

DISCIPLINE COMMITTEE OF THE COLLEGE OF CHIROPODISTS OF ONTARIO

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

IN THE MATTER OF a Hearing directed
by the Inquiries, Complaints and Reports Committee of
the College of Chiropractors of Ontario
pursuant to Section 26(1) of the *Health Professions Procedural Code*
being Schedule 2 of the *Regulated Health Professions Act, 1991*,
S.O. 1991, c. 18, as amended.

BETWEEN:

COLLEGE OF CHIROPODISTS OF ONTARIO

- and -

ANGELO CASELLA

PANEL MEMBERS:

Jim Daley, Chair	Chair, Public Member
Brooke Mitchell	Professional Member
Reshad Nazeer	Public Member

COUNSEL FOR THE COLLEGE: Benjamin Kates

**REPRESENTATIVE FOR THE
MEMBER:** Zoe Hountalas

**INDEPENDENT LEGAL
COUNSEL:** Luisa Ritacca

Hearing Date:	December 14-15, 2022
Decision Date:	January 13, 2023
Release of Written Reasons:	January 16, 2023

DECISION AND REASONS

1. This matter came on for hearing before a panel of the Discipline Committee on December 14 and 15, 2022. With the consent of the parties, this matter was heard electronically.

Overview

2. Pursuant to an order of the Discipline Committee, dated June 15, 2021 (the "June Order"), the Member, Angelo Casella's certificate of registration was suspended for a period of seven months. During the suspension period, Mr. Casella was prohibited from engaging in the practice of chiropody and from holding himself out as a member of the College. There is no dispute between the College and the Member that during the period of suspension, Mr. Casella did not engage in the actual act of providing foot care services himself, however, the College alleges that the Member did contravene the June Order by failing to separate himself from his practice and failing to properly communicate with his patients and the public about his status as a suspended member. For these reasons, the College alleges that the Member engaged in professional misconduct, as set out in the Notice of Hearing, described below.
3. The Member contends that he abided by both the wording and spirit of the June Order, in that he did not treat any patients during his period of suspension and by removing himself from the day-to-day operations of his practice. He ensured continuity of care for his patients by hiring locum chiropodists to provide care.
4. For the reasons that follow, the Panel finds that the Member failed to adequately remove himself from the practice of chiropody during his period of suspension, contrary to the June Order. In particular, his failure to revise his Clinic's website, his continued involvement in sterilizing instruments at the Clinic, and his decision to continue to collect a salary from his health profession corporation effectively violated the June Order and amounts to professional misconduct, as alleged.

The Allegations

5. The allegations against the Member as stated in the Notice of Hearing dated February 22, 2022, (Exhibit 1,) are as follows:

STATEMENT OF ALLEGATIONS

1. On or about June 11, 1990, Angelo Casella was first registered as a member of the College.
2. On June 15, 2021, a hearing was held before a panel of the Discipline Committee at which Mr. Casella's certificate of registration was suspended for a period of seven months. The suspension was ordered to take effect and did take effect on July 15, 2021.
3. It is alleged that, during the period from about June 2021 to February 2022 (the "**Relevant Period**"), Mr. Casella engaged in conduct that constitutes professional misconduct pursuant to the following:
 - (a) Clause 51(1)(c) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991*, and as defined in one or more of the following paragraphs of section 1 of the Professional Misconduct Regulation (O. Reg. 750/93) under the *Chiropractic Act, 1991*:
 - (i) paragraph 2 – failing to meet or contravening a standard of practice of the profession; specifically, the Patient Relations Standard;
 - (ii) paragraph 20 – signing or issuing, in the member's professional capacity, a document that contains a false or misleading statement;
 - (iii) paragraph 21 – submitting an account or charge for services that the member knows is false or misleading;
 - (iv) paragraph 30 – contravening the Act, the *Regulated Health Professions Act, 1991* or the regulations under either of those Acts and, in particular:
 - a. Section 10(1) of the *Chiropractic Act, 1991*, SO 1991, c. 20;
 - b. Section 10(2) of *Chiropractic Act, 1991*, SO 1991, c. 20; and/or
 - c. Section 85.14 of the *Health Professions Procedural Code*;
 - (v) 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); and/or
 - (vi) paragraph 36 – failing to comply with an order of the Complaints Committee, the Discipline Committee or the Fitness to Practise Committee.

PARTICULARS OF THE ALLEGATIONS

1. On or about June 11, 1990, Angelo Casella was first registered as a member of the College. On or about December 6, 2012, Mr. Casella incorporated Casella Chiropractic Professional Corporation for the purpose of practising chiropractic in Ontario.
2. On June 15, 2021, Mr. Casella was found to have engaged in professional misconduct by a panel of the Discipline Committee.

3. As a result of the findings of professional misconduct, the panel made an order, among other things, suspending Mr. Casella's certificate of registration with the College for a period of seven months, effective July 15, 2021.
4. At the time of the discipline hearing in June 2021, Mr. Casella was engaged in the practice of chiropody at the West Mountain Footcare Clinic, located in Hamilton, Ontario (the "**Clinic**"). Mr. Casella was, and continues to be, the sole owner of the Clinic.
5. On or about September 2021, the College received information that Mr. Casella was continuing to practise notwithstanding the suspension order. Based on that information, the College commenced an investigation under section 75(1)(a) of the *Health Professions Procedural Code*.
6. The results of the College's investigation revealed that, notwithstanding his suspension, Mr. Casella has continued to operate the Clinic. Among other things, Mr. Casella has been engaged in the following misconduct during the suspension period:
 - advertising his chiropody services on the Clinic website;
 - using the restricted title of chiropodist on the Clinic website;
 - holding himself out as a person who is qualified to practice in Ontario as a chiropodist;
 - failing to inform patients that he was suspended and/or misleading patients in that regard;
 - directing his staff to schedule patients to see other members of the College contracted by Mr. Casella to work at the Clinic;
 - having his health profession corporation issue invoices or other documents for chiropody services provided by other members of the College working at the Clinic; and/or
 - paying himself a bi-weekly salary through his health profession corporation during the suspension period from the revenues generated by his health profession corporation.

The Evidence

6. At the outset of the hearing, the parties advised the Panel that they had entered into a Partial Agreed Statement of Facts ("PASF"), which is attached to the end of these reasons at Appendix "A".
7. As set out in the PASF, the Member operates a chiropody clinic at the West Mountain Footcare clinic, located in Hamilton, Ontario (the "Clinic"). The Member operates his Clinic through his health professional corporation, Casella Chiropody Professional Corporation (the "Corporation"). The Member is and was at all material times the sole owner of the Clinic.

(a) ***The June Order and Communications with the College***

8. On June 15, 2021, following a hearing before the Discipline Committee, it was ordered that, among other things, the Member's certificate of registration be suspended for a period of seven months. The June Order provided that the period of suspension was to commence 30-days following the date of the Discipline Committee's decision. As a result, the Member's certificate of registration was suspended between July 15, 2021, and February 15, 2022.
9. During the Member's period of suspension, he had three direct communications with the College. First, on June 15, 2021, Meghan Clarke, Deputy Registrar and Manager, Professional Conduct and Hearings of the College sent the Member an email with instructions on paying costs in relation to the June Order. Second, on July 15, 2021, Ms. Clarke sent the Member an email advising him that the suspension of his certificate had taken effect, would be posted on the College's public register, and would remain in place until February 15, 2022. Ms. Clarke further advised the Member that insurance companies would be notified of his suspension. Finally, Ms. Clarke sent the Member a letter on February 15, 2022, confirming that his suspension was completed and providing him with guidance on the Restricted period and the Supervisory Period included in the June Order.
10. There was no further communication between the College and Mr. Casella during the period of suspension. Mr. Casella did not initiate contact or ask the College any questions about the June Order.
11. In her evidence before the Panel, Ms. Clarke confirmed that the College receives questions from suspended members from time to time regarding the permitted scope of activity during their suspension. Ms. Clarke further confirmed that other than the communications described above, neither she nor anyone else at the College had contact with the Member during his period of suspension.
12. Mr. Casella testified that he was not advised by the Chair of the Discipline Committee panel who made the June Order that he was prohibited from owning a professional health corporation or that his suspension extended to his professional health corporation. Further, he testified that he was not provided with any information about his suspension beyond the start and end date of the suspension.

(b) ***Clinic Operations during the Period of Suspension***

13. Mr. Casella's Clinic remained opened on a part-time schedule during his period of suspension. Three chiropodists worked at the Clinic in Mr. Casella's place. They were not involved in the management of the Clinic, and they understood and expected that the Member would resume to treat patients at the Clinic following the conclusion of the period of the suspension.
14. During the period of suspension, the Member's Corporation issued invoices and processed the payments of patients treated at the Clinic. The resulting revenue was deposited into a bank account in the name of the Clinic and controlled by the Corporation.
15. Further, the locum chiropodists were compensated by the Corporation on a per patient basis.
16. The Member attended at the Clinic during his suspension for the purpose of cleaning, sterilizing instruments, and administrative tasks outside of business hours. As an employee of his Corporation, the Member received a salary and accrued vacation throughout the suspension period.
17. Prior to the period of suspension, the Member received a net bi-weekly salary of \$1,230.50 from the Corporation. From June 15 to October 22, 2021, the Member received the same net bi-weekly salary, and starting on October 23, 2021, until the end of the period of suspension, the Member received a net bi-weekly salary of \$1,009.49.

(c) ***Communications with Patients and the Public***

18. During the Member's suspension, his Clinic staff was to inform patients that they would be seeing another chiropodist and that the Member was not available until early 2022. The Panel received no evidence that the Clinic staff or the other chiropodists advised patients about the Member's suspension, however, the notice of the Member's suspension was publicly available on the College website throughout the period of suspension.
19. Further, it was the practice of the Clinic staff to remind patients when they made an appointment that they would be seeing a different chiropodist.

20. One staff member and one of the locum chiropodists did advise patients on one or more occasions that the Member was “taking time off work” or words to that effect. There was no suggestion in the evidence that the Member had instructed his staff or the chiropodist to make these comments or that he made these comments himself.
21. The Panel received a copy of screenshots from the Clinic website, which remained live during the Member’s suspension. The parties agreed that the screen shots entered into evidence fairly and accurately depict the text of the website as it appeared during the entirety of the Member’s suspension.
22. Among other information, the website held the Member out as a chiropodist, whose chiropody services were available at the Clinic. Further, the website suggested that the Member was available to do an initial assessment and provide a treatment plan to reduce pain and prevent foot problems, and that the Clinic could provide a full range of orthotic inserts for all ages. There was nothing on the website to indicate that the Member was currently suspended or unavailable to provide chiropody services. Further, there was nothing on the website to alert the public to the fact that the Member was not able to provide chiropody services until early 2022.

(d) ***College’s Written Communications***

23. The parties agreed that members are required to adhere to the Standards of Practice for Chiropodists and Podiatrists established by the College from time to time, including the *Patient Relations Standard*, which was filed into evidence and referred to in the Notice of Hearing.
24. Further, the parties agreed that the College’s *Discontinuation of Services Advisory*, which was approved by the College’s Council on October 23, 2020, was in place at the time of the Member’s suspension.
25. Finally, the parties agreed that the College did not have written suspension guidelines in place at the time of the Member’s suspension, but that a *Guideline for Suspension* was approved on February 25, 2022.
26. In reaching its decision, the panel did not measure the Member’s conduct against the *Guideline for Suspension*, as it was approved after the completion of the Member’s suspension.

The Issues

27. The Panel identified the following factual issues to consider in coming to its decision:

- (a) Did the Member engage in the practice of chiropractic during the period of suspension?
- (b) Did the Member engage in conduct which could lead patients to believe that he was available to provide chiropractic services during the period of suspension?
- (c) Was the Member's continued use of his Corporation offside the terms of the suspension as imposed in the June Order?
- (d) Did the Member remove himself from his chiropractic practice, as required by the June Order?
- (e) What information did the Member have available to him regarding what chiropractic-related activities he could and could not engage in during his period of suspension?

28. Our assessment of each issue is set out below.

- (a) *Did the Member engage in the practice of chiropractic during the period of suspension?*

29. The Panel accepts that the Member took adequate steps to ensure that he did not perform any chiropractic services himself while he was suspended. There is no evidence before us (and it was not alleged by the College) that the Member assessed or treated any patient during the suspension. To that limited extent, the panel is satisfied that the Member did not "engage in the practice of chiropractic".

30. However, engaging in the practice of chiropractic includes more than simply performing a chiropractic service on a patient. In the panel's assessment, it also includes continuing to hold yourself out as a chiropractor and doing things that only a member of the College or a person supervised by that member can do.

31. Mr. Casella took no steps to revise his Clinic's website to indicate that he was suspended or otherwise not available to see patients during the period of suspension. Anyone visiting the Clinic's website would believe that Mr. Casella was a member of the College, capable and available to provide chiropractic services. This was misleading, and inconsistent with the June Order. While the Panel accepts that Mr. Casella may not have turned his mind to revising his website prior to the start of his suspension, the onus was nonetheless on him to ensure that he was not holding himself out in any

communication and on any platform as a chiroprapist. Mr. Casella acknowledged that he was given 30-days between the date of the June Order and the start of his suspension to take steps to ensure continuity of care for his patients. Presumably, that was also sufficient time for him to ensure that his website was accurate and not offside the June Order.

32. Further, the Member acknowledged that during his suspension he would attend at the Clinic to clean, perform janitorial services and on occasion sterilize instruments. The act of sterilizing instruments is governed by the Infection Control Standard of the Practice and is limited to members of the College or to members' staff, delegated to do so and who are overseen by a member. Members are ultimately responsible for training staff and monitoring the process. Here, the Member undertook this task while under suspension and therefore while not a member of this College. Section 13(1) of the *Health Professions Procedural Code* makes clear that a person whose certificate of registration is suspended is not a member. The Member undertook this task without transferring responsibility for the supervision or monitoring of the sterilization process to current member.
33. In the circumstances, the Panel concludes that the Member did engage in the practice of chiroprapy during his period of suspension. While he may not have treated any patients during the suspension, he did continue to hold himself out as a practicing chiroprapist on his Clinic's website and he did continue to sterilize instruments contrary to the June Order.
- (b) *Did the Member engage in conduct which could lead patients to believe that he was available to provide chiroprapy services during the period of suspension?*
34. As set out above, the Panel finds that the Clinic website, which continued to advertise the Member's services, including foot assessments, treatment and orthotic care, would lead patients (new and returning) to believe that he was available to provide chiroprapy services during his period of suspension. The Panel concludes that by continuing to hold the Member out as a chiroprapist on the website was offside of the purpose and intent of the June Order.
35. The Panel is not satisfied that the June Order required the Member to ensure that his staff instruct patients that he was absent from the Clinic and not available because he

was under suspension. However, it would have been prudent for the Member to have better ensured that his staff were delivering a fair and accurate message to his patients.

36. By not instructing Clinic staff to inform patients that the Member was suspended, patients could have concluded that the Member was available to engage in the practice of chiropody during his suspension.

(c) Was the Member's continued use of his Corporation offside the terms of the suspension as imposed in the June Order?

37. Throughout his period of suspension, the Member continued to run his Clinic operations through his Corporation. The Panel accepts that the Corporation was not named in the June Order and that there was no prohibition against the Member using his Corporation to issue invoices, pay staff and locums, and to maintain the Clinic's business operations. Further, the Panel accepts that there was no specific guidance offered by the College at the time to clarify for the Member how and to what extent he could continue to use his Corporation to maintain his Clinic.

38. However, the Panel finds that by continuing to pay himself a salary through the Corporation, the Member was offside the terms of the suspension as imposed in the June Order. The Member's salary, which was the same salary he received pre-suspension for almost the entire duration of the suspension, was derived from patient fees. By receiving a salary, derived from the practice of chiropody, the Member effectively defeated the intent of the June Order, which was to in part, ensure that he did not benefit from or engage in the practice.

(d) Did the Member remove himself from his chiropody practice, as required by the June Order?

39. The Panel finds that the Member did not remove himself from his chiropody practice, as required by the June Order. As set out above, Mr. Casella performed sterilization of instruments at the Clinic and took no steps to revise or correct his Clinic's website, such that he was held out as a practising chiropodist, available for appointments, during the entirety of his suspension.

40. Further, the Member's decision to continue to receive a salary from the revenue generated by the chiropody services performed at this Clinic is contrary to the intent of the June Order.

41. The Member was present for the hearing which resulted in the June Order. The hearing was a consent hearing, meaning that the Member admitted to the allegations before that panel and was presumably involved in the discussions and negotiations which ultimately led to the terms set out in the June Order. He knew or ought to have known that the June Order, including the lengthy period of suspension was meant to be onerous.
- (e) What information did the Member have available to him regarding what chiropody-related activities he could and could not engage in during his period of suspension?
42. The Panel accepts that the *Guideline for Suspension* was not in place at the time of the Member's suspension, however, if the Member had any questions about his suspension or the June Order, he had resources available to him.
43. First, the June Order itself sets out clearly that the Member was to be suspended for a period of seven months. It goes on further to describe the prohibitions on the Member's practice upon his return, including in relation to prescribing orthotics. Second, the Member was represented by counsel at the first hearing, which resulted in the June Order. Presumably, if he had any questions about the effect of the suspension, he could have asked his counsel. Third, as the Panel heard, Ms. Clarke and others at the College were available to answer specific questions for the Member and the Standards and Guidelines, including the *Discontinuation of Services Advisory* were available to the Member on the College's website.

Panel Findings on Professional Misconduct

44. Based on the factual findings described above, the Panel concludes that the College has satisfied its burden of proving, on a balance of probabilities, that the Member engaged in professional misconduct as set out at paragraphs 3(a)(ii), (iv), (v), and (vi) of the Statement of Allegations, found in the Notice of Hearing. The Panel finds that the College has not established that the Member engaged in professional misconduct as alleged at paragraphs 3(a)(i) and (iii) of the Statement of Allegations.
- (a) Allegation 3(a)(ii): Signing or issuing, in the Member's professional capacity, a document that contains a false or misleading statement
45. During the period of his suspension, the Member did not take any steps to correct or revise his Clinic's website. The information provided on the website was inaccurate and

misleading. Contrary to what was stated on the website, the Member was not a practising chiropodist and could not have assessed or treated patients during his period of suspension.

46. It was incumbent on the Member to ensure that during the period of his suspension that the public was not misled about his ability to offer chiropody services. The Member's failure to correct his website is a breach of his obligations under the Professional Misconduct Regulation.¹
- (b) *Allegation 3(a)(iv): Contravening the Chiropody Act, 1991, the Regulated Health Professions Act, 1991 or the regulations under either of those Acts and, in particular Section 10(1) and (2) of the Chiropody Act, 1991 and/or Section 85.14 of the Health Professions Procedural Code*
47. Section 10(1) and (2) of the *Chiropody Act, 1991*, restricts persons, other than members of the College from using the title chiropodist or podiatrist, and prohibits persons, other than members from holding themselves out as a person qualified to practice in Ontario as a chiropodist or podiatrist.
48. Having failed to correct his Clinic's website during the period of his suspension, Mr. Casella breached the prohibitions set out in section 10. He held himself out as a chiropodist, qualified to practice in Ontario, at a time when he was not a member of the College and was therefore not entitled to hold himself out as such.
49. Section 85.14 of the Code provides that while practising a health profession, a health profession corporation shall not do, or fail to do, something that would constitute professional misconduct if a member of the health profession did, or failed to do, it. Mr. Casella authorized the Corporation to pay him a salary, from funds derived from chiropody services, throughout the period of suspension. The Panel is satisfied that this action was improper, as it violated the intent and purpose of the June Order, it amounted to the Member engaging in chiropody services and as such, was in breach of section 85.14 of the Code. The Member ought not to have used his Corporation as a means to continue to personally benefit from the practice of chiropody while he was suspended from doing so.

¹ Professional Misconduct Regulation (O. Reg. 750/93) under the *Chiropody Act, 1991*

(c) *Allegation 3(a)(v): 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*

50. The Panel is satisfied that having regard to all the circumstances, Mr. Casella's conduct, while under suspension, would reasonably be regarded by members as dishonourable and unprofessional.

51. While Mr. Casella took some steps to ensure compliance with the June Order, he did not fully extricate himself from his Clinic; he failed to ensure that his Clinic website contained accurate information about his status; and he continued to receive a salary, from the provision of chiropody services throughout the period of his suspension. The Panel finds that the half-measures taken by Mr. Casella did not amount to full compliance with the June Order and left the impression that the Member did everything he could to minimize the negative impact the suspension would have on him personally. Mr. Casella's conduct is both dishonourable and unprofessional, as it suggests a disregard for his professional obligations and for the Discipline Committee process, which resulted in the June Order.

(d) *Allegation 3(a)(vi): Failing to Comply with an Order of the Discipline Committee*

52. For the reasons set out in the above section, the Panel finds that the Member failed to comply with the June Order, as required under the Professional Misconduct Regulation.

53. Mr. Casella continued to hold himself out as a chiropodist, capable of assessing and treating patients during his period of suspension, and he paid himself a salary, which was derived directly from the revenue generated by the provision of chiropody services. Further, he attended at his Clinic, not simply to perform janitorial services, but also to sterilize instruments. This behaviour was in direct conflict with his obligations to refrain from the practice of chiropody as set out in the June Order.

(e) *No Findings Under Allegations 3(a)(i) and (iii)*

54. The Panel was not satisfied on the evidence before it, that the Member failed to meet or contravened the Patient Relations Standard as alleged. There was no evidence that patients were not given the opportunity to provide informed consent for the treatment they received from the locums. Further, the Panel was not satisfied that the fact the

Member's Corporation and/or Clinic name appeared on invoices during the period of suspension amounted to a submission of a false or misleading account or charge for service. The invoices clearly set out where treatment was provided (the Clinic), on what date and by whom (a locum). In the circumstances, the Panel is not prepared to make findings against the Member under these two heads of misconduct.

Summary

55. The Panel finds that the Member engaged in professional misconduct as alleged in paragraphs 3(a)(ii), (iv), (v) and (vi) of the Statement of Allegations, set out in the Notice of Hearing. The Member did not properly and fully abide by the terms of the June Order.
56. The Panel will reconvene on a date to be fixed to hear the parties' submissions on penalty and costs.

I, Jim Daley, 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:



Jim Daley, Chair

Brooke Mitchell
Reshad Nazeer

JANUARY 13, 2023
Date

APPENDIX "A"

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

B E T W E E N:

COLLEGE OF CHIROPODISTS OF ONTARIO

(the "**College**")

- and -

ANGELO CASELLA

(the "**Member**")

PARTIAL AGREED STATEMENT OF FACTS

THE COLLEGE AND THE MEMBER agree that the following facts may be accepted as true and proven by the Discipline Committee in this matter:

A. Admissions

1. Having had the opportunity to obtain independent legal advice, Angelo Casella (the "**Member**") has reviewed and understands the Notice of Hearing dated February 22, 2022 (the "**Notice of Hearing**") and this Partial Agreed Statement of Facts ("**PASF**"). A copy of the Notice of Hearing is attached at Schedule 1 to this PASF.
2. This PASF constitutes a statement of facts agreed upon by the parties within the meaning of Rule 28.1 of the Rules of Procedure of the Discipline Committee of the College of Chiropractors of Ontario (the "**Rules**").

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3. The College and the Member voluntarily admit the truth of the facts as recounted in this PASF and the authenticity of the documents to which it refers.
4. The Member understands the nature of the allegations that have been made against him in the Notice of Hearing and that by voluntarily admitting these facts, he waives his right to require the College to prove these facts only. The College and the Member agree that because of the admissions in this PASF, neither the College nor the Member need to prove the facts set out in this PASF through a full hearing with witness' testimony or other evidence.
5. The College and the Member understand that, at a hearing into this matter, they may adduce additional evidence pertaining to some or all of the allegations contained in the Notice of Hearing that is consistent with the facts agreed to in this PASF. The College and the Member understand that, at a hearing into this matter, they are prohibited from adducing additional evidence that is inconsistent with the facts agreed to in this PASF.
6. The Member does not admit that the facts recounted in this PASF constitute professional misconduct as alleged in the Notice of Hearing or otherwise.
7. The Member understands that if the Discipline Committee accepts the admissions in this PASF it may make a finding of professional misconduct and then would consider the appropriate penalty under section 51(2) of the *Health Professions Procedural Code*, being Schedule 2 of the *Regulated Health Professions Act*, 1991, S.O. 1991, c. 18. The Member understands that the Discipline Committee

might not accept a submission as to penalty or costs, even where jointly proposed by the parties.

8. The parties consent that this PASF and accompanying Joint Documents Book may be filed with the Discipline Committee and provided to the hearing panel in advance of the hearing of this matter.

B. The Member's Background

9. The Member is a registered member with the College. The Member was first registered as a member of the College on or about June 11, 1990.
10. The Member operates a chiropody clinic at the West Mountain Footcare clinic, located in Hamilton, Ontario (the "**Clinic**"). He currently practises chiropody at the Clinic. The Member operates the Clinic through his health professional corporation, Casella Chiropody Professional Corporation (the "**Corporation**"). He was, and continues to be, the sole owner of the Clinic.

C. The Member's Suspension

11. On June 15, 2021, a panel of the Discipline Committee ordered, among other things, that the Member's certificate of registration be suspended for a period of seven months (the "**Suspension**"). The panel's order provided for the Suspension to take effect 30 days following the date of the Discipline Committee's decision. As a result, the Member's certificate of registration was suspended between July 15, 2021 and February 15, 2022 (the "**Suspension Period**"). A copy of the Discipline Committee's Decision and Reasons dated August 5, 2021 is included at **Tab 1** of

the Joint Document Book. A copy of the transcript of the penalty submissions and decision at the June 15, 2021 hearing is enclosed at **Tab 2**.

12. On June 15, 2021, the Manager, Professional Conduct and Hearings of the College of Chiropodists of Ontario Meghan Clarke ("**Ms. Clarke**") sent the Member an email enclosing instruction on paying costs in relation to the penalty order. A copy of this email is included at **Tab 3** of the Joint Documents Book.
13. On July 15, 2021, Ms. Clarke sent the Member an email advising him that the suspension of his certificate of registration had taken effect, would be posted on the College's public register, and would remain in place until February 15, 2022. Ms. Clarke also advised the Member that notification of his suspension would be sent to insurance companies. A copy of Ms. Clarke's email dated July 15, 2021 is included at **Tab 3.1** of the Joint Document Book.
14. Ms. Clarke sent the Member a letter confirming his suspension was completed on February 15, 2022 and providing guidance on the Restricted Period and the Supervisory Period under the penalty order. A copy of this letter is included at **Tab 4** of the Joint Document Book.
15. During the Suspension Period, there were no other direct communications between the College and the Member regarding his penalty order.

D. Conduct During the Suspension Period

i. Clinic Operations

16. Throughout the Suspension Period, the Clinic remained open to treat new and existing patients. During that time, it operated on a part-time schedule. The Clinic's operating hours were Mondays from 9:00 am to 1:00pm, Tuesdays from 1:00 pm to 5:00 pm, Thursdays from 8:30pm to 5:00 pm, and alternate Saturdays.
17. Three registered College Members worked at the Clinic during the Suspension Period: Robert Arpino (Reg# 960415), Barbara Sliwa (Reg# 120010), and John Infanti (Reg# 900291) (the "**Contract Practitioners**"). Mr. Arpino, Ms. Sliwa, and Mr. Infanti began treating Clinic patients on July 22, July 26, and July 29, 2021, respectively. Mr. Arpino and Ms. Sliwa continued to see patients until the end of the Suspension Period. Mr. Infanti ceased working at the Clinic in and around November 2021.
18. The Contract Practitioners were not involved in the management of the Clinic. The Contract Practitioners were aware that the Member's certificate of registration was suspended during the Suspension Period. The Member and the Contract Practitioners understood and expected that the Member would continue to treat all patients at the conclusion of the Suspension Period.
19. There is no evidence that the Member attended the Clinic during hours of operation throughout the Suspension Period or that he saw patients in a clinical setting during that time.

20. Throughout the Suspension Period, the Corporation processed the payments of patients treated by the Contract Practitioners. Those same patients received invoices issued by the Corporation. The resulting revenue was deposited into a bank account in the name of the Clinic and controlled by the Corporation. Copies of a sample of patient invoices issued by the Corporation during the period July 22 to October 19, 2021 are included at **Tab 5** of the Joint Document Book.
21. During the Suspension Period, the Clinic's practice relating to patient consent was as follows. Patients visiting the Clinic for the first time during the Suspension Period signed a "new patient" consent form. For existing patients, the Contract Practitioners relied upon the "new patient" consent form signed during their first visit to the Clinic, as well as their verbal consent to receive treatment during their appointments.

ii. Contract Practitioners' Remuneration

22. A verbal contract between each Contract Practitioner and the Corporation governed their relationship and services provided at the Clinic.
23. The Contract Practitioners were paid by cheque at the end of each calendar month. The Contract Practitioners were compensated per patient based on services rendered. Each Contract Practitioner received a percentage of patient-generated revenue as follows: Mr. Arpino 40%, Ms. Sliwa 40%, Mr. Infanti 50%. Copies of a sample of cheques signed by the Member and issued in the name of the Clinic to the Contract Practitioners are included at **Tab 6** of the Joint Document Book.

24. During the Suspension Period, the Corporation applied the patient-generated revenue not allocated to the Contract Practitioners to expenses such as salaries, utilities, mortgage fees, consumables, supplies, and accounting services.

iii. The Member's Activities

25. Prior to the start of the Suspension Period, the Member directed Clinic staff on how to operate the Clinic during the Suspension Period.
26. Throughout the Suspension Period, the Member attended at the Clinic for the purpose of cleaning, sterilizing instruments, and administrative tasks outside of business hours.
27. As an employee of the Corporation, the Member received a salary and accrued vacation throughout the Suspension Period. Copies of a sample of the Member's pay stubs from the period April 28, 2021 to January 5, 2022 are included at **Tab 7** of the Joint Document Book.
28. Both before and during the Suspension Period, the Member received a salary, paid by the Corporation, as follows:
- a. Prior to the Suspension Period the Member received a net bi-weekly salary of \$1,230.50.
 - b. From June 15 to October 22, 2021, the Member received a net bi-weekly salary of \$1,230.50.

- c. Beginning on October 23, 2021 until the end of the Suspension Period, the Member received a net bi-weekly salary of \$1,009.49.

iv. Patient Communications

- 29. During the Suspension Period, the practice of Clinic staff was to inform patients they would be seeing another chiropractor as the Member was not available until early 2022. There is no evidence that Clinic staff and the Contract Practitioners advised patients at the Clinic of the Member's Suspension. One of the Member's receptionists did not inform patients that the Member was suspended. Notice of the Member's suspension was publicly available on the College website at all times throughout the Suspension Period.
- 30. It was the practice of Clinic staff to remind patients during the booking process that they would be seeing a different practitioner.
- 31. The Contract Practitioners were not involved in how Clinic staff handled messaging to patients regarding the Suspension Period.
- 32. One Clinic staff member and one of the Contract Practitioners, respectively, advised patients on one or more occasions that the Member was "taking time off work", or words to that effect. The College's investigation did not yield evidence that the Member uttered these words or advised others to make these comments.
- 33. On one occasion during the Suspension Period, a Clinic staff member advised that the Contract Practitioners were "colleagues" of the Member who were volunteering to help the Clinic out on a part-time basis, so the Clinic did not have to close while

the Member was away, or words to that effect. The College's investigation did not yield evidence that the Member uttered these words or advised others to make these comments.

34. Clinic staff booked Clinic patients with the Contract Practitioners during the Suspension Period. Clinic staff provided patients with an appointment card that named the Clinic only. A copy of the appointment card provided to patients during the Suspension Period is included at **Tab 8** of the Joint Document Book.

v. Clinic Website Content

35. The Clinic website (the "**Website**") remained live during the Suspension Period, and the content did not change throughout that time. A copy of the Website, as captured by screen shots on December 6, 2021, is included at **Tab 9** of the Joint Document Book. The screen shots fairly and accurately depict the text of the Website as it appeared for the entirety of the Suspension Period.

36. E. Standards of Practice and Other Written Communications

37. From time to time, the College establishes Standards of Practice for Chiropodists and Podiatrists with a view to protecting the public (the "**Standards**"). The Standards codify the standards of a reasonably prudent chiropodist or podiatrist practising in the province of Ontario. The Standards must be adhered to by all College members. The College's Patient Relations Standard is cited in the allegations against the Member. A copy of the Patient Relations Standard is included at **Tab 10** of the Joint Document Book.

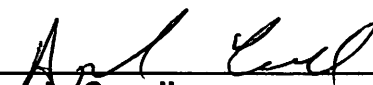
38. In addition to the Standards, from time to time, the College establishes or publishes policies, guidelines, advisories, and other communications for members of the profession. These documents provide members with direction and guidance on appropriate professional practice and the expectations of the College.
39. The College's Discontinuation of Services Advisory was approved by Council on October 23, 2020. It includes, among other things, advice to members on providing notice to patients and continuation of services for existing patients. A copy of the Discontinuation of Services Advisory is included at **Tab 11** of the Joint Document Book.
40. The College's Code of Ethics is referenced in the *Discontinuation of Services Advisory*. A copy of the College's Code of Ethics is included at **Tab 12** of the Joint Document Book.
41. The College did not have suspension guidelines in place at the time of the Member's suspension.
42. The College's Council approved a Guideline for Suspension on February 25, 2022, after the Member's suspension was completed. A copy of the Guideline for Suspension is included at **Tab 13** of the Joint Document Book.
43. Council approved this new Guideline for Suspension three days following the Member's referral to the Discipline Committee on February 22, 2022. The Guideline for Suspension had been recommended to Council by the College's Executive Committee. A copy of the Council meeting minutes dated February 25,

2022 and the Council Briefing note for said meeting are included at **Tabs 14** and **15** of the Joint Document Book. A copy of the Minutes of the Executive Committee Meeting dated December 15, 2021 is included at **Tab 16** of the Joint Document Book.

Date: December 5, 2022



Witness



Angelo Casella



Nicole Zwiers, Registrar/CEO
College of Chiropractors of Ontario

SCHEDULE 1**DISCIPLINE COMMITTEE OF
THE COLLEGE OF CHIROPODISTS OF ONTARIO****B E T W E E N:****COLLEGE OF CHIROPODISTS OF ONTARIO****- and -****ANGELO CASELLA****NOTICE OF HEARING**

THE INQUIRIES, COMPLAINTS AND REPORTS COMMITTEE of the College of Chiropodists of Ontario (the "**College**") has referred specified allegations against **Angelo Casella** (Registration #900286) 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 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 lawyer for the College in this matter:

Debra McKenna
WEIRFOULDS LLP
Barristers & Solicitors
4100-66 Wellington Street West
PO Box 35, TD Bank Tower
Toronto, ON M5K 1B7
t. (416) 947-5080
f. (416) 365-1876
e. dmckenna@weirfoulds.com

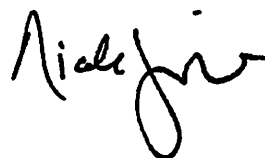
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The College intends to introduce as business records, under section 35 of the *Evidence Act*, any writings or records that were made in the usual and ordinary course of business. Without limiting the generality of the foregoing, the College intends to introduce as business records the patient and financial records related to the patient care that is the subject of the allegations.

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: February 22, 2022



Nicole Zwiers, Registrar and CAO
College of Chiropodists of Ontario
180 Dundas Street West
Toronto, ON M5G 1Z8

TO: Angelo Casella

STATEMENT OF ALLEGATIONS

1. On or about June 11, 1990, Angelo Casella was first registered as a member of the College.
2. On June 15, 2021, a hearing was held before a panel of the Discipline Committee at which Mr. Casella's certificate of registration was suspended for a period of seven months. The suspension was ordered to take effect and did take effect on July 15, 2021.
3. It is alleged that, during the period from about June 2021 to February 2022 (the "**Relevant Period**"), Mr. Casella engaged in conduct that constitutes professional misconduct pursuant to the following:
 - (a) Clause 51(1)(c) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991*, and as defined in one or more of the following paragraphs of section 1 of the Professional Misconduct Regulation (O. Reg. 750/93) under the *Chiropody Act, 1991*:
 - (i) paragraph 2 – failing to meet or contravening a standard of practice of the profession; specifically, the Patient Relations Standard;
 - (ii) paragraph 20 – signing or issuing, in the member's professional capacity, a document that contains a false or misleading statement;
 - (iii) paragraph 21 – submitting an account or charge for services that the member knows is false or misleading;
 - (iv) paragraph 30 – contravening the Act, the *Regulated Health Professions Act, 1991* or the regulations under either of those Acts and, in particular:

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- a. Section 10(1) of the *Chiropody Act, 1991*, SO 1991, c. 20;
 - b. Section 10(2) of *Chiropody Act, 1991*, SO 1991, c. 20; and/or
 - c. Section 85.14 of the *Health Professions Procedural Code*;
- (v) 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); and/or
- (vi) paragraph 36 – failing to comply with an order of the Complaints Committee, the Discipline Committee or the Fitness to Practise Committee.

PARTICULARS OF THE ALLEGATIONS

1. On or about June 11, 1990, Angelo Casella was first registered as a member of the College. On or about December 6, 2012, Mr. Casella incorporated Casella Chiropody Professional Corporation for the purpose of practising chiropody in Ontario.
2. On June 15, 2021, Mr. Casella was found to have engaged in professional misconduct by a panel of the Discipline Committee.
3. As a result of the findings of professional misconduct, the panel made an order, among other things, suspending Mr. Casella's certificate of registration with the College for a period of seven months, effective July 15, 2021.
4. At the time of the discipline hearing in June 2021, Mr. Casella was engaged in the practice of chiropody at the West Mountain Footcare Clinic, located in Hamilton, Ontario (the "**Clinic**"). Mr. Casella was, and continues to be, the sole owner of the Clinic.
5. On or about September 2021, the College received information that Mr. Casella was continuing to practise notwithstanding the suspension order. Based on that information, the College commenced an investigation under section 75(1)(a) of the *Health Professions Procedural Code*.
6. The results of the College's investigation revealed that, notwithstanding his suspension, Mr. Casella has continued to operate the Clinic. Among other things, Mr. Casella has been engaged in the following misconduct during the suspension period:
 - advertising his chiropody services on the Clinic website;
 - using the restricted title of chiropodist on the Clinic website;

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- holding himself out as a person who is qualified to practise in Ontario as a chiropodist;
- failing to inform patients that he was suspended and/or misleading patients in that regard;
- directing his staff to schedule patients to see other members of the College contracted by Mr. Casella to work at the Clinic;
- having his health profession corporation issue invoices or other documents for chiropody services provided by other members of the College working at the Clinic; and/or
- paying himself a bi-weekly salary through his health profession corporation during the suspension period from the revenues generated by his health profession corporation.

COLLEGE OF CHIROPODISTS OF ONTARIO**- and -****ANGELO CASELLA****DISCIPLINE COMMITTEE OF THE COLLEGE OF
CHIROPODISTS OF ONTARIO****NOTICE OF HEARING****WEIRFOULDS LLP**

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e. dmckenna@weirfoulds.comLawyers for the College of
Chiropractors of Ontario