

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

B E T W E E N:

COLLEGE OF CHIROPODISTS OF ONTARIO

- and -

HELMUT KELLEN

NOTICE OF HEARING

THE INQUIRIES, COMPLAINTS AND REPORTS COMMITTEE of the College of Chiropractors of Ontario has referred specified allegations against **HELMUT KELLEN** 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:

Alexandra Wilbee
WEIRFOULDS LLP
Barristers & Solicitors
4100-66 Wellington Street West
PO Box 35, TD Bank Tower
Toronto, ON M5K 1B7
t. (416) 619-6295
f. (416) 365-1876
e. 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: May 29, 2020

A handwritten signature in blue ink that reads "Felecia Smith". The signature is written in a cursive style.

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

TO: Helmut Kellen

STATEMENT OF ALLEGATIONS

1. Helmut Kellen (the “**Member**”) is a chiropodist registered to practise chiropody in the province of Ontario, since as of May 26, 2009.
2. The Member engaged in the practice of chiropody at a variety of locations including Ontario Orthotic Solutions (“**Ontario Orthotics**”) in Timmins, Ontario.
3. During the time period from in or about 2004 until at least in or about 2015, the Member provided free shoes to patients of Ontario Orthotics. During that time period, the Member offered complimentary shoes with the purchase of orthotics to patients at Ontario Orthotics. The free shoes were displayed with catalogues and/or samples shown to patients at Ontario Orthotics.
4. During the time period from in or about 2009 until in or about 2016, the Member over-prescribed or was otherwise involved with the over-prescription of orthotics and/or compression stockings to patients of Ontario Orthotics, where the Member knew or ought to have known that the provision of the treatment was ineffective, unnecessary or deleterious to the patient or was inappropriate to meet the needs of the patient. In particular, out of the records for the patients of Ontario Orthotics reviewed by the College’s investigator from the time period in or about 2009 until in or about 2016, all of the patients were prescribed multiple pairs of orthotics, and several patients also received prescriptions for compression stockings. The Member did not discuss other treatment options with the patient and/or determine if a different treatment was appropriate before prescribing orthotics and/or compression stockings, and/or the Member prescribed and/or recommended orthotics and/or compressions stockings to patients who did not require them.
5. For the time period from in or about 2009 until in or about 2016, the Member failed to take all reasonable steps to ensure that the records for patients of Ontario Orthotics were being kept in accordance with the regulations governing records and/or the standards of practice pertaining to records, including but not limited to reasonable information supporting the need for orthotics and/or compression stockings, and/or documentation regarding the free shoes provided to patients of Ontario Orthotics.
6. During the time period from in or about 2009 until in or about 2016, rather than the Member dispensing and fitting orthotics and/or shoes for patients of Ontario Orthotics, orthotics and/or shoes were shipped directly from the manufacturers to patients.
7. By reason of the conduct alleged in paragraphs 1-6 above, the Member engaged in professional misconduct within the meaning of:
 - a. the following subsections of Ontario Regulation 750/93 under the *Chiropody Act, 1991*:

- i. 1.2 (Failing to meet or contravening a standard of practice of the profession), and, in particular, the standards pertaining to:
 - 1. Orthotics and/or Prescription Custom Foot Orthoses;
 - 2. Patient Relations;
 - 3. Prescription Footwear; and/or
 - 4. Records;
- ii. 1.3 (Doing anything to a patient for a therapeutic, preventative, diagnostic, cosmetic or other health-related purpose where consent is required by law, without such a consent);
- iii. 1.10 (Practising the profession while the member is in a conflict of interest);
- iv. 1.14 (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);
- v. 1.17 (Failing to keep records as required by the regulations);
- vi. 1.30 (Contravening the *Chiropody Act, 1991*, the *Regulated Health Professions Act, 1991*, or the regulations under either of those Acts), and in particular the provisions in Part II (Advertising) and Part III (Records) of Ontario Regulation 203/94 under the *Chiropody Act, 1991*; and/or
- vii. 1.33 (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).

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