

DISCIPLINE COMMITTEE OF THE
COLLEGE OF CHIROPRACTORS OF ONTARIO

COLLEGE OF CHIROPRACTORS OF ONTARIO

- and -

DR. NIOUSHA GOLHASSANI

EXHIBIT No. 3

EXAMINATION OF _____

CCO VS Dr. Niousha Golhassani
DATE April 29, 2014 Golhassani

RESOLUTION AGREEMENT

COLLEGE OF CHIROPRACTORS OF ONTARIO

PART 1 - AGREED STATEMENT OF FACTS

Background

1. Dr. Niousha Golhassani ("Member") became a member of the College of Chiropractors of Ontario ("CCO") in 2002. The Member has not been the subject of a previous Discipline Committee hearing
2. During the relevant time, the Member owned and practiced chiropractic at the Doctors Assessment and Rehab Clinic Ltd. ("Clinic") in Toronto, Ontario.

2 Notices of Hearing

3. In July 2014, State Farm Mutual Automobile Insurance Company ("State Farm") made a complaint to the CCO. State Farm had conducted an investigation into claims the Clinic made to State Farm, and was concerned that the Member might have, among other things:
 - a. billed for more than 24 hours/day on 157 days during the period between January 11, 2011 and October 2, 2012;
 - b. billed between 12 – 24 hours a day on 117 days during the same period;

- c. backdated and/or altered fax confirmation sheets;
 - d. billed for assistive devices that were not provided; and
 - e. billed for aqua therapy treatments that were not provided.
4. A CCO investigator was appointed to investigate the State Farm complaint. The investigation, including the Member's responses to the complaint, was reviewed by the CCO's Inquiries, Complaints and Reports Committee ("ICRC"). The ICRC referred specified allegations of professional misconduct to the Discipline Committee, which are contained in the Notice of Hearing dated February 7, 2018. ("NOH #1").
 5. During the course of the investigation into the State Farm complaint, the CCO investigator obtained information regarding other activity on the part of the Member. As a result, an Appointment to Investigate was made pursuant to the provisions of section 75(1)(a) of the Health Professions Procedural Code ("Registrar's Investigation"). Following an investigation and a review of the investigation by the ICRC, allegations of professional misconduct were referred to the Discipline Committee which are contained in the Notice of Hearing dated August 17, 2018 ("NOH #2").
 6. The Member and the CCO agree that NOH #1 and NOH #2 involve the same or similar questions of fact, law or policy and should be combined for the purpose of this Discipline Committee hearing.

NOH #1: The State Farm Complaint

Complaint re: Overbilling

7. During the period December 31, 2010 to May 31, 2012 (the "Period") the Clinic submitted 2,008 Auto Insurance Standard Invoices ("OCF-21s") for goods, services and treatments provided at the Clinic between July 28, 2009 to November 30, 2011. According to the State Farm analysis of the invoices, the

Clinic had billed, on average, for 40 hours of treatment per day for 157 days and 17.5 hours/day on 117 days. State Farm also noted that many of the OCF-21s that had been faxed by the Clinic contained altered or back dated fax confirmation sheets, or other anomalies such as dates that pre-dated the accidents in question, or documents that contained different dates in different places regarding the same event.

8. When the CCO investigator attempted to obtain original health care provider and patient appointment information from the Member, he was advised that the Clinic did not maintain such documentation. The CCO investigator also asked for the patient records for 10 specific patients and was advised by the Member that patient files for 4 of the patients had been destroyed as part of a cull of patient records. The cull had occurred after the Member had been notified of the CCO investigation.
9. CCO Standard of Practice S-002 Record Keeping requires a member to keep a daily appointment record which sets out the surname and initials of every patient the member examines, treats, or renders service to. Patient records are required to be accurate, legible and comprehensive. Patient records must be maintained in their entirety for at least 7 years following the patient's last visit.
10. Section 76 of the Health Professions Procedural Code requires a member to cooperate fully with a CCO investigator and not to destroy anything that is relevant to an investigation.
11. The Member admits that the Clinic did not maintain daily appointment records, or patient records, as required by CCO Standard of Practice S-002 Record Keeping. Further, she admits it was her responsibility, as the owner and administrator of the Clinic, to ensure that records were created and maintained appropriately.

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

Complaint re: Billing for treatments and devices not provided

A) *Re: Patient N.R.*

15. On February 19, 2010, a February 18, 2010 MVA was reported to State Farm that involved 2 vehicles, and in which a number of passengers, including “N.R.” were reported as being injured. In 2010 and 2011, the Clinic submitted 9 OCF-18s (Treatment Plans) and 11 OCF-21s (Invoices) to State Farm for treatment and devices provided to N.R. for injuries resulting from the February 18, 2010 accident. The treatments included massage, chiropractic, and acupuncture, some of which was purportedly provided by the Member. The devices included a mattress, orthotics and exercise equipment. According to the OCF-21s, the treatments and devices had been provided to N.R. starting in June 2010.

16. N.R. told the CCO investigator that she had been approached by an acquaintance of her fiancé in January 2010, who said she could make \$1,000.00 by providing her personal information to be used for a staged accident. She provided the personal information but never received any money in exchange. N.R. confirmed she was never involved in a February 18, 2010 accident and never received any treatment or other services from the Member or from the Clinic.
 17. Had the Member testified, she would have said that she knew N.R. was in motor vehicle accident in May 2010, and she thought the invoices that the Clinic sent to State Farm related to the May 2010 accident and not the February 2010 staged accident.
- B) *Re: Patient M.B.*
18. On November 15, 2009, "M.B." and his girlfriend "L.K." were involved in a single car MVA. They were assessed by the Member and received treatment at the Clinic following the accident.
 19. M.B. left Canada in February or March 2010 and did not return to Canada. The Clinic billed State Farm \$7,924.00 for treatments and devices it claimed to have provided to M.B. during the period October – December 2010. State Farm paid the Clinic for the treatments and devices.
 20. Had the Member testified, she would have said that she was unaware that any false claims regarding M.B. had been sent by the Clinic to State Farm.
- C) *Re: Patient Z.F.*
21. On May 11, 2011, the Clinic submitted an OCF-18 (Treatment Plan) regarding a patient "Z.F." to State Farm for exercise, with a note referencing Aqua Therapy in the amount of \$2,383.72. On June 27, 2011, the Clinic submitted a claim for

\$2,383.72 for 16 sessions of aqua therapy provided to Z.F. by a specific chiropractor at the Clinic.

22. Z.F. told the CCO investigator that she never received any aqua therapy, had never been in a swimming pool as part of her therapy at the Clinic, and never received treatment from the specific Clinic chiropractor. Z.F.'s patient record at the Clinic does not indicate she ever received aqua therapy.

23. Had the Member testified, she would have said that she was unaware that any false claims regarding Z.F. had been sent by the Clinic to State Farm.

D) Assessment of Attendant Care Needs

24. "Z.M.", a registered nurse who worked at the Clinic from November 4 – 23, 2010, was responsible for completing Form 1s [Attendant Care Assessments] at the Clinic. A Form 1 is used to report future needs for attendant care as a result of an automobile accident. Either a registered nurse or an occupational therapist is required to assess the applicant's needs for assistance when performing personal care and to certify at the end of the form that they have assessed the applicant and the information being provided to the insurer is accurate.

25. During the period Z.M. was employed at the Clinic, he completed 12 – 15 Form 1s, but only actually assessed 2 of the patients. For the remaining patients, Z.M. completed Form 1s by reviewing old Form 1s in patient files and changing some of the numbers so they would not be exactly the same as the numbers in previous Form 1s. State Farm paid the Clinic \$1,852.57 for the Form 1s completed by Z.M.

26. In addition, in some cases, the Clinic claimed and was paid for Z.M.'s travel time and other expenses, although he did not travel to, or assess the patients. For example:

a. *Re: Patient S.Z.*

There is a Form 1 – Assessment of Patient Care Needs dated November 4, 2010 in the file of patient “S.Z.”, signed by registered nurse Z.M. Z.M. told the CCO investigator that he never assessed the patient, but rather completed the form using earlier Form 1s and altering the numbers. The Clinic submitted a claim for the assessment for \$775.13, which included Z.M.’s travel time to the patient’s home, mileage, file, and document review, and State Farm paid for the claim.

b. *Re: Patient S.S.*

Patient “S.S.” was purportedly involved in an August 17, 2010 MVA. On November 7, 2010, the Clinic submitted an OCF-21 claiming for assessment, travel time and document review for a November 5, 2010 Form 1 assessment completed at S.S.’s home by Z.M. Z.M. told the CCO investigator he did not attend at the patient’s residence and never actually saw the patient but instead completed the form using earlier Form 1s and altering the numbers. State Farm paid for the claim.

c. *Re: Patient J.A.*

Patient “J.A.” was purportedly involved in an August 17, 2010 MVA. On November 7, 2010, the Clinic sent an OCF-21 to State Farm claiming \$538.72 for a Form 1 Assessment purportedly completed on November 5, 2010 by registered nurse Z.M. at J.A.’s home. Z.M. told the CCO investigator he completed the form but never saw the patient, even though the OCF-21 claimed for an assessment, travel time and mileage. Instead, Z.M. said that he completed the Form 1 by copying numbers from old Form 1s and changing some of numbers. State Farm paid for the claim. There is no document in the patient file indicating Z.M. ever saw the patient.

27. Had the Member testified, she would have denied knowing that Z.M. did not actually assess the patients as Z.M. filled in and signed the Form 1s and claims made to State Farm for travel time and mileage were therefore seen to be appropriate.

Admissions re: NOH #1

28. The Member admits that, as the owner and manager of the Clinic, she was responsible for ensuring that records were created and maintained in accordance with CCO standards of practice. The Member admits that the Clinic did not maintain daily appointment records or patient records as required and that she is ultimately responsible for the failure.
29. Although the Member denies knowing that the Clinic submitted claims to State Farm for treatments, goods and services that were not provided, she admits she was ultimately responsible for the Clinic's billings and claims and that she should have, and failed to, ensure that claims made to State Farm were complete and accurate.

Findings of Professional Misconduct re: NOH #1

30. Based on the facts set out above and the Member's admissions, the CCO and the Member ask that the panel of the Discipline Committee make findings of professional misconduct as set out in NOH #1, and in particular, that the Member:
 - a) contravened a standard of practice of the profession or failed to maintain the standard of practice expected of members of the profession with respect to her assessment, treatment, documentation, and/or billing as described in Allegation 1;

- b) failed to keep records as required by the regulations as described in Allegation 2; and
- c) engaged in conduct or performed an act that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable and unprofessional as described in Allegation 6.

Other

The CCO withdraws allegations 3, 4, and 5 in NOH #1.

NOH #2: The Registrar's Investigation

31. As noted above, as a result of information that was obtained during the course of the investigation into the State Farm complaint, a Registrar's Investigation was conducted which primarily involved documents that were used by the Clinic to make or corroborate insurance claims, and which were created after the claims were made, or which contained false and misleading information.

A) Re: Patient S.B.B.

32. Patient "S.B.B." was purportedly involved in an MVA on May 7, 2010. The Member purportedly provided him with an in-home assessment on May 23, 2011 although Patient S.B.B.'s patient record from the Clinic does not indicate he received an in-home assessment on May 23, 2011.

33. A claim for the assessment, travel report preparation and document review was made to State Farm on May 23, 2011 and State Farm paid \$881.28 for the claim. However, when the CCO investigator reviewed the Clinic computer, he found that the metadata associated with the in-home assessment report indicated the report had been created on January 18, 2013.

34. Similarly, the Clinic billed State Farm \$1,100.00 for a mattress and \$599.00 for a rocking chair that, according to delivery slips, were delivered to S.B.B. on July 13, 2010. State Farm paid for the mattress and the rocking chair. A review of the Clinic computer showed that the delivery slips were created on April 19, 2012.

B) Re: Patient S.Z.

35. Patient "S.Z." was purportedly involved in an MVA on May 7, 2010. The Member purportedly provided him with an in-home assessment on April 5, 2011. However, a patient log created by the Clinic in or about 2013 indicated the assessment was done on April 1, 2011 and that S.Z. attended at the Clinic that day for treatment. The patient log also indicated that S.Z. attended at the Clinic on April 5, 2011 and there is no indication he was assessed at home on that date. There are SOAP notes indicating S.Z. was at the Clinic on both April 1 and April 5, 2011.
36. The Clinic billed State Farm \$1,100.00 for a mattress and \$599.00 for a rocking chair that, according to delivery slips, were delivered to S.Z. on August 18, 2010. State Farm paid for the claims. A review of the Clinic computer showed that the delivery slips were created on January 18, 2012.

C) Re: Patient M.B.

37. When reviewing the Clinic computer, the CCO investigator noted that the packing slip for a rocking chair that was purportedly delivered to patient "M.B." in February 2010 had actually been created on January 3, 2012. Similarly, a packing slip dated November 13, 2010 for a mattress that was purportedly delivered to M. B. was created on January 3, 2012.

D) Re: Patient J.A.

38. Patient "J.A." was purportedly involved in an August 17, 2010 MVA. The Clinic billed State Farm \$599.00 for a rocking chair that, according to delivery slips, were delivered to J.A. on July 30, 2011. State Farm paid for the claim after, at its request, the Clinic provided a signed delivery slip for the rocking chair. According to the metadata on the Clinic computer, the delivery slip was created on December 21, 2011. The delivery slip was faxed to State Farm on January 4, 2012 and State Farm paid for the chair on January 5, 2012.

E) Re: Patient T.S.

39. The Clinic billed State Farm, and was paid for, an orthopedic mattress (\$1,100.00) and rocking chair (\$599.00) that, according to a delivery slip, were provided to patient "T.S." on June 20, 2010. However, according to the metadata in the Clinic computer, the delivery slip was created on January 3, 2012.

F) Re: Patient I.H.

40. The Clinic billed State Farm, and was paid for, a rocking chair (\$599.00) that, according to a delivery slip, was provided to patient "I.H." on February 12, 2010. However, according to the metadata in the Clinic computer, the delivery slip was created on December 21, 2011.

G) Pre-Signed Patient Attendance Logs

41. The Clinic provided the CCO investigator with Patient Daily Attendance Sheets for patients known as "K.S.", "B.S.", "T.S.", "E.S.", "I.H.", "K.S.", "M.S.", "F.S.", and "A.S." The sheets contained signatures on date lines that were pre-signed in advance of the patients' attendance at the Clinic.

H) Duplicative Billing

42. The Clinic billed State Farm and insurer Allstate for the same treatments provided to a patient known as "B.S." Both insurers paid the Clinic the charged amount of \$3,272.21 for the same treatments.

Admissions re: NOH #2

43. The Member admits that, as the owner and manager of the Clinic, she was responsible for ensuring that records were created and maintained in accordance with CCO standards of practice. The Member admits that the Clinic did not maintain patient attendance logs as required and that she is ultimately responsible for the failure.
44. The Member denies knowing that the Clinic submitted claims to State Farm for treatments, goods and services that were not provided, or that it created false receipts and delivery slips. However, she admits she was ultimately responsible for the Clinic's billings and claims and that she should have, and failed to, ensure that claims made to State Farm were complete and accurate and that receipts and delivery slips were valid.

Findings re: NOH #2

45. Based on the facts set out above and the Member's admissions, the CCO and the Member request that the panel of the Discipline Committee find the Member committed acts of professional misconduct as described in NOH #2, and in particular that she:
- a. contravened a standard of practice of the profession or failed to maintain the standard of practice expected of members of the profession as described in Allegation 1; and

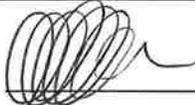
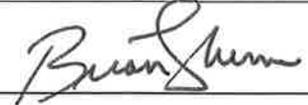
- b. engaged in conduct or performed an act that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable and unprofessional as described in Allegation 5.

Other

- 46. The CCO withdraws allegations 2, 3, and 4 in the Notice of Hearing.

Independent Legal Advice

- 47. The Member acknowledges that she received advice from her counsel, Brian Sherman, prior to entering into this Resolution Agreement. The Member agrees that she is entering into this Resolution Agreement and signing the Agreed Statement of Facts freely and voluntarily.

 Dr. Golhassani	<u>2019, 04, 24</u> Date	 Witness
 CCO	<u>April 29, 2019</u> Date	 Witness
 Prehearing Chairperson	 Date	 Witness

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

COLLEGE OF CHIROPRACTORS OF ONTARIO

- and -

DR. NIOUSHA GOLHASSANI

EXHIBIT No. 4

EXAMINATION OF _____

CCO VS Dr. Niousha Golhassani

DATE April 29, 2019

RESOLUTION AGREEMENT

COLLEGE OF CHIROPRACTORS OF ONTARIO

PART 2 - JOINT SUBMISSION ON PENALTY AND ON COSTS

Further to the pre-hearing conference of November 12, 2018 held before Dr. Frazer Smith and in view of the Agreed Statement of Facts and the findings of professional misconduct, and the Undertaking attached to this Joint Submission as Exhibit "A", the College of Chiropractors of Ontario ("CCO") and Dr. Niousha Golhassani ("Member") jointly request that the panel of the Discipline Committee make 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 eight months ("Suspension") with the Suspension to take effect on May 1, 2019.
3. Directing the Registrar to impose the following terms, conditions and limitations ("Conditions") on the Member's certificate of registration:
 - a. By November 1, 2019, the Member must:
 - i. review, and undertake in writing to comply with, all CCO

regulations, standards of practice, policies and guidelines, including but not limited to the business practices portion of the Misconduct Regulation; CCO Guideline G-008: Business Practices; and CCO Standard of Practice S-002: Record Keeping; and

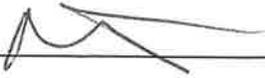
- ii. provide evidence that she has successfully completed, at her own expense, the Legislation and Ethics Examination and the Record Keeping Workshop
 - b. Requiring the Member to be peer assessed at her own expense within six months of returning to practice after the lifting of the Suspension.
4. Directing the Registrar to suspend two months of the Suspension if the Member completes the Conditions set out in Paragraph 3a., by November 1, 2019.
 5. Requiring that the results of the proceeding be recorded in the public portion of the Register and published in the Annual Report or other publications at the discretion of the College of Chiropractors of Ontario.

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

1. Requiring the Member to pay \$25,000.00 to the CCO to partially reimburse it for its costs of the investigation and the costs and expenses of the hearing and of legal counsel, to be paid as follows:
 - a. the Member to provide a cheque for \$5,000.00 at the hearing;
 - b. the Member to pay the CCO \$1,000.00/month thereafter until the Suspension is lifted, with post-dated cheques to be provided at the hearing; and
 - c. the Member to pay the CCO \$1,500.00/month after the Suspension is lifted until the full costs have been paid, with post-dated cheques to be

provided at the hearing.

Dr. Golhassani acknowledges that she received advice from her counsel, Brian Sherman, prior to entering into this Resolution Agreement, and affirms that she is signing the Joint Submission on Penalty and on Costs freely and voluntarily

 _____ Dr. Golhassani	2019, 04, 24 _____ Date	 _____ Witness
 _____ CCO	April 29, 2019 _____ Date	 _____ Witness
_____ Prehearing Chairperson	_____ Date	_____ Witness

UNDERTAKING
Exhibit "A"

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

I, Dr. Niousha Golhassani, undertake to the Registrar and agree to do the following:

1. On or before November 1, 2019, I will provide:
 - a. a written Undertaking to the Registrar confirming that I have reviewed, and will comply with all CCO regulations, standards of practice, guidelines and policies including but not limited to the business practices portion of the Misconduct Regulation; CCO Guideline G-008: Business Practices; and CCO Standard of Practice S-002: Record Keeping; and
 - b. 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 be peer assessed at my own expense within 6 months after returning to practice following the lifting of the suspension of my Certificate of Registration.
3. I will pay to the CCO a total of \$25,000.00 for the partial payment of its costs and expenses related to the investigation, hearing and legal costs as follows:
 - a. \$5,000.00 by cheque at the hearing on April 29, 2019;
 - b. \$1,000.00/month while my certificate of registration is suspended, by providing post-dated cheques at the hearing; and
 - c. \$1,500.00/month after the suspension is lifted until the full costs have been paid, by providing post-dated cheques at the hearing.
4. I agree not to appeal or ask for a judicial review of the decision of the Discipline Committee.
5. 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.

6. 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, Brian Sherman. I am executing this Undertaking freely and voluntarily after reading and understanding its contents.

Signed this 24 day of April, 2019



Dr. Miousha Golhassani



Witness Signature