

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

PANEL:	Ms. Karoline Bourdeau, Chair	Public Member
	Dr. Paul Groulx	Professional Member
	Ms. Robyn Gravelle	Public Member
	Dr. Colleen Patrick	Professional Member
	Dr. Matt Tribe	Professional Member

**BETWEEN:**

COLLEGE OF CHIROPRACTORS OF ONTARIO	)	Mr. Chris Paliare and
	)	Ms. Karen Jones for the
	)	College of Chiropractors of Ontario
- and -	)	
	)	
Dr. Amalraj Sivapathasuntharam	)	Ms. Rebecca Young
	)	
	)	Heard: October 9, 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. Lydia Pak- Court Reporter

**DECISION AND REASONS**

**INTRODUCTION**

A hearing into allegations of professional misconduct against Dr. Amalraj Sivapathasuntharam ("Dr. Sivapathasuntharam", 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 October 9, 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.

## THE ALLEGATIONS

The allegations against the Member are set out in the Notice of Hearing, dated May 29, 2019 filed as Exhibit 1. The hearing proceeded only in relation to the following allegations (allegations 2, 3 and 4 were withdrawn).

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 during the period March 2014 to November 2016, 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 claims made to Manulife and accepting payment for services that were not provided.
  
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 during the period March 2014 to November 2016, 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 making claims to Manulife for treatments that were not provided and accepting payment for the claims.

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.

## AGREED FACTS

Dr. Amalraj Sivapathasuntharam ("Member") became a member of the College of Chiropractors of Ontario ("CCO") in 2011. The Member has not been the subject of a previous Discipline Committee hearing.

The Member is currently enrolled in an educational program and is not practising chiropractic.

During the period February 2014 to June 2017, the Member co-owned and practised chiropractic at Gore Road Physiotherapy and Foot Clinic in Brampton, Ontario (the "Clinic"). The co-owner of the Clinic, known as "S.I.," was not a regulated health professional and was a silent business partner. The Member was the "face" of the Clinic so it appeared that he was its owner operator. As such, all accounts for the Clinic were set up in his name, including email and a contract with Telus which permitted him, through the Telus provider submit portal, to send claims and other information electronically to insurers.

S.I. primarily focused on the day-to-day operations of the Clinic and of the Kennedy Road Physiotherapy and Foot Clinic, which she also co-owned with the Member.

The Member employed a number of regulated health professionals, including registered massage therapists and registered physiotherapists, to provide treatment at the Clinic, including chiropractic, physiotherapy, acupuncture, massage, orthotics and braces. Each regulated health professional documented the services provided to each patient, and the documentation was added to the patient's file. Patient files were maintained at the Clinic. Individual regulated health professionals did not retain custody of patient files.

### **THE COMPLAINT**

On September 19, 2017, Manulife reported to the CCO that it had reviewed electronic claims submitted by the Member from the Clinic during the period March 19, 2014 to November 19, 2016. Manulife then asked three of the health care professionals who had worked at the Clinic during the period to confirm whether they had provided the treatments that were claimed by the Clinic via the Member's Telus portal. The health care providers indicated that, in the 32 month audit period, 26 claims made by the Clinic on behalf of 13 patients over a period of 16 days were for services that had not been provided (the "False Claims"), for a total of \$2,380.00. Manulife had paid out \$1,955.60 for the False Claims, with \$1,790.60 of that amount being paid to the Clinic and \$165.00 to patients.

### **THE CCO INVESTIGATION**

When the CCO investigated the complaint, it requested the Member provide the patient files for the 13 patients for whom the Clinic had made False Claims. The Member advised that he had closed the Clinic in June 2017. He said that he left the Clinic patient files with S.I., and he did not know how to contact her or where the patient files were.

### **ADMISSIONS RE FALSE CLAIMS MADE TO MANULIFE**

Had the Member testified, he would have said that he personally had not made the False Claims and did not know that the Clinic had made them. However, he admits that they were made and, further, admits that, as the regulated health professional in charge of the Clinic, he was ultimately responsible for ensuring that claims made to the insurer were accurate. As such, he accepts responsibility for the False Claims.

In particular, the Member admits that he:

- (a) contravened a standard of practice of the profession or failed to maintain the standard expected of members of the profession with respect to claims made to Manulife and accepting payment for services that were not provided, as described in Allegation 1 of the Notice of Hearing dated May 29, 2019 ("NOH"); and
- (b) engaged in conduct or performed an act that, having regard to all of the circumstances, would reasonably be regarded by members as disgraceful, dishonourable and unprofessional with respect to the claims made to Manulife for treatments not provided and accepting payment for the claims, as described in Allegation 5 of the NOH.

Based on these facts and the Member's admissions the CCO and the Member asked the Panel to make findings of professional misconduct as set out in Allegations 1 and 5 of the NOH.

### **INDEPENDENT LEGAL ADVICE**

The Member acknowledged that he had received advice from his counsel, Rebecca Young, prior to entering into this Resolution Agreement. The Member agreed that he was entering into the Resolution Agreement and signing the Agreed Statement of Facts freely and voluntarily.

### **DECISION AND ORDER**

After hearing submissions the Panel met and accepted these facts. We agreed that these facts and admissions provided a sufficient basis for making the findings of professional misconduct that the parties invited the Panel to make. Consequently, we found that the Member had engaged in the professional misconduct set out in allegations 1 and 5.

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

After hearing submissions on penalty and costs from the parties and reviewing the joint written submission (filed on consent as Exhibit 3) in which the Member again acknowledged having received advice from his counsel, Ms. Young, and that he had signed the joint submission on penalty and costs freely and voluntarily, the Panel 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 six months ("Suspension") with the Suspension to take effect on October 9, 2019;
3. directing the Registrar to impose the following terms, conditions and limitations ("Conditions") on the Member's certificate of registration,
  - (a) by February 9, 2020, 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, CCO Standard of Practice S-002: Record Keeping, CCO Standard of Practice S-022 Ownership, Storage, Security and Destruction of Records of Personal Health Information, and
    - (ii) provide evidence that he has successfully completed, at his own expense, the Legislation and Ethics Examination and the Record Keeping Workshop;

- (b) requiring the Member to immediately notify the Registrar in writing if he practises chiropractic, including providing the name and address of his place of practice;
  - (c) requiring the Member to be peer assessed at his own expense, within six months of returning to the practice of chiropractic.
- 4. directing the Registrar to suspend two months of the Suspension if the Member completes the Conditions set out in paragraph 3(a), by February 9, 2020; and
  - 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 panel also made the following order regarding costs:

requiring the Member to pay \$10,000.00 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 by December 31, 2019 with post dated cheques for the amount to be provided to the Registrar at the hearing.

The Panel believes that this order serves the public interest by sending a strong message of deterrence while also imposing specific remedial measures on the Member.

#### **REPRIMAND ADMINISTERED**

Dr. Sivapathasuntharam undertook not to appeal or seek judicial review if we accepted, as we did, the Joint Submission on penalty and costs. Consequently at the conclusion of the hearing the Panel administered the reprimand required by paragraph 1 of the order.

I, Karoline Bourdeau, sign this decision and reasons for the decision for the decision as chair of this Discipline Panel and on behalf of the members of the Discipline Panel listed above.

December 19, 2019



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**MS. KAROLINE BOURDEAU**