DISCIPLINE COMMITTEE OF THE COLLEGE OF CHIROPRACTORS OF ONTARIO

PANEL:	Mr. Robert MacKay (Chair)	Public Member
	Dr. Daniela Arciero	Professional Member
	Dr. Steven Lester	Professional Member
	Mr. Shawn Southern	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. BRIAN NANTAIS	)	Mr. Matthew Gourley and
(Registration #2798)	)	Ms. Eleni Loutas for
	)	Dr. Nantais
	)	
	)	Heard: March 8, 2021
	)	

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. Sheila Finlay, 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 March 8, 2021. 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. Brian Nantais (the "Member") were set out in two Notices of Hearing, both of which are dated October 29, 2020. The Notices of Hearing were entered as Exhibits 1 and 2 at the hearing and the allegations contained in the Notices of Hearing are attached as Appendix "A" of the Decision and Reasons of the Panel.

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[2] which had been signed by the parties was entered as Exhibit 3. During the course of the submissions that followed, Mr. Paliare reviewed the Agreed Statement of Facts. The Agreed Statement of Facts, Exhibit 3, provided as follows:

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[2] 24 hours before the Hearing, exhibits 3 and 4 were delivered to the Panel members in the interests of hearing economy and on consent of the parties.

Background

1. Dr. Brian Nantais ("Member") became a member of the College of Chiropractors of Ontario ("CCO") in 1993.

2. The Member practices chiropractic at Nantais Family Chiropractic ("Clinic") in Tecumseh, Ontario.

Two Notices of Hearing

3. This Resolution Agreement involves two Notices of Hearing:

    (i) A Notice of Hearing dated October 29, 2020, which arises from a complaint made to the CCO by a patient known as "Patient A." ("NOH #1"); and

    (ii) A Notice of Hearing dated October 29, 2020, which arises from a complaint made to the CCO by a patient known as "Patient B." ("NOH #2"); and

4. The two Notices of Hearing involve similar questions of fact, law, and policy. The CCO and the Member have consented to the panel of the Discipline Committee combining the proceedings regarding the two Notices of Hearing in one hearing.

Re: NOH #1: Patient A.

4. In December 2018, Patient A. was a 70 year old widow on a fixed income with no benefits. She was experiencing pain down the front of her left thigh, which burned when she was walking or shopping for a lengthy period of time. She was also stiff when getting out of a chair or bed. Her doctor told her that she had a pinched nerve.

5. Patient A. heard of the Member through her friend, Patient B, who had been referred to the Member by a long-time patient.

6. At the time, the Member was advertising a special for the month of December called "Best Offer of the Year". Persons who signed up for the "Best Offer of the Year" received an x-ray and consultation, a report of findings and three adjustments for free. According to the Member's advertisements, the value of the "Best Offer of the Year" was $395.00.

7. On December 13, 2018, Patient A. went to the Clinic to sign up for the "Best Offer of the Year". The initial visit to the Clinic included an x-ray.

8. On December 14, 2018, Patient A. went back to the Clinic and met with the Member for her consultation. According to Patient A. the Member told her that she had scoliosis, a dowager's hump, and severe damage to her tailbone from old falls. The Member advised Patient A. there was not much he could do for her tailbone but that he could correct her scoliosis and dowager's hump, and straightening her back would solve her health problems, including her sinus and bladder problems. If the Member were to testify, he would state that he told Patient A that she had scoliosis and a dowager's hump and explained that his chiropractic treatments may assist in alleviating her pain and possibly improve her scoliosis and dowager's hump.

9. The Member advised Patient A. to sign up for a program that consisted of 36 treatments over three months (the "Program"), followed by a maintenance program. After discussing various payment options, he told her that if she paid upfront, she would receive the most savings.

10. Patient A. was given several options for paying for the Program, including per visit, monthly, and one up front lump payment. The cost of the up front lump

payment option was significantly less than the other options, and, in addition, the Member told Patient A. he would also give her a $100.00 discount because she did not have any health care benefits.

11. Patient A. asked the Member if she could pay for the Program after Christmas. She had already bought her Christmas presents and didn't want to put any more money on her credit card. The Member advised Patient A. she would have to pay that day if she wanted the great deal he had quoted her for the up front payment option. Patient A. wanted the great deal so she paid the Member $2,190.00 via her credit card and received a Visa sales receipt for the $2,190.00. The Member did not provide Patient A. with a contract or agreement on an itemized basis, or any information about what each component of treatment would cost.

12. After Patient A. paid for the Program, the Member adjusted her.

13. Patient A. returned to the Clinic on December 17 and 18, 2018. At each visit, Patient A. would sit on a wobble cushion, use a neck exerciser, and then the Member would adjust her back using an actuator.

14. Patient A. believed the adjustments she received on December 14, 17, and 18, 2018 were the three free adjustments she was entitled to as part of the "Best Offer of the Year" promotion.

15. On December 18, 2018, after receiving the third treatment, Patient A. was given a piece of paper titled "Payment Options" dated December 18, 2018, indicating the total cost for the "Chiropractic Corrective & Restorative Care" as a one time out –of- pocket investment of $2,190.00, and that it was "Our Most Cost Effective Program." There was an area at the bottom of the page that Patient A. was supposed to sign, indicating she agreed to the terms &

financial arrangement. There was no other information in the document regarding the Program, including a description of the Program, its components, or their cost. She signed the document.

16. Patient A. understood that the treatments she was to receive from the Member after December 18, 2018 were part of the Program. She went back to the Clinic on December 19 and December 20, 2018 for the first two treatments of the Program. Each treatment consisted of Patient A. sitting on a wobble cushion and using a prolordotic stretcher to "warm up" before the Member adjusted her with an actuator (impulse adjuster). Patient A. estimated each treatment took about 2 minutes. If the Member were to testify, he would say that the adjustment typically takes anywhere from 2 to 5 minutes and the warm-up takes at least 5 minutes

17. On December 20, 2018, Patient A. was given a wobble cushion to take home and use for exercises. She was told by a staff person at the Clinic that the wobble cushion was free.

18. Patient A. resumed receiving treatments at the Clinic in January 2019. As before, each treatment consisted of her sitting on a wobble cushion with a prolordotic stretcher to "warm up", and then she would be adjusted by the Member using an actuator. Following each chiropractic treatment, Patient A. would have a "physio treatment" where she would lie on her side on a table with a block under her side and a strap under her armpit for about 15 minutes. She also was given exercises to do at home.

19. In January 2019, the Member advertised that he was running the "Best Offer of the Year" promotion again that he ran in December 2018.

20. Patient A. found that her tailbone started to hurt after she began receiving treatment from the Member. She complained about this to the Member, but he did not change or alter her treatment. If the Member were to testify, he would say that Patient A. had stated that she had pre-existing pain to her tailbone during the initial consultation.

21. Over the course of the time Patient A. received treatment from the Member, he told her that his treatment and his supplements would have a positive benefit on her overall health. He advised her against being vaccinated. Had the Member testified, he would have said that a video was shown in his office that, unbeknownst to him, included a brief segment regarding vaccinations. The Member would testify that the video was removed immediately once Patient A. alerted the Member as to its content.

22. On January 21, 2019, Patient A. had a consultation scheduled with the Member. Prior to meeting with him, she had her picture taken, was weighed, and filled out a form. Patient A. indicated on the form that walking was easier but she had new leg pain. Had Patient A. testified, she would have said that when she met with the Member, she advised him that she was in more pain than when she started treatment, and the Member advised her to go to his weight loss seminar. The Member did not document his assessment, findings, or treatment plan.

23. Patient A. discovered on a road trip that her tailbone stopped hurting when she didn't use the wobble cushion. Although she reported this to the Member, he did not change her treatment. If the Member were to testify, he would say that he does not recall any comment about her tailbone being worse.

24. On February 19, 2019, Patient A. was assessed again by the Member. As before, she filled in a form, was weighed, and had her picture taken. When

she saw the Member, Patient A. again complained about the pain in her tailbone and told him she had started having pain in her lower back. If the Member were to testify, he would say that he does not recall any comment about her tailbone being worse. The re-assessment form filled out by Patient A. on January 21 does not contain any reference to the tailbone complaint. The Member did not document his assessment, findings, or treatment plan.

25. Patient A. experimented by not using the wobble cushion at home. She discovered that her tailbone stopped hurting when she stopped using the wobble cushion. On February 25, 2019, during the course of post-treatment physio, the Member told her that his assistant had been strapping her incorrectly. Patient A. did not believe the Member's treatments were helping her and she was upset that the physio had been done incorrectly. She decided to stop treatment.

26. On February 26, 2019, Patient A. sent an email to the Clinic, saying she was withdrawing from the Program because she had not seen any improvement and was feeling worse than when she started the Program. Patient A. also asked for a refund of some of the money she paid for the Program.

27. Patient A. had never received a break down from the Member regarding the cost of each treatment. However, she knew she had paid $2,190.00 for 36 treatments, so she calculated each treatment cost $60.83. She had received 23 treatments and had 13 unused treatments remaining in the Program. She therefore anticipated receiving a $799.79 refund (i.e., 13 treatments x $60.83) from the Member.

28. On March 7, 2019, Patient A. received a refund cheque for $465.00 from the Member. There was no letter or any explanation for the refund. The same

day, Patient A. contacted the Clinic and asked for a record of her visits and an explanation as to why she had been refunded $465.00.

29. On March 9, 2019, the Member sent Patient A. an email saying he was going on holiday and would review her account on his return on March 18, 2019.

30. On March 20, 2019, the Clinic sent Patient A. a letter which included a copy of the document she signed on December 18, 2018, a cheque for $228.00, and a document entitled "Account Status" that set out the amount she had been being charged for each treatment.

31. When Patient A. reviewed the account, she noticed a number of inconsistencies, including:

    a. the three treatments she had received from December 14 – 18, 2018, as part of the "Best Offer of the Year" had been included as part of the 36 treatments in the Program;

    b. she had been charged $40.00 for the wobble cushion, although she had been told it was free when it was given to her;

    c. she been charged $10.00 for the use of a wobble cushion and doing an exercise prior to each adjustment;

    d. each adjustment cost $49.00;

    e. each assessment by the Member cost $50.00; and

    f. although the Member had promised her a $100.00 discount, no such discount was noted anywhere on the account.

32. On March 25, 2019, Patient A. sent an email to the Clinic, noting that the three free "Best Offer of the Year" treatments should not have been included as part of the Program, and that the Member's treatment made her feel worse, not better.

33. In a letter dated March 26, 2019, the Clinic indicated that the Program consisted of "rehab" (i.e., using a wobble cushion and the neck exerciser prior to each adjustment), adjustments, "physio" (i.e., lying on a traction table after each adjustment) and exercise at home. Patient A. had been charged $49.00 for each adjustment, $10.00 for "rehab", $40.00 for a wobble cushion to take home, and $50.00 for each of the two assessments done by the Member. According to the Clinic, the "Best Offer of the Year" was part of the Program, and not a separate offer, so including the three free adjustments Patient A. received in December 2018, to date she had received 23 adjustments that she paid for + three complimentary adjustments + 23 rehab sessions + 2 assessments + 1 wobble cushion for a total of $1,497.00. The Clinic deducted that amount from Patient A.'s payment of $2,190.00, indicating the difference was $693.00, and noted it had reimbursed her $543.00.

34. Patient A. was very concerned that the Member had not fully reimbursed her, that he had improperly including her three free "Best Offer of the Year" treatments as Program treatments, that he was charging her for items she had been told were free, that she was being charged for using a wobble cushion and doing a stretch to warm up for an adjustment, and that he never responded to her concern that her tail bone hurt. She also noted the Member never decreased the cost of the Program by $100.00 as he had promised.

35. On March 28, 2019, Patient A. sent an email to the Clinic, noting that the three free "Best Offer of the Year" treatments should not have been included as part of the Program, and that the Member's treatment made her feel worse, not better.

36. As a result of her concerns and the Member's lack of response to the issues she raised, Patient A. made a complaint to the CCO.

37. During the course of the investigation of the complaint, the Member provided a copy of Patient A.'s chiropractic record, which primarily consisted of SOAP notes, two consent forms, some x-ray images, and questionnaires completed by Patient A.

38. Many of the SOAP notes are dated June 10, 2019. A number of other notes are also dated after Patient A. stopped treatment in March 2019. For the most part, each SOAP note is simply a cut and paste of a note that appeared to be made on December 13, 2018. There is no diagnosis and the plan is 36 visits in 3 months. Had the Member testified, he would have said the SOAP notes were incorrectly dated due to a software issue that has now been resolved.

Re: NOH #2: "Patient B."

39. On December 6, 2018, Patient B. went to the Member's Clinic. She had been referred to the Member by a friend, and had seen the Member's advertisement for a "Best Offer of the Year" promotion, in which he offered a new patient appointment [i.e., an x-ray and an assessment], a report of findings and a week of adjustments [i.e., three adjustments] for free. The Member claimed the "Best Offer" had a value of $395.00

40. At the time, Patient B. had pain in her lower back after looking after her grandchildren for two weeks. She wanted to get the three free treatments that the Member was advertising.

41. During Patient B.'s initial meeting with the Member, he hugged her, which she found to be inappropriate and unprofessional. He also took an x-ray.

42. On December 10, 2018, Patient B. went back to the Clinic to get the Member's report of findings. Had Patient B. testified, she would have said the Member

gave her a lengthy lecture on his method for treatment and told her, essentially, that he would be able to almost totally heal her from every disease or accident she ever had because he was a doctor of the nervous system. He told her he was a better chiropractor than her former chiropractor. The Member asked Patient B. if she had insurance, and, when she said she did, he proposed she enroll in his 3 Month Care Plan ("Program"), which was 36 treatments over three months, at a cost of more than $3,000.00. The Member then offered her three options for payment, ranging from the most expensive pay-as-you-go plan to a lump sum payment of $1,877.00. Had the Member testified, he would have said that he explained to Patient B. his methodology and that his treatments may be able to alleviate some of her pain. He would further say that his assistant asked if she had insurance coverage at the end of her first visit on December 6 and his proposed care plan was not contingent on her having insurance coverage.

43. Patient B. was attracted to the lump sum payment option because it was such a significant reduction in the cost of the Program. The Member told Patient B. that she had to pay that day, even though she told him it was a lot of money to pay so close to Christmas. Given the amount, $1,163.00, she had to put it on her credit card. The Member did not provide Patient B. with any document or description providing an itemized breakdown regarding the Program or information regarding the cost of any of the components of the Program.

44. Once Patient B. had paid for the Program, she was told to sit on a wobble cushion and use a resistance band on her neck, after which the Member gave her an adjustment using an adjusting gun. The adjustment took about a minute. If the Member were to testify, he would say that an adjustment typically takes anywhere from 2 to 5 minutes.

45. On December 11, 2018, Patient B. returned to the Clinic for the second of her "Best Offer of the Year" treatments. She was provided with a document titled, "Care Plan" which indicated she was insured by an insurance company for $714.00 for chiropractic treatment, that the total Plan cost was $1,877.00, that she would have to pay $1,163.00 of the total cost as her insurer would cover the remaining $714.00, and that she was required to sign over the insurance money to the Clinic. In the event the insurer did not pay $714.00 to the Clinic, Patient B. would be responsible for the entire amount of the Plan. In the event that she "withdrew from care early" she would still owe the Clinic for the full amount of the Program. Patient B. also received a receipt for the $1,163.00 she paid to the Member on December 10, 2018.

46. During the course of treatments, the Member touched Patient B.'s face a number of times, told her she was vivacious, commented on her hair, and encouraged her not to go to her medical doctor to get the results of blood work. Had the Member testified, he would have said he touched Patient B.'s face on one occasion, as it formed part of the zygomatic treatment being administered. At one time, he commented on her hair, and referred to her as 'vivacious" on another occasion. If the Member were to testify, he would say that he made these comments solely in an effort to be friendly and build rapport with a new patient.

47. The Member encouraged her to "let her body heal itself" and she felt he was trying to make her ashamed to get medical help for her bronchitis and other conditions. If the Member were to testify, he would say that he only provided her with additional care suggestions and his comments were not intended to create that impression.

48. Patient B. also attended a dinner that the Member held in which he promoted his programs and products. He told her at the dinner that she looked lovely.

If the Member were to testify, he would say that he told Patient B. that she looked energetic and this comment was solely intended to build rapport with a new patient.

49. After 12 treatments, Patient B. was required to report on how she felt the Member's adjustments were working by completing an extensive questionnaire. One of the questions dealt with how her sex life had improved, and she found the question to be highly offensive. After she completed the questionnaire, she had pictures taken by an assistant and also had her height and weight taken. She then spoke with the Member for about 5 minutes and he told her what a wonderful job his adjustments were doing for her. If the Member were to testify, he would say that the form completed by Patient B. was a generic form provided to all adult patients during their re-examination. The form lists over 30 different questions regarding possible improvements after treatment. The Member did not document his assessment or findings for the re-assessment.

50. At the end of January 2019, Patient B. was ill and missed some treatments. She decided on February 18, 2019 that she did not want to be treated by the Member anymore. She had had her pictures, height and weight taken again and was supposed to meet with the Member on February 19, 2019 for another assessment. She did not attend the appointment.

51. Patient B. contacted the CCO and was advised that the Member should refund to her any unused portion of the block fee she had paid him, and should provide her with an itemized contract.

52. On February 26, 2019, Patient B. advised the Clinic that she wanted an accounting. There was no response to her request.

53. On March 4, 2019, Patient B. again asked the Clinic for an accounting and the dates of all appointments. She also advised that she had contacted her insurer and had been informed the Clinic had billed her insurer for the treatments she had received from the Member on December 10, 11, and 13, 2018, although those treatments were supposed to have been free as part of the "Best Offer of the Year." Finally, Patient B. indicated she had contacted the CCO and understood she should be reimbursed for services she had paid for, but did not use.

54. On March 6, 2019, the Clinic sent Patient B. a document dated March 6, 2019 that indicated the cost of the Program was $1867.95, and outlined the cost of various components of the Program, including $49.00 for each chiropractic treatment, $10.00 for each use of the wobble cushion and resistance band pre-treatment, $102.00 for her own wobble cushion and resistance band, and $50.00 for each assessment. This was the first time Patient B. had any information regarding the cost of the various components of the Program. Included with the document was a cheque for $440.00 dated March 6, 2019. If the Member were to testify, he would say that he had discussed with Patient B. using the wobble cushion and resistance band as part of her care program during the December 10 report of findings.

55. On March 7, 2019, Patient B. advised the Clinic in an email that she was concerned because: a) it had billed her insurer for the three free "Best Offer of the Year" treatments; b) it had not provided her with treatment dates, as she requested; and c) it had not correctly reimbursed her for unused portion of the Program, which she calculated to be an additional $370.00.

56. On March 18, 2019, the Clinic sent Patient B. a letter in which it asserted, among other things, that the Program only included 28 treatments, not 36.

57. On March 20, 2019, the Clinic sent Patient B. a letter which indicated the Program consisted of 28 adjustments, "rehab care" (i.e., using the wobble cushion and resistance band) before each adjustment, equipment (i,e, a wobble cushion and resistance band to take home), x-rays and assessments for a total cost of $1811.00, broken down as follows:

    a. Adjustment - $49.00 each (17 paid and 3 complimentary);
    b. "Rehab care" prior to each adjustment - $10.00;
    c. Each exam - $50.00 (2 completed); and
    d. Equipment (wobble cushion and resistance band).

58. The letter indicated the cost of the care Patient B. had received to date through the Program was $1,205.00, and the amount paid to the Member to date was $1,748.00 ($1,163.00 by Patient B. and $585.00 by her insurer.) According to the letter, Patient B. had not received 8 rehab sessions and 8 treatments (value of $472.99) or an x-ray + examination (value of $71.00), so she was owed $543.00 for care she had paid for and not received. The letter indicated Patient B. had been reimbursed $543.00.

59. On March 27, 2019, Patient B.'s insurance company reversed its payment of the three December 2018 treatments Patient B. had received pursuant to the "Best Offer of the Year" offer. The Clinic then sent a claim to the insurer for 5 additional chiropractic treatments in 2019, including treatment on four dates when Patient B. received no treatment.

60. During the course of the investigation into Patient B's complaint, the CCO obtained a copy of her chiropractic record from the Member, which primarily consisted of SOAP notes, tracking sheets for the resistance band use, two consent forms, some x-ray images, and questionnaires completed by Patient B. There is no diagnosis in the record.

61. Many of the SOAP notes are dated February 4, 2019, May 28, 2019 or June 10, 2019. For the most part, each note is simply a cut and paste of a note that appeared to be made on December 6, 2018. Had the Member testified, he would have said that the SOAP notes were incorrectly dated due to a software issue that has now been resolved and that the diagnosis did not get saved into the 'history notes' section of the electronic record."

62. Although Patient B. paid for the assessment that was scheduled to have been performed on February 19, 2019, she was not at the Clinic on February 19, 2019.

CCO Standards of Practice and Guidelines

63. CCO Guideline G-008: Business Practices provides guidelines regarding the use of block fees, or any other fee arrangement where the patient is charged for multiple services and/or treatments at any time other than when the services and/or treatments are provided. It requires members to ensure their business practices are appropriate, including but not limited to the full disclosure of fees to the patient for the delivery of care and services, unit billing, billing/financial arrangements as they relate to a plan of care delivered to the patient, and the billing of 3rd party payors. For example:.

a) Members are required to provide accurate, complete information to patients regarding fees, unit billing, billing arrangements, including block fees and/or payment plans, as they relate to the delivery of care;

b) Members must inform patients in advance of treatment:

- the nature of the care or plan of care to be provided;
- who is delivering the care;
- if any care is to be delegated, assigned or referred;
- the use of any adjunctive therapies and/or services; and
- the sale of any products.

c) Members must clearly communicate to patients their right to choose and/or refuse billing arrangements, block fees and/or payment plans and their right to opt out of such arrangements or plans at any time during care;

d) Fees must be fair and reasonable for care that is diagnostically or therapeutically necessary; and

e) There must be a reassessment when clinically necessary and in any event, no later than the 24th visit that is sufficiently comprehensive for the member to:

- evaluate the patient's current condition;
- assess the effectiveness of the member's chiropractic care;
- discuss with the patient, the patient's goals and expectations for his/her ongoing care; and
- affirm or revise the member's plan of management for the patient.

f) A member offering a billing arrangement must:

- give the patient the option of paying for each service as it is provided;
- specify a unit cost per service;
- agree to refund to the patient the unspent portion of the block fee, calculated by reference to the number of services provided multiplied by the unit cost per service.

g) In offering a billing arrangement, a member must:

- consider the appropriateness of offering a billing arrangement to reflect that the plan of care, the objectives and planned outcomes of care, patient goals and requests, and patient comfort;

- discuss with the patient the appropriateness of a billing arrangement, including but not limited to, the nature of the treatment plan, the health care goals and objectives for the patient, the patient's comfort in agreement to a billing arrangement, the value and outcomes of the billing arrangement, and any billing or reimbursement from insurance companies or third party payors that would be affected by a billing arrangement;

- ensure that the patient is comfortable with and understands all aspects of the billing arrangement, including the right of the patient

to pay for each services as it is provide and the right to opt out of the billing arrangement at any time and receive a refund for the unspent portion of the billing arrangement, calculated by reference to the number of services provided multiplied by the unit cost per service;

- not subject a patient to any undue pressure or duress to agree to a billing arrangement, or opt out of a billing arrangement;

- refrain from using any language that is or could be perceived as coercive or which suggests that without agreeing to a billing arrangement, services will be limited or reduced, or that quality of care provided may suffer;

- ensure there are protections for the patient to receive a refund for any unused portion of the billing arrangement in case of bankruptcy, death, dissolution of practice and other incidences which may interrupt a course of care; and

- respect a patient's request to pay for each service as it is provided.

h) A member charging a billing arrangement must ensure that there is a signed, written agreement between the member and the patient, in which the member:

- gives the patient the option to pay for each service on a "pay per visit" basis;

- discloses to the patient the regular unit cost per service and the unit cost per service established by the billing arrangement if the fees differ; and

- fully informs the patient of his/her right to opt out of a billing arrangement at any time during care, and the patient's right to a refund of any unspent portion of the billing arrangement, calculated by reference to the number of services provided multiplied by the billing arrangement unit cost per service.

i) A member must fully refund to the patient any unused portion of the billing arrangement calculated by multiplying the number of services provided by the established unit cost per service of the billing arrangement. If a patient opts out of the billing arrangement, a member

may not charge a patient any additional fees for any treatments or services that were discounted or complimentary as part of the billing arrangement. A refund must reference the unit cost per service, which may be complimentary or discounted, of the billing arrangement.

64. CCO Standard of Practice S-002 Record Keeping requires members to maintain records so patients have access to current, accurate information as reflected in their records of personal health information and to ensure continuity of care for patients from successive chiropractors or other treating health professionals. Each patient health record should include, among other things:

- reasonable information about every initial examination, all assessments, and each treatment and test;

- the initial examination, as recorded in the patient health record, shall be sufficiently comprehensive for the member to document:
    - evidence of the patient's current condition;
    - diagnosis or clinical impression; and
    - plan of care for the patient.

- for each treatment, the record should contain:
    - reasonable information about who provided the care and the location of where the care was delivered;
    - reasonable information about every treatment, including level of spine or joint contacted for the purpose of adjusting or mobilizing, and technique(s) used; and
    - reasonable information about all advice given by the member to the patient.

- periodic and regular comparative assessments are a mandatory component of any care/plan of care and are based on the same clinical judgement components used in all phases of patient care. Assessments must:
    - be conducted when clinically necessary and, in any event, no later than each 24th visit;
    - be sufficiently comprehensive. For each assessment, the record should contain:
        - an evaluation of the patient's current condition;
        - an assessment of the effectiveness of the member's chiropractic care;

- the results of a discussion with the patient about his/her goals and expectations for his/her ongoing care; and
- an affirmation or revision to the patient's diagnosis or clinical impression and plan of care

65. CCO Standard of Practice S-016 Advertising is designed to uphold the public interest by ensuring that members' advertising is clear, appropriate and maintains a professional image in communicating the delivery of safe, ethical chiropractic, provides the public with the information to make rational choices for their care and to assist the public in obtaining the services of members of their choice. Advertisements must be accurate, factual and contain information that is verifiable. They must be readily comprehensible by the persons to whom it is directed.

Admissions

66. In addition to the facts set out above, the Member admits that his billing practices, record keeping, and communications were deficient, including, among other things, that the "Best Offer of the Year" was misleading, his conduct in making personal comments and touching patients was inappropriate, he failed to provide the patients with the appropriate information and a written agreement regarding block fees, he did not respond to the patients' concerns regarding their billings appropriately and promptly, he made erroneous claims to Patient B.'s insurance company, he failed to reimburse the patients for the unused portion of their block fees, and he failed to document and maintain clinical records in accordance with the standards of practice.

67. The Member admits he committed acts of professional misconduct, and in particular:

a. With respect to Patient A., he committed the acts of professional misconduct described in NOH #1, and specifically, he:

   i. 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 assessment, treatment, documentation and billing as described in allegation #1;

   ii. failed to keep records as required by the regulations as described in allegation #2;

   iii. submitted an account or charge for services that he knew was false or misleading as described in allegation #3;

   iv. failed to disclose the fee for a service before the service was provided, including a fee not payable by the patient, as described in allegation #4;

   v. charged a block fee as described in allegation #5 when:

      1. no unit cost per service was specified; and

      2. he did not agree to refund to the patient the unspent portion of the block fee, calculated by reference to the number of services provided multiplied by the unit cost per service.

   vi. failed to itemize an account for professional services when requested to do so by the patient, as described in allegation #6; and

   vii. 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 with respect to his assessment, treatment, documentation and billing as described in allegation #7.

b. With respect to Patient B., he committed the acts of professional misconduct described in NOH #2, and specifically, he:

   i. 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 assessment, treatment,

documentation, billing, and conduct towards the patient as described in allegation #1;

ii. failed to advise the patient to consult with another health professional when he knew or ought to know that, as described in allegation #2 that:

1. the patient's condition was beyond his scope of practice and competence; and/or

2. the patient required the care of another health professional; and/or

3. the patient would be most appropriately treated by another health professional

iii. provided the patient with a diagnostic or therapeutic service that was not necessary as described in allegation #3;

iv. failed to keep records as required by the regulations as described in allegation #4;

v. submitted an account or charge for services that you knew was false or misleading as described in allegation #5;

vi. failed to disclose to the patient the fee for a service before the service is provided, including a fee not payable by the patient as described in allegation #6;

vii. charged a block fee as described in allegation #7 when:

1. no unit cost per service was specified; and

2. he did not agree to refund to the patient the unspent portion of the block fee, calculated by reference to the number of services provided multiplied by the unit cost per service.

viii. failed to itemize an account for professional services when requested to do so by the patient as described in allegation #8; and

ix. 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 with respect to his assessment, treatment, documentation, billing, and conduct towards to the patient, as described in allegation #9.

68. Dr. Nantais acknowledges that he received advice from his counsel, Matthew Gourlay, prior to entering into this Resolution Agreement, and affirms that he is signing the Agreed Statement of Facts freely and voluntarily.

Member's Plea

The Member admitted all the Allegations contained in the Notices of Hearing (Exhibits 1 and 2) namely allegations 1 through 7 of Exhibit 1 and allegations 1 through 9 in Exhibit 2. 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. Gourlay 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. Brian Nantais in relation to the admitted allegations set out in the Notices of Hearing (Exhibits 1 and 2). In particular, the Panel found that the Member has:

a. With respect to Patient A., he committed the acts of professional misconduct described in NOH #1, and specifically, he:

   i. 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 assessment, treatment, documentation and billing as described in allegation #1;

   ii. failed to keep records as required by the regulations as described in allegation #2;

   iii. submitted an account or charge for services that he knew was false or misleading as described in allegation #3;

   iv. failed to disclose the fee for a service before the service was provided, including a fee not payable by the patient, as described in allegation #4;

   v. charged a block fee as described in allegation #5 when:

      1. no unit cost per service was specified; and

      2. he did not agree to refund to the patient the unspent portion of the block fee, calculated by reference to the number of services provided multiplied by the unit cost per service.

   vi. failed to itemize an account for professional services when requested to do so by the patient, as described in allegation #6; and

   vii. 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 with respect to his assessment, treatment, documentation and billing as described in allegation #7.

b. With respect to Patient B., he committed the acts of professional misconduct described in NOH #2, and specifically, he:

i. 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 assessment, treatment, documentation, billing, and conduct towards the patient as described in allegation #1;

ii. failed to advise the patient to consult with another health professional when he knew or ought to know that, as described in allegation #2 that:

    1. the patient's condition was beyond his scope of practice and competence; and/or

    2. the patient required the care of another health professional; and/or

    3. the patient would be most appropriately treated by another health professional

iii. provided the patient with a diagnostic or therapeutic service that was not necessary as described in allegation #3;

iv. failed to keep records as required by the regulations as described in allegation #4;

v. submitted an account or charge for services that you knew was false or misleading as described in allegation #5;

vi. failed to disclose to the patient the fee for a service before the service is provided, including a fee not payable by the patient as described in allegation #6;

vii. charged a block fee as described in allegation #7 when:

    1. no unit cost per service was specified; and

    2. he did not agree to refund to the patient the unspent portion of the block fee, calculated by reference to the number of services provided multiplied by the unit cost per service.

viii. failed to itemize an account for professional services when requested to do so by the patient as described in allegation #8; and

ix. 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 with respect to his assessment, treatment, documentation, billing, and conduct towards to the patient, as described in allegation #9.

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 3). 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 4. Mr. Paliare and Mr. Gourlay 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 8 months ("Suspension"), with the Suspension to take effect on March 15, 2021.

3. Directing the Registrar to impose the following terms, conditions and limitations ("Conditions") on the Member's certificate of registration:
    a. By September 15, 2021, the Member must:
        i. Successfully complete at his own expense the Legislation and

Ethics Examination and CCO's Record Keeping Workshop;

ii. Review and undertake to the Registrar that he will comply with all CCO regulations, standards of practice, guidelines and policies, including but not limited to S-002: Record Keeping, S-016 Advertising, S-019: Conflict of Interest in Commercial Ventures, G-005: Guidelines for Members Concerning Office Staff, G-008: Business Practices, and G-016: Advertising.

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;

c. At the CCO's discretion, requiring the Member, at his own expense, to have his business practices reviewed by a mentor ("Mentor") for a period not to exceed two years after returning to practice. The Mentor must be a member in good standing with the CCO and be approved of by the Registrar. The Mentor will review and evaluate the Member's office processes and billings practices, and provide written reports to the Registrar at a frequency determined by the Registrar. The Member will co-operate fully with the Mentor; and

d. Requiring the Member to submit any proposed advertisements to the CCO's Advertising Committee.

4. Directing the Registrar to suspend 2 months of the Suspension if the Member satisfactorily completes the Conditions set out in Paragraph 3a. by September 15, 2021.

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 $20,000.00 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 the Member to pay $10,000.00 by March 8, 2021 and the remaining $10,000.00 by December 31, 2021. The Member is to provide post-dated cheques for the remaining $10,000.00 to the CCO by March 8, 2021.

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

> Dr. Nantais acknowledges that he received advice from his counsel, Matthew Gourlay, 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 that by agreeing to the facts the Member has accepted responsibility for his actions. Dr. Nantais has avoided the delay and expense that would have been incurred in resolving the allegations at a contested hearing. The Panel was encouraged the Member has been proactive in addressing his shortfalls and bringing himself into compliance with the standards and guidelines of the College.

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 8 months ("Suspension"), with the Suspension to take effect on March 15, 2021.

3. Directing the Registrar to impose the following terms, conditions and limitations ("Conditions") on the Member's certificate of registration:
    a. By September 15, 2021, the Member must:
        i. Successfully complete at his own expense the Legislation and Ethics Examination and CCO's Record Keeping Workshop;

        ii. Review and undertake to the Registrar that he will comply with all CCO regulations, standards of practice, guidelines and policies, including but not limited to S-002: Record Keeping, S-016 Advertising, S-019: Conflict of Interest in Commercial Ventures, G-005: Guidelines for Members Concerning Office Staff, G-008: Business Practices, and G-016: Advertising.

    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;

    c. At the CCO's discretion, requiring the Member, at his own expense, to have his business practices reviewed by a mentor ("Mentor") for a period not to exceed two years after returning to practice. The Mentor must be a member in good standing with the CCO and be approved of by the Registrar. The Mentor will review and evaluate the Member's office processes and billings practices, and provide written reports to the Registrar at a frequency determined by the

Registrar. The Member will co-operate fully with the Mentor; and

d. Requiring the Member to submit any proposed advertisements to the CCO's Advertising Committee.

4. Directing the Registrar to suspend 2 months of the Suspension if the Member satisfactorily completes the Conditions set out in Paragraph 3a. by September 15, 2021.

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 $20,000.00 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 the Member to pay $10,000.00 by March 8, 2021 and the remaining $10,000.00 by December 31, 2021. The Member is to provide post-dated cheques for the remaining $10,000.00 to the CCO by March 8, 2021.

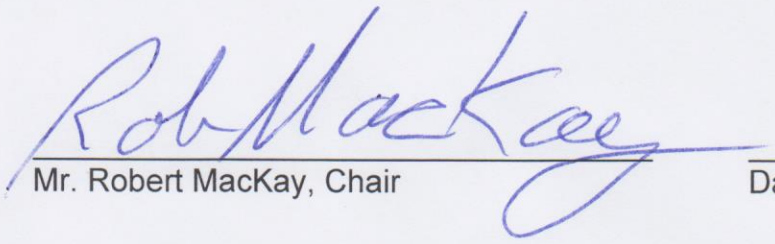
Administration of Reprimand

It was noted on the record that the Joint Submission on Penalty (Exhibit 4) contained an Undertaking[3] marked as Exhibit "A", that among other things expressly waived the Member's right of appeal[4] of any decision by the Discipline Committee in relation to the October 29, 2020 Notices of Hearing, (Exhibits 1 and 2). 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

[3] Appendix "B" of this Decision and Reasons.
[4] Paragraph 5 Appendix "B"

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: March 15, 2021

Panel Members:

Mr. Robert MacKay
Dr. Daniela Arciero
Dr. Steven Lester
Mr. Shawn Southern
Dr. Matthew Tribe

Appendix "A"
Allegations contained in the Notice of Hearing,
regarding Dr. Brian Nantais (Exhibit 1)

TAKE NOTICE THAT IT IS ALLEGED THAT:

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 December 14, 2018 – March 28, 2019, on one or more occasions, while practicing as a chiropractor at Nantais Family Chiropractic in Tecumseh, Ontario, 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 regarding 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(19) of *Ontario Regulation 852/93*, in that during the period December 14, 2018 – March 28, 2019, on one or more occasions, while practicing as a chiropractor at Nantais Family Chiropractic in Tecumseh, Ontario, you failed to keep records as required by the regulations regarding a patient known as "Patient 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(23) of *Ontario Regulation 852/93*, in that during the period December 14, 2018 – March 28, 2019, on one or more occasions, while practicing as a chiropractor at Nantais Family Chiropractic in Tecumseh, Ontario, you submitted an account or charge for services that you knew was false or misleading regarding a patient known as "Patient A."

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(24) of *Ontario Regulation 852/93*, in that during the period December 14, 2018 – March 28, 2019, on one or more occasions, while practicing as a chiropractor at Nantais Family Chiropractic in Tecumseh, Ontario, you failed to disclose to a patient known as "Patient A." the fee for a service before the service is provided, including a fee not payable by the patient.

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(25) of *Ontario Regulation 852/93*, in that on one or more occasions, during the period December 14, 2018 – March 28, 2019, while practicing as a chiropractor at Nantais Family Chiropractic in Tecumseh, Ontario, with respect to a patient known as "Patient A." you charged a block fee when:

    i. the patient was not given the option of paying for each service as it was provided; and/or

    ii. no unit cost per service was specified; and/or

    iii you did not agree to refund to the patient the unspent portion of the block fee, calculated by reference to the number of services provided multiplied by the unit cost per service.

6. 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(26) of *Ontario Regulation 852/93*, in that during the period December 14, 2018 – March 28, 2019, on one or more occasions, while practicing as a chiropractor at Nantais Family Chiropractic in Tecumseh, Ontario, with respect to a patient known as "Patient A.", you failed to itemize an account for professional services when requested to do so by the patient.

7. 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 on one or more occasions during the period December 14, 2018 – March 28, 2019, while practicing as a chiropractor at Nantais Family Chiropractic in Tecumseh, Ontario, with respect to a patient known as "Patient A.", 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.

Allegations contained in the Notice of Hearing,
regarding Dr. Brian Nantais (Exhibit 2)

TAKE NOTICE THAT IT IS ALLEGED THAT:

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 December 6, 2018 – March 28, 2019, on one or more occasions, while practicing as a chiropractor at Nantais Family Chiropractic in Tecumseh, Ontario, 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 and/or comments and/or touching of a patient known as "Patient B."

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(13) of *Ontario Regulation 852/93*, in that during the period December 6, 2018 – March 28, 2019, on one or more occasions, while practicing as a chiropractor at Nantais Family Chiropractic in Tecumseh, Ontario, you failed to advise a patient known as "Patient B." to consult with another health professional when you knew or ought to know that,

    i. the patient's condition was beyond your scope of practice and competence; and/or

    ii. the patient required the care of another health professional; and/or

    iii. the patient would be most appropriately treated by another health professional.

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(14) of *Ontario Regulation 852/93*, in that during the period December 6, 2018 – March 28, 2019, on one or more occasions, while practicing as a chiropractor at Nantais Family Chiropractic in Tecumseh, Ontario, you provided a patient known as "Patient B." with a diagnostic or therapeutic service that was not necessary.

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(19) of *Ontario Regulation 852/93*, in that during the period December 6, 2018 – March 28, 2019, on one or more occasions, while practicing as a chiropractor at Nantais Family Chiropractic in Tecumseh, Ontario, you failed to keep records as required by the regulations regarding a patient known as "Patient B."

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(23) of *Ontario Regulation 852/93*, in that during the period December 6, 2018 – March 28, 2019, on one or more occasions, while practicing as a chiropractor at Nantais Family Chiropractic in Tecumseh, Ontario, you submitted an account or charge for services that you knew was false or misleading regarding a patient known as "Patient B."

6. 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(24) of *Ontario Regulation 852/93*, in that during the period December 6, 2018 – March 28, 2019, on one or more occasions, while practicing as a chiropractor at Nantais Family Chiropractic in Tecumseh, Ontario, you failed to disclose to a patient known as "Patient B." the fee for a service before the service is provided, including a fee not payable by the patient.

7. 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(25) of *Ontario Regulation 852/93*, in that on one or more occasions, during the period December 6, 2018 – March 28, 2019, while practicing as a chiropractor at Nantais Family Chiropractic in Tecumseh, Ontario, with respect to a patient known as "Patient B." you charged a block fee when:

    i. the patient was not given the option of paying for each service as it was provided; and/or

    ii. no unit cost per service was specified; and/or

    iii you did not agree to refund to the patient the unspent portion of the block fee, calculated by reference to the number of services provided multiplied by the unit cost per service.

8. 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(26) of *Ontario Regulation 852/93*, in that during the period December 6, 2018 – March 28, 2019, on one or more occasions, while practicing as a chiropractor at Nantais Family Chiropractic in Tecumseh, Ontario, with respect to a patient known as "Patient B.", you failed to itemize an account for professional services when requested to do so by the patient.

9. 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 on one or more occasions during the period December 6, 2018 – March 28, 2019, while practicing as a chiropractor at Nantais Family Chiropractic in Tecumseh, Ontario, with respect to a patient known as "Patient B.", 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 and/or touching of and/or comments made to the patient.

Appendix "B"
UNDERTAKING
Exhibit "A"

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

I, Dr. Brian Nantais, undertake to the Registrar and agree to do the following:

1. On or before September 15, 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 S-002: Record Keeping, S-016 Advertising, S-019: Conflict of Interest in Commercial Ventures, G-005: Guidelines for Members Concerning Office Staff, G-008: Business Practices, and G-016: Advertising;

    b. provide evidence that I have successfully completed, at my own expense, the CCO's Legislation and Ethics Examination and the Record Keeping Workshop;

2. I will be peer assessed at my own expense within six months of returning to practice after the lifting of the suspension referred to in the Resolution Agreement at my Discipline Committee hearing.

3. If required by the CCO, I will, at my own expense, have my business practices reviewed by a mentor ("Mentor") for a period not to exceed two years after returning to practice. The Mentor must be a member in good standing with the CCO and be approved of by the Registrar. The Mentor will review and evaluate my office processes and billings practices, and provide written reports to the Registrar at a frequency determined by the Registrar. I will co-operate fully with the Mentor.

4. I will pay to the CCO a total of $20,000.00 for the partial payment of its costs and expenses related to the investigation, hearing and legal costs by paying the CCO $10,000.00 by March 8, 2021 and the remaining $10,000.00 by December 31, 2021. I will provide post dated cheques for the latter payment by March 8, 2021.

5. I agree not to appeal or ask for a judicial review of the decision of the Discipline Committee.

6. 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.

7. 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, Daniel Libman. I am executing this Undertaking freely and voluntarily after reading and understanding its contents.

Signed this day of March, 2021

_____ _____

Dr. Brian Nantais Witness Signature