

**INDISCIPLINE COMMITTEE OF
THE COLLEGE OF CHIROPODISTS OF ONTARIO**

B E T W E E N:

COLLEGE OF CHIROPODISTS OF ONTARIO

(the “**College**”)

- and -

ALAN MARK LUSTIG

(the “**Registrant**”)

NOTICE OF HEARING

THE INQUIRIES, COMPLAINTS AND REPORTS COMMITTEE of the College of Chiropractors of Ontario (the “**College**”) has referred specified allegations against you, **Alan Mark Lustig** (Registration #730848) to the Discipline Committee of the College. The allegations were referred to the Discipline Committee 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, on a date to be fixed by the Chair of the Discipline Committee, at the offices of the College of Chiropractors of Ontario at 180 Dundas Street West, Suite 1901, Toronto, ON M5G 1Z8 or electronically via Zoom or other electronic means, 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 DISCIPLINE 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 THESE 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
4100-66 Wellington Street West
PO Box 35, TD Bank Tower
Toronto, ON M5K 1B7
t. (416) 947-5080
e. dmckenna@weirfoulds.com

At the hearing, the College intends to introduce as business records, under section 35 and/or 52 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 records and financial records of the Registrant related to the patient care that is the subject matter of the allegations.

You must also make disclosure in accordance with section 42.1 of the *Health Professions Procedural Code*, which states:

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: December 20, 2023

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

TO: ALAN MARK LUSTIG

STATEMENT OF ALLEGATIONS

1. On or about July 1, 1973, Alan Mark Lustig (the “**Registrant**” and/or “**Mr. Lustig**”) was registered, in the podiatrist classification, as a member of the College.
2. At all times material to the allegations, Mr. Lustig was registered with the College.
3. It is alleged by the College that, during the period from approximately July 2021 to January 2022 (the “**Relevant Period**”), the Registrant 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 1 – contravening a term, condition or limitation imposed on the member’s certificate of registration;
 - (ii) paragraph 30 – contravening the Act, the *Regulated Health Professions Act, 1991* or the regulations under either of those Acts;
 - (iii) 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;

- (iv) paragraph 36 – failing to comply with an order of the Complaints Committee, the Discipline Committee or the Fitness to Practise Committee; and/or

- (v) paragraph 37 – failing to carry out a requirement of the Complaints Committee, the Discipline Committee or the Fitness to Practise Committee or breaching an undertaking given to one of those committees or to the Registrar.

PARTICULARS OF THE ALLEGATIONS

1. On or about July 1, 1973, Alan Mark Lustig (the “**Registrant**” and/or “**Mr. Lustig**”) was registered, in the podiatrist classification, as a member of the College.
2. On February 13, 2020, February 16, 2021, and April 9, 2021, the College issued Notices of Hearing setting out allegations of professional misconduct against Mr. Lustig.
3. Among other concerns, the allegations in the former discipline proceedings against Mr. Lustig included multiple breaches of the College’s standards, inappropriate business practices, practicing while in a conflict of interest, and misuse of the restricted title of “Dr”, contrary to section 33(1) of the *Regulated Health Professions Act, 1991*.
4. On July 17, 2021, Mr. Lustig signed and provided an undertaking to the College (the “**Undertaking**”) wherein he agreed to permanently resign his registration with the College, cease to practise as a podiatrist, and never re-apply to the College,
5. In exchange for the Undertaking, the College agreed to bring a motion and seek an order from the Discipline Committee staying the outstanding discipline proceedings against Mr. Lustig.

6. The hearing of the motion proceeded before a panel of the Discipline Committee on July 26, 2021, at which time the panel granted the order and stayed the outstanding discipline proceedings against Mr. Lustig (the “**Discipline Decision**”).
7. However, notwithstanding the Undertaking and the Discipline Decision on July 26, 2021, Mr. Lustig did not cease practising – notwithstanding that Mr. Lustig had led the College to believe that he would do so.
8. Contrary to his obligations to the College, Mr Lustig continued to practise between the period from about July 2021 to January 2022. In particular, Mr. Lustig continued, uninterrupted, in his role as the chief medical director of Orthotic Holdings Inc. (“**OHI**”) and/or The Orthotics Group (“**TOG**”) – a position that Mr. Lustig held prior to signing the Undertaking.
9. In the period after July 17, 2021, Mr. Lustig breached the Undertaking by continuing to refer to himself as a “podiatrist” in his role at OHI and/or TOG, and holding himself out to the public as being eligible to practise chiropody. This included, among other things, conducting seminars about chiropody and/or podiatry on behalf of TOG and/or OHI.
10. Contrary to the Undertaking, Mr. Lustig also saw patients and/or provided “podiatry recommendations” as to whether a patient should be prescribed orthotic treatment, including communicating a diagnosis with respect to those patients.

11. In addition to using the restricted title of podiatrist, Mr. Lustig also continued to use the restricted title of “Dr”, which constituted a violation of section 33 of the *Regulated Health Professions Act, 1991*. This was the very subject matter of one of the discipline proceedings that were stayed in July 2021 as a result of the Undertaking signed by Mr. Lustig.
12. Such conduct by Mr. Lustig, as outlined above, violated both the Undertaking and the Discipline Decision, and constituted professional misconduct by the Registrant.
13. Additional information and disclosure about the allegations against the Registrant will be provided in advance of the hearing.

COLLEGE OF CHIROPODISTS OF ONTARIO
(the “College”)

- and -

ALAN MARK LUSTIG
(the “Registrant”)

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

NOTICE OF HEARING

WEIRFOULDS LLP

Barristers & Solicitors
Suite 4100-66 Wellington Street West
PO Box 35, TD Bank Tower
Toronto, ON M5K1B7

Debra McKenna

t. (416) 947-5080

e. dmckenna@weirfoulds.com

Lawyers for the College of
Chiropodists of Ontario
