

## ONTARIO CHIROPODISTS AND PODIATRISTS DISCIPLINE TRIBUNAL

**Citation:** *College of Chiropractors of Ontario v. Wellman*, 2025 ONCPDT 4

**Date:** May 8, 2025

**Tribunal File No.:** 24-001-CP

### BETWEEN:

College of Chiropractors of Ontario

**College**

- and -

Julie Thresia Wellman

**Registrant**

### FINDING AND PENALTY REASONS

**Heard:** April 25, 2025, by videoconference

#### **Panel:**

Jennifer Scott (panel chair)

Chad Bezaire (chiropractor)

Itraf Ahmad (public)

#### **Appearances:**

Debra McKenna, for the College

Brock Turville, for the registrant

### RESTRICTION ON PUBLICATION

Pursuant to Rule 2.2.2 of the HPDT Rules of Procedure and ss. 45-47 of the Health Professions Procedural Code, no one shall publish or broadcast the names of patients or any information that could identify patients or disclose patients' personal health information or health records referred to at a hearing or in any documents filed with the Tribunal. There may be significant fines for breaching this restriction.

The Ontario Chiropractors and Podiatrists Discipline Tribunal is the Discipline Committee established under the Health Professions Procedural Code.

## **Introduction**

[1] The registrant is a chiropodist who practised in Mississauga at the time of the allegations before us. The College of Chiropodists of Ontario alleges that the registrant wrongly diagnosed and treated a patient for a nail fungus and failed to recognize the patient had developed melanoma on his right toenail.

[2] More specifically, the College alleges the registrant provided treatment that she knew or ought to have known was ineffective, unnecessary or deleterious to the patient, failed to advise the patient to consult with a physician or other regulated health professional, contravened the College's standards of practice and failed to keep proper records. In doing so, the registrant engaged in conduct that is disgraceful, dishonourable, or unprofessional.

[3] The hearing proceeded on an Agreed Statement of Facts (ASF) and Joint Submission on Penalty and Costs (JSP). After reviewing the ASF and hearing the submissions of counsel for the parties, the panel found misconduct as alleged. We ordered the penalty detailed in the JSP.

## **Agreed Facts**

[4] The registrant became a member of the College in November 2020. She provided chiropody services to a patient on October 9, 2021 and January 15, 2022.

[5] The registrant diagnosed the patient with a nail fungus without conducting an adequate assessment and failed to document discussions with the patient about the range of potential outcomes for his symptoms and/or their seriousness. She performed nail avulsion surgery on the patient and failed to obtain and/or document the patient's consent and failed to document why the surgery was required. The registrant did not conduct appropriate post-surgery follow-up, failed to recognize the patient's condition required professional help beyond the registrant's scope of practice, and failed to refer the patient in a timely way to a physician. The patient was subsequently diagnosed with a melanoma on his right toe and had his right toe amputated.

[6] In all these circumstances, we find the registrant engaged in misconduct as alleged under the following paragraphs of section 1 of the Professional Misconduct Regulation (O. Reg. 750/93) under the *Chiroprody Act, 1991*, SO 1991, c.20 (the Act):

1. paragraph 2 – failed to meet or contravened a standard of practice of the profession and, in particular, the College’s standards pertaining to:
  - a. Assessment and Management;
  - b. Nail and Cutaneous Soft Tissue Surgery;
  - c. Competence;
  - d. Patient Relations; and
  - e. Records.
2. paragraph 14 – provided treatment which the registrant knew or ought to have known was ineffective, unnecessary or deleterious to the patient or inappropriate to meet the patient’s needs;
3. paragraph 15 – failed to advise the patient to consult with a physician or other regulated health professional;
4. paragraph 17 – failed to keep records as required by the regulations;
5. paragraph 30 – contravened the *Act*, the *Regulated Health Professions Act, 1991*, or the regulations under either of those Acts, specifically, Ontario Regulation 203/94.

[7] We find that the registrant’s actions, when viewed together, amount to conduct that would be regarded as disgraceful, dishonourable or unprofessional, within the meaning of paragraph 33 of the Professional Misconduct Regulation. The College referred us to other cases where registrants engaged in similar misconduct with the kind of dire consequences experienced by the patient. This type of conduct brings discredit to the profession.

## Penalty and Costs

[8] The parties made the following joint submission on penalty:

1. Suspension of nine months, three months of which will be remitted on completion of the remedial work set out in subparagraph 3 below;
2. Reprimand;
3. Completion of the following courses: Medical Record-Keeping, University of Toronto; Dermatology-Lower Extremity; and Distinctiveness of Pedal Melanoma;
4. Mentorship for 12 months following the suspension; and
5. If the registrant obtains employment to provide chiropody services during the 12 months following the date she is permitted to return to practise, she must provide her new employers with the materials filed before the Tribunal and its decision.

[9] They submitted further that the Registrant pay costs of \$24,000 in three instalments.

[10] Our role is limited when the parties agree on penalty. We should only depart from a joint submission if the proposed penalty is not in the public interest because it would bring the administration of justice into disrepute or is contrary to the public interest in some other way: *R. v. Anthony-Cook*, 2016 SCC 43 at para. 32.

[11] A joint submission is not in the public interest when it is so unhinged from the circumstances of the case, that reasonable and informed persons aware of those circumstances believe the proper functioning of the professional discipline system has broken down: *Anthony-Cook* at para. 34. This is a very high test.

[12] In determining whether the proposed penalty is contrary to the public interest, we have considered the seriousness of Ms. Wellman's misconduct, her discipline history and the caselaw on penalties in similar cases, because these are the factors that are relevant to this question.

[13] The registrant's misconduct is serious. She failed to accurately assess the patient and provided ineffective and unnecessary treatment. She did not recognize the limitations of her own expertise and as a result, did not refer the patient to a physician or other regulated health professional. The consequences of her inaction were devastating to the patient. His cancer was not diagnosed in a timely way, and he later lost his big toe. The registrant's conduct breached many of the College's standards of practice.

[14] Ms. Wellman has no disciplinary history. Assuming a discipline history can be mitigating, a question we do not need to decide, it does not lessen the misconduct here because it occurred during Ms. Wellman's first year of practice. She has no meaningful discipline-free history to rely upon.

[15] The parties rely on several cases to support their proposed penalty. The cases involve findings by the Discipline Committee (now the Tribunal) that include the failure of registrants to provide effective treatment, to accurately assess medical conditions, to recognize serious medical conditions and to refer to patients to physicians in a timely way. The consequences of these failures were profound: patients had various amputations of their feet and legs. The registrants in these cases received lengthy suspensions of six or seven months, reprimands and were required to complete further education and mentorship, similar penalties to what is proposed here. See *College of Chiropodists of Ontario v. Tomines*, 2024 ONCOCOO 9, *College of Chiropodists of Ontario v. Allison*, 2022 ONCOCOO 4, *College of Chiropodists of Ontario v. Acosta*, 2015, unreported, and *College of Chiropodists of Ontario v. Turcotte*, 2015, unreported.

[16] The joint submission protects the public interest. The lengthy suspension and reprimand send a strong message to Ms. Wellman and to other members of the profession that serious consequences will result if they fail to treat their patients effectively, recognize the limits of their expertise, and refer patients quickly to ensure they receive proper and timely care. The further education, mentorship and requirement to inform future employers of this discipline proceeding and our finding, will help to reduce the possibility of similar misconduct in the future. The penalty protects the public and demonstrates the College's professional discipline system is working. It is accepted for these reasons.

## **Order**

[17] The panel ordered:

## Penalty

1. The Registrant will be reprimanded by the Discipline Tribunal via an electronic hearing, and the fact and nature of the reprimand shall be recorded on the College's public register for an unlimited period of time.
2. An order, effective the date of the hearing, suspending the Registrant's certification of registration for nine (9) months, three (3) months of which will be remitted upon the Registrant successfully completing, to the Registrar's satisfaction, the remedial work outlined in paragraph 3(a) below;
3. An order directing the Registrar to impose terms, conditions, and limitations on the Registrant's certificate of registration requiring the following:
  - (a) Prior to returning to practice, the Registrant shall successfully complete the following courses at her own expense:
    - Medical Record-Keeping, University of Toronto ([www.cpd.utoronto.ca/recordkeeping/](http://www.cpd.utoronto.ca/recordkeeping/))
    - Dermatology – Lower Extremity, PRESENT e-Learning Systems([www.podiatry.com/lecturehall/description/6144/Dematology-Lower-Extremity](http://www.podiatry.com/lecturehall/description/6144/Dematology-Lower-Extremity))
    - Distinctiveness of Pedal Melanoma, PRESENT e-Learning Systems ([www.podiatry.com/lecturehall/description/6953/Distinctiveness-of-Pedal-Melanoma/](http://www.podiatry.com/lecturehall/description/6953/Distinctiveness-of-Pedal-Melanoma/))
  - (b) For greater certainty, the Registrant is required to successfully complete the courses in paragraph 3(a) regardless of whether the three months of her suspension are remitted, and the Registrant will not be permitted to return to practice until she does complete those courses.
  - (c) Upon returning to practice, after completion of the suspension, the Registrant is required to attend, at her own expense, six (6) mentoring sessions over a period of twelve (12) months with a mentor selected by the Registrar, who has expertise in the College's standards of practice. The terms of the mentoring session are as follows:
    - The mentor shall visit with the Registrant in person on at least six (6) occasions – three times in the first six months and three times in the last six months;
    - The mentor shall determine date and the length of each visit;
    - In conducting the mentorship, the mentor shall discuss patient care, record-keeping, and compliance with the College's standards with the Registrant;

- The mentor shall prepare a report to the Registrar after the third (3rd) visit and after the sixth (6th) visit;
- The Registrant shall provide the mentor with the Discipline Tribunal's decision and then provide written confirmation to the Registrar, signed by the mentor, that the mentor has received and reviewed the decision.

(d) In the event that the Registrant obtains employment to provide chiropody services during the twelve (12) months following the date on which she is able to return to practise after her suspension, the Registrar shall:

- notify any current or new employers of the Discipline Tribunal's decision;
- ensure the Registrar is notified of the name, address, and telephone number of all employer(s) within fifteen (15) days of commencing employment;
- provide her employer(s) with a copy of:
  - (i) the Discipline Tribunal's Decision;
  - (ii) the Notice of Hearing;
  - (iii) the Agreed Statement of Facts;
  - (iv) the Joint Submission on Penalty and Costs; and
  - (v) have her employer forward a report to the Registrar within fifteen (15) days of commencing employment confirming that the employer has received the documents noted above and agrees to notify the Registrar immediately upon receipt of any information that the Registrant is not complying with the College's standards.

(e) An order that the Discipline Tribunal's decision be published, in detail with the Registrant's name, in the College's official publication, on the College's website, and/or on the College's public register.

### Costs

1. The Registrant shall pay costs to the College in the amount of \$24,000.00 on the following timetable:

- \$8,000.00 – April 25, 2025;
- \$8,000.00 – November 1, 2025; and,

- \$8,000.00 – August 1, 2026.