

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

PANEL:

Peter Guy, Chair  
Winnie Linker  
Alladin Mohagheh  
Steven Haber

BETWEEN:

	)	JORDAN GLICK and MEGHAN
	)	HOULT for the College
	)	
COLLEGE OF CHIROPODISTS OF ONTARIO	)	
(the “College”)	)	
	)	
- and -	)	GORDON A. MEIKLEJOHN for the
	)	Member, TOAN TRAN
	)	
TOAN TRAN	)	
	)	LUISA RITACCA, Independent Legal
	)	Counsel
	)	
	)	Heard: September 27, 2018
	)	
	)	Court Reporter is Amanda Gooden

**DECISION AND REASONS**

This matter came on for hearing before a panel of the Discipline Committee on September 27, 2018 at Victory Verbatim, in Toronto.

**The Allegations**

The allegations against Toan Tran (the “Member”) as stated in the Notice of Hearing dated August 30, 2017, (Exhibit 1, tab 1) are as follows.

**Background**

1. Toan Tran (the “**Member**”) was, at all material times, a chiroprapist registered to practise

chiropractic in the province of Ontario.

3. Within the years 2014 to 2016 (the “**Relevant Period**”), the Member engaged in the practice of chiropractic and/or represented that he was engaged in the practice of chiropractic at some or all of the following locations (the “**Practice Locations**”):
  - a. Scarborough Foot Health Centre;
  - b. ABSB Wellness Centre;
  - c. Elite Foot Care
  - d. JR Wellness Clinic;
  - e. Trustway Health Centre;
  - f. RD Health & Wellness Group;
  - g. Active Stance Inc;
  - h. Aligntech Orthopedics Inc;
  - i. Livingwell and Healthcare; and,
  - j. Healthy Fit.
4. The Member did not inform the College of Chiropractors of Ontario that he practised at some of the Practice Locations and/or ceased to practice at some of the Practice Locations and/or that the Practice Location changed their name and/or location.

### **Healthy Fit**

5. In July of 2015, an investigation conducted by Toronto Police Services (“**TPS**”) led to criminal charges being laid against the owner of Healthy Fit. The charges alleged that Healthy Fit defrauded an insurance company (the “**Insurer**”) of upwards of four million dollars through a benefits scam. The scam involved employees and family members of the Toronto Transit Commission (the “**TTC Employees**”) being issued prescriptions for unnecessary medical treatments and devices. The TTC Employees were assisted in making insurance claims to the Insurer where services were not provided and/or medical devices were not dispensed. Healthy Fit then shared the insurance money with the TTC Employees.
6. The TPS investigation revealed that benefits claims were commonly made for orthotics, orthopaedic shoes and/or compression stockings which were often prescribed to TTC Employees as well as their family members in a manner which maximized the insurance claim.
7. Mr. Tran was employed by Healthy Fit between May and July 2015 wherein he worked for about ten total days, each for about a three hour shift though occasionally he worked for a longer period of time. While Mr. Tran was employed by Healthy Fit:
  - a. he was paid \$100 per orthotic prescription and was otherwise not remunerated;

- b. he met with patients typically for a total of ten to fifteen minutes before issuing a prescription for orthotics and/or orthopaedic shoes after taking a foam box impression. He prescribed orthotics to as many as twenty-eight patients in a single day;
- c. approximately half of his patients were TTC employees;
- d. he told every patient that they required orthotics. Across about ten days of practice, he provided services to about 135 patients and prescribed orthotics and orthopaedic shoes to all of them;
- e. he did not fit or dispense orthotics to any patients or engage in any follow-up at all;
- f. On several days, a portion of the biomechanical examination which appeared in patient files contained identical “tick boxes”, used to describe the shape and condition of the patient’s feet including:
  - i. July 3, 2015 – ten out of ten biomechanical examinations had the same tick boxes selected;
  - ii. July 5, 2015 – fifteen out of sixteen biomechanical examinations had the same tick boxes selected; and,
  - iii. July 12, 2015 – twenty-two out of twenty-six biomechanical examinations had the same tick boxes selected.
- g. he partially completed, signed and/or stamped prescriptions and/or partially completed biomechanical examination forms prior to meeting with patients;
- h. he used a “cheat sheet” in his office that described how to complete an orthotic prescription;
- i. he revised prescriptions after they were provided to patients at the request of the owner of Healthy Fit;
- j. he did not know how Healthy Fit dealt with billing or what Healthy Fit charged for orthotics or orthopaedic shoes;
- k. he did not retain or have access to any patient records relating to the patients that he provided services to at Healthy Fit; and,
- l. his prescription practices at Healthy Fit were consistent with his practices at other locations.

### **Healthy Fit and Other Practice Locations**

8. It is alleged that with respect to one or more of the patients listed in Schedule “A”, as well as the patients to whom the Member provided chiropody services at Healthy Fit, the Member overprescribed and/or gave patients unnecessary prescriptions for orthotics, orthopedic shoes, and/or compression stockings in that:
  - a. The Member did not perform an adequate examination and/or assessment of the patient, but nonetheless prescribed and/or recommended orthotics, orthopedic shoes, and/or compression stockings for them;
  - b. The Member did not discuss other treatment options with the patient and/or determined if a different treatment was appropriate before prescribing orthotics and/or orthopaedic shoes and/or compression stockings as required per the standards;
  - c. The Member often prescribed pairs of orthotics, orthopedic shoes and/or compression stockings in multiples and/or at short intervals without documentation to explain the need;
  - d. The Member prescribed and/or recommended orthotics, orthopedic shoes and/or compression stockings to patients who could not benefit from these devices such as prescribing custom orthotics to children aged four years and younger; and/or,
  - e. The Member’s patient records did not record sufficient information to lead one to conclude that the use of orthotics, orthopedic shoes, and/or compression stockings was clinically indicated.
  
9. During the Relevant Period, the Member prescribed and/or recommended orthotics, orthopedic shoes and/or compression stockings for patients at the Practice Locations including, but not limited to, one or more of the patients listed in Schedule “A” as well as the patients to whom the Member provided chiropody services at Healthy Fit. He made one or more of these prescriptions and/or recommendations without:
  - a. taking an adequate patient history;
  - b. performing an adequate chiropody assessment;
  - c. obtaining and documenting, in a timely manner, informed patient consent;
  - d. providing a range of treatment options;
  - e. using a casting or scanning procedure that meets the standards of practice;
  - f. personally evaluating the casts or scans to ensure they were accurate or ensuring a another designated chiropodist or podiatrist did so. In particular, the Member did not ensure that the patient’s foot was compared to the cast or scan to verify that it was an accurate reflection of the patient’s condition and the contours of the patient’s foot, as outlined in the standards of practice;

- g. personally fitting the orthotics and/or orthopedic shoes to ensure that the device met the prescription and the contours of the patient's foot and/or ensuring that those steps were performed by another chiropodist or podiatrist; and/or
  - h. offering and/or conducting a follow-up after the orthotics and/or orthopedic shoes had been dispensed.
10. During the Relevant Period, for one or more patients including, but not limited to, one or more patients listed in Schedule "A"<sup>i</sup> as well as the patients to whom the Member provided chiropody services at Healthy Fit, the prescription for orthotics prepared by the Member was inadequate in that:
- a. the Member did not evaluate and/or record the patient's medical history;
  - b. a biomechanical examination was not performed;
  - c. a gait analysis was not performed;
  - d. a foot exam with appropriate measurements and observations was not taken and/or recorded;
  - e. it did not contain the patient information required by the College's standards, including the weight, age, activity level, biomechanical data pertinent to the patient's deformity, and/or other information required for the creation of appropriate prescription custom foot orthoses under the College's standards;
  - f. it did not involve an assessment and recording of the activities and environmental requirements of use;
  - g. appropriate casting or scanning techniques were not used; and/or
  - h. it did not contain the necessary information including, but not limited to, information required under the College's standards related to the materials to be used in the fabrication of the orthotic, the required flexibility, the posting correction required and/or the depth of the heel seat.
11. The Member did not take all reasonable steps necessary to ensure that his patient records were being kept in accordance with the regulations governing records and/or the College of Chiropodists of Ontario's Standards of Practice pertaining to Records. In particular, during the Relevant Period, one or more of the patient records including, but not limited to, one or more of the records for patients listed in Schedule "A" as well as the patients to whom the Member provided chiropody services at Healthy Fit:
- a. did not contain the name of the patient and/or the name of the treating chiropodists;
  - b. did not contain a complete medical history of the patient;
  - c. did not contain a treatment plan;

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<sup>i</sup> Schedule A has not been included in the body of our reasons.

- d. did not contain a copy of every written informed consent and/or reasonable information that an informed consent was obtained;
  - e. did not accurately document the date(s) of the patient's visit(s), the date(s) of various examinations, assessments, fittings, and/or castings, and/or the date(s) on which the orthotics and/or orthopedic shoes were dispensed to the patient;
  - f. did not contain reasonable information about every examination performed by the Member and reasonable information about every clinical finding, diagnosis and assessment made by the Member;
  - g. did not contain reasonable information about all significant advice given by the member;
  - h. did not contain reasonable information about every order made by the Member for examinations, tests, consultations or treatments to be performed by any other person;
  - i. did not contain every written report received by the Member with respect to examinations, tests, consultations or treatments performed by other health professionals or any other person that provided services to the patient in relation to the fitting and dispensing of orthotics and/or orthopedic shoes;
  - j. inaccurately and/or misleadingly documented that casting for orthotics was performed, either in the Member's clinical notes, the patient invoice, the insurance documentation, or elsewhere in the patient record;
  - k. did not document any follow-up appointment(s) that were offered to patients who received orthotics and/or orthopedic shoes;
  - l. were not personally written by the Member at the time of the patient's appointment or within 24 hours thereafter; and/or
  - m. did not contain proof of payment for charges related to chiropody services.
12. The Member's record keeping practices were additionally inadequate in that:
- a. he did not keep a daily appointment book listing the names of the patients he examined, treated, and/or to whom rendered any services; and/or
  - b. he failed to maintain control over the location(s) and/or access to and/or manner of storage of his patients' files.
13. During the Relevant Period, for one or more patients including, but not limited to, one or more of the patients listed in Schedule "A", as well as the patients to whom the Member provided chiropody services at Healthy Fit:
- a. the patient invoice(s) and/or documents prepared for the patient's insurance company inaccurately and/or misleadingly represented that the Member had provided certain services to the patient when he had not done so; and/or,
  - b. the Member submitted, or allowed to be submitted, invoices and receipts to one or more patients' insurers that did not accurately reflect the services provided, the

individual who provided the services, the date on which the services were provided, and/or the method used to obtain models of the patient's foot for the fabrication of orthotics.

14. The Member failed to ensure that he was aware of and maintained control over the manner in which one or more of the Practice Locations billed patients for his chiropractic services.

15. By reason of the conduct alleged in paragraphs 1-13 above, the Member engaged in professional misconduct in that he violated:

a. the following subsections of Ontario Regulation 750/93 under the *Chiropractic Act, 1991*:

i. 1.2 (Failing to meet or contravening a standard of practice of the profession), and, in particular, the standards pertaining to:

1. Assessment and Management;
2. Orthotics and/or Prescription Custom Foot Orthoses;
3. Patient Relations
4. Prescription Footwear; and/or
5. Records;

ii. 1.3 (Doing anything to a patient for a therapeutic, preventative, palliative, diagnostic, cosmetic, or other health-related purpose in a situation in which a consent is required by law, without such consent);

iii. 1.17 (Failing to keep records as required by the regulations);

iv. *Withdrawn*;

v. 1.20 (Signing or issuing, in the member's professional capacity, a document that contains a false or misleading statement);

vi. 1.21 (Submitting an account or charge for services that the member knows is false or misleading);

vii. 1.30 (Contravening the *Chiropractic Act, 1991*, the *Regulated Health Professions Act, 1991*, or the regulations under either of those Acts) and, in particular:

1. the provisions of Ontario Regulation 750/93 under the *Chiropractic Act, 1991* specified in this Notice of Hearing,
2. the provisions of Ontario Regulation 203/94 under the *Chiropractic Act, 1991* specified in this Notice of Hearing; and/or
3. section 51(1)(c) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991*.

- viii. 1.33 (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); and/or
- b. sections 13, 14, 16, and 17 of Ontario Regulation 203/94 under the *Chiropractic Act, 1991*, pertaining to the required record-keeping practices.

### **Member's Plea**

The College advised the panel that it was seeking leave to withdraw the allegation at paragraph 14(a)(iv) above. The Member consented to the request.

The Member admitted that he engaged in professional misconduct as described at paragraph 15 of the Agreement Statement of Facts, which is reproduced below.

The panel conducted an oral plea inquiry and was satisfied that the Member's admissions were voluntary, informed and unequivocal. The panel granted leave to withdraw the allegation at paragraph 14(a)(iv) of the Notice of Hearing.

### **Agreed Statement of Facts**

Counsel for the College and Member advised the panel that agreement had been reached on the facts and introduced an Agreed Statement of Facts which provided as follows:

1. Toan Tran (the "**Member**") is (and was at all material times) a chiropractor registered to practise chiropractic in the Province of Ontario.

### **BACKGROUND**

2. Within the years 2014 to 2016 (the "Relevant Period"), the Member engaged in the practice of chiropractic at the following locations (the "Practice Locations") as either an employee or a locum:
  - a. Scarborough Foot Health Centre;
  - b. ABSB Wellness Centre;
  - c. Elite Foot Care
  - d. JR Wellness Clinic;
  - e. Trustway Health Centre;
  - f. RD Health & Wellness Group;
  - g. Active Stance Inc;
  - h. Aligntech Orthopedics Inc;



- i. Livingwell and Healthcare; and,
  - j. Healthy Fit.
3. The Member did not inform the College of Chiropractors of Ontario that he was employed at Healthy Fit and that ABSB Wellness Centre had changed names to Elite Footcare and Alligntech Orthopedics and therefore the College website did not reflect that the Member worked at those clinics.

### **HEALTHY FIT**

4. In July of 2015, an investigation conducted by Toronto Police Services (“TPS”) led to criminal charges being laid against the owner of Healthy Fit. The charges alleged that Healthy Fit defrauded an insurance company (the “Insurer”) of upwards of four million dollars through a benefits scam. The scam involved employees and family members of the Toronto Transit Commission (the “TTC Employees”) being issued prescriptions for unnecessary medical treatments and devices. The TTC Employees were assisted in making insurance claims to the Insurer where services were not provided and/or medical devices were not dispensed. Healthy Fit then shared the insurance money with the TTC Employees.
5. The TPS investigation revealed that benefits claimed were commonly made for orthotics, orthopaedic shoes and/or compression stockings which were often prescribed to TTC Employees as well as their family members in a manner which maximized the insurance claim.
6. In 2017, the owner of Healthy Fit pled guilty to two counts of fraud over \$5,000 and was sentenced to two years in custody for his conduct at Healthy Fit.

### **MR. TRAN’S INVOLVEMENT WITH HEALTHY FIT**

7. Mr. Tran was employed by Healthy Fit on the following days and saw the indicated number of patients:

<b>DATE</b>	<b>NUMBER OF PATIENTS</b>
May 29, 2015	5
May 31, 2015	14
June 5, 2015	8
June 7, 2015	19
June 12, 2015	5
June 14, 2015	17
July 3, 2015	11
July 5, 2015	20
July 12, 2015	28
July 17, 2015	8

On each day, he worked for about a three hour shift though occasionally he worked for a longer period of time. While Mr. Tran was employed by Healthy Fit, he acknowledges that:

- a. he was paid \$100 per patient to whom he wrote a prescription for orthotics and orthopaedic shoes and was otherwise not remunerated;
  - b. he met with patients typically for a total of ten to fifteen minutes before issuing a prescription for orthotics and/or orthopaedic shoes after taking a foam box impression. He prescribed orthotics to as many as twenty-eight patients in a single day;
  - c. approximately half of his patients were TTC employees;
  - d. he told every patient that they required orthotics. Across ten days of practice, he provided services to 135 patients and prescribed orthotics and orthopaedic shoes to all of them;
  - e. he did not fit or dispense orthotics to any patients or engage in any follow-up at all;
  - f. On several days, a portion of the biomechanical examination which appeared in patient files contained identical “tick boxes”, used to describe the shape and condition of the patient’s feet including:
    - i. July 3, 2015 – ten out of ten biomechanical examinations had the same tick boxes selected;
    - ii. July 5, 2015 – fifteen out of sixteen biomechanical examinations had the same tick boxes selected; and,
    - iii. July 12, 2015 – twenty-two out of twenty-six biomechanical examinations had the same tick boxes selected.
  - g. he partially completed, signed and stamped prescriptions and partially completed biomechanical examination forms prior to meeting with patients;
  - h. he engaged in discussions through text message regarding revising prescriptions after they were provided to patients at the request of the owner of Healthy Fit and showed a willingness to do so; and
  - i. he did not know how Healthy Fit dealt with billing or what Healthy Fit charged for orthotics or orthopaedic shoes.
8. During the Relevant Period, with respect to the patients to whom the Member provided chiropody services at Healthy Fit, the Member overprescribed and/or gave patients unnecessary prescriptions for orthotics and/or orthopedic shoes in that:
- a. The Member did not perform an adequate examination and/or assessment of the patient, but nonetheless prescribed and/or recommended orthotics and/or orthopedic shoes for them;
  - b. The Member did not discuss other treatment options with the patient and/or determined if a different treatment was appropriate before prescribing orthotics

and/or orthopaedic shoes as required per the standards;

- c. The Member often prescribed pairs of orthotics and/or orthopedic shoes in multiples without documentation to explain the need;
  - d. The Member prescribed and/or recommended orthotics and/or orthopedic shoes to patients who could not benefit from these devices; and,
  - e. The Member's patient records did not record sufficient information to lead one to conclude that the use of orthotics and/or orthopaedic shoes was clinically indicated.
9. During the Relevant Period, the Member prescribed orthotics and/or orthopedic shoes for patients at Healthy Fit without:
- a. taking an adequate patient history;
  - b. performing an adequate chiropody assessment;
  - c. obtaining and documenting, in a timely manner, informed patient consent;
  - d. providing a range of treatment options;
  - e. using a casting or scanning procedure that meets the standards of practice;
  - f. personally fitting the orthotics and/or orthopedic shoes to ensure that the device met the prescription and the contours of the patient's foot; and,
  - g. offering a follow-up after the orthotics and/or orthopedic shoes had been dispensed.
10. During the Relevant Period, for the patients to whom the Member provided chiropody services at Healthy Fit, the prescriptions for orthotics prepared by the Member were inadequate in that:
- a. the Member did not evaluate and/or record the patient's medical history;
  - b. a biomechanical examination was not performed;
  - c. a gait analysis was not performed;
  - d. a foot exam with appropriate measurements and observations was not taken and/or recorded;
  - e. they did not contain the patient information required by the College's standards, including the weight, age, activity level, biomechanical data pertinent to the patient's deformity, and/or other information required for the creation of appropriate prescription custom foot orthoses under the College's standards;
  - f. they did not involve an assessment and recording of the activities and environmental requirements of use; and
  - g. appropriate casting or scanning techniques were not used as the Member used foam box impressions.

11. The Member did not take all reasonable steps necessary to ensure that his patient records were being kept in accordance with the regulations governing records and the College of Chiropractors of Ontario's Standards of Practice pertaining to Records. In particular, during the Relevant Period, in respect of the patients to whom the Member provided chiropractic services at Healthy Fit, the records:
  - a. did not contain the name of the treating chiropractor;
  - b. did not contain a complete medical history of the patient;
  - c. did not contain a treatment plan;
  - d. did not contain a copy of every written informed consent and/or reasonable information that an informed consent was obtained;
  - e. did not accurately document the date(s) of the patient's visit(s), the date(s) of various examinations, assessments, fittings and/or castings;
  - f. did not contain reasonable information about every examination performed by the Member and reasonable information about every clinical finding, diagnosis and assessment made by the Member;
  - g. did not contain reasonable information about all significant advice given by the member;
  - h. did not contain reasonable information about every order made by the Member for examinations, tests, consultations or treatments to be performed by any other person;
  - i. did not contain every written report received by the Member with respect to examinations, tests, consultations or treatments performed by other health professionals or any other person that provided services to the patient in relation to the fitting and dispensing of orthotics and/or orthopedic shoes;
  - j. did not document any follow-up appointment(s) that were offered to patients who received orthotics and/or orthopedic shoes; and
  - k. did not contain proof of payment for charges related to chiropractic services.
  
12. The Member's record keeping practices were additionally inadequate in that:
  - a. he did not keep a daily appointment book listing the names of the patients he examined, treated, and/or to whom rendered any services; and,
  - b. he failed to maintain control over the location(s) and/or access to and/or manner of storage of his patients' files.
  
13. During the Relevant Period, for the patients to whom the Member provided chiropractic services at Healthy Fit:
  - a. the Member allowed to be submitted, invoices and receipts to one or more patients' insurers that did not accurately reflect the services provided, the

individual who provided the services, the date on which the services were provided, and/or the method used to obtain models of the patient's foot for the fabrication of orthotics.

14. The Member failed to ensure that he was aware of and maintained control over the manner in which Healthy Fit billed patients for his chiropody services.

### **ACKNOWLEDGEMENT OF PROFESSIONAL MISCONDUCT**

15. By reason of the conduct alleged in paragraphs 1-14 above, the Member acknowledges that he committed professional misconduct in that he violated:

- k. the following subsections of Ontario Regulation 750/93 under the *Chiropody Act, 1991*:

- iv. 1.2 (Failing to meet or contravening a standard of practice of the profession), and, in particular, the standards pertaining to:
  - 1. Assessment and Management;
  - 2. Orthotics and/or Prescription Custom Foot Orthoses;
  - 3. Patient Relations
  - 4. Prescription Footwear; and/or
  - 5. Records;
- v. 1.3 (Doing anything to a patient for a therapeutic, preventative, palliative, diagnostic, cosmetic, or other health-related purpose in a situation in which a consent is required by law, without such consent);
- vi. 1.17 (Failing to keep records as required by the regulations);
- vii. 1.20 (Signing or issuing, in the member's professional capacity, a document that contains a false or misleading statement);
- viii. 1.21 (Submitting an account or charge for services that the member knows is false or misleading);
- ix. 1.30 (Contravening the *Chiropody Act, 1991*, the *Regulated Health Professions Act, 1991*, or the regulations under either of those Acts) and, in particular:
  - 1. the provisions of Ontario Regulation 750/93 under the *Chiropody Act, 1991* specified in this Notice of Hearing,
  - 2. the provisions of Ontario Regulation 203/94 under the *Chiropody Act, 1991* specified in this Notice of Hearing; and/or
  - 3. section 51(1)(c) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991*.
- x. 1.33 (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); and/or

1. sections 13, 14, 16, and 17 of Ontario Regulation 203/94 under the *Chiropody Act, 1991*, pertaining to the required record-keeping practices.

## **MEMBER'S ACKNOWLEDGEMENTS**

1. The Member understands the nature of the allegations that have been made against him and that by voluntarily admitting to these allegations, he waives his right to require the College to otherwise prove the case against him.
2. The Member understands that the Discipline Committee can accept that the facts herein constitute professional misconduct.
3. The Member understands that depending on any penalty ordered by the Discipline Committee, the panel's decision and reasons may be published, including the facts contained herein and his name.
4. The Member understands that any agreement between him and the College does not bind the Discipline Committee.

## **Reasons for Decision**

In coming to this decision, the panel considered the following: the Member's admission of professional misconduct, the joint submission of the Agreed Statements of Facts, and the parties' submissions.

Following deliberations, the Panel was satisfied that the conduct described in the Agreed Statement of Facts did constitute professional misconduct as alleged in the Notice of Hearing and as admitted by the Member. The Panel found that members of the profession would reasonably regard the conduct admitted as dishonourable and unprofessional.

The member failed to meet the standards of practice of the profession by: (a) failing to maintain adequate records, (b) prescribing orthotics and orthopedic shoes when they were not medically necessary, (c) not obtaining informed consent, (d) submitting an account as charge for services that false or misleading and (e) signing or issuing a document that contained a false or misleading statement.

## **Penalty**

Counsel for the parties advised the panel that a Joint Submission as to Penalty and Costs had been agreed upon. The Joint Submission as to Penalty and Costs provides as follows:

1. The College of Chiropractors of Ontario (the “**College**”) and Mr. Toan Tran (the “**Member**”) agree and jointly submit for the Discipline Committee to make the following order:
  - (a) Directing the Registrar to suspend the Member’s certificate of registration for a period of ten (10) months, one month of which shall be remitted in the event that the Member complies with paragraph 2(a) below.<sup>ii</sup> The suspension shall begin on October 1<sup>st</sup>, 2018.
2. Directing the Registrar to impose a term, condition and limitation on the Member’s certificate of registration:
  - (a) Requiring the Member to complete the ProBe ethics course at his own expense and provide proof thereof to the Registrar before the completion of the compulsory nine (9) month term of suspension.<sup>iii</sup>
  - (b) Restricting the Member from imaging, casting, prescribing, constructing, fitting, dispensing and/or ordering the fabrication of orthotics, prescription footwear, custom shoes and/or modified orthopaedic shoes for a period of twelve (12) months (the “**Restricted Period**”), which period begins to run at the conclusion of the suspension period. The Member is additionally not entitled to assign these duties to anyone else in his clinic, regardless of whether he receives a fee, during the Restricted Period but shall refer such duties to another chiropractor in good standing at another clinic not affiliated with the Member’s clinic.
  - (c) Requiring the Member’s practice to be supervised for a period of twenty-four (24) months, which period begins to run at the conclusion of the suspension period, on the following terms:
    - (A) The supervisor shall be appointed by the Registrar and shall be a professional member of the College of Chiropractors of Ontario;
    - (B) The Member must identify to the supervisor and the Registrar his schedule of practice for seeing patients and identify the locations where patients are seen and where patient records are kept. In the event that the Member’s schedule changes, he must immediately identify such changes to the Registrar and to his supervisor;
    - (C) The supervisor shall visit with the Member in person on six (6)

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<sup>ii</sup> In the event that paragraph 2(a) is not complied with within the timeframe provided, any further period of suspension shall be served immediately following the compulsory nine month suspension.

<sup>iii</sup> For greater clarity, the Member must complete the ProBe ethics course whether or not the additional month of suspension is served.

occasions to be spread out at approximately months 1, 5, 10, 15, 20 and 24 of the supervision period;

- (D) The first four visits shall be announced. The last two visits shall be unannounced. Between months nineteen (19) and twenty-four (24), the Member must provide to the Supervisor his work schedule on a bi-weekly basis;
  - (E) The supervisor shall determine the length of each visit;
  - (F) In conducting site visits, the supervisor shall engage the Member in discussions regarding ethics and ethical issues, practice management, record keeping and the orthotics standard;
  - (G) The supervisor shall prepare a report to the Registrar after the third (3) visit and after the sixth (6) visit detailing what occurred at the prior three (3) supervisory sessions.<sup>iv</sup>
  - (H) The Member shall pay the costs of the supervision (to a maximum of \$350 per site visit and \$350 per supervisory report) and shall fully reimburse the College for these costs within thirty (30) days of receiving an invoice from the College for the supervision; and,
3. Directing the Member to appear before the panel to be reprimanded and the fact of the reprimand to be recorded on the Public Register of the College.
  4. Directing the Member to pay the College's costs fixed in the amount of \$20,000 of which \$10,000 must be paid by certified cheque or credit card immediately upon the rendering of an oral decision provided this proposed penalty is accepted and the remaining \$10,000 to be paid based on the following schedule:
    - (a) \$2,500 to be paid within 90 days of the oral hearing date;
    - (b) \$2,500 to be paid within 180 days of the oral hearing date;
    - (c) \$2,500 to be paid within 270 days of the oral hearing date;
    - (d) \$2,500 to be paid within 360 days of the oral hearing date.
  5. The Member acknowledges that pursuant to section 56 of the Health Professions Procedural Code, being Schedule 2 to the Regulated Health Professions Act, 1991, the

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<sup>iv</sup> For clarity, in the event that the supervisory reports suggest further professional misconduct by the Member, the supervisory reports may be relied upon by the Registrar in considering whether there are reasonable and probable grounds to suggest that the Member has committed an act of professional misconduct and therefore request approval from the Inquiries, Complaints and Reports Committee of the appointment of an Investigator, pursuant to section 75(1)(a) of the *RHPA Procedural Code*.



decision and reasons, or a summary thereof, will be published in the College's annual report and may be published in any other publication of the College with the Member's name.

6. The Member acknowledges that this Joint Submission as to Penalty is not binding upon the Discipline Committee.
7. The Member acknowledges that he has had the chance to receive independent legal advice and did so before agreeing to this Joint Submission.

### **Decision and Reasons for Penalty**

The panel considered the Joint Submissions on Penalty and Costs. Having regard to the law with respect to joint submissions, the panel is satisfied that the penalty and costs order proposed would not bring the process of this College into disrepute and is not contrary to the public interest. In the circumstances the penalty proposed is reasonable and is so ordered by the panel.

The panel concluded that the proposed penalty is reasonable and in the public interest and accepted the Joint Submission as to Penalty for the following reasons.

1. The penalty order proposed in the joint submission is reasonable and just. The discipline panel recognized Mr. Tran has been in practice for 13 years and he should have been aware his conduct was dishonourable and unprofessional, and his actions were financially motivated. His conduct brings shame to his fellow members and to the public. His behaviour has required investigation and ultimately this hearing which results in significant economic cost that other members must bear. It raises the question of doubt with the public and insurance industry regarding the Profession.
2. The penalty incorporates elements of rehabilitation and deterrence with some notable punitive aspects namely;
  - a. The suspension of the Member's certificate of registration for ten (10) months, one month which shall be remitted in the event that the Member complies with the ProBe ethics course.
  - b. The Member must complete the ProBe ethics course at this own expense and provide proof thereof to the Registrar before the completions of the nine (9)

month term of suspension.

- c. The restriction of the Member from imaging, casting, prescribing, constructing, fitting, dispensing and/or ordering fabrication of orthotics, prescription footwear, custom shoes and/or modified orthopaedic shoes for a period of twelve (12) months, which period begins at the end of the nine (9) month suspension period. The Member is not entitled to assign these duties to anyone else, regardless of whether he receives a fee, during the twelve (12) months where the restriction applies.
  - d. The Member's practice is to be supervised for a period of twenty-four (24) months at the conclusion of the suspension period at the expense of the Member with the specifics outlined in the joint submission.
3. The Panel took into consideration this was the first time the Member appeared before the College's Discipline Committee.
  4. By admitting the allegations of professional misconduct and entering into an Agreed Statement of Facts and a joint submission as to penalty, the Member has saved the College considerable time and expenses, which would have been incurred had the matter been contested
  5. The Panel noted that that as part of this resolution the Member agreed to pay the College a portion of its costs to investigate and prosecute this matter. While the costs are not part of the penalty, it is worth recognizing that the Member agreed to make this payment.

This lawful penalty sends a strong message that the College will not tolerate breaches of the Standards of Practice and sends a message by discouraging other members from engaging in similar acts for financial gain.

At the conclusion of the hearing, having confirmed that the Member waived any right to appeal, the panel delivered its reprimand.

I, Peter Guy, sign this Decision and Reasons for the decision as Chairperson of this Discipline

panel and on behalf of the members of the Discipline panel as listed below:



Peter Guy, Chairperson

Oct 9, 2018

Date

Winnie Linker  
Alladin Mohaghegh  
Steven Haber

## **REPRIMAND**

As you know, Mr. Tran, as part of its penalty, this Discipline panel has ordered you be given an oral reprimand.

The fact that you have received this reprimand will be part of the public portion of the Register and, as such, part of your record with the College.

The panel has found that you have engaged in professional misconduct in the following ways:

1. Breach of standards of the profession.
2. Failure to maintain adequate records.
3. Prescribing orthotics and orthopedic shoes when they were not medically necessary.
4. Not obtaining informed consent.
5. Submitting an account as charge for services that were false or misleading.

The fact that you engaged in professional misconduct is a matter of profound concern. You have brought discredit to the entire profession and to yourself. Public confidence in this profession has been put in jeopardy. The result of your misconduct is that you have let down the public, the profession, and yourself.

Your conduct is totally unacceptable to your fellow chiropodists and to the public. Of special concern to us is the fact that the professional misconduct in which you engaged has resulted in increased scrutiny of the whole profession by insurance companies.

We also want to make it clear to you that while the penalty that this panel has imposed upon you is a fair penalty, a more significant penalty will likely be imposed by another Discipline panel in the event that you are ever found to have engaged in professional misconduct again.

Thank you for attending today. We are adjourned.