

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

B E T W E E N:

COLLEGE OF CHIROPODISTS OF ONTARIO

(the “**College**”)

- and -

CHARLES ALBERT MACMULL

(the “**Member**”)

NOTICE OF HEARING

THE INQUIRIES, COMPLAINTS AND REPORTS COMMITTEE of the College of Chiropractors of Ontario (the “**College**”) has referred specified allegations against **Charles Albert MacMull** (Registration #980459) 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:

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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 14, 2022



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

TO: Charles Albert MacMull

STATEMENT OF ALLEGATIONS

1. Charles Albert MacMull (“**Mr. MacMull**” or the “**Member**”) was at all material times a registered member of the College.

2. It is alleged that, during the period from approximately December 2019 to June 2021 (the “**Relevant Period**”), the Member 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) and, in particular, the College’s standards pertaining to:
 - a. Assessment and Management;
 - b. Patient Relations;
 - c. Records; and/or
 - d. Prescription Custom Foot Orthoses;
 - (ii) paragraph 10 – practising the profession while the member is in a conflict of interest;
 - (iii) 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;

- (iv) paragraph 17 – failing to keep records as required by the regulations;
- (v) paragraph 20 – signing or issuing, in the member’s professional capacity, a document that contains a false or misleading statement;
- (vi) paragraph 21 – submitting an account or charge for services that the member knows is false or misleading;
- (vii) paragraph 22 – charging a fee that is excessive in relation to the services or devices charged for;
- (viii) paragraph 28 – practising in the employment of or in association with a commercial business;
- (ix) paragraph 30 – contravening the *Chiropody Act, 1991*, the *Regulated Health Professions Act, 1991*, or the regulations under either of those Acts: specifically, Ontario Regulation 203/94 under the *Chiropody Act, 1991*, and, in particular, Advertising (Part II) and/or Records (Part III); and/or
- (x) 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

A. Overview

1. At all times material to the allegations, the Member was registered with the College to practise chiropody in Ontario. He was first registered with the College on or about July 15, 1998.
2. According to the Member, he is a “travelling chiropodist”. During the Relevant Period, the Member practised at numerous locations in and around the Toronto area, including Don Mills Orthotics (“**DMO**”), located at 1390 Don Mills Road, Unit 303, in North York, Ontario.
3. The Member was “well aware” that DMO was “principally a high end shoe store”.

B. Manulife Complaint

4. On or about June 17, 2021, the College received a complaint from Manulife about the Member (the “**Complaint**”).
5. As described in the Complaint, Manulife identified several flags with respect to DMO. In particular, concerns were raised about the possibility of benefits abuse and that DMO was essentially engaged in retail shoe sales.
6. As a result, a Manulife investigator (using the pseudonym, Lam Tran) attended at the Clinic in a covert capacity on March 31, 2021, and met with O.W – the owner of DMO. During their discussion, Mr. Tran made it clear to O.W. that he did not need orthotics, but he had \$500.00 in benefits coverage and wanted to know if O.W. could do any kind of deal.
7. O.W. advised that he would need to dispense orthotics to Mr. Tran and also have Mr. Tran be seen by a “foot doctor”, but agreed that he could also include a pair

of shoes. Mr. Tran agreed to be assessed and an appointment was booked for April 7, 2021.

8. On April 7, 2021, Mr. Tran returned to DMO for his scheduled appointment. Upon arrival, Mr. Tran was asked a number of preliminary questions by O.W. and O.W. also scanned the investigator's feet.
9. Once the Member arrived at DMO, the Member directed Mr. Tran to the stock area at the back of the store. During the examination by the Member, Mr. Tran was asked to confirm some patient information and history, and then the Member said words to the effect, "tell me where the pain is", to which Mr. Tran said, "it's not much".
10. At that point, the Member further stated words to the effect of:

Just tell me whatever it is, because I need to have it for the insurance. If you don't have a pain, then they don't pay you. Even a small pain, you just tell me.
11. At that point, Mr. Tran indicated that he had pain in his heel and also confirmed, when prompted by the Member, that he had pain in the morning when putting his foot down – to which the Member replied, "excellent". Following these questions, the Member conducted a very brief biomechanical and gait analysis, which lasted mere seconds before the Member indicated to Mr. Tran that he was done.
12. After the assessment, the investigator attended at the front desk and paid O.W. \$100.00 for the chiropody assessment and \$500.00 for the orthotics.
13. After completing the transaction, Mr. Tran selected a pair of Ecco shoes, which O.W. retrieved from the stockroom. After trying on the shoes and confirming they fit, Mr. Tran left DMO with the Ecco shoes.

14. On April 22, 2021, Mr. Tran returned to DMO after receiving a text that his orthotics were ready for pickup. Upon arrival at DMO, O.W. obtained the orthotics from the stockroom and dispensed the orthotics to Mr. Tran.
15. For the period from about December 2019 to June 2021, Manulife identified approximately 250 claims for chiropody services provide by the Member at DMO. In a review of 65 randomly-selected files for that period, it was determined by Manulife that the Member had prescribed orthotics to all but two of the claimants, as outlined in Schedule "A".

C. Summary

16. In prescribing the orthotics to Mr. Tran, the Member did not conduct and/or document in his patient records an adequate assessment in accordance with the College's standards. In particular, the Member failed:
 - (a) to obtain an adequate patient history;
 - (b) to conduct an adequate biomechanical assessment and/or gait analysis;
 - (c) to obtain and/or document informed consent, including discussing with his patient the benefits and risks of various treatment options;
 - (d) to determine if a different treatment was appropriate in the circumstances before prescribing orthotics;
 - (e) to document and discuss with the patient the treatment plan;
 - (f) to evaluate the scans to ensure they were accurate and matched the contours of the patient's foot;

- (g) to fit and dispense the orthotics to his patient and ensure that the devices matched the prescription and matched the contours of the patient's foot; and/or
 - (h) to provide appropriate follow-up care to his patient.
- 17. The Member also failed to maintain patient records in accordance with the regulations and the College's standards.
- 18. In prescribing orthotics to his patient, the Member signed, issued and/or submitted documents that were false and/or misleading in support of a benefits claim for orthotics that were not medically necessary.
- 19. In prescribing orthotics to his patient, the Member participated and/or was complicit in the practice of providing incentives to patients (in the form of free shoes) who purchased orthotics from DMO – a business practice that is contrary to the College's advertising regulations and/or the College's standards.
- 20. The records created, issued and/or signed by the Member and provided to his patient to support the benefits claims do not disclose that the patient received free shoes with the purchase of their orthotics, which were supplied by DMO.

SCHEDULE "A" – LIST OF PATIENTS

Date	Patient	Charge
03/14/2020	A.H	\$500.00
08/31/2019	A.H.	\$500.00
12/29/2019	H.H.	\$500.00
08/31/2019	H.H.	\$500.00
12/01/2019	A.G.	\$500.00
12/05/2019	H.W.	\$100.00
12/01/2019	J.G.	\$500.00
12/01/2019	Q.Z.	\$100.00
12/01/2019	X.W.	\$500.00
12/01/2019	S.W.	\$600.00
12/03/2019	Z.G.	\$860.00
12/06/2019	G.C.	\$500.00
12/06/2019	H.Z.	\$500.00
12/07/2019	K.L.	\$500.00
12/09/2019	J.Y.	\$500.00
12/09/2019	S.Z.	\$500.00
12/10/2019	M.M.	\$500.00
12/13/2019	E.L.	\$1,000.00
12/14/2019	F.H.	\$1,000.00
12/14/2019	P.J.	\$500.00
12/14/2019	X.X.	\$500.00
12/17/2019	D.R.	\$500.00

Date	Patient	Charge
12/17/2019	D.S.	\$1,135.00
12/24/2019	E.L.	\$2,080.00
01/12/2020	Y.T.	\$500.00
12/25/2019	Y.W.	\$500.00
12/27/2019	Y.H.	\$680.00
12/29/2019	F.G.	\$500.00
08/31/2019	F.G.	\$500.00
12/29/2019	H.N.	\$500.00
12/29/2019	K.N.	\$1,000.00
12/29/2019	G.N.	\$1,000.00
12/31/2019	P.Z.	\$500.00
12/31/2019	J.L.	\$500.00
12/31/2019	Y.L.	\$500.00
01/03/2020	T.L.	\$1,000.00
01/11/2020	S.L.	\$500.00
01/13/2020	A.B.	\$1,000.00
01/14/2020	E.L.	\$1,000.00
01/14/2020	Z.F.	\$500.00
01/17/2020	J.Z.	\$500.00
01/17/2020	W.Z.	\$500.00
02/01/2020	W.B.	\$1,000.00
02/20/2020	L.L.	\$500.00
07/23/2020	X.L.	\$1,000.00
08/21/2020	Y.N.	\$500.00

Date	Patient	Charge
08/21/2020	Z.G.	\$500.00
08/31/2020	N.L.	\$500.00
08/31/2020	Q.L.	\$600.00
08/27/2020	O.A.	\$1,000.00
09/11/2020	J.L.	\$650.00
09/11/2020	T.L.	\$650.00
09/19/2020	H.C.	\$1,100.00
11/14/2020	H.C.	\$500.00
12/10/2020	A.L.	\$500.00
12/10/2020	K.L.	\$500.00
12/24/2020	Z.J.	\$500.00
03/06/2021	M.Q.	\$500.00
03/06/2021	W.Z.	\$500.00
03/11/2021	X.L.	\$1,000.00
04/15/2021	H.W.	\$500.00
04/15/2021	J.H.	\$500.00
05/03/2021	N.B.	\$500.00
05/13/2021	Z.W.	\$500.00
05/25/2021	J.L.	\$1,000.00
05/25/2021	J.L.	\$500.00
05/25/2021	J.L.	\$500.00
05/31/2021	E.L.	\$1,000.00
05/31/2021	T.L.	\$1,000.00
06/13/2021	L.Y.	\$500.00

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