

# KEEPING CURRENT

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## Discipline Tribunal Sets Aside Allegations of Professional Misconduct Against Chiropracist

By Lad Kucis

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In a noteworthy recent case, [College of Chiropracist of Ontario \(CCO\) v. Ku \(December 9, 2025\)](#), the Discipline Tribunal allowed a motion to set aside certain allegations of professional misconduct on the basis that they fell outside the scope of the investigation authorized by the Inquiries, Complaints and Reports Committee (ICRC), and the chiropracist was not provided with an opportunity to respond to the allegations.

The facts of the case are that the ICRC authorized a Registrar's investigation regarding concerns that the chiropracist (a) may be practicing pursuant to a conflict of interest by virtue of his position as a medical director of an orthotics lab; (b) may have failed to report a practice site to the CCO in relation to his involvement with the orthotics lab; and (c) may have prescribed orthotics manufactured with the use of foam box, which is a process that is noncompliant with CCO standards.

The ICRC investigated these concerns and prepared an investigation report, which was provided to the chiropracist for comment.

Subsequently, the ICRC conducted further investigations into whether the chiropracist was working at multiple practice locations on the same dates and times. An addendum report addressing this scheduling issue was also provided to the chiropracist for comment.

The ICRC ultimately issued a Notice of Hearing referring various allegations of professional misconduct to the Discipline Tribunal. In addition to the allegations that were investigated and set out in the report that had been provided to the chiropracist, the Notice of Hearing also included new allegations concerning the chiropracist's "prescribing practices" relating to orthotics, including among other items, over-prescribing, failing to perform assessments to determine medical necessity and recordkeeping. To confirm, these concerns about "prescribing practices" had not been identified nor analyzed in the reports that had been provided to the chiropracist.

The Discipline Panel concluded that these new allegations constituted a different type of issue that was factually unrelated to the reasonable and probable grounds

that authorized the Registrar's investigation. To elaborate, the Discipline Tribunal held that the reasonable and probable grounds to believe the chiropodist had an improper relationship with an orthotics lab was unconnected to the chiropodist's prescribing practices. As a result, the Discipline Tribunal did not believe that the new allegations were within the scope of the investigation initiated by the Registrar.

The Discipline Tribunal further held that the new allegations were not "related to the report," as the report did not identify any such concerns and the chiropodist had no opportunity to respond to them. The Discipline Tribunal rejected the argument that the inclusion of patient charts in the investigation report permitted the ICRC to refer any allegation arising from its review of those charts. Rather, it stated that any concern must be expressly identified in the report and must relate to the issues that formed the basis of the reasonable and probable grounds for the investigation.

The Discipline Tribunal also summarized the applicable procedural requirements for Registrar investigations (i.e., investigations commenced in the absence of a complaint) as follows:

- An investigation can commence where the Registrar has reasonable and probable grounds to believe the registrant committed professional misconduct and authorization for the investigation is obtained from the ICRC;
- The investigation must have a defined scope, limited to the issues that formed the basis of the reasonable and probable grounds, interpreted generously. Investigative powers can only be exercised in matters relating to that scope;
- The findings of the investigation must be set out in a report and provided to the registrant for comment; and

- Any allegations referred to the Discipline Tribunal must be based on the concerns identified in the report provided to the registrant.

This decision has application to all types of health professionals and confirms that Registrar investigations are not unfettered and must be confined to the issues that gave rise to the investigation. Where new issues are identified, a health profession college must obtain a new authorization to investigate, supported by reasonable and probable grounds, before pursuing those matters. The decision also reinforces the requirement that registrants be informed of investigative findings and given a meaningful opportunity to respond.

As there have been very few, if any, cases that have explored the jurisdictional ambit of Registrar investigations, I would expect that this decision will be relied upon in future cases where a health profession college is alleged to have exceeded the scope of the authorized investigation.

#### **About the Author**

Lad Kucis is certified by the Law Society of Ontario as a specialist in health law. As part of his practice, he provides advice and representation to regulated health professionals regarding the full spectrum of college matters, including complaints, investigations, discipline and appeals/reviews.

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