

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

PANEL:	Mr. Robert MacKay (Chair)	Public Member
	Dr. Elisheva Gabison	Professional Member
	Dr. Steven Lester	Professional Member
	Mr. John Papadakis	Public Member
	Dr. Matthew Tribe	Professional Member

BETWEEN:)	Appearances: ¹
)	
COLLEGE OF CHIROPRACTORS)	Mr. Chris Paliare and
)	Ms. Karen Jones for the College
OF ONTARIO)	of Chiropractors of Ontario
)	
- and -)	
)	
DR. ANDRIEJUS KVEDARAS)	Ms. Valerie Wise and
(Registration #3157))	Ms. Mina Karabit for
)	Dr. Kvedaras
)	
)	Heard: October 26, 2020
)	

DECISION AND REASONS

¹ Also in attendance at the hearing were: Mr. Colin Stevenson, Independent Legal Counsel to the Panel; Ms. Jo-Ann Willson, Registrar and General Counsel CCO; and Ms. Beverly Killen, Court Reporter.

DECISION AND REASONS

Introduction

This was a hearing before a panel of the Discipline Committee (the "Panel") of the College of Chiropractors of Ontario (the "College") held on October 26, 2020. 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 Hearing was held virtually using video conferencing with the consent of the parties to comply with Provincial physical distancing recommendations.

The Allegations

The allegations against Dr. Andriejus Kvedaras (the "Member") were set out in the Notice of Hearing, dated February 28, 2020. The Notice of Hearing was entered as Exhibit 1 at the hearing and the allegations contained in the Notice of Hearing are attached as Appendix "A" of the Panel's Decision and Reasons.

Mr. Paliare on behalf of the College stated that discussions with the Member had resulted in a Resolution Agreement. The College and the Member would therefore be jointly presenting an Agreed Statement of Facts and, if that was accepted by the Panel, a Joint Submission as to Penalty and Costs would then be made.

Agreed Statement of Facts

The Agreed Statement of Facts² which had been signed by the parties was entered as Exhibit 2. During the course of the submissions that followed, Mr. Paliare reviewed the Agreed Statement of Facts in its entirety. The Agreed Statement of Facts, Exhibit 2, provided as follows:

² 24 hours before the Hearing, exhibits 2 and 3 were delivered to the Panel members in the interests of hearing economy and on consent of the parties.

Background

1. Dr. Andriejus Kvedaras ("Member") became a member of the College of Chiropractors of Ontario ("CCO") in 1996.
2. At the relevant time, the Member practiced chiropractic at Active Relief Centre ("Centre") in Hamilton, Ontario.
3. The Member does not have a prior complaint or discipline history at the CCO.

Patient "A."

4. Patient A. worked as a registered massage therapist at the Centre from May to November 2018.
5. During the period she worked at the Centre, Patient A. also received chiropractic treatments from the Member from time to time. Patient A. was the Member's patient although she was not charged for the treatments and the Member did not document them.
6. In September 2018, while the Member was treating Patient A.'s adductors, she told him she had received pelvic floor therapy and he made a comment to the effect of, "they cleaned out the peanut butter jar, did they?"
7. Had the Member testified, he would have acknowledged that his comment was inappropriate but that he was trying to make a joke to ease tension.
8. In mid-October 2018, Patient A. was experiencing bilateral numbness and vascular occlusion in her upper extremities. She asked the Member if he would treat her. The Member agreed and provided the treatment in a

treatment room. Patient A. was fully clothed and she lay face up on a treatment table for the treatment. The Member stood on her right side and said, "I'm going to be in your space." The Member did not explain how he would treat her.

9. The Member started treating Patient A.'s right pectoralis major using muscle stripping and Active Release Technique ("ART"). He then put his left hand over her breast and sternum and moved her right arm back to stretch her pectoralis muscles. While his hand was on her breast, he asked her if she had had surgery in the area, and when she said she hadn't, he told her she had a lot of pec muscle. He also told her that he touched a lot of pecs.

10. The Member then moved to Patient A's left side, repeating the same movements he did on her right side, including putting his hand over her left breast and sternum, and holding it for about a minute while he stretched her left arm.

11. After the treatment, Patient A. went back to work. She was upset but did not say anything to the Member. She was not comfortable speaking to him about it.

12. Patient A. resigned from the Clinic in November 2018 for personal reasons.

13. Both the Member and Patient A. agree that the Member's touching of Patient A.'s breasts was not touching of a sexual nature.

CCO Standards and Guidelines

14. CCO Standard of Practice S-001 Chiropractic Scope of Practice requires a member to provide relevant, safe, supportive patient-centered quality care, and to document legible and accurate notes capturing any unique aspects of treatment.

15. CCO Standard of Practice S-002 Record Keeping requires a member to maintain accurate and complete patient records that contain comprehensive information about the initial examination and all assessments, the diagnosis or clinical impression, and a plan of care for the patient. The record must contain a copy of the patient's consent to any course of care, and reasonable information about advice and treatment given to the patient. The record should accurately recreate the doctor/patient interaction and should include reasonable information about a procedure that was commenced but not completed, including the reasons for non-completion.

16. CCO Standard of Practice S-013 Consent requires a member to obtain consent to care or a plan of care that is fully informed, voluntarily given, related to the patient's conditions and circumstances, and documented in the patient health record.

17. CCO Guideline G-001 Communication with Patient requires a member to ensure that a patient, at all times, understands what is being done and why. The member has an obligation to respect a patient's dignity and personal space and demonstrate particular awareness when touching a sensitive area of the body.

Admissions

18. The Member admits that his comment to Patient A. about "cleaning out the peanut butter jar" was inappropriate and he regrets making such a comment.

19. The Member admits that he failed to explain sufficiently to Patient A. the nature of the treatment he was proposing to provide to her in October 2018 and the reason for it. He therefore did not obtain informed consent for the treatment.

20. The Member admits he did not adequately communicate with Patient A. patient throughout the October 2018 treatment so she understood what he was doing and did not take steps to ascertain her comfort with his treatment.
21. The Member admits that he failed to document the treatment he provided to Patient A. in mid-October 2018 while she was his patient and worked at the Centre.
22. The Member admits that, based on the facts set out above, he committed acts of professional misconduct as set out in the Notice of Hearing dated February 28, 2020 ("Notice of Hearing"), because he:
- 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 his treatment, documentation and conduct towards Patient A. as described in Allegation 2; and
 - b. engaged in conduct or performed acts that, having regard to all the circumstances would reasonably be regarded by members as dishonourable, disgraceful and unprofessional, with respect to his treatment, conduct and documentation regarding Patient A. as described in allegation 4.

Other

23. The CCO withdraws allegations 1 and 3 in the Notice of Hearing.
24. The Member acknowledges that he received advice from his counsel, Valerie Wise, prior to entering into this Resolution Agreement. The Member agrees that he is entering into this Resolution Agreement and signing the Agreed Statement of Facts freely and voluntarily.

Member's Plea

The Member admitted Allegations 2, and 4 contained in the Notice of Hearing (Exhibit 1). A plea inquiry was conducted by the Panel Chair. At the conclusion of that process, the Panel was satisfied that the admissions of professional misconduct by the Member were voluntary, informed, and unequivocal.

Decision

The Panel heard submissions by Mr. Paliare on behalf of the College, and Ms. Wise on behalf of the Member with respect to the Agreed Statement of Facts. During the course of those submissions the parties highlighted the admitted facts and invited the Panel to make findings against the Member. In addition, the Panel sought and obtained advice from its independent legal counsel, who reminded the Panel that the Agreed Statement of Facts could form the basis for their findings at this hearing.

After deliberation, the Panel was satisfied that the admissions of professional misconduct made by the Member were supported by the agreed-upon facts contained in the Agreed Statement of Facts.

Consequently, we made findings of professional misconduct against Dr. Andriejus Kvedaras in relation to the remaining allegations set out in the Notice of Hearing (Exhibit 1). In particular, the Panel found that the Member has:

1. 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 2018, at the Active Relief Centre in Hamilton, Ontario, on one or more occasions, he 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 his treatment, documentation and conduct towards Patient "A."
2. 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

2018, at the Active Relief Centre in Hamilton, Ontario, on one or more occasions, he engaged in conduct or performed an act or acts, that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable and unprofessional with respect to his treatment, conduct, and documentation regarding Patient "A."

In reaching its decision the Panel reminded itself of s. 49 of the *Health Professions Procedural Code* and therefore relied exclusively on the evidence presented at the hearing as contained in the Agreed Statement of Facts (Exhibit 2). The Panel found the facts contained in it provided a sufficient foundation for these findings of professional misconduct.

Penalty and Costs

Counsel for the College advised the Panel that a Joint Submission as to Penalty and Costs had been agreed upon. The Joint Submission was entered as Exhibit 3. Mr. Paliare and Ms. Wise made submissions in support of the Joint Submission. In addition, the Panel sought and obtained advice from its independent legal counsel concerning the approach that Discipline panels should take when joint submissions are placed before them.

The Joint Submission invited the Panel to make an order regarding penalty:

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").
3. Directing the Registrar to impose the following terms, conditions and

limitations ("Conditions") on the Member's certificate of registration:

- a. Within four months of the date of the hearing in this matter, 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 CCO Standard of Practice S-001: Chiropractic Scope of Practice; CCO Standard of Practice S-002: Record Keeping; CCO Standard of Practice S-013 Consent, and CCO Guideline G-001: Communication with Patients; 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 be peer assessed at his 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. within four months of the start of the Suspension.
 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 College and the Member also request that the Panel make the following order regarding costs:

1. Requiring the Member to pay \$12,500.00 by December 31, 2020 to the CCO to partially pay for its costs of the investigation and the costs and expenses of the hearing and of legal counsel, with the Member to provide post-dated cheques for the costs on the date of the Discipline Committee hearing.

The Joint Submission as to Penalty, which was signed by Dr. Kvedaras, also contained the following:

Dr. Kvedaras acknowledges that he received advice from his counsel, Valerie Wise, prior to entering into this Resolution Agreement, and affirms that he is signing the Joint Submission on Penalty and on Costs freely and voluntarily.

Penalty and Costs Decision and Reasons

The Panel was of the view that the parties had come to a fair and equitable resolution, having carefully balanced the issues of protection of the public interest and remediation of the Member and his practice. Mr. Paliare acknowledged the Member has cooperated with the College and, by agreeing to the facts has accepted responsibility for his actions. Dr. Kvedaras has avoided the delay and expense that would have been incurred in resolving the allegations at a contested hearing.

The Panel therefore made an order:

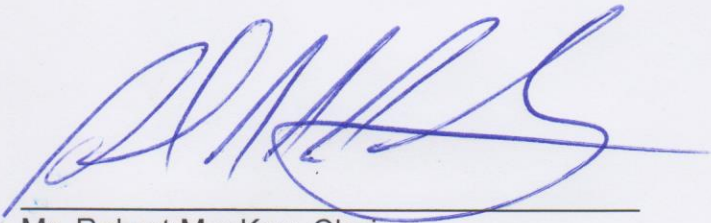
1. Requiring the Member to appear before the panel to be reprimanded.
2. Directing the Registrar and General Counsel ("Registrar") to suspend the Member's certificate of registration for a period of six months ("Suspension").
3. Directing the Registrar to impose the following terms, conditions and limitations ("Conditions") on the Member's certificate of registration:

- a. Within four months of the date of the hearing in this matter, 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 CCO Standard of Practice S-001: Chiropractic Scope of Practice; CCO Standard of Practice S-002: Record Keeping; CCO Standard of Practice S-013 Consent, and CCO Guideline G-001: Communication with Patients; 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 be peer assessed at his 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. within four months of the start of the Suspension.
 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 \$12,500.00 by December 31, 2020 to the CCO to partially pay for its costs of the investigation and the costs and expenses of the hearing and of legal counsel, with the Member to provide post-dated cheques for the costs on the date of the Discipline Committee hearing.

Administration of Reprimand

It was noted on the record that the Joint Submission on Penalty (Exhibit 3) contained an Undertaking³ marked as Exhibit "A", that among other things expressly waived the Member's right of appeal⁴ of any decision by the Discipline Committee in relation to the February 28, 2020 Notice of Hearing, (Exhibit 1). Further, the Panel confirmed that the Member was prepared for the oral reprimand to be administered immediately following the hearing. Consistent with the necessity to conduct the hearing via videoconference the Panel administered the oral reprimand in the same manner at the conclusion of the hearing.

I, **Robert MacKay**, 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.



Mr. Robert MacKay, Chair

Date: November 06, 2020

Panel Members:

Mr. Robert MacKay
Dr. Elisheva Gabison
Dr. Steven Lester
Mr. John Papadakis
Dr. Matthew Tribe

³ Appendix "B" of this Decision and Reasons.

⁴ Paragraph 3 Appendix "B"

Appendix "A"
**Allegations contained in the Notice of Hearing,
regarding Dr. Andriejus Kvedaras (Exhibit 1)**

1. You have committed an act of professional misconduct as provided by subsection 51(1)(b.1) of the Health Professions Procedural Code of the *Chiropractic Act, 1991*, S.O. 1991, c. 21, as amended, in that in 2018, at the Active Relief Centre in Hamilton, Ontario, on one or more occasions, you sexually abused a patient known as "A."
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(2) of *Ontario Regulation 852/93*, in that in 2018, at the Active Relief Centre in Hamilton, Ontario, 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 assessment and/or treatment and/or documentation and/or conduct towards "A."
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(5) of *Ontario Regulation 852/93*, in that in 2018, at the Active Relief Centre in Hamilton, Ontario, on one or more occasions, you abused a patient known as "A." verbally and/or physically and/or psychologically and/or emotionally.
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(33) of *Ontario Regulation 852/93*, in that in 2018, at the Active Relief Centre in Hamilton, Ontario, on one or more occasions, you engaged in conduct or performed an act or acts, 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 conduct towards "A."

Appendix "B"

UNDERTAKING

Exhibit "A"

**To: The Registrar and General Counsel ("Registrar")
of the College of Chiropractors of Ontario ("CCO")**

I, Dr. Andriejus Kvedaras, undertake to the Registrar and agree to do the following:

1. On or before February 26, 2021, I will:
 - a. review, and undertake in writing to comply with, all CCO regulations, standards of practice, policies and guidelines, including but not limited to: CCO Standard of Practice S-001: Chiropractic Scope of Practice; CCO Standard of Practice S-002: Record Keeping; CCO Standard of Practice S-013 Consent; CCO Standard of Practice S-014: Prohibition of a Sexual Relationship with a Patient; and CCO Guideline G-001: Communication with Patients; and
 - b. provide written evidence to the Registrar that I have successfully completed the CCO's Legislation and Ethics Examination and have attended the CCO's Record Keeping Workshop at my own expense.
2. I will pay to the CCO a total of \$12,500.00 for the partial payment of its costs and expenses related to the investigation, hearing and legal costs by December 31, 2020 and will providing post-dated cheques for that amount on the date of the hearing.
3. I agree not to appeal or ask for a judicial review of the decision of the Discipline Committee so long as the panel of the Discipline Committee accepts the Joint Submission on Penalty and Costs contained in my Resolution Agreement with the CCO. In the event that the Joint Submission on Penalty and Costs is not accepted by the Discipline Committee, I reserve the right to request an adjournment, call evidence, and make additional submissions.
4. I acknowledge that failure to abide by any of the terms of this Undertaking could result in the referral of specified allegations of professional misconduct to the Discipline Committee.

5. I acknowledge that I have been advised by the CCO to obtain legal advice prior to executing this Undertaking and have obtained the advice of my counsel, Valerie Wise. I am executing this Undertaking freely and voluntarily after reading and understanding its contents.

Signed this day of September, 2020

Dr. Andriejus Kvedaras

Witness Signature