

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

B E T W E E N:

COLLEGE OF CHIROPODISTS OF ONTARIO

- and -

PAUL GINSBERG

NOTICE OF HEARING

The Inquiries, Complaints and Reports Committee of the College of Chiropractors of Ontario has referred specified allegations against **Paul Ginsberg (070265)** 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 a 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 of 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 solicitors for the College in this matter:

Lara Kinkartz
Alexandra Wilbee
WEIRFOULDS LLP
Barristers & Solicitors
4100-66 Wellington Street West
PO Box 35, TD Bank Tower
Toronto, ON M5K 1B7

Telephone: (416) 365-1110
Facsimile: (416) 365-1876
Email: lkinkartz@weirfoulds.com
awilbee@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: August 12, 2020

Felecia Smith

Felecia Smith, LL.B.
Registrar
College of Chiropodists of Ontario
180 Dundas Street West, Suite 1901
Toronto, ON M5G 1Z8

TO: Paul Ginsberg
c/o Neil Abramson
Torkin Manes LLP
Barristers & Solicitors
151 Yonge Street, Suite 1500
Toronto, ON M5C 2W7

STATEMENT OF ALLEGATIONS

1. Paul Ginsberg (the “**Member**”) was, at all material times, a registered member of the College.

2. During the period from in or about June 2017 to November 2018, the Member engaged in professional misconduct within the meaning of the following paragraphs of section 1 of the *Professional Misconduct Regulation*, Ontario Regulation 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 standards pertaining to:
 - i. Assessment and Management;
 - ii. Prescription Custom Foot Orthoses;
 - iii. Patient Relations; and/or
 - iv. Records;
 - b. paragraph 17 (failing to keep records as required by the regulations);
 - 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 22 (charging a fee that is excessive in relation to the services or devices charged for); and/or
 - g. 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 chiropodist registered with the College to practise chiropody in the province of Ontario.
2. In or about the period from June 2017 to November 2018 (the “**Relevant Period**”), the Member engaged in the practice of chiropody at the Hamilton Orthotic Centre located in Hamilton, Ontario (the “**Clinic**”), that was carrying on business from time to time under the name of Premier Footworks or Premier Foot and Wellness Clinics Inc.
3. On or about February 6, 2019, the College received a complaint from Manulife concerning the Member.
4. During the Relevant Period, two undercover investigators from Manulife attended the clinic for services, using the pseudonyms R.K. and C.T.
5. The investigation revealed a practice of offering an inappropriate incentive to clients who purchased orthotics at the Clinic (the “**Incentive Program**”). Clients who ordered orthotics would receive a \$150 voucher for shoes. They could then use this voucher to purchase any pair of shoes from the Boot Shop (a store adjacent to the Clinic) or could choose a pair of shoes from the limited variety displayed in the Clinic. This was included in the cost of the orthotics, and clients were not charged an additional fee for the shoes. Alternatively, for an additional \$50 fee, clients could order any pair of footwear contained in the “Oolabs” catalogue, which could be reviewed in the Clinic.
6. The Member regularly worked full-time as a chiropodist at the Clinic. On one or more occasions he was in earshot of conversations about the Incentive Program.

He knew or ought to have known about these incentives and the fact that they were improper.

7. R.K. attended the Clinic for a chiropody assessment on or about April 3, 2018. He was assessed by another chiropodist at the Clinic. An order for orthotics was placed and R.K. was told he was entitled to complimentary shoes. R.K. paid a \$100 deposit for the orthotics and \$75 for the assessment. He was given a \$150 voucher for the Boot Shop. After leaving the Clinic, R.K. went to the Boot Shop and selected a pair of shoes.
8. On or about April 12, 2018, R.K. attended the Clinic to pick up his orthotics and shoes. He was charged \$400 for the orthotics, and the \$100 deposit was refunded to him. The Clinic submitted a claim to Manulife for \$475 for the cost of R.K.'s initial assessment and orthotics. The paperwork did not indicate that the amount submitted included the cost of the shoes R.K. had selected as part of the Incentive Program. The Member was nearby and within earshot when the staff member at the front desk was discussing the submission of the Manulife claim with R.K.
9. Although the Member was present behind the counter and was available to dispense R.K.'s orthotics, a staff member working behind the desk (who was not a chiropodist) handed R.K. his orthotics and shoes. No examination or assessment was performed and no chiropodist or staff member verified that the orthotics met the prescription and the contours of R.K.'s foot.
10. The invoice for R.K.'s orthotics indicated that they were dispensed by the Member. The Member did not dispense R.K.'s orthotics. The Member knew or ought to have known that false or misleading documentation relating to his practice was issued on his behalf.
11. C.T. attended the Clinic on or about October 1, 2018 for his chiropody assessment. The Member performed that assessment. The Member's assessment and his records of that assessment failed to meet the applicable standards in that:
 - a. the assessment did not properly assess C.T.'s need for orthotics;

- b. the Member prescribed orthotics when the assessment did not indicate that they were medically necessary, did not indicate they were appropriate, and/or did not indicate they would be effective for C.T.'s needs;
 - c. the records did not indicate that orthotics were medically necessary; and/or
 - d. the records did not indicate that alternative treatment options were discussed;
12. C.T. was charged \$75 for the assessment and paid an additional \$50 to order a pair of boots as part of the Incentive Program.
13. When C.T. was ordering the boots he had selected, the Member was nearby and within earshot. During this conversation, the staff member asked how much C.T.'s benefits covered and indicated that if they did not cover \$500, then the charge could be reduced to \$400.
14. C.T. attended the Clinic on or about October 16, 2018 to pick up his orthotics and boots. He paid \$500, and the reception staff advised that they would submit the claim to Manulife, along with a claim for the \$75 assessment fee. The paperwork did not indicate that part of the amount paid reflected the cost of the shoes C.T. had selected as part of the Incentive Program.
15. The Member put the orthotics in the boots and gave them to C.T. to try on. The Member advised that they should not be worn for more than several hours at a time until C.T. was used to them.
16. No examination or assessment was performed and no chiroprapist or staff member verified that the orthotics met the prescription and the contours of C.T.'s foot.
17. The Member did not offer a follow up appointment to C.T., nor did he or the Clinic follow up with C.T. by phone.

18. During the Relevant Period, patient C.B. and his spouse, L.K., attended the Clinic, on or about December 1, 2017. They were assessed by another chiropodist at the Clinic and ordered orthotics.

19. On or about December 15, 2017, invoices were issued for both C.B. and L.K.'s orthotics. The invoices indicated that the orthotics had been dispensed by the Member and were marked "all items dispensed."

20. The invoices and/or claims were false or misleading, in that the orthotics had not been dispensed by the Member.

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Lawyers for the College of
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