

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 -

ALAN MOSES

PANEL MEMBERS:

Peter Ferguson	Chair, Professional Member
Patrick Rainville	Professional Member
Reshad Mazeer	Public Member

**COUNSEL FOR THE
COLLEGE:**

Debra McKenna

**REPRESENTATIVE FOR THE
MEMBER:**

Self-Represented

**INDEPENDENT LEGAL
COUNSEL:**

Luisa Ritacca

Hearing Date:

August 18, 2022

Decision Date:

December 14, 2022

Release of Written Reasons:

December 17, 2022

DECISION AND REASONS

1. This matter came on for hearing before a panel of the Discipline Committee on August 18, 2022. With the consent of the parties, this matter was heard electronically.
2. At the outset of the hearing, the parties advised the panel that an agreement had been reached with respect to the Member's liability and with respect to a proposed penalty. The parties advised that the issue of costs had not been resolved and would have to be dealt with in writing, at the conclusion of the hearing.
3. The panel received the parties' submissions on costs in late November and early December 2022.
4. The reasons that following address both the issues dealt with at the hearing on August 18, 2022 and the issue of costs.

The Allegations

5. The allegations made against the Member were set out in a Notice of Hearing, dated April 3, 2020. The Notice of Hearing can be found at Tab 1 of Exhibit 1 and the allegations are as follows:
 1. At all material times, Alan Moses ("**Mr. Moses**" or "**Member**") was a registered member of the College of Chiropodists of Ontario (the "**College**").
 2. During the period from approximately February 2018 to April 2019 (the "**Relevant Period**"), the Member engaged in professional misconduct within the meaning of the following paragraphs of section 1 of the *Professional Misconduct Regulation*, O. Reg. 750/93 under the *Chiropody Act, 1991*:
 - a. paragraph 2 (failing to meet or contravening a standard of practice of the profession), and, in particular, the College's standards pertaining to:
 - i. Patient Relations;
 - ii. Assessment and Management;
 - iii. Records; and/or
 - iv. Prescription Custom Foot Orthoses;
 - b. paragraph 10 (practising the profession while the member is in a conflict of interest);
 - c. paragraph 17 (failing to keep records as required by the regulations);
 - d. paragraph 18 (falsifying a record relating to the member's practice); [*withdrawn*]
 - e. paragraph 20 (signing or issuing, in the member's professional capacity, a document that contains a false or misleading statement);
 - f. paragraph 21 (submitting an account or charge for services that the member knows is false or misleading);
 - g. paragraph 22 (charging a fee that is excessive in relation to the services or devices charged for);
 - h. paragraph 30 (contravening the *Chiropody Act, 1991*, the *Regulated Health Professions Act, 1991*, or the regulations under either of those Acts), and in particular:
 - i. Ontario Regulation 750/93 (Professional Misconduct) under the *Chiropody Act, 1991*, as specified in this Notice of Hearing;
 - ii. Ontario Regulation 203/94 (General); and/or

- iii. Section 51(1)(c) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991*; and/or
- i. 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. Background

1. At all material times the Member was a chiropodist registered with the College to practise chiropody in the Province of Ontario.
2. During the Relevant Period from approximately February 2018 to April 2019, the Member was engaged in the practice of chiropody at the Ortho Centre located at 221 Glendale Avenue, Unit 111, in St. Catharines, Ontario (the “**Clinic**”).
3. The Member was compensated by the Clinic in the amount of approximately \$100.00 per pair of orthotics.
4. In addition to practising at the Clinic, the Member also practised chiropody during the Relevant Period at other locations, including:
 - (a) Van Rehab Physiotherapy – 150 West Drive, Unit 100, in Brampton
 - (b) Van Rehab Physiotherapy – 8897 The Gore Road, Unit 26, in Brampton
 - (c) Centrepoint Clinic – 6464 Yonge Street, Unit 161A, in Toronto

B. The Complaint

5. On or about April 2, 2019, the College received a complaint from a representative from BioPed Footcare (“**PH**”) with respect to the Member (the “**Complaint**”).
6. In the Complaint, PH advised that a representative from Moyer Diebel (“**SC**”) had expressed concerns to her about the Member and/or his business practices.
7. Moyer Diebel is a company located in St. Catharines, Ontario. Moyer Diebel provides a health benefit plan to its employees through its insurer, Equitable Life Insurance Company of Canada (“**Equitable Life**”).
8. In particular, SC raised concerns about the volume of orthotics that the Member had prescribed to the employees at Moyer Diebel, for which benefit claims were submitted to Equitable Life.
9. In addition to the volume of orthotics, SC also raised concerns about information that Moyer Diebel employees had been offered and/or received shoes and/or other incentives from the Clinic and/or the Member with the purchase of their orthotics.

C. Equitable Life Investigation

10. Prior to the filing of the Complaint, Equitable Life conducted an investigation in or about August to October 2018.
11. During its investigation, Equitable Life determined the following:
 - Multiple family members (if not all family members) submits claims for orthotics.
 - All family members submitted claims from the Clinic.
 - All family members were seen by the Member who prescribed the orthotics.
 - All family members had the same medical condition – plantar fasciitis.
 - All family members submitted claims for three pairs of orthotic each.

12. Upon completion of its investigation, the Member and the Clinic were delisted by Equitable Life on or about October 2, 2018.
13. The Member was delisted by Equitable Life on the basis that he provided and/or offered a fraudulent prescription and/or provided orthotics without a valid medical condition.
14. During the course its investigation, an investigator from Equitable Life (“JM”) contacted the Clinic.
15. During a covert call to the Clinic, JM (using the pseudonym Jay Lang) spoke to the Clinic owner, Mohammed. JM advised Mohammed that he was an employee at Moyer Diebel and that he wanted to obtain orthotics and running shoes.
16. During the conversation between JM and Mohammed, Mohammed stated the following, or words to that effect:

JM: Only question. The guys from work said don’t worry about it; it’s not a big deal. Alan will help you out. I don’t really need the orthotics.

M: Just as formality, whether you want them or not, you are just gonna be given them It just need to be done for the insurance to cover things. That is something we are going to do. You are also going to get shoes and all of the other stuff. You just need that done for them to pay.

JM: Sounds good. He will be able to do the prescription or what?

M. Ya we will take care all of that.

17. On or about September 25, 2018, JM attended the Clinic, at which time he spoke to Mohammed again and Mohammed confirmed that the Member would do his assessment.
18. During his assessment, JM told the Member that he was, “basically, just coming to get the running shoes”, to which the Member laughed and stated the following, or words to that effect:
 - AM:** Ok that’s what I like, straight forward.
 - JM:** No beating around the bush.
 - AM:** In order to get running shoes, I just have to do this, but I’ll do it fast.

[*withdrawn*]

19. The Member then assessed the investigator’s feet, which took approximately four minutes. During the assessment, the Member advised the investigator that his feet were “normal”.
20. At the end of the assessment, the Member advised JM to go see Mohammed and he would arrange for the running shoes. [*withdrawn*]
21. During the Relevant Period, the Member was aware of the Clinic’s practice to offer and/or provide free shoes and other incentives to patients with the purchase of orthotics. [*withdrawn*]

D. College’s Investigation

22. Following its delisting by Equitable Life, the Clinic closed and the Member ceased to practice at the Clinic in or about December 2018.
23. Since his departure from the Clinic, the Member does not have the records for the patients he treated at the Clinic, nor does he know where his patient records are.

24. As summarized in Appendix “A” attached, the orthotics that were prescribed by the Member ranged in price from \$500.00 to \$650.00 a pair.
25. According the Member’s prescriptions, all of the patients identified in Appendix “A” were prescribed orthotics to treat plantar fasciitis.
26. All of the Member’s patients identified in Appendix “A” sought reimbursement from Equitable Life for three pairs of orthotics each.
27. In addition, the patients identified in Schedule “A” also sought reimbursement for a chiropody fee in the range of \$90.00 to \$100.00. Many of the patients also sought reimbursement from Equitable Life for an “assessment follow-up” fee”, which corresponds with the dispensing date for the orthotics.
28. Several of the orthotics prescribed by the Member, as set out in Appendix “A”, were purportedly manufactured by the Ortho Centre In-House Lab – a laboratory operated by the Clinic.
29. In prescribing orthotics, it was the Member’s practice to obtain an impression of his patient’s feet with the use of a foam box.
30. As indicated on the “Proof of Manufacture” for the orthotics prescribed by the Member, some of the patients identified in Appendix “A” have an identical order number for their orthotics.
31. in addition to having the same manufacturing information, the patients (who are from different families) also have the same patient number, as follows:

Patient	Patient	Patient #	Order #
C.B	L.F	SC15133	100308752
B.B	J.F	SC15134	100308753

Appendix "A" – Prescriptions

Patient Name	Date of Birth	Assessment Date	Diagnosis	Prescription	Cost	Order No.
M.L.	01/17/05	02/15/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,500.00	100322487
E.L.	04/12/01	02/15/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,500.00	100322484
R.L.	07/30/74	02/15/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,500.00	100322485
D.L.	04/07/75	02/15/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,500.00	100322486
S.H.	11/25/89	03/23/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100322525
A.H.	07/28/92	01/17/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100350999
L.K.	09/04/82	04/23/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100322643
H.P.	01/20/82	04/24/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	10322644
M.C.	09/16/79	07/24/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100395740
B.D.	07/12/06	07/7/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100401527

Patient Name	Date of Birth	Assessment Date	Diagnosis	Prescription	Cost	Order No.
S.D	10/11/04	07/21/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100395748
S.D	12/11/79	07/21/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100395752
J.F	04/16/73	07/11/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100308753
J.F	07/14/11	07/11/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	Not provided
Y.F	01/23/75	07/11/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100308750
L.F	07/14/11	07/11/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100308752
A.F	09/04/06	07/11/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	Not provide
G.O	03/11/04	08/01/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100398766
C.S	10/23/80	08/01/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100398762
S.S	0/28/75	08/01/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100399442
D.S	03/26/09	08/01/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100399443
L.S	07/11/11	08/01/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100398758

Patient Name	Date of Birth	Assessment Date	Diagnosis	Prescription	Cost	Order No.
R.B	08/09/69	08/13/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100308754
B.B	08/15/70	08/13/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100308753
C.B	01/30/01	08/13/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100308752
J.N	01/11/72	08/13/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100401577
T.N.	01/29/73	08/13/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100401575
J.N.	11/20/03	08/13/2018	Plantar Fasciitis	3 pairs of orthotics	\$1,950.00	100402695

Member's Plea

6. The Member admitted that he engaged in professional misconduct as described in the Notice of Hearing, as set out above.
7. The Panel conducted an oral plea inquiry and was satisfied that the Member's admissions were voluntary, informed, and unequivocal.

Agreed Statement of Facts

8. The evidence at the hearing proceeded by way of agreement. The parties tendered an Agreed Statement of Facts which can be found at Tab 2 of Exhibit 1. The material portions of the Agreed Statement of facts provide as follows:

A. Background

1. At all material times, the Member was registered with the College to practise chiropody in Ontario. The Member was first registered as a chiropodist on July 18, 1983
2. The Member has no prior discipline history.
3. During the Relevant Period from approximately February 2018 to April 2019, the Member was engaged in the practice of chiropody at the Ortho Centre, which was located at 221 Glendale Avenue, Unit 111, in St. Catharines, Ontario (the "Clinic").
4. The Member was compensated by the Clinic in the amount of \$100.00 per pair of orthotics.

B. The Complaint

5. On or about April 2, 2019, the College received a complaint with respect to the Member (the "Complaint").
6. The Complaint expressed concerns about the business practices at the Clinic.
7. In particular, the Complaint raised concerns about the volume of orthotics that had prescribed to the employees of Moyer Diebel, for which benefit claims had been submitted to Equitable Life.

C. Equitable Life Investigation

8. Prior to the filing of the Complaint, Equitable Life conducted an investigation in or about August to October 2018.
9. The outcome of the investigation by Equitable Life raised concerns, including:
 - Multiple family members had submitted claims for orthotics.
 - All family members submitted claims from the Clinic.
 - The claims documents identified the Member as prescribing the orthotics.
 - All family members had been diagnosed with the same medical condition – plantar fasciitis.
 - Each family members had submitted claims for three pairs of orthotic (the maximum allowable under the insurance plan).
 - Free shoes had been offered with the purchase of orthotics

10. Attached as Schedule “A” is a list of the plan members whose claims were the subject of Equitable Life’s investigation.
11. Upon completion of its investigation, the Clinic and the Member were delisted by Equitable Life on October 2, 2018.

D. College’s Investigation

12. Following its delisting, the Member ceased to practice at the Clinic in or about December 2018. The Clinic was also subsequently closed.
13. Since his departure from the Clinic, the Member does not have the records for the patients he treated at the Clinic (including the patients listed in Schedule “A”), nor does he know where his patient records are.
14. The Member acknowledges that he failed to keep and maintain proper records as required by Ontario Regulation 203/94 and the College’s standards, which are set out below.
15. If the Member were to testify at the hearing it would be his evidence that he had no knowledge that the Clinic was providing incentives to patients.
16. Notwithstanding, the Member acknowledges that such incentives are prohibited and contrary to the regulations and the College’s standards. As a member of the College, the Member acknowledges that it was his professional responsibility to know what the billing and advertising practices were at the Clinic and to abide by the College’s standards.
17. The Member further acknowledges that willful blindness is not a defence to misconduct. Had the Member fulfilled his professional responsibilities, he ought to have known what was occurring at the Clinic and taken steps to ensure that inappropriate practices did not occur at the Clinic.
18. The following written standards of the College are the standards of practice of the profession within the meaning of paragraph 2 of section 1 of the *Professional Misconduct Regulation*, O. Reg. 750/93:
 - i. Patient Relations;
 - ii. Assessment and Management;
 - iii. Records; and
 - iv. Prescription Custom Foot Orthoses;
19. Based on the facts set out in paragraphs 1 to 18 above, the Member admits that he engaged in professional misconduct within the meaning of the following paragraphs of section 1 of the *Professional Misconduct Regulation*, O. Reg. 750/93:
 - a. paragraph 2 – failing to meet or contravening a standard of practice of the profession, and, in particular, the College’s standards pertaining to:
 - i. Patient Relations;
 - ii. Assessment and Management;
 - iii. Records; and
 - iv. Prescription Custom Foot Orthoses;
 - b. paragraph 10 – practising the profession while the member is in a conflict of interest;
 - c. paragraph 17 – failing to keep records as required by the regulations;
 - d. paragraph 22 – charging a fee that is excessive in relation to the services or devices charged for;

- e. paragraph 30 – contravening the *Chiroprody Act, 1991*, the *Regulated Health Professions Act, 1991*, or the regulations under either of those Acts, and in particular:
 - i. Ontario Regulation 750/93 (Professional Misconduct) under the *Chiroprody Act, 1991*, as specified in this Notice of Hearing;
 - ii. Ontario Regulation 203/94 (General);
 - iii. Section 51(1)(c) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991*;
- f. 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.

G. Acknowledgements

- 20. The Member understands the nature of the allegations that have been made against him and that, by voluntarily admitting these facts, he waives his right to require the College to otherwise prove the allegations.
- 21. The Member understands that the panel of the Discipline Committee can accept that the facts herein constitute professional misconduct and, in particular, can accept his admissions that they constitute professional misconduct.
- 22. The Member understands that the panel of the Discipline Committee can make orders as a result of a finding of professional misconduct, as described in the Notice of Hearing. The Member understands that if the panel makes a finding or findings of professional misconduct against him, the panel's decision and its reasons, and/or a summary of its reasons, including the facts contained herein, and the Member's name will be published, including but not limited to, in the College's member publications, in the College's register, on the College's website, and/or on CanLII (the website operated by the Canadian Legal Information Institute).
- 23. The Member acknowledges that he has had the opportunity to obtain independent legal advice. He further acknowledges that he is entering into this Agreed Statement of Facts freely and voluntarily, without compulsion or duress.

Decision and Reasons

- 9. Based on the Member's admissions as set out in the Agreed Statement of Facts, the panel was satisfied that the Member engaged in professional misconduct as alleged.
- 10. While the Member was not the owner of the Clinic and as such may not have known the nature of the misconduct being undertaken by the owner and staff, as a member of a regulated profession, the Member had an obligation to ensure that the billing and advertising practices of the Clinic were in keeping with the College's standards. Further, the Member clearly failed to ensure that adequate records were taken and maintained for his patients.
- 11. Finally, while the Member said that if he were to testify, he would have advised that he had no idea of the incentive program being offered by the Clinic. Again, as the regulated

professional, the Member ought to have ensured that the Clinic was not engaged in such practice, particularly with regard to his patients.

Joint Submission on Penalty and Costs

12. The Panel received and considered a Joint Submission on Penalty and Costs from the parties (the “**Joint Submission**”) which sought the following:
1. An oral reprimand;
 2. An order suspending the Member’s certification of registration for a period of seven (7) months,¹ two (2) months of which will be remitted upon the Member completing the PROBE ethics course and the University of Toronto records course as outlined in paragraph 3(a) below;
 3. An order directing the Registrar to impose terms, conditions, and limitations on the Member’s certificate of registration requiring the following:
 - (a) Prior to returning to practice, the Member shall complete both the PROBE ethics and the University of Toronto records course at his own expense;
 - (b) Upon returning to practice after his suspension, the Member is prohibited from imaging, casting, prescribing, constructing, fitting, dispensing and/or ordering the fabrication of orthotics for a period of six (6) months (the “**Restricted Period**”). The Member is additionally not entitled to assign these duties to anyone else in his clinic, regardless of whether he receives a fee, during the Restricted Period, but shall refer such duties to another member of the College in good standing at another clinic not affiliated with the Member’s clinic.
 - (c) At his own expense, the Member will receive supervision of his chiropody practice with a supervisor approved by the Registrar for a period of one (1) year from the date on which the Member returns to practise from the suspension. The terms of the supervision are as follows:
 - The supervisor shall visit with the Member in person on at least four (4) occasions – twice in the first six months and twice in the last six months;
 - The visits with the supervisor will be unannounced;
 - The supervisor shall determine the length of each visit;
 - In conducting the supervision, the supervisor shall discuss ethics, practice management, record-keeping and compliance with the College’s standards with the Member;

¹ During the period of suspension, the Member is not permitted to practise chiropody. For the sake of clarity, this includes, among other things, the Member is not permitted to use the restricted title of chiropodist, or hold himself out as being able to practise, or hold himself out as a member of the College. The Member is not permitted to invoice or earn any income from the practice of chiropody (directly or through a health profession corporation) or be present at the Member’s primary practice location or any secondary practice location or attend at a practice setting where chiropody patients are in attendance, to be involved in or participate in any of the chiropody care to be provided to chiropody patients.

- The supervisor shall prepare a report to the Registrar after the second (2) visit and after the fourth (4) visit;
- The Member shall seek consent from his patients to share personal health information with his supervisor in order to allow the supervisor to review client files and engage in review;
- The Member shall provide the supervisor with the Discipline Committee's decision and then provide written confirmation to the Registrar, signed by the supervisor, that the supervisor has received and reviewed the final decision;

(d) In the event that the Member obtains employment to provide chiropody services during the twelve (12) months following the date that the Member is able to return to practise after his suspension, the Member shall:

- notify any current or new employers of the Discipline Committee's final decision;
- ensure the Registrar is notified of the name, address, and telephone number of all employer(s) within fifteen (15) days of commencing employment;
- provide his employer(s) with a copy of:
 - the Discipline Committee's Order;
 - the Notice of Hearing;
 - the Agreed Statement of Facts;
 - the Joint Submission on Penalty;
 - a copy of the Discipline Committee's decision; and
 - have his employer forward a report to the Registrar within fifteen (15) days of commencing employment confirmation that the employer has received the documents noted above and agrees to notify the Registrar immediately upon receipt of any information that the Member is not complying with the College's standards;

(e) An order that the Discipline Committee's decision be published, in detail with the Member's name, in the College's official publication, on the College's website, and/or on the College's public register;

(f) The College and the Member agree that if the Discipline Committee accepts this Joint Submission on Penalty, there will be no appeal or judicial review of the decision to any forum.

Decision and Reasons for Penalty

13. The Panel reviewed the Joint Submission and received submissions from counsel. The Panel accepted the Joint Submission and made an order consistent with its terms before the conclusion of the hearing.

14. The Panel is satisfied that the terms contained in the Joint Submission are reasonable, proportionate, and will maintain public confidence in Discipline Committee.
15. At the conclusion of the hearing, having confirmed that the Member waived any right to appeal, the Panel delivered an oral reprimand on the record.

Costs

16. As set out above, at the time of the hearing, the parties advised the panel that they had been unable to reach an agreement on the question of costs. As such, costs were reserved to be dealt with in writing later.
17. The panel received submissions from the College and the Member in late November-early December 2022.
18. The College seeks an order requiring the Member to pay costs in the amount of \$40,000.00. The Member opposes that request. The Member submits that no costs should be ordered, but if any are, he should be given several years to pay.
19. The crux of the College's submission is that an order for costs is appropriate in this case and that given the unduly complicated and protracted nature of this proceeding, the amount being sought is reasonable. The College submits that given that the Member decided to admit the allegations on the eve of the hearing (after the hearing had been adjourned earlier at the Member's request) the College had gone through the significant expense of preparing for a contested hearing. As such, the amount sought is higher than what it would have been had the Member decided to admit the allegations sooner.
20. The Member submits that he is not in a financial position to pay costs. He submits that he is in ill-health and that the stress of this process has resulted in serious physical and financial strain. He further submits that while he admitted to the professional misconduct alleged, he was not the "guilty party", and that the owner of the Clinic was the true wrongdoing.
21. In reaching its decision regarding costs, the panel considered the following:
 - (i) The panel has jurisdiction to award costs as requested pursuant to section 53.1 of the Health Professions Procedural Code.
 - (ii) The jurisdiction to award costs includes an order for costs of the College's legal costs and expenses, investigation and hearing costs.
 - (iii) In this case, the College is seeking a portion of the actual costs and expenses incurred to investigate and prosecute this matter.
 - (iv) Other members of this College should not bear the full amount of the costs and expenses incurred to prosecute the Member.
 - (v) The Member, as was his right, initially sought to contest the allegations as set out in the Notice of Hearing. The Member and the College participated in a pre-hearing, which did not result in a resolution.

- (vi) The hearing was originally scheduled to take place in January 2022. The Member sought and was granted an adjournment.
 - (vii) The hearing was re-scheduled for August 2022. Just prior to the hearing, the Member decided to admit the allegations, which avoided the need for a multi-day contested hearing.
 - (viii) The Member admitted professional misconduct and agreed to a joint order on penalty, which included a lengthy suspension and a term requiring him to enroll in the PROBE ethics course, among other things.
 - (ix) The Member has suffered from and continues to suffer from stress-induced medical issues.
 - (x) The Member is not working and present and not generating any income.
22. In addition to the facts listed above, the panel considered the costs ordered in the prior cases listed in the College's submissions.
23. While the panel recognizes that the actual costs incurred in this case were higher than in some of the other cases, where a resolution was reached earlier, the panel is not prepared to make an order requiring the Member to pay \$40,000.00 to the College for its costs.
24. The Member is 70-years old, in ill-health and not working at present. In the unique circumstances of this case, the panel concludes that an order requiring the Member to pay costs in the amount of \$15,000.00 is appropriate.
25. The panel orders that the payments are to be made by the Member in 15-equal instalments, commencing on March 1, 2023, and ending on May 1, 2024.

I, Peter Ferguson , sign this decision and reasons as Chairperson of this Discipline panel and on behalf of the members of the Discipline panel as listed below:



Peter Ferguson, Chairperson

Date: 14th December 2022

Panel Members:

Patrick Rainville
Reshad Mazeer

Professional Member
Public Member

COLLEGE OF CHIROPODISTS OF ONTARIO v. ALAN MOSES

As you know, Mr. Moses, as part of its penalty, this Discipline panel has ordered you be given an oral reprimand.

The fact that you have received this reprimand will be part of the public portion of the Register and, as such, part of your record with the College.

Although you will be given an opportunity to make a statement at the end of the reprimand, this is not an opportunity for you to review the decision made by the Discipline panel, nor a time for you to debate the merits of our decision.

The panel has found that you have engaged in professional misconduct in the following ways:

1. Failing to meet or contravening a standard of practice and profession and, in particular, the College's written standards pertaining to: Assessment and Management; Patient Relations; Records; and Prescription Custom Foot Orthoses
2. Practising the profession while in a conflict of interest
3. Failing to keep records as required by the regulations
4. Charging a fee that is excessive in relation to the services or devices charged for
5. Contravening the *Chiroprody Act*, the *Regulated Health Professions Act*, 1991 or the regulations under either of those Acts, and
6. 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

It is incumbent on all members of the College that they are aware of all aspects of the legislation, regulations and College standards. Ignorance of the clinic's improper practices is no defence and does not excuse you from your obligations as a member of this profession.

The panel was particularly troubled by your failure to maintain records at this clinic, as is required by our legislation and standards. You have 40-years of practice under your belt. You know the

importance of keeping patient records. The records belong to the patients and they deserve to have access to their records, to know that you are referring to those records at repeat appointments, and that the records are available to them, you and the regulator. Because of your failure to ensure that the clinic maintained proper records, the patients are presumably now unable to access their medical records.

Your conduct is totally unacceptable to your fellow chiropractors and to the public. Of special concern to us is the fact that the professional misconduct in which you engaged has involved inadequate assessment and record keeping, which potentially puts patients at risk.

Your decision to work with the College reassures this panel that you have recognized the seriousness of your conduct and we appreciate your comments which showed remorse and a certain level of insight.

We also want to make it clear to you that while the penalty that this panel has imposed upon you is a fair penalty, a more significant penalty will likely be imposed by another Discipline panel in the event that you are ever found to have engaged in professional misconduct again.