

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

B E T W E E N:

COLLEGE OF CHIROPODISTS OF ONTARIO

(the “**College**”)

-and-

ERWIN MENDOZA

(the “**Member**”)

NOTICE OF HEARING

THE INQUIRIES, COMPLAINTS AND REPORTS COMMITTEE of the College of Chiropractors of Ontario has referred specified allegations against **ERWIN MENDOZA** (Registration #040219) to the Discipline Committee. The allegations were referred in accordance with paragraph 26(1)1 of the *Health Professions Procedural Code*, which is Schedule 2 to the *Regulated Health Professions Act, 1991* (the “*Code*”). Further information about the allegations is contained in the Statement of Allegations, which is attached to this Notice of Hearing. A discipline panel will hold a hearing on a date to be fixed by the Registrar, 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 solicitor for the College in this matter:

Debra McKenna
WEIRFOULDS LLP
Barristers & Solicitors
4100-66 Wellington Street West
P.O. Box 35, TD Bank Tower
Toronto, ON M5K 1B7
t. (416) 947-5080
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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: November 8, 2021



Nicole Zwiers
Registrar and Chief Administrative Officer
College of Chiropodists of Ontario
180 Dundas Street West, Suite 2102
Toronto, Ontario M5G 1Z8

TO: Erwin Mendoza

STATEMENT OF ALLEGATIONS

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

2. It is alleged that, during the period from approximately March 2021 to May 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 17 – failing to keep records as required by the regulations;
- (iv) paragraph 18 – falsifying a record relating to the member’s practice;
- (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 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);
- (viii) 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 on or about September 3, 2004.
2. During the Relevant Period, the Member practised at the Cordasco Chiropractic Clinic, located at 4407 Montrose Road, in Niagara Falls, Ontario (the “**Clinic**”). The Member was the only chiropodist practising at the Clinic and he worked at the Clinic one day a week.
3. During the Relevant Period, the Member also practised at the following locations:
 - Toronto Western Hospital, 440 Bathurst Street, Toronto, Ontario
 - Belmont House Retirement Home, 5 Belmont Street, Toronto, Ontario

B. Manulife Complaint

4. On or about May 28, 2021, the College received a complaint from Manulife about the Member (the “**Complaint**”).
5. As described in the Complaint, on or about July 18, 2019, a Manulife investigator (using the alias “Colin Baker”) attended at the Clinic and was examined by Dr. Anthony Papetti – a chiropractor.

6. During the examination, Mr. Baker inquired about obtaining free shoes with his orthotics. Mr. Baker was advised by Dr. Papetti that the Clinic did not provide free shoes anymore because insurance companies were delisting providers for doing so. As a result, the Clinic had changed its practice and now offered shoes at a discounted price.
7. On or about March 13, 2020, Mr. Baker contacted the Clinic again to inquire whether the same offer was still available – that is, the ability to obtain discounted shoes with the purchase of orthotics.
8. Mr. Baker was informed by Clinic staff that the offer was still available and Mr. Baker was provided with instructions on how to choose his shoes from the Atlas Orthotics Lab website – the manufacturer from whom the Clinic ordered orthotics.
9. The investigator selected a pair of New Balance shoes on the Atlas Orthotics Lab website. Mr. Baker then confirmed that the shoes had a retail value of \$169.99 on the New Balance Canada website.
10. In or about early March 2021, the Clinic was identified by Manulife as having a high utilization rate by plan members employed by a certain Manulife client. As a result, Mr. Baker contacted the Clinic again. He was told that the orthotics and shoes were still available, but he required an examination and assessment by the Member.
11. On or about April 6, 2021, the Member had a video chat with Mr. Baker, which the Member described as a “consult”.

12. The Member directed Mr. Baker to focus the camera on his cellphone to the area of his arches – so the Member could examine Mr. Baker’s arches. The Member then directed Mr. Baker to stand up and walk back and forth – all the while holding the cellphone focusing on the investigator’s feet. That was the extent of the Member’s examination.
13. During the video chat, the Member also spoke with Mr. Baker about the shoes he had chosen and whether the orthotics manufacturer would still have that model in stock.
14. Following the assessment conducted by the Member, Mr. Baker was provided with a biomechanical and gait analysis report, which was signed by the Member and dated April 6, 2021.
15. Mr. Baker was also provided with a printout of a foot scan dated April 6, 2021. The scan report identified the Member as the “practitioner”.
16. A second investigator, identified as a friend of Mr. Baker, was tasked to pick up and pay for Mr. Baker’s orthotics and shoes at the Clinic. On or about April 9, 2021, the investigator attended at the Clinic and was provided with the orthotics and the shoes by the Clinic staff.
17. In two separate transactions, the investigator paid \$475.00 for the orthotics and \$65.00 for the shoes. There was no mention of shoes supplied by the orthotics manufacturer on the invoice provided by the Clinic, which included the Member’s name and College registration number.

18. In prescribing and/or purporting to prescribe orthotics to his patient, the Member did not perform and/or document in his patient records an adequate assessment in accordance with the College's standards. In particular, the Member failed:
 - (a) to meet with the patient in-person and conduct a physical examination;
 - (b) to obtain an adequate patient history;
 - (c) to perform an adequate biomechanical assessment and/or gait analysis;
 - (d) to obtain and/or document informed consent;
 - (e) to provide a range of treatment options to the patient and/or determine if a different treatment was appropriate before prescribing orthotics;
 - (f) to document and discuss with the patient the treatment plan;
 - (g) to perform an appropriate casting or scanning procedure;
 - (h) to evaluate the casts or scans to ensure they were accurate and matched the contours of the patient's foot;
 - (i) 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
 - (j) to provide appropriate follow-up care to his patient.

19. The Member also failed to maintain patient records in accordance with the regulations and the College's standards.

20. In prescribing and/or purporting to prescribe 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.
21. In prescribing orthotics to his patient, the Member was aware and/or participated in the practice of providing incentives to patient (in the form of discounted shoes) who purchased orthotics from the Clinic – a business practice that is contrary to the College’s advertising regulations and/or the College’s standards.
22. The records created, issued and/or signed by the Member and provided to his patient to support their benefits claims do not disclose that the patient received discounted shoes with the purchase of their orthotics, which were supplied to the Clinic by Atlas Orthotics Lab.

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Chiropodists of Ontario