

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

<b>PANEL:</b>	Mr. Robert MacKay (Chair)	Public Member
	Dr. Colin Goudreau	Professional Member
	Ms. Robyn Gravelle	Public Member
	Dr. Colleen Pattrick	Professional Member
	Dr. Murray Townsend	Professional Member

<b>BETWEEN:</b>	)	Appearances: <sup>1</sup>
	)	
<b>COLLEGE OF CHIROPRACTORS</b>	)	Mr. Chris Paliare and
	)	Ms. Karen Jones for the College
<b>OF ONTARIO</b>	)	of Chiropractors of Ontario
	)	
<b>- and -</b>	)	
	)	
<b>DR. KELLY ROBAZZA</b>	)	Mr. John Struthers and
(Registration #2388)	)	Ms. Ashli Pinnock for
	)	Dr. Robazza
	)	
	)	Heard: November 5, 2020
	)	

**DECISION AND REASONS**

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<sup>1</sup> 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. Calypso Schincariol, 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 November 5, 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. Kelly Robazza (the "Member") were set out in the Notice of Hearing, dated July 15, 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 were accepted by the Panel, a Joint Submission as to Penalty and Costs would then be made.

### Agreed Statement of Facts

The Agreed Statement of Facts<sup>2</sup> 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:

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<sup>2</sup> 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. Kelly Robazza ("Member") became a member of the College of Chiropractors of Ontario ("CCO") in 1989.
2. During the relevant time, the Member practiced chiropractic at the Beaches Health Group ("Clinic") in Toronto, Ontario.

### ***Patient "A."***

3. In October 2016, Patient A. began receiving chiropractic treatment from the Member at the Clinic for injuries she suffered in a car accident.
4. Shortly after Patient A. started receiving chiropractic treatment from the Member, the Member and Patient A. began having a sexual relationship. The sexual relationship included one or more of the frank sexual acts described in subsection 51.(5)3. of the Health Professions Procedural Code.
5. The Member continued having a concurrent professional and sexual relationship with Patient A. until October 2018.
6. The relationship was between the Member and Patient A. was frequently volatile and tumultuous. For example, in or about February 2018, the Member took a candid photograph of Patient A. while she was naked. Later, the Member threatened to make the picture public unless Patient A. complied with certain demands he was making.

### ***The Member's Admissions***

7. Based on the facts set out above, the Member admits that he committed acts of professional misconduct, as alleged in the Notice of Hearing, and in particular he:
  - a. sexually abused Patient A. as described in Allegation #1;
  - b. contravened a standard of practice of the profession or failed to maintain the standards of practice of the profession with respect to his conduct towards Patient A. as described in Allegation #2;
  - c. abused Patient A. verbally, psychologically and emotionally, as described in Allegation #3; and
  - d. engaged in conduct that would reasonably be regarded by members as disgraceful, dishonourable and unprofessional because he had a concurrent professional and sexual relationship with Patient A., abused Patient A verbally, psychologically and emotionally, and took a naked photograph of Patient A. and threatened to make the picture public, as described in Allegation #5.

### ***Other***

8. The CCO withdraws allegation #4, and the particulars to allegations #2 and #5(d) that concern the Member practising the profession while his ability to do so was impaired by any substance, including but not limited to alcohol and/or cocaine.
9. The Member acknowledges that he received advice from his counsel, John Struthers, 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 the remaining Allegations contained in the Notice of Hearing (Exhibit 1) namely 1, 2<sup>3</sup>, 3, and 5<sup>4</sup>. 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 Mr. Struthers 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 only 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. Kelly Robazza in relation to the admitted allegations set out in the Notice of Hearing (Exhibit 1). In particular, the Panel found that the Member has:

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<sup>3</sup> As amended, see paragraph 8 "Other" in the Agreed Statement of Facts Exhibit 2

<sup>4</sup> As amended, see paragraph 8 "Other" in the Agreed Statement of Facts Exhibit 2

- a. sexually abused Patient A. as described in Allegation #1;
- b. contravened a standard of practice of the profession or failed to maintain the standards of practice of the profession with respect to his conduct towards Patient A. as described in Allegation #2;
- c. abused Patient A. verbally, psychologically and emotionally, as described in Allegation #3; and
- d. engaged in conduct that would reasonably be regarded by members as disgraceful, dishonourable and unprofessional because he had a concurrent professional and sexual relationship with Patient A., abused Patient A verbally, psychologically and emotionally, and took a naked photograph of Patient A. and threatened to make the picture public, as described in Allegation #5.

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 the 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 Mr. Struthers 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 revoke the Member's certificate of registration on January 1, 2021;
3. Requiring the Member to reimburse the CCO for funding provided to Patient A. under the program required under section 85.7 of the Health Professions Procedural Code.
4. 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 CCO.

The College and the Member also request that the Panel make the following order regarding costs:

1. Requiring the Member to pay \$15,000.00 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 \$7,500.00 of the costs to be paid by December 31, 2020 and the remainder to be paid by March 1, 2021. The Member shall provide post-dated cheques for the entire amount of the costs to the College by November 5, 2020.

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

Dr. Robazza acknowledges that he received advice from his counsel, John Struthers, 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 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 stated the Member has cooperated with the College and, by agreeing to the facts has accepted responsibility for his actions. Dr. Robazza 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 revoke the Member's certificate of registration on January 1, 2021.
3. Requiring the Member to reimburse the CCO for funding provided to Patient A. under the program required under section 85.7 of the Health Professions Procedural Code.
4. 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 CCO.
5. Requiring the Member to pay \$15,000.00 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 \$7,500.00 of the costs to be paid by December 31, 2020 and the remainder to be paid by March 1, 2021. The Member shall provide post-dated cheques for the entire amount of the costs to the College by November 5, 2020.



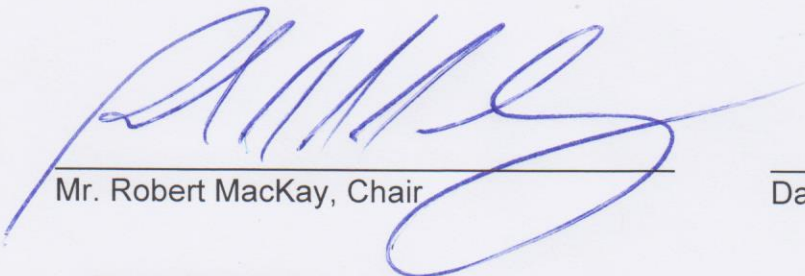
Administration of Reprimand

It was noted on the record that the Joint Submission on Penalty (Exhibit 3) contained an Undertaking<sup>5</sup> marked as Exhibit "A", that among other things expressly waived the Member's right of appeal<sup>6</sup> of any decision by the Discipline Committee in relation to the July 15, 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.

Other

The Resolution Agreement, Joint Submission on Penalty and on Costs Exhibit 3 contained an undertaking Exhibit "B" Appendix "C" of this Decision and Reasons. It is regarding the use of the title chiropractor by Dr. Robazza.

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 23, 2020

Panel Members:

Mr. Robert MacKay  
Dr. Colin Goudreau  
Ms. Robyn Gravelle  
Dr. Colleen Patrick  
Dr. Murray Townsend

<sup>5</sup> Appendix "B" of this Decision and Reasons.

<sup>6</sup> Paragraph 4 Appendix "B"

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

**TAKE NOTICE THAT IT IS ALLEGED THAT:**

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 during the period October 2016 – February 2019, while practising as a chiropractor at Beaches Rehabilitation Centre in Toronto, Ontario, on one or more occasions, you sexually abused a patient known as "Patient 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 during the period October 2016 – February 2019, while you were practising as a chiropractor at Beaches Rehabilitation Centre in Toronto, 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 treatment of and/or conduct towards a patient known as "Patient A." and/or by practising the profession while your ability to do so was impaired by any substance, including but not limited to cocaine and/or alcohol.
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 during the period October 2016 – February 2019, while you were practising as a chiropractor at Beaches Rehabilitation Centre in Toronto, Ontario, you abused a patient known as "Patient 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(6) of *Ontario Regulation 852/93*, in that during the period October 2016 – February 2019, while you were practising as a chiropractor at Beaches Rehabilitation Centre in Toronto, Ontario, on one or more occasions, you practised the profession while your ability to do so was impaired by any substance.
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 October 2016 – February 2019, while you were practising as a chiropractor at Beaches Rehabilitation Centre in Toronto, Ontario, 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 one or more of:

- a) having a concurrent sexual and professional relationship with a patient known as "Patient A.";
- b) abusing a patient known as "Patient A." verbally and/or physically and/or psychologically and/or emotionally;
- c) taking a naked picture or pictures of a patient known as "Patient A." without her knowledge and/or consent and/or threatening to make such pictures public; and/or
- d) practising the profession while your ability to do so was impaired by any substance, including but not limited to cocaine and/or alcohol.

## Appendix "B"

### UNDERTAKING Exhibit "A"

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

I, Dr. Kelly Robazza, undertake to the Registrar and agree to do the following:

1. I will repay the CCO for any funding provided to the patient I sexually abused under the program required under section 85.7 of the Health Professions Procedural Code;
2. I will not apply for membership to the CCO in the future until I have:
  - a. participated, at my own expense, in an assessment conducted by a psychiatrist, psychologist or other regulated health professional (the "Assessor") approved by the Registrar and General Counsel ("Registrar") for the purpose of determining whether I am suffering from any physical or mental condition or disorder that would make it desirable in the interest of the public that I not practise chiropractic or that my practice be restricted. The Assessor shall be provided with all relevant documentation including, but not limited to the Notice of Hearing and the Decision and Reasons of the Discipline Committee arising from the Notice of Hearing dated July 15, 2020;
  - b. provided proof that I have successfully completed, at my own expense, a course or courses in professional ethics and professional boundaries approved of by the Registrar; and
  - c. complied with all registration requirements that are in effect at the time of my application.
3. I will pay to the CCO a total of \$15,000.00 for the partial payment of its costs and expenses related to the investigation, hearing expenses and costs, and legal costs and expenses, and will pay \$7,500.00 by December 31, 2020 and the remainder by March 1, 2021. I will provide post-dated cheques to the CCO for the costs by November 5, 2020.
4. I will not appeal or ask for a judicial review of the decision of the Discipline Committee regarding the allegations in the Notice of Hearing dated July 15, 2020.

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, John Struthers. I am executing this Undertaking freely and voluntarily after reading and understanding its contents.

Signed this      day of October, 2020

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Dr. Kelly Robazza

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Witness Signature

**Appendix "C"**

**UNDERTAKING**

**Exhibit "B"**

I, Dr. Kelly Robazza, a member of College of Chiropractors of Ontario ("College), undertake and agree to do the following:

1. During the period November 5, 2020 to January 1, 2021, I will not:
  - a) use the title chiropractor or a variation or abbreviation or an equivalent in another language;
  - b) hold myself out as a person who is qualified to practise in Ontario; and
  - c) practise chiropractic or perform any of the controlled acts permitted to chiropractic.
2. I will co-operate with the College's efforts to ensure I am complying with this Undertaking;
3. I will allow the College to put this Undertaking on the public portion of its register during the period November 5, 2020 to January 1, 2021.

I understand that a failure to comply with this undertaking is professional misconduct as defined by sections 1.31 and 1.33 of Ontario Regulation 852/93. I further understand that any failure to comply with this undertaking may, at the College's option, result in a referral of specified allegations of professional misconduct to the College's Discipline Committee.

I acknowledge that I have obtained advice from my legal counsel, John Struthers, prior to signing this Undertaking and am doing so freely and voluntarily.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Dr. Kelly Robazza

\_\_\_\_\_  
Witness' Signature

\_\_\_\_\_  
Print witness name