

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

B E T W E E N:

COLLEGE OF CHIROPODISTS OF ONTARIO

(the “**College**”)

-and-

FRANCIS GERRARD KEOGH

(the “**Member**”)

NOTICE OF HEARING

THE INQUIRIES, COMPLAINTS AND REPORTS COMMITTEE of the College of Chiropractors of Ontario has referred specified allegations against **FRANCIS GERRARD KEOGH** (Registration #850167) 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
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: May 27, 2021



Nicole Zwiers
College of Chiropodists of Ontario
180 Dundas Street West, Suite 2102
Toronto, ON M5G 1Z8

TO: Francis Gerrard Keogh

STATEMENT OF ALLEGATIONS

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

2. It is alleged that during the period from approximately January 2019 to May 2020 (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 *Chiropody 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 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;
- (iv) paragraph 17 – failing to keep records as required by the regulations;
- (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 22 – charging a fee that is excessive in relation to the services or devices charged for;
- (viii) paragraph 30 – contravening the *Chiroprody Act, 1991*, the *Regulated Health Professions Act, 1991*, or the regulations under either of those Acts): specifically, Ontario Regulation 203/94 under the *Chiroprody Act, 1991*, and, in particular, Records (Part III);
- (ix) 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 material times, the Member was registered with the College as a chiroprapist to practise chiropody in Ontario. He was first registered with the College on or about September 3, 1985.
2. During the Relevant Period, the Member practised at a number of different clinics in Ontario, including the following:
 - Foot Mech, 55 Ontario Street South, Milton, ON, L9T 2M3
 - D & M Foot Care, 50 Kennedy Rd South, Brampton, ON L6W 3E7
 - Orient Orthotics, 17D – 7205 Goreway Drive, Mississauga, ON, L4T 2T9
 - Orthopedic Footcare, 1151 Dundas Street West, Mississauga, ON, L5C 1C6

B. Empire Life Complaint

3. On or about May 22, 2020, the College received a complaint from Empire Life about the Member (the “**Complaint**”).
4. As set out in the Complaint, Empire Life conducts a standard claims verification process. Its routine claim adjudication and review process requires that Empire Life audit benefits periodically to ensure expenses being paid are “Eligible Expenses”.

5. Under the terms of its benefit agreements, Empire Life pays “Eligible Expenses” for a plan member that are medically necessary for the treatment of a sickness or injury. Medically necessary means a treatment, service or supply which is generally accepted by the medical profession as essential, effective and appropriate in the diagnosis, care or treatment of a specific medical condition.
6. To complete the review process additional information may be requested from a plan member or the provider. This information is then reviewed by Empire Life’s claims investigation team.
7. In the course of conducting its claims verification process for orthotics prescribed to its plan members, it was noted by Empire Life that the Member was the provider for numerous benefit claims. It was also noted that the Member had approximately 40 different identification numbers in Empire Life’s claims system.
8. A new identification number is assigned by Empire Life for each location where a provider has worked/is working.
9. Upon receipt and review of documents for two claims submitted to Empire Life, it was noted that the biomechanical assessments for the two plan members were identical. The checkmarks on the biomechanical assessment all appeared to be in the same place on the page.
10. As a result, on or about February 24, 2020, Empire Life requested and conducted a comprehensive audit of paper claims submitted from all clinics where the Member had practised for the prior year.

11. On upon review of the records provided to Empire Life, it was noted by Empire Life that two biomechanical assessment forms completed by the Member had been submitted in support of benefit claims for orthotics multiple times and from multiple clinics where the Member practised at the time, as follows:

Assessment	Claim ID	Clinic	Date of Service
Biomechanical Assessment Form #1	RGRE26112019-33	Orient Orthotics	29-Oct-19
	CEHE01032019-20	Foot Mechanics Milton	23-Jan-19
	CEHE01032019-23	Foot Mechanics Milton	23-Jan-19
	AVLE04032019-5	D&M Footcare	09-Feb-19
	JWZE17042019-8	D&M Footcare	31-Mar-19
	CEHE07112019-82	Orient Orthotics	17-Sep-19
	AVLE28062019-9	D&M Footcare	15-Jun-19
	BJHE26092019-65	D&M Footcare	18-Jul-19
	KTYE10012020-33	Orthopedic Footcare	19-Dec-19
	JWZE17042019-33	D&M Footcare	31-Mar-19
	EZME17052019-53	Foot Mechanics Milton	17-Apr-19
	AVLE04032019-2	D&M Footcare	09-Feb-19
	AVLE04032019-3	D&M Footcare	09-Feb-19
	AVLE04032019-4	D&M Footcare	09-Feb-19
	CEHE21012020-16	Orient Orthotics	23-Dec-19
	CEHE01032019-21	Foot Mechanics Milton	23-Jan-19
	FRVE31012020-71	D&M Footcare	10-Jan-20
		CFFE01042019-29	Foot Mechanics Milton
SPYE21062019-53		Foot Mechanics Milton	08-May-19
CFFE17062019-49		D&M Footcare	01-Jun-19

Assessment	Claim ID	Clinic	Date of Service
Biomechanical Assessment Form #2	CEHE28062019-11	D&M Footcare	15-Jun-19
	CEHE07112019-83	Orient Orthotics	17-Sep-19
	CEHE22110291-9	D&M Footcare	25-Oct-19
	CEHE01032019-22	Foot Mechanics Milton	23-Jan-19
	CFFE18022020-9	Orient Orthotics	21-Jan-20
	SPYE18022020-13	Orient Orthotics	21-Jan-20
	FRVE31012020-74	D&M Footcare	10-Jan-20
	FRVE31012020-72	D&M Footcare	10-Jan-20
	CFFE31012020-56	Orthopedic Footcare	09-Jan-20

12. During the course of Empire Life’s audit, it was further noted that, for some or all of the benefit claims, the examinations purportedly conducted by the Member and documented on the biomechanical assessment form and/or other records did not match the presentation of the plan member’s feet.
13. In prescribing and/or purporting to prescribe orthotics to his patients, the Member did not perform and/or document an adequate assessment contrary to the College’s standards.
14. In prescribing and/or purporting to prescribe orthotics to his patients, the Member failed to adequately and clearly document why orthotics were clinically indicated and/or establish a treatment plan, contrary to the College’s standards.
15. The Member failed to maintain patient records in accordance with the regulations and the College’s standards.

16. In prescribing and/or purporting to prescribe orthotics to his patients, the Member signed, issued and/or submitted documents to Empire Life that were false and/or misleading in support of benefits claims for orthotics.
17. In particular, the Member signed, issued and/or submitted biomechanical assessment forms to Empire Life that were fabricated and/or photocopied from other patient files.
18. In addition, orthotics were ordered by the Member and delivered to the clinic where he practised after claims were submitted to Empire Life and after Empire Life initiated its audit.

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Chiropodists of Ontario