

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

B E T W E E N:

COLLEGE OF CHIROPODISTS OF ONTARIO

-and-

ALAN MARK LUSTIG

NOTICE OF HEARING

THE INQUIRIES, COMPLAINTS AND REPORTS COMMITTEE of the College of Chiropractors of Ontario has referred specified allegations against **ALAN MARK LUSTIG** (Registration #730848) 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 which is 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 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
f. (416) 365-1876
e. dmckenna@weirfoulds.com

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 13, 2020



Felecia Smith, LL.B.
Registrar
College of Chiropodists of Ontario
180 Dundas Street West, Suite 2102
Toronto, Ontario
M5G 1Z8

TO: Alan Mark Lustig
c/o Village Health
85 Laird Drive, Suite 201
Toronto, Ontario
M4G 3T7

STATEMENT OF ALLEGATIONS

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

2. During the period in or about August 2017 to April 2018 (“**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; and/or
 - ii. Prescription Custom Foot Orthoses;

 - b. paragraph 10 (practising the profession while the member is in a conflict of interest);

 - c. paragraph 18 (falsifying a record relating to the member’s practice);

 - d. paragraph 20 (signing or issuing, in the member’s professional capacity, a document that contains a false or misleading statement);

 - e. paragraph 21 (submitting an account or charge for services that the member knows is false or misleading);

- f. paragraph 28 (practising in the employment of or in association with a commercial business);
- g. paragraph 30 (contravening the *Chiropody Act, 1991*, the *Regulated Health Professions Act, 1991*, or the regulations under either of those Acts), specifically:
 - i. Ontario Regulation 750/93 (Professional Misconduct) under the *Chiropody Act, 1991*, as specified in this Notice of Hearing;
 - ii. Ontario Regulation 830/93 (Registration) under the *Chiropody Act, 1991*; 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
- h. 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

1. At all material times, the Member was a podiatrist registered with the College to practise chiropody in Ontario.
2. During the Relevant Period, the Member was engaged in the practice of chiropody at Village Health, located at 85 Laird Drive, Suite 201, Toronto, Ontario, M4G 3T7 (the "**Toronto Clinic**").
3. On or about November 6, 2017, R.C. attended with his 14-year-old daughter, R.C.E., at the Foot Clinic MD/Orleans Foot Clinic CDP located in Ottawa, Ontario (the "**Ottawa Clinic**").
4. R.C. attended at the Ottawa Clinic with his daughter as the Ottawa Clinic had advertised having a podiatrist on its website and his daughter required orthotics due to "flat feet".
5. During their appointment at the Ottawa Clinic, R.C. inquired if the practitioner conducting the assessment was a podiatrist. The practitioner ("**R.D.**") informed R.C. that she is a kinesiologist.
6. The Ottawa Clinic subsequently dispensed the orthotics to R.C.'s daughter. The orthotics were manufactured by The Orthotics Group ("**TOG**"), which is located at 160 Markland Street, Markham, Ontario, L6C 0C6.

7. Thereafter, R.C. submitted a claim to his benefits provider for the orthotics, but insurance coverage was declined by the insurer as the orthotics prescription was not provided by a medical doctor, chiroprapist, or podiatrist.
8. R.C. then contacted the Ottawa Clinic requesting the contact information for the podiatrist at the Ottawa Clinic. At that time, R.C. was advised that the Ottawa Clinic did not have a podiatrist on-staff. However, R.C. was provided with a gait analysis scan signed by the Member.
9. At no time during the assessment at the Ottawa Clinic on or about November 6, 2017, or thereafter, was R.C.'s daughter seen or assessed by the Member.
10. On or about February 8, 2018, R.C. contacted the College with respect to the gait analysis scan signed by the Member.
11. On or about April 6, 2018, the College commenced an investigation.
12. As outlined in Appendix "A" attached, during the period from on or about August 2017 to April 2018, the Member signed the gait analysis scans for approximately 44 patients from the Ottawa Clinic who were assessed by R.D.
13. In addition to his practice at the Toronto Clinic, during the Relevant Period the Member was also the medical director and on-staff podiatrist for TOG.
14. During the Relevant Period, or at any time, the Member did not disclose to the College that the TOG was one of his practice locations.

15. In his role at TOG, the Member provides the following services to TOG:
 - GaitScan Reviews
 - GaitScan Consultations
 - Orthotic addition/modification advice to practitioners
 - Education content for TOG
 - Advice and best practices for orthotics therapy
 - On-staff Podiatrist

16. For his services, the Member is compensated by TOG with a monthly retainer of \$4,333.33 plus HST and \$1,500 plus HST for any speaking engagements.

17. The Toronto Clinic is also a customer of TOG.

18. Payments to the Member for his services provided to TOG are made by way of set-off for the products that are purchased by the Toronto Clinic.

Appendix “A” – Confirmation Requests

Patient	Date of Birth	Scan Date	Practitioner	Address	CSG Reviewer
L.B.	May 19, 1963	August 28, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
P.T.	Feb. 28, 1953	September 5, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
A.Y.	July 10, 1979	September 11, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
R.D.	November 22, 1978	September 11, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
R.B.	May 12, 1987	September 13, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
J.H.M.	March 22, 1954	September 13, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
J.B.	December 18, 1976	September 25, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
L.M.	September 21, 1955	October 23, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
J.L.	February 29, 2004	October 23, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
M.D.	April 2, 1979	October 30, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
A.N.	July 12, 1973	October 30, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
L.P.	April 27, 1989	October 31, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
C.H.	August 22, 1978	November 1, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
R.C.E.	April 29, 2003	November 6, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
V.M.	March 23, 1966	November 10, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
S.G.	February 13, 1976	November 11, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
S.V.	March 10, 2004	November 14, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
F.P.	October 24, 1949	November 16, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
J.S.	February 24, 1972	November 16, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
C.D.	April 6, 1985	November 20, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
S.W.	December 10, 1985	November 21, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig

Patient	Date of Birth	Scan Date	Practitioner	Address	CSG Reviewer
C.Z.	November 21 1984	November 22, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
C.C.	March 7, 2007	November 30, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
A.L.	December 4, 1966	December 4, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
C.B.-L.	June 28, 1984	December 4, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
C.C.	April 15, 1976	December 4, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
C.C.	June 27, 1963	December 7, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
J.B.	December 1, 1986	December 11, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
A.N.	July 7, 1994	December 11, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
J.P.	May 2, 1972	December 11, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
P.L.	September 3, 1950	December 15, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
J.P.	June 14, 1973	December 18, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
S.L.	January 13, 1956	December 19, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
D.P.	September 21, 1967	December 19, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
M.K.	January 19, 1952	December 20, 2017	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
Y.H.	July 10, 1987	January 13, 2018	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
S.C.	March 10, 1985	January 19, 2018	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
R.B.	November 6, 1958	February 9, 2018	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
V.C.	July 15, 1997	February 15, 2018	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
K.B.	April 4, 1975	February 15, 2018	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
A.L.	November 28, 1959	February 15, 2018	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
M.G.	March 23, 1930	February 24, 2018	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig
M.B.	February 6, 1962	March 3, 2018	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig

Patient	Date of Birth	Scan Date	Practitioner	Address	CSG Reviewer
H.B.	September 30, 1952	March 14, 2018	Renee de Leseleuc	130 Rossingnol, Orleans, ON	Alan Lustig

COLLEGE OF CHIROPODISTS OF ONTARIO

- and -

ALAN MARK LUSTIG

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

NOTICE OF HEARING

WEIRFOULDS LLP

Barristers & Solicitors
4100 – 66 Wellington Street West
PO Box 35, TD Bank Tower
Toronto, ON M5K 1B7

Debra McKenna

t. (416) 947-5080

f. (416) 365-1876

e. dmckenna@weirfoulds.com

Lawyers for the College of
Chiropractors of Ontario