

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

PANEL:

Eliot To, Professional Member

BETWEEN:

	)	DEBRA McKENNA, for the
	)	College
COLLEGE OF CHIROPODISTS OF ONTARIO	)	
(the “ <b>College</b> ”)	)	
- and -	)	DANIEL LIBMAN for the Member
	)	
	)	
FLAVIA MORTELLITI (the “ <b>Member</b> ”)	)	
	)	FREDRICK SCHUMANN, Independent
	)	Legal Counsel
	)	
	)	Heard: June 1, 2021
	)	

**Reason for Decision**

1. This matter came on for hearing before a single-member panel of the Discipline Committee on June 1, 2021. With the consent of the parties, this matter was heard by videoconference and by a single member of the Discipline Committee.

2. College counsel filed a motion record seeking a stay of the allegations contained in the Notice of Hearing, as described below. Counsel for the Member joined in this request.

3. At the conclusion of the hearing, I advised the parties that I would grant the orders requested. These are the reasons for my decision.

### **The allegations**

4. A Notice of Hearing was issued on October 13, 2020 making allegations against Flavia Mortelliti (the “**Member**”). The full Notice of Hearing is currently available on the College’s website. The Notice of Hearing alleged that the Member was referring patients for orthotics to a corporation controlled by her spouse, which provided incentives to patients who purchased orthotics from it.

### **Motion**

5. The College moves for the following orders:

(a) An order permanently staying the discipline proceedings against the Member;

(b) An order directing the Registrar to post on the public register a summary of the allegations, as set out in the Notice of Hearing dated October 9, 2020, and a notation that the allegations have been permanently stayed;

(c) An order directing the Registrar to post on the public register a summary of the signed undertaking provided by Ms Mortelliti dated May 14, 2021; and

(d) An order directing Ms Mortelliti to pay costs to the College in the amount of \$10,000.00, which costs shall be paid in six monthly instalments, commencing on June 1, 2021.

6. The Member consents to the order sought by the College.

7. On May 14, 2021, the Member signed an Undertaking and Acknowledgement in which she agreed to permanently resign his registration with the College and never re-apply, on the basis that the College would seek an order staying these discipline proceedings. The Undertaking and Acknowledgment provides that, if the Member breaches it, the stay will be lifted and the allegations against her will be addressed by the Discipline Committee at a full hearing.

8. The Member has also agreed to pay costs in the amount of \$10,000.00 on account of the College's expenses of investigation and prosecution, by way of six monthly installments starting on June 1, 2021.

9. The Member has resigned from the College.

#### **Reasons for decision**

10. The issue before me is whether it would be consistent with the College's mandate to protect the public interest to resolve this proceeding by way of resignation and an undertaking not to reapply, rather than a full hearing at which the allegations of professional misconduct would be adjudicated.

11. This College has resolved other matters in a similar manner: *College of Chiropodists of Ontario v Bello*, 2018 ONCOCOO 1; *College of Chiropodists of Ontario v Pak*, 2020 ONCOCOO 2. So have other professional colleges operating under the *Regulated Health Professions Act*, 1991, SO 1991, c 18: *College of Massage Therapists of Ontario v Puniyanikodan*, 2021 ONCMTO 1; *Ontario College of Pharmacists v Saleh*, 2017 ONCPDC 19.

12. The Member's resignation and undertaking not to reapply will protect the public. This is actually a greater consequence for the Member than could be imposed at a full hearing, since,

even if her registration was revoked at a full hearing, she would be entitled to reapply in the future.

13. The College's obligation of public transparency will be served by the orders sought regarding the public register, and by these reasons.

14. The profession and the public will also avoid the costs of a full hearing.

15. Also, both parties are asking us to make the requested order. I agree with the parties that, where an order resolving a proceeding is requested by both parties, I should make that order unless it is clear that the proposed order would bring the administration of justice into disrepute or would otherwise be contrary to the public interest.

16. I regard the proposed disposition as consistent with the public interest. Accordingly, I will make the order requested by the parties. The disciplinary proceedings against the Member are permanently stayed.

I, Eliot To, sign this Decision and Reasons for the decision as single member of this Discipline panel.



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Eliot To, Professional Member

June 3, 2021

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Date