – twenty-two out of twenty-six biomechanical examinations had the same tick boxes selected.
- g. he partially completed, signed and/or stamped prescriptions and/or partially completed biomechanical examination forms prior to meeting with patients;
- h. he used a “cheat sheet” in his office that described how to complete an orthotic prescription;
- i. he revised prescriptions after they were provided to patients at the request of the owner of Healthy Fit;
- j. he did not know how Healthy Fit dealt with billing or what Healthy Fit charged for orthotics or orthopaedic shoes;
- k. he did not retain or have access to any patient records relating to the patients that he provided services to at Healthy Fit; and,
- l. his prescription practices at Healthy Fit were consistent with his practices at other locations.

Healthy Fit and Other Practice Locations

7. It is alleged that with respect to one or more of the patients listed in Schedule “A”, as well as the patients to whom the Member provided chiropody services at Healthy Fit, the

Member overprescribed and/or gave patients unnecessary prescriptions for orthotics, orthopedic shoes, and/or compression stockings in that:

- a. The Member did not perform an adequate examination and/or assessment of the patient, but nonetheless prescribed and/or recommended orthotics, orthopedic shoes, and/or compression stockings for them;
 - b. The Member did not discuss other treatment options with the patient and/or determined if a different treatment was appropriate before prescribing orthotics and/or orthopaedic shoes and/or compression stockings as required per the standards;
 - c. The Member often prescribed pairs of orthotics, orthopedic shoes and/or compression stockings in multiples and/or at short intervals without documentation to explain the need;
 - d. The Member prescribed and/or recommended orthotics, orthopedic shoes and/or compression stockings to patients who could not benefit from these devices such as prescribing custom orthotics to children aged four years and younger; and/or,
 - e. The Member's patient records did not record sufficient information to lead one to conclude that the use of orthotics, orthopedic shoes, and/or compression stockings was clinically indicated.
8. During the Relevant Period, the Member prescribed and/or recommended orthotics, orthopedic shoes and/or compression stockings for patients at the Practice Locations including, but not limited to, one or more of the patients listed in Schedule "A" as well as the patients to whom the Member provided chiropody services at Healthy Fit. He made one or more of these prescriptions and/or recommendations without:
- a. taking an adequate patient history;
 - b. performing an adequate chiropody assessment;
 - c. obtaining and documenting, in a timely manner, informed patient consent;

- d. providing a range of treatment options;
 - e. using a casting or scanning procedure that meets the standards of practice;
 - f. personally evaluating the casts or scans to ensure they were accurate or ensuring a another designated chiropodist or podiatrist did so. In particular, the Member did not ensure that the patient's foot was compared to the cast or scan to verify that it was an accurate reflection of the patient's condition and the contours of the patient's foot, as outlined in the standards of practice;
 - g. personally fitting the orthotics and/or orthopedic shoes to ensure that the device met the prescription and the contours of the patient's foot and/or ensuring that those steps were performed by another chiropodist or podiatrist; and/or
 - h. offering and/or conducting a follow-up after the orthotics and/or orthopedic shoes had been dispensed.
9. During the Relevant Period, for one or more patients including, but not limited to, one or more patients listed in Schedule "A" as well as the patients to whom the Member provided chiropody services at Healthy Fit, the prescription for orthotics prepared by the Member was inadequate in that:
- a. the Member did not evaluate and/or record the patient's medical history;
 - b. a biomechanical examination was not performed;
 - c. a gait analysis was not performed;
 - d. a foot exam with appropriate measurements and observations was not taken and/or recorded;
 - e. it did not contain the patient information required by the College's standards, including the weight, age, activity level, biomechanical data pertinent to the patient's deformity, and/or other information required for the creation of appropriate prescription custom foot orthoses under the College's standards;

- f. it did not involve an assessment and recording of the activities and environmental requirements of use;
 - g. appropriate casting or scanning techniques were not used; and/or
 - h. it did not contain the necessary information including, but not limited to, information required under the College's standards related to the materials to be used in the fabrication of the orthotic, the required flexibility, the posting correction required and/or the depth of the heel seat.
10. The Member did not take all reasonable steps necessary to ensure that his patient records were being kept in accordance with the regulations governing records and/or the College of Chiropodists of Ontario's Standards of Practice pertaining to Records. In particular, during the Relevant Period, one or more of the patient records including, but not limited to, one or more of the records for patients listed in Schedule "A" as well as the patients to whom the Member provided chiropody services at Healthy Fit:
- a. did not contain the name of the patient and/or the name of the treating chiropodists;
 - b. did not contain a complete medical history of the patient;
 - c. did not contain a treatment plan;
 - d. did not contain a copy of every written informed consent and/or reasonable information that an informed consent was obtained;
 - e. did not accurately document the date(s) of the patient's visit(s), the date(s) of various examinations, assessments, fittings, and/or castings, and/or the date(s) on which the orthotics and/or orthopedic shoes were dispensed to the patient;
 - f. did not contain reasonable information about every examination performed by the Member and reasonable information about every clinical finding, diagnosis and assessment made by the Member;

- g. did not contain reasonable information about all significant advice given by the member;
- h. did not contain reasonable information about every order made by the Member for examinations, tests, consultations or treatments to be performed by any other person;
- i. did not contain every written report received by the Member with respect to examinations, tests, consultations or treatments performed by other health professionals or any other person that provided services to the patient in relation to the fitting and dispensing of orthotics and/or orthopedic shoes;
- j. inaccurately and/or misleadingly documented that casting for orthotics was performed, either in the Member's clinical notes, the patient invoice, the insurance documentation, or elsewhere in the patient record;
- k. did not document any follow-up appointment(s) that were offered to patients who received orthotics and/or orthopedic shoes;
- l. were not personally written by the Member at the time of the patient's appointment or within 24 hours thereafter; and/or
- m. did not contain proof of payment for charges related to chiropody services.

11. The Member's record keeping practices were additionally inadequate in that:

- a. he did not keep a daily appointment book listing the names of the patients he examined, treated, and/or to whom rendered any services; and/or
- b. he failed to maintain control over the location(s) and/or access to and/or manner of storage of his patients' files.

12. During the Relevant Period, for one or more patients including, but not limited to, one or more of the patients listed in Schedule "A", as well as the patients to whom the Member provided chiropody services at Healthy Fit:

- a. the patient invoice(s) and/or documents prepared for the patient's insurance company inaccurately and/or misleadingly represented that the Member had provided certain services to the patient when he had not done so; and/or,
 - b. the Member submitted, or allowed to be submitted, invoices and receipts to one or more patients' insurers that did not accurately reflect the services provided, the individual who provided the services, the date on which the services were provided, and/or the method used to obtain models of the patient's foot for the fabrication of orthotics.
13. The Member failed to ensure that he was aware of and maintained control over the manner in which one or more of the Practice Locations billed patients for his chiropody services.
14. By reason of the conduct alleged in paragraphs 1-13 above, the Member engaged in professional misconduct in that he violated:
- a. the following subsections of Ontario Regulation 750/93 under the *Chiropody Act, 1991*:
 - i. 1.2 (Failing to meet or contravening a standard of practice of the profession), and, in particular, the standards pertaining to:
 1. Assessment and Management;
 2. Orthotics and/or Prescription Custom Foot Orthoses;
 3. Patient Relations
 4. Prescription Footwear; and/or
 5. Records;
 - ii. 1.3 (Doing anything to a patient for a therapeutic, preventative, palliative, diagnostic, cosmetic, or other health-related purpose in a situation in which a consent is required by law, without such consent);

- iii. 1.17 (Failing to keep records as required by the regulations);
 - iv. 1.18 (Falsifying a record relating to the member's practice);
 - v. 1.20 (Signing or issuing, in the member's professional capacity, a document that contains a false or misleading statement);
 - vi. 1.21 (Submitting an account or charge for services that the member knows is false or misleading);
 - vii. 1.30 (Contravening the *Chiropody Act, 1991*, the *Regulated Health Professions Act, 1991*, or the regulations under either of those Acts) and, in particular:
 - 1. the provisions of Ontario Regulation 750/93 under the *Chiropody Act, 1991* specified in this Notice of Hearing,
 - 2. the provisions of Ontario Regulation 203/94 under the *Chiropody Act, 1991* specified in this Notice of Hearing; and/or
 - 3. section 51(1)(c) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991*.
 - viii. 1.33 (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); and/or
- b. sections 13, 14, 16, and 17 of Ontario Regulation 203/94 under the *Chiropody Act, 1991*, pertaining to the required record-keeping practices.

SCHEDULE "A"

SCARBOROUGH FOOT HEALTH CENTRE

P.C.

M.P.N.

J.S.

S.C.

A.C.

L.C.

S.H.

W.W.

L.D.

Z.B.

J.K.E.

M.D.

C.T.

T.M.N.

R.R.

ELITE FOOTCARE (FORMERLY ABSB WELLNESS CENTRE)

J.I.

J.I.

M.I.I.

M.S.

A.I.

I.S.

F.S.

P.U.

S.U.

R.U.

O.D.

A.O.
O.D.
A.O.
M.Z.J.
Z.Y.Z.J.
A.J.M.D.
U.B.
R.B.
A.J.
F.J.
K.Y.T.
S.T.F.
G.N.
T.N.P.
I.P.
C.T.
J.K.
R.K.
J.N.
F.A.
A.K.
F.A.
J.K.
P.O.
T.P.
R.K.E.
L.B.
J.B.

JR WELLNESS CLINIC

N.G.

Y.Q.S.

S.X.P.W.

M.T.

M.K.T.

R.W.Y.X.

Y.T.Z.

D.L.J.

Z.C.Y.

B.D.J.

G.D.J.

J.D.J.

L.J.X.Z.

J.L.

B.L.

Y.X.H.

W.H.Z.

W.H.Y.

S.S.W.L.

W.W.C.L.

S.S.W.L.

Y.K.X.

S.V.

I.V.

S.V.

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