

ONTARIO CHIROPODISTS AND PODIATRISTS DISCIPLINE TRIBUNAL

Citation: *College of Chiropractors of Ontario v. Zhang*, 2025 ONCPDT 3

Date: April 9, 2025

Tribunal File No.: 24-002-CP

BETWEEN:

College of Chiropractors of Ontario

College

- and -

Weifang Zhang aka Nicole Zhang

Registrant

FINDING AND PENALTY REASONS

Heard: March 7, 2025, by videoconference

Panel:

Sherry Liang (panel chair)

Melanie Atkinson (chiropractor)

Allan Katz (public)

Tobi Mark (chiropractor)

Reshad Nazeer (public)

Appearances:

Debra McKenna, for the College

Weifang Zhang (Nicole Zhang), self-represented

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 practising in several locations in the Toronto area. The allegations arise out of services she provided at one location, which is principally a retail store. The College of Chiropodists of Ontario alleges that the registrant contravened the College's standards of practice by failing to properly assess and deal with a patient, failing to maintain records as required, submitting documents that were false and/or misleading, engaging in business practices that are contrary to the College's regulations and/or standards and practising while in a conflict of interest. It alleges that the registrant's conduct would reasonably be regarded by members of the profession as disgraceful, dishonourable, or unprofessional.

[2] The hearing proceeded on an Agreed Statement of Facts (ASF) and Joint Submission on Penalty and Costs. After reviewing the ASF and hearing the submissions of the parties, the panel found misconduct as alleged. We ordered the penalty detailed in the joint submission, consisting of a reprimand, suspension of the registrant's certificate of registration, and terms, conditions and limitations on her certificate of registration. We also ordered the registrant to pay costs to the College of \$10,000.

Agreed Facts

[3] In mid-2023, an insurance company made a complaint to the College about the registrant's practices. Among other things, certain individuals had submitted benefit claims to the insurer for orthotics prescribed by the registrant where the registrant used a foam box to manufacture the orthotics, contrary to the College's standards. Moreover, the registrant's records, submitted to the insurance company in support of those benefit claims, identified that a different casting technique had been used by the registrant to manufacture the orthotics.

[4] The insurance company's complaint also described a visit by one of its investigators to a location where the registrant practiced, in which the investigator posed as a patient. This location is principally a retail store, not a clinical practice setting where the registrant could provide patients with a full scope of chiropody treatments. The store carries a large quantity of shoes. The registrant had not reported to the College, as required, that she was practising at this setting.

[5] The investigator spoke to one of the employees at the store, who told him that he was required to see the registrant and pay half of the price of a pair of orthotics before choosing a complimentary pair of shoes. The shoes selected by the investigator could be priced up to \$250.00. The investigator was taken to the back of the store, which was essentially a storage area for the facility containing a large volume of shoes, where he met with the registrant.

[6] In the storage area, the registrant conducted an assessment and examined the investigator's feet. The registrant did not conduct a gait analysis before prescribing orthotics to the investigator. The registrant took an impression of the investigator's feet with the use of a foam box.

[7] After the assessment, the investigator returned to the front area of the store and paid a deposit of \$200.00 for the orthotics. The investigator chose a pair of shoes priced at \$200.00 and was provided with a store credit for \$50.00 for future use.

[8] A few weeks later, the investigator returned to the store. After paying the \$300.00 balance owing for the orthotics, the orthotics were handed to him by the same store employee who he had spoken to on his initial visit. This individual is one of the owners of the store and not a registrant of the College. The orthotics were not fitted or dispensed by the registrant or any member of the College. The investigator was never contacted by the registrant for any follow-up in relation to the orthotics or for any other follow-up treatment.

The allegations of professional misconduct are proven

[9] When a patient is given an incentive to obtain orthotics, the registrant practises under a cloud of a conflict of interest. Here, the registrant was party to an arrangement under which patients wishing to receive free shoes from a retail store were directed to her to obtain a prescription for orthotics. This put her in a conflict of interest.

[10] Several lapses in the registrant's practices were linked to this arrangement. She failed to perform the complete assessment required by the College's standard pertaining to Prescription Custom Foot Orthoses, neglecting the gait assessment. She did not ensure that the orthotics were dispensed by herself or another registrant, rather than the owner of the business, in contravention of this standard. She used a casting technique that was not permitted under the standard.

[11] Furthermore, the registrant was party to improper documentation. The College and registrant agree that, if the registrant were to testify, it would be her evidence that she was not involved in the company's submissions of claims to insurers, processing of payment or invoices, management, administrative matters, business practices, or scheduling patient appointments. However, she acknowledges that the records created, issued, or signed by her and provided to patients and/or to the insurance company on her behalf to support benefit claims, were not accurate. They contained false or misleading information in relation to the casting technique used for creation of the orthotics and did not disclose any information about the shoe incentive.

[12] The fee charged for the orthotics was false or misleading as well as excessive because it absorbed the cost of a pair of shoes valued at \$200, plus a \$50 store credit. Furthermore, as the shoes were not medically necessary, the registrant's role in providing them to the patient put her in contravention of the Conflict of Interest Policy which defines conflicts to include the direct or indirect sale or supply of medically unnecessary products to patients.

[13] 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 *Chiropody Act, 1991*, SO 1991, c. 20:

1. paragraph 2 – failing to meet or contravening a standard of practice of the profession and the College's standards pertaining to:
 - a. Assessment and Management;
 - b. Patient Relations;
 - c. Records; and
 - d. Prescription Custom Foot Orthoses;
2. paragraph 10 – practising the profession while the member is in a conflict of interest;
3. paragraph 17 – failing to keep records as required by the regulations;

4. paragraph 20 – signing or issuing, in the member’s professional capacity, a document that contains a false or misleading statement;
5. paragraph 21 – submitting an account or charge for services that the member knows is false or misleading;
6. paragraph 22 – charging a fee that is excessive in relation to the services or devices charged for;
7. paragraph 28 – practising in the employment of or in association with a commercial business;
8. paragraph 30 – contravening the *Chiropody Act, 1991*, the *Regulated Health Professions Act, 1991*, or the regulations under either of those Acts, specifically, Ontario Regulation 203/94 under the *Chiropody Act, 1991*, and, in particular, Advertising (Part II) and Records (Part III).

[14] Finally, we find that the registrant’s actions amount to conduct that members of the profession would reasonably regard as disgraceful, dishonourable or unprofessional, within the meaning of paragraph 33 of the Misconduct Regulation. The College referred us to other cases in which registrants engaging in similar arrangements to offer incentives to patients were found to have committed misconduct under this paragraph. This type of conduct brings discredit to the profession and we agree with those findings.

Penalty and Costs

[15] The parties made a joint submission on penalty, agreeing that the registrant should receive a reprimand, ten-month suspension of her certificate of registration, two months of which will be remitted upon the registrant successfully completing specified remedial work, and terms, conditions and limitations on her certificate of registration.

[16] The parties’ agreement on penalty must be implemented unless it is so “unhinged from the circumstances” that implementing it would bring the administration of the College’s professional discipline system into disrepute: see *R. v. Anthony-Cook*, 2016 SCC 43 and *Bradley v. Ontario College of Teachers*, 2021 ONSC 2303. We are satisfied that the proposed penalty is not contrary to the public interest in this manner.

[17] The most important goal of a penalty order is the protection of the public. The public must have confidence in the registrant, the profession and the College's ability to govern the profession in the public interest. Other penalty goals that support protection of the public include discouraging the registrant and other physicians from committing misconduct (specific and general deterrence), rehabilitating the registrant, ensuring a safe return to practice where appropriate and expressing the Tribunal and the profession's disapproval of the misconduct.

[18] We are satisfied that the penalty to which the parties agree achieves the above purposes and is not contrary to the public interest. The cases the College referred us to resulted in suspensions of varied lengths. Although each has its own set of distinct facts, we are satisfied that the ten-month suspension (along with the possibility of a two-month remittance) is reasonably within the range of penalties imposed in similar cases.

[19] In sum, we find that the proposed penalty protects the public and is not so "unhinged from the circumstances" that implementing it would bring the administration of the College's professional discipline system into disrepute. We also accept the parties' agreement that the registrant pay the College \$10,000 in costs in two installments and the terms providing for transparency of the decision through publication.

Order

[20] 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 suspending the Registrant's certification of registration for a period of ten (10) months,¹ two (2) 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;

¹ During the suspension period, the Registrant is required to comply with the College's [Guideline for Suspension](#).

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 both the PROBE ethics course and the University of Toronto medical record keeping course at her own expense and provide documentary evidence of her completion of those remedial steps to the satisfaction of the Registrar;
 - b. Upon returning to practice after her suspension, the Registrant is prohibited from imaging, casting, prescribing, constructing, fitting, dispensing and/or ordering the fabrication of orthotics for a period of twelve (12) months (the "**Restricted Period**") while working at any privately-owned clinic.² The Registrant is additionally not entitled to assign these duties to anyone else in her clinic, regardless of whether she receives a fee, during the Restricted Period, but shall refer such duties to another registrant of the College in good standing at another clinic not affiliated with the Registrant's clinic.
 - c. At her own expense, the Registrant will receive supervision of her chiropody practice with a supervisor selected by the Registrar for a period of eighteen (18) months from the date on which the Registrant returns to practise from the suspension. The terms of the supervision are as follows:
 - The supervisor shall visit with the Registrant in person on at least four (4) occasions – twice in the first twelve months and twice in the last six months;
 - The visits with the supervisor may be unannounced, at the discretion of the supervisor;
 - The supervisor shall determine the length of each visit;
 - In conducting the supervision, the supervisor shall discuss ethics, practice management, record-keeping and compliance with the College's standards with the Registrant;

² For clarity, the orthotics restrictions in paragraph 3(b) does not apply to the Registrant's practice at Inner City Family Health Team.

- The supervisor shall prepare a report to the Registrar after the second (2) visit and after the fourth (4) visit;
 - The Registrant shall provide the supervisor with the Discipline Committee's decision and then provide written confirmation to the Registrar, signed by the supervisor, that the supervisor has received and reviewed the final decision.
- d. In the event that the Registrant obtains employment to provide chiropody services during the twelve (12) months following the date that the Registrant is able to return to practise after her suspension, the Registrant shall:
- notify any current or new employers of the Discipline Committee's final 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:
 - the Discipline Committee's Order;
 - the Notice of Hearing;
 - the Agreed Statement of Facts;
 - the Joint Submission on Penalty;
 - a copy of the Discipline Committee's decision; and
 - i. have her employer forward a report to the Registrar within fifteen (15) days of commencing employment confirmation 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.
4. An order that the Discipline Committee'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 \$10,000 on the following timetable:
 - \$5,000.00 on March 7, 2025; and
 - \$5,000.00 on December 1, 2025.