

**DISCIPLINE COMMITTEE  
OF THE COLLEGE OF CHIROPRACTORS OF ONTARIO**

**PANEL:**

Chair	Dr. M. Tribe	Professional Member
	Dr. B. Budgell	Professional Member
	Ms. K. Bourdeau	Public Member
	Dr. C. Pattrick	Professional Member
	Mr. D. Cressman	Public Member

**BETWEEN:**

**COLLEGE OF CHIROPRACTORS  
OF ONTARIO**

**- and -**

**DR. NIOUSHA GOLHASSANI**

) Appearances:  
)  
) Mr. Chris Paliare and  
) Ms. Karen Jones  
) for the College of Chiropractors of Ontario  
)  
)  
)  
) Mr. Brian Sherman for Dr. Niousha Golhassani  
)  
)  
) Heard: April 29, 2019

Also present at the hearing were:

Mr. Colin Stevenson  
Independent Legal Counsel to the Panel  
Ms. Jo-Ann Willson  
Registrar and General Counsel CCO  
Ms. Liz Kichula  
Court Reporter

## DECISION AND REASONS

### INTRODUCTION

A hearing into allegations of professional misconduct against Dr. Niousha Golhassani ("Dr. Golhassani", or the "Member") took place before a panel of the Discipline Committee (the "Panel") of the College of Chiropractors of Ontario (the "College" or "CCO") on April 29, 2019. The College has a mandate to regulate the practice of the chiropractic profession and to govern its members and, in so doing, serve and protect the public interest.

For the reasons that follow the Panel found that the Member engaged in professional misconduct.

The Panel accepted a joint submission on penalty and costs and ordered that its terms be implemented.

### THE ALLEGATIONS

The allegations against the Member are set out in two separate Notices of Hearing. The first dated February 7, 2018 was filed as Exhibit 1. It provided:

1. You have committed an act of professional misconduct as provided by subsection 51(1)(c) of the Health Professionals Procedural Code of the *Chiropractic Act, 1991*, S.O. 1991, c. 21, as amended, and paragraph 1(2) of Ontario Regulation 852/93, in that during 2009-2012, you contravened a standard of practice of the profession or failed to maintain the standard of practice expected of members of the profession with respect to your assessment and/or treatment and/or documentation and/or billing.

2. You have committed an act of professional misconduct as provided by subsection 51(1)(c) of the Health Professionals Procedural Code of the *Chiropractic Act, 1991*, S.O. 1991, c. 21, as amended, and paragraph 1(19) of Ontario Regulation 852/93, in that during the period 2009-2012, on one or more occasions, you failed to keep records as required by the regulations.
3. You have committed an act of professional misconduct as provided by subsection 51(1)(c) of the Health Professionals Procedural Code of the *Chiropractic Act, 1991*, S.O. 1991, c. 21, as amended, and paragraph 1(20) of Ontario Regulation 852/93, in that during the period 2009-2012, on one or more occasions, you falsified a record relating to your practice.
4. You have committed an act of professional misconduct as provided by subsection 51(1)(c) of the Health Professionals Procedural Code of the *Chiropractic Act, 1991*, S.O. 1991, c. 21, as amended, and paragraph 1(22) of Ontario Regulation 852/93, in that during the period 2009-2012, on one or more occasions, you signed or issued, in your professional capacity, a document that you knew contained a false or misleading statement.
5. You have committed an act of professional misconduct as provided by subsection 51(1)(c) of the Health Professionals Procedural Code of the *Chiropractic Act, 1991*, S.O. 1991, c. 21, as amended, and paragraph 1(23) of Ontario Regulation 852/93, in that during the period 2009-2012, on one or more occasions, you submitted an account or charge for services that you knew were false or misleading.
6. You have committed an act of professional misconduct as provided by subsection 51(1)(c) of the Health Professionals Procedural Code of the *Chiropractic Act, 1991*, S.O. 1991, c. 21, as amended, and paragraph 1(33) of Ontario Regulation 852/93, in that during the period 2009-2012, you engaged in conduct or performed an act that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional with respect to your assessment and/or treatment and/or documentation and/or billing.

The hearing proceeded only in relation to allegations 1, 2, and 6 of the first Notice of Hearing. Allegations 3, 4 and 5 were withdrawn.

The second Notice of Hearing dated August 17, 2018 arose from a Registrar's investigation and was filed as Exhibit 2. It provided:

1. You have committed an act of professional misconduct as provided by subsection 51(1)(c) of the Health Professions Procedural Code of the *Chiropractic Act, 1991*, S.O. 1991, c. 21, as amended, and paragraph 1(2) of Ontario Regulation 852/93, in that in or about 2010, on one or more occasions, you contravened a standard of practice of the profession or failed to maintain the standard of practice expected of members of the profession with respect to your documentation and/or billing regarding patients and your accepting of payment for services that were not provided.
2. You have committed an act of professional misconduct as provided by subsection 51(1)(c) of the Health Professions Procedural Code of the *Chiropractic Act, 1991*, S.O. 1991, c. 21, as amended, and paragraph 1(20) of Ontario Regulation 852/93, in that in or about 2010, on one or more occasions, you falsified a record relating to your practice with respect to your billings to insurers.
3. You have committed an act of professional misconduct as provided by subsection 51(1)(c) of the Health Professions Procedural Code of the *Chiropractic Act, 1991*, S.O. 1991, c. 21, as amended, and paragraph 1(22) of Ontario Regulation 852/93, in that in or about December 2010, on one or more occasions, you signed or issued, in your professional capacity, a document or documents you knew contained a false or misleading statement.
4. You have committed an act of professional misconduct as provided by subsection 51(1)(c) of the Health Professions Procedural Code of the *Chiropractic Act, 1991*, S.O. 1991, c. 21, as amended, and paragraph 1(23) of Ontario Regulation 852/93, in that in or about 2010, on one or more occasions, you submitted an account or charge for services that you knew were false or misleading.
5. You have committed an act of professional misconduct as provided by subsection 51(1)(c) of the Health Professions Procedural Code of the *Chiropractic Act, 1991*, S.O. 1991, c. 21, as amended, and paragraph 1(33) of Ontario Regulation 852/93, in that in or about 2010, on one or more occasions, you engaged in conduct or performed an act, that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional with respect to your documentation and/or billing regarding patients and/or your accepting payment for the false claims.

The hearing proceeded only in relation to allegations 1 and 5 of the second Notice of Hearing. Allegations 2, 3 and 4 were withdrawn.

This panel agreed with the parties that both notices of hearing should be combined for the purpose of this hearing as they involved similar questions of fact, law or policy.

## **THE EVIDENCE**

Part 1 of the Resolution Agreement (Exhibit 3) set out the relevant evidence in the form of an agreed statement of facts which was read in full by Mr. Paliare into the record. Mr. Sherman made two minor corrections on behalf of the member as to wording misread by Mr. Paliare. The following is a summary of the alleged misconduct which was investigated.

From the first Notice of Hearing (the State Farm complaint):

1. Overbilling to State Farm Insurance, including:
  - a. billed for more than 24 hours/day on 157 days during the period between January 11, 2011 and October 2, 2012;
  - b. billed between 12-24 hours a day on 117 days during the same period;
  - c. back dated and/or altered fax confirmation sheets;
  - d. billed for assistive devices that were not provided; and
  - e. billed for aqua therapy treatments that were not provided.
2. Failing to maintain proper patient records.
3. Approaching a patient to file false accident claims in exchange for compensation to the patient.
4. Attendant Care Assessments (Form 1's) that were billed to State Farm Insurance for time, assessment, mileage, document and file review that were never performed. In some instances, documents were altered using previous data from old Form 1's.

From the second Notice of Hearing (the Registrar's investigation):

1. Computer metadata indicating various in-home assessment documentation as well as delivery slips of assistive devices were created 2-3 years after the original services and delivery dates.
2. In-home assessments that were billed but records indicate the patient was seen at the clinic.
3. Pre-signed patient logs provided by the member to CCO investigators.
4. Duplicate billings to two different insurance companies for the same patient.

The member denied any knowledge of the activity above, but acknowledged that as the clinic owner she was responsible for the wrongdoing.

The member expressly made the following statements and admissions with respect to the first notice of hearing (using the same paragraph numbers used in the agreed statement of facts):

11. The Member admits that the Clinic did not maintain daily appointment records, or patient records, as required by CCO Standard of Practice S-002 Record Keeping. Further, she admits it was her responsibility, as the owner and administrator of the Clinic, to ensure that records were created and maintained appropriately.
12. Had the Member testified, she would have said that, during the Period, her "main practice" consisted of non-controlled acts (i.e., IFC, laser, heat, ultrasound), which she described as "physical therapy". As a result, assistants at the Clinic delivered treatment on her behalf, but all treatments provided by assistants were billed under the Member's name.
13. Had the Member testified, she would have denied back dating, or otherwise altering fax confirmation sheets or other documents sent to State Farm. According to the Member, the Clinic secretaries were responsible for preparing and faxing documents, including claims for goods, services and treatments.
14. Had the Member testified, she would have denied any overbilling. However, the Member admits that, as a result of the failure to maintain daily appointment records, records relating to Clinic health care providers, and patient records appropriately, all of the claims at issue during the Period cannot be corroborated with documentation from the Clinic.

17. Had the Member testified, she would have said that she knew [patient] N.R. was in motor vehicle accident in May 2010, and she thought the invoices that the Clinic sent to State Farm related to the May 2010 accident and not the February 2010 staged accident.
20. Had the Member testified, she would have said that she was unaware that any false claims regarding [patient] M.B. had been sent by the Clinic to State Farm.
23. Had the Member testified, she would have said that she was unaware that any false claims regarding [patient] Z.F. had been sent by the Clinic to State Farm.
27. Had the Member testified, she would have denied knowing that [registered nurse] Z.M. did not actually assess the patients as Z.M. filled in and signed the Form 1s and claims made to State Farm for travel time and mileage were therefore seen to be appropriate.
28. The Member admits that, as the owner and manager of the Clinic, she was responsible for ensuring that records were created and maintained in accordance with CCO standards of practice. The Member admits that the Clinic did not maintain daily appointment records or patient records as required and that she is ultimately responsible for the failure.
29. Although the Member denies knowing that the Clinic submitted claims to State Farm for treatments, goods and services that were not provided, she admits she was ultimately responsible for the Clinic's billings and claims and that she should have, and failed to, ensure that claims made to State Farm were complete and accurate.
30. Based on the facts set out above and the Member's admissions, the CCO and the Member ask that the panel of the Discipline Committee make findings of professional misconduct as set out in NOH #1, and in particular, that the Member:
  - a) contravened a standard of practice of the profession or failed to maintain the standard of practice expected of members of the profession with respect to her assessment, treatment, documentation, and/or billing as described in Allegation 1;
  - b) failed to keep records as required by the regulations as described in Allegation 2; and
  - c) engaged in conduct or performed an act that, having regard to all the circumstances, would reasonably be regarded by members as

disgraceful, dishonourable and unprofessional as described in Allegation 6.

The member expressly made the following statements and admissions with respect to the second notice of hearing (again using the same paragraph numbers used in the agreed statement of facts):

43. The Member admits that, as the owner and manager of the Clinic, she was responsible for ensuring that records were created and maintained in accordance with CCO standards of practice. The Member admits that the Clinic did not maintain patient attendance logs as required and that she is ultimately responsible for the failure.
44. The Member denies knowing that the Clinic submitted claims to State Farm for treatments, goods and services that were not provided, or that it created false receipts and delivery slips. However, she admits she was ultimately responsible for the Clinic's billings and claims and that she should have, and failed to, ensure that claims made to State Farm were complete and accurate and that receipts and delivery slips were valid.
45. Based on the facts set out above and the Member's admissions, the CCO and the Member request that the panel of the Discipline Committee find the Member committed acts of professional misconduct as described in NOH #2, and in particular that she:
  - a. contravened a standard of practice of the profession or failed to maintain the standard of practice expected of members of the profession as described in Allegation 1; and
  - b. engaged in conduct or performed an act that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable and unprofessional as described in Allegation 5.

## **OTHER**

Dr. Golhassani acknowledged that she had obtained independent legal advice from her lawyer, Mr. Sherman prior to signing the Agreed Statement of Facts, and that she had signed the Agreed Statement of Facts freely and voluntarily.



## **FINDINGS OF PROFESSIONAL MISCONDUCT**

After a brief recess to consider our decision, the Panel accepted the submissions by the parties. We agree that the Agreed Statement of Facts provides a sufficient basis for making the findings of professional misconduct that the parties invited the Panel to make. Consequently, we find that the Member engaged in the forms of professional misconduct set out in allegations 1, 2, and 6 of the first Notice of Hearing and allegations 1 and 5 of the second Notice of Hearing.

## **JOINT SUBMISSIONS ON PENALTY AND COSTS**

The parties presented the Panel with a Joint Submission on Penalty and Costs which was filed on consent as Exhibit 4 and which asked the panel to make the following orders:

1. Requiring the Member to appear before the panel to be reprimanded.
2. Directing the Registrar and General Counsel ("Registrar") to suspend the Member's certificate of registration for a period of eight months ("Suspension") with the Suspension to take effect on May 1, 2019.
3. Directing the Registrar to impose the following terms, conditions and limitations ("Conditions") on the Members certificate of registration:
  - a. By November 1, 2019, the Member must:
    - i. review, and undertake in writing to comply with, all CCO regulations, standards of practice, policies and guidelines, including but not limited to the business practices portion of the Misconduct Regulation; CCO Guideline G-008: Business Practices; and CCO Standard of Practice 5-002: Record Keeping; and
    - ii. provide evidence that she has successfully completed, at her own expense, the Legislation and Ethics Examination and the Record Keeping Workshop
  - b. Requiring the Member to be peer assessed at her own expense within six months of returning to practice after the lifting of the Suspension.

4. Directing the Registrar to suspend two months of the Suspension if the Member completes the Conditions set out in Paragraph 3a., by November 1, 2019.
5. Requiring that the results of the proceeding be recorded in the public portion of the Register and published in the Annual Report or other publications at the discretion of the College of Chiropractors of Ontario.

The parties also asked the panel to make the following order regarding costs:

Requiring the Member to pay \$25,000.00 to the CCO to partially reimburse it for its costs of the investigation and the costs and expenses of the hearing and of legal counsel, to be paid as follows:

- a. the Member to provide a cheque for \$5,000.00 at the hearing;
- b. the Member to pay the CCO \$1,000.00/month thereafter until the Suspension is lifted, with post-dated cheques to be provided at the hearing; and
- c. the Member to pay the CCO \$1,500.00/month after the Suspension is lifted until the full costs have been paid, with post-dated cheques to be provided at the hearing.

Dr. Golhassani again acknowledged that she had received advice from her counsel, Mr. Sherman, prior to entering into the joint submission and affirmed that she had signed the Joint Submission on Penalty and Costs freely and voluntarily.

Mr. Paliare and Mr. Sherman both made submissions in support of the Joint Submission. Mr. Paliare stated that the purpose of this sentencing is deterrence, a serious penalty for the professional misconduct of the member. In regards to serious insurance company fraud, the members of the profession are under obligation to maintain standards of practice to ensure billing is accurate and consistent. The College feels that the remediation aspect is important as the member must undertake course review and the College does see the recognition by the member of wrongdoing. The College acknowledged the member spared all parties the added

expense and time of a contested hearing by way of a Joint Submission. Mr. Paliare also noted that the member has no prior history of CCO related issues and the CCO is satisfied by this outcome in totality. Mr. Sherman echoed the College's statements and asked the panel to give consideration to the exhibits that she has taken the allegations seriously. He also made note that the member has already begun remediation that she could anticipate from the hearing process. Dr. Golhassani was prepared to receive the oral reprimand by the Panel.

Mr. Stevenson reminded the Panel that we should not reject a Joint Submission negotiated by the parties unless we believed it was contrary to the public interest and the Panel should otherwise accept the Joint Submission.

## **DECISION AND REASONS AS TO PENALTY AND COSTS**

The panel retired to consider the Joint Submission on penalty and costs. After deliberation the panel agreed to accept the Joint Submission and made the following order:

1. Requiring the Member to appear before the panel to be reprimanded.
2. Directing the Registrar and General Counsel ("Registrar") to suspend the Member's certificate of registration for a period of eight months ("Suspension") with the Suspension to take effect on May 1, 2019.
3. Directing the Registrar to impose the following terms, conditions and limitations ("Conditions") on the Members certificate of registration:
  - a. By November 1, 2019, the Member must:
    - i. review, and undertake in writing to comply with all CCO regulations, standards of practice, policies and guidelines, including but not limited to the business practices portion of the Misconduct Regulation; CCO Guideline G-008: Business Practices; and CCO Standard of Practice 5-002: Record Keeping; and
    - ii. provide evidence that she has successfully completed, at her own expense, the Legislation and Ethics Examination and the Record Keeping

### Workshop

- b. Requiring the Member to be peer assessed at her own expense within six months of returning to practice after the lifting of the Suspension.
4. Directing the Registrar to suspend two months of the Suspension if the Member completes the Conditions set out in Paragraph 3a., by November 1, 2019.
5. Requiring that the results of the proceeding be recorded in the public portion of the Register and published in the Annual Report or other publications at the discretion of the College of Chiropractors of Ontario.
6. Requiring the Member to pay \$25,000.00 to the CCO to partially reimburse it for its costs of the investigation and the costs and expenses of the hearing and of legal counsel, to be paid as follows:
  - a. the Member to provide a cheque for \$5,000.00 at the hearing;
  - b. the Member to pay the CCO \$1,000.00/month thereafter until the Suspension is lifted, with post-dated cheques to be provided at the hearing; and
  - c. the Member to pay the CCO \$1,500.00/month after the Suspension is lifted until the full costs have been paid, with post-dated cheques to be provided at the hearing.

The Panel believes that by making this order, the public interest is served through a strong message of deterrence and a clear assurance of the College's commitment to public protection. The penalty is reasonable and acts as a deterrent to Dr. Golhassani and to the profession against similar conduct. The Penalty will also help rehabilitate Dr. Golhassani as well as sending a clear message that the profession will not tolerate the demonstrated behaviour.

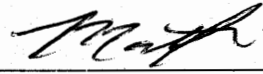
### **REPRIMAND DELIVERED**

After the Order was made and as Dr. Golhassani had agreed not to appeal or to ask for judicial review of this decision, the Chair delivered the oral reprimand on behalf of the panel and the hearing was adjourned.

I, Dr. Matt Tribe, sign this decision and reasons for the decision as chair of this

Discipline Panel and on behalf of the members of the Discipline Panel listed below:

May 9 , 2019



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**DR. MATT TRIBE**, Chair

Panel Members:     Dr. B. Budgell  
                          Ms. K. Bourdeau  
                          Dr. C. Patrick  
                          Mr. D. Cressman