



In the matter of Section 22 of the Chiropractors Act 1994 (“the Act”)

and

The General Chiropractic Council (Professional Conduct Committee) Rules 2000 (“the Rules”)

and

The consideration of allegation by the Professional Conduct Committee

NOTICE OF FINDING BY THE PROFESSIONAL CONDUCT COMMITTEE OF THE GENERAL CHIROPRACTIC COUNCIL

Name of Respondent: **Christian Hamilton Edward Farthing**
Address of Respondent: **Ideal Spine Centre
30 Whitstable Road
Canterbury
CT2 9EB**
Registration Number of Respondent: **00666**

On 13 May 2009, the Professional Conduct Committee (“the Committee”) of the General Chiropractic Council met to consider the following allegation against you, referred to it by the Investigating Committee in accordance with Section 20(12)(b)(ii) of the Chiropractors Act 1994 (“the Act”):

THE ALLEGATION:

That being a registered chiropractor you are guilty of unacceptable professional conduct.

PARTICULARS OF THE ALLEGATION:

That, being a registered chiropractor:

1. At all material times there was a Suspension Order in force against you as imposed by the Professional Conduct Committee of the General Chiropractic Council.

2. You caused or allowed an advertisement to be placed for the Ideal Spine Centre, 30 Whitstable Road, Blean, CT2 9EB, in the British Telecom phonebook for Canterbury 2007/2008, in the section entitled "Chiropractors", which included:
 - (a) your photograph;
 - (b) your name;
 - (c) your qualification "BCSc".

3. The content of the advertisement referred to at paragraph 2:
 - (a) by implication described you as a chiropractor, chiropractic practitioner, chiropractitioner, chiropractic physician or any other kind of chiropractor;
 - (b) was misleading;
 - (c) was liable to undermine public trust and confidence in the chiropractic profession.

In accordance with the provisions of Rule 18(1) (a) of the General Chiropractic Council (Professional Conduct Committee) Rules 2000 ("the Rules"), notice is hereby given of the decision of the Committee.

DECISION ON APPLICATION TO PROCEED IN THE ABSENCE OF THE RESPONDENT

At the beginning of the hearing, the Committee heard an application by the General Chiropractic Council to proceed against the Respondent, Mr Farthing, in his absence, pursuant to Rule 6(1) of the GCC (Professional Conduct Committee) Rules.

The Committee was satisfied that Mr Farthing had been properly served with notice of today's hearing in accordance with Rule 3 and 21(1) of the GCC (Professional Conduct Committee) Rules. The Committee noted the correspondence from Mr Farthing dated 17 April 2009 and 12/13 May 2009 which indicated that he was aware of the hearing and that he would not be attending.

The Committee was therefore satisfied that it could exercise its discretion in favour of allowing the case to proceed in the absence of Mr Farthing as he had waived his right to attend.

The Committee considered that it is in the public interest to proceed with hearing this allegation of Unacceptable Professional Conduct.

DECISION

The Committee carefully considered all the oral and documentary evidence, including the documents provided by Mr Farthing. It took into account the submissions made on behalf of the General Chiropractic Council and the advice of the Legal Assessor. It bore in mind that

the burden of proof is on the General Chiropractic Council to prove its case and that the standard of proof is the civil standard, which is the balance of probabilities.

In relation to Particular 1, the Committee was satisfied that the witness statement of the Registrar detailing the Suspension Order imposed upon Mr Farthing in 2003 (and subsequently extended on two further occasions) was sufficient to find this Particular proved.

In relation to Particular 2, the Committee took into account the evidence provided, including copies of the advertisement and associated authorisation forms signed by Mr Farthing. The Committee saw the photograph of Mr Farthing, his name and the qualification “BCSc”. It noted that the authorisation forms approved by Mr Farthing resulted in the advert being placed in the British Telecom (BT) Phonebook for 2007 – 2008, in the section entitled “Chiropractors”. The Committee therefore finds this Particular proved in its entirety.

In relation to Particular 3, the Committee noted that the advertisement referred to above was placed in the “Chiropractic” section of the BT Phonebook. The Committee considers that this listing inevitably implied for any member of the public reading the advertisement that Mr Farthing was a chiropractor. For an individual to be listed as a chiropractor whilst the subject of a Suspension Order imposed by the Professional Conduct Committee, is clearly misleading and damaging of public trust and confidence in the chiropractic profession. The Committee therefore finds this Particular proved in its entirety.

UNACCEPTABLE PROFESSIONAL CONDUCT

The Committee went on to consider whether the facts found proved in this case amount to Unacceptable Professional Conduct, which is conduct falling short of the standard required of a registered chiropractor in accordance with Section 20(2) of the Chiropractors Act 1994.

The Particulars which have been found proved show that Mr Farthing allowed himself to be advertised as a chiropractor. He knew that he was not entitled to do so.

For Mr Farthing to advertise his practice and offer services explicitly using his chiropractic qualifications within a chiropractic listing was to advertise as a chiropractor. To do this whilst his registration was suspended, is specifically prohibited in Section 7 (3) and Section 32(1) of The Chiropractors Act 1994.

The Committee therefore find that the matters found proved amount to Unacceptable Professional Conduct.

SANCTION

The Committee has carefully considered the submissions made on behalf of the General Chiropractic Council and has taken account of the advice of the Legal Assessor. The Committee is mindful that its role is to protect patients and the wider public, to maintain public confidence in the profession, and to declare and uphold proper standards of conduct. In determining an appropriate sanction, the Committee has taken into account the General Chiropractic Council’s Indicative Sanctions Guidance, and been mindful that any sanction should be proportionate and is not intended to be punitive, although that may be its effect.

The Committee first considered the sanction of admonishment. However few, if any, of the factors listed in the Indicative Sanctions Guidance are present in this case. Mr Farthing's advertisement misled the public into believing that he was a registered chiropractor, entitled to practise as such. There is no evidence of insight. In his letter dated 17 April 2009 Mr Farthing says that he is entitled to provide "chiropractic services to members of the public". The advertisement was not an isolated lapse since it was deliberately placed in the 'Chiropractors' section of the BT Phonebook for several years. Mr Farthing was not acting under duress. He does not have previous good history, being currently suspended from the Register. There are no testimonials or references before the Committee. The Committee concluded that an admonishment would not be sufficient to reflect the seriousness of what Mr Farthing has done or be adequate to protect the public.

The Committee then went on to consider whether or not a Conditions of Practice Order would be sufficient. Again, few of the factors listed in the Indicative Sanctions Guidance are present. Furthermore the Committee did not consider that it was possible to formulate practicable conditions in relation to Mr Farthing's practice as a chiropractor, given that he is not permitted to practise as a chiropractor as a result of the Suspension Order already in force. That Order would continue until at least April 2010.

The Committee then considered whether or not a Suspension Order was appropriate and proportionate in this case. The Committee considers that the misconduct in this case is fundamentally incompatible with continuing to be a registered chiropractor. Mr Farthing deliberately promoted himself as a chiropractor over a substantial period despite knowing that he was not entitled to do so whilst being the subject of a Suspension Order. This is a violation of the interests of patients who are entitled to assume that someone who advertises himself as a chiropractor has unrestricted registration. It also shows a fundamental disregard for the regulatory process.

Accordingly, the Committee determined that the Particulars found proved against Mr Farthing are so serious that a sanction of suspension would not be sufficient to protect the public, maintain confidence in the profession and uphold standards of practice.

This is a serious departure from the requirements of the Chiropractors Act and the requirements of the Code of Practice. There was an abuse of trust of patients and serious harm to the reputation of the profession and confidence of the public in the profession. There was also a persistent lack of insight.

The Committee has determined that removing Mr Farthing's name from the register is the appropriate sanction in this case.

The Committee is aware that Mr Farthing has requested removal from the Register. However the Committee reached its own conclusion for the reasons already given.

In accordance with Section 31 of the Chiropractors Act 1994 and Rule 18(1)(a) of the General Chiropractic Council (Professional Conduct Committee) Rules 2000, this decision will come into effect 28 days from the date on which notification of the decision is sent to Mr Farthing, unless he exercises his right of appeal, which must be exercised before the expiry of that 28 day period, in which case it will come into effect only if and when the appeal is withdrawn or dismissed.

In the meantime, the Suspension Order previously imposed will remain in force.

That concludes the case.

Chairman of the Professional Conduct Committee

In accordance with provision of Rule 18(1)(a) of the General Chiropractic Council (Professional Conduct Committee) Rules 2000, we must remind you of your right of appeal under Section 31 of the Chiropractors Act 1994, as amended by Section 34 of the National Health Service Reform and Health Care Provisions Act 2002, to the High Court of Justice in England and Wales against this decision of the Committee. Any such appeal must be made before the end of the period of 28 days, beginning with the date upon which this notice is served upon you.

Please note that the decision of this Committee is a relevant decision for the purposes of Section 29 of the National Health Service Reform and Health Care Professions Act 2002.

Signed:

Dated: 14 May 2009

Winnie Walsh

Specialist Officer (Regulation)

On behalf of the Professional Conduct Committee

Explanatory Notes:

Notices of Finding are normally divided into three sections, which reflect different stages of the hearing process:

1. The Allegation: This section contains the full allegations as drafted by the Investigating Committee and as considered by the Professional Conduct Committee.
2. The Decision: This section contains the findings of fact reached by the Professional Conduct Committee on the allegation and the reasons therefore. In particularly complex cases the reasons may be given separately from the findings of fact for purposes of clarity.
3. The Sanction: This section contains details of the sanction applied by the Professional Conduct Committee. In certain cases the section may be sub-divided for the purposes of clarity.