

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

B E T W E E N:

COLLEGE OF CHIROPODISTS OF ONTARIO

(“College”)

- and -

MAXINE LYDA PROCOPE

(“Registrant or Member”)

NOTICE OF HEARING

THE INQUIRIES, COMPLAINTS AND REPORTS COMMITTEE (“ICRC”) of the College of Chiropractors of Ontario has referred specified allegations against you, **MAXINE LYDA PROCOPE** (Registration # 870244) 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*.

Further information about the allegations is contained in the Statement of Allegations attached to this Notice of Hearing. A discipline panel will hold a hearing, on a date to be fixed by the Chair of the Discipline Committee, at the offices of the College of Chiropractors of Ontario at 180 Dundas Street West, Suite 1901, Toronto, ON M5G 1Z8 or electronically via Zoom or other electronic means, 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 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*. You, or your legal representative, may contact the lawyer for the College in this matter:

Debra McKenna
WEIRFOULDS LLP
4100-66 Wellington Street West
Toronto, ON M5K 1B7
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e. dmckenna@weirfoulds.com

The College intends to introduce as business records, under section 35 and/or section 52 of the *Evidence Act*, any writings or records that were made in the usual and ordinary course of business. Without limiting the generality of the foregoing, the College intends

to introduce as business records the patient and financial records related to the patient care that is the subject of the allegations.

You must also make disclosure to the College 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: October 1, 2024

Nicole Zwiers
Registrar & Chief Executive Officer
College of Chiropodists of Ontario
180 Dundas Street West
Toronto, ON M5G 1Z8

TO: MAXINE LYDA PROCOPE

STATEMENT OF ALLEGATIONS

1. Maxine Lyda Procope (“**Ms. Procope**” or “**Registrant**”) was at all material times a registered member of the College.

2. It is alleged that, during the period from approximately April 1, 2023 to April 30, 2023 and approximately November 2023 to March 2024 (“**Relevant Period**”), the Registrant 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 17 – failing to keep records as required by the regulations;

- (iv) paragraph 19 – failing, without reasonable cause, to provide a report or certificate relating to an examination or treatment performed by the member, within a reasonable time, to the patient or his or her authorized representative after a patient or his or her authorized representative has requested such a report or certificate.
- (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 *Chiropody Act, 1991*, the *Regulated Health Professions Act, 1991*, or the regulations under either of those Acts, including Ontario Regulation 203/94 under the *Chiropody Act, 1991*; and/or
- (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 Registrant was registered with the College in the chiropractor classification to practise chiropractic in Ontario. The Registrant was first registered with the College on or about September 15, 1987.

B. Patient Complaint

2. On or about April 11, 2023, the College received a complaint from H.G. (the “**Patient**”) about the Registrant (the “**Complaint**”).
3. At the time of the Complaint and the events giving rise to it, the Registrant was practising at Better Health Management Inc. (the “**Clinic**”), located at 17 Ray Lawson Boulevard, Unit 8, in Brampton, Ontario.
4. During the Relevant Period, the Registrant also practised at other clinics in the Greater Toronto area, including:
 - Village Physiotherapy – 57 Village Centre Place, Mississauga, Ontario
 - Elm Tree Foot Clinic – 60 Sherbourne Street, Toronto, Ontario.

5. On or about on April 4 or 5, 2023, the Patient attended at the Clinic and reported that he was experiencing pain in his foot. He was seen by the Registrant.
6. Following a preliminary assessment, the Registrant concluded that the Patient's feet were "unremarkable". In particular, the Registrant noted no bony anomalies or apparent sub-talar overpronation. The Patient's gait was smooth and coordinated.
7. The Registrant diagnosed the Patient with plantar fasciitis and she recommended orthotics. The Patient then inquired about shoes and the Registrant confirmed that she could only prescribe orthopaedic shoes. The Registrant further indicated that because of the lack of bony anomalies in Patient's feet, there was a high chance the insurance claim would be rejected.
8. It was the Registrant's recommendation that orthotics would be the Patient's best solution. The Patient declined to proceed with the orthotics and was charged \$100 for the Registrant's assessment, which the Patient later submitted to SunLife, his benefits provider, for reimbursement. The insurance claim was denied.
9. At no time, prior to her assessment and/or during her assessment of the Patient, did the Registrant advise that she was delisted by SunLife and that benefit claims would not be reimbursed.

10. In addition, subsequently when the Patient sought to appeal SunLife's decision to deny the benefits claim, the Registrant refused to provide her records to support the Patient's benefits claim.

11. During a telephone call with a SunLife representative and the Patient regarding the records on or about April 18, 2023, the Registrant behaved in a manner that was rude and unprofessional, including arguing with the Patient and refusing to provide information relating to the insurance claim.

C. Registrar's Investigation

12. In addition to the Complaint, on February 6, 2024, a Registrar's Investigation was commenced with respect to the Registrant's practice in relation to her compliance with regulations and standards including, but not limited to, record-keeping.

13. On or about February 2024 and March 6, 2024, a College investigator attended the Clinic and obtained ten patient records, including all financial records, for the period from approximately November 2023 to March 2024.

14. The investigator received five records for patients who received orthotics and/or biomechanical assessments and five randomly selected patient records. All records related to the Registrant's patients.

15. In prescribing the orthotics and/or other treatments to her patients, the Registrant did not conduct and/or document in the patient records an adequate assessment in accordance with the College's regulation and standards.

16. In particular, the Registrant failed:
 - (a) to conduct and/or document an adequate assessment;

 - (b) to determine if a different treatment was appropriate in the circumstances before proceeding with an assessment for and/or prescribing orthotics;

 - (c) to obtain and/or document informed consent, including discussions with patients about the benefits and risks of various treatment options;

 - (d) to discuss and/or document the treatment plan;

 - (e) to fit and dispense the orthotics and ensure that the devices matched the prescription and/or matched the contours of the patient's foot; and/or

 - (f) to provide appropriate follow-up care to patients.

17. The Registrant failed to maintain records in accordance with the regulations and the standards of the profession.

18. In recommending and/or prescribing orthotics or other treatments, the Registrant signed, issued and/or submitted documents that contained false and/or misleading information.
19. In recommending and/or prescribing orthotics, the Registrant participated and/or was complicit in the practice of over-prescribing orthotics – a business practice that is contrary to the College’s regulations and/or the standards of the profession.
20. In providing chiropody services to patients at the Clinic, the Registrant breached the College’s regulations and standards to ensure that treatments were medically necessary and/or required for the prevention, treatment or management of a disease, disorder, or dysfunction of the foot.
21. Such conduct by the Registrant also constituted a conflict of interest.
22. Additional information and disclosure about the allegations against the Registrant will be provided in advance of the hearing.

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- and -

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CHIROPODISTS OF ONTARIO**

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Chiropractors of Ontario
