



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 allegations by the Professional Conduct Committee

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## **NOTICE OF FINDINGS BY THE PROFESSIONAL CONDUCT COMMITTEE OF THE GENERAL CHIROPRACTIC COUNCIL**

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Name of Respondent:	<b>Lorna Maureen Fox</b>
Address of Respondent:	<b>8 West Street Bridport DORSET DT6 6QP</b>
Registration Number of Respondent:	<b>01689</b>
Case Reference Number:	<b>0607/01689/01</b>

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On 28 – 29 August 2008, the Professional Conduct Committee (“the Committee”) of the General Chiropractic Council met to consider the following allegations against you, referred to it by the Investigating Committee in accordance with Section 20(12)(b)(ii) of the Chiropractors Act 1994 (“the Act”):

### **ALLEGATION**

That, being a registered chiropractor:

1. You submitted your "Form of Application for Retention on the Register" in or around November 2006 stating that you were not able to use chiropractic manipulation techniques due to an injury to your left shoulder sustained in a cycling accident and indicating that you did not intend to engage in the practise of chiropractic in the next year;
2. In or about November 2006 you were issued with a non-practising certificate of registration for the period 1 January 2007 to 31 December

2007 which indicated that you were not permitted to practise within the UK for the period of registration covered by the certificate and were informed in the covering letter:

*"If you decide to resume practise at any time during 2007 in the UK, before you do so, you must have reverted to practising registration status";*

3. You therefore knew that you were registered as non-practising from 1 January 2007 to 31 December 2007;
4. On or around 20 June 2007 the General Chiropractic Council received information from AXA PPP Healthcare that they had received an email from you dated 15 June 2007 stating that you were still a practising chiropractor;
5. During July 2007, whilst registered as non-practising, you practised as a chiropractor in that you provided chiropractic consultation and/or treatment to patient A on or about the following dates:

(a) 4 July 2007

(b) 11 July 2007;

6. During July 2007 you provided chiropractic consultations and/or treatment to Patient A on or about:

(a) 4 July 2007

(b) 11 July 2007

when you had no Professional Indemnity Insurance in place in relation to the provision of chiropractic;

7. During 2007, while registered as non-practising, you held yourself out to be a practising chiropractor by:

(a) placing, causing or allowing to be placed in the "View from Bridport", a local free newspaper, an advertisement containing the following words:

**"BACK PAIN!  
Headaches, Leg,  
Arm and Neck Pain.  
CHIROPRACTOR  
Now at 8 West Street, Bridport,  
(Top Floor)  
LORNA FOX. BSc DC 01308 459979",**

(b) placing, causing or allowing to be placed in the "Bride Valley News", a local monthly publication, an advertisement containing

the following words:

**"BRIDPORT  
CHIROPRACTOR  
LORNA FOX B.Sc. D.C.  
(Member of the British Chiropractic Association)  
TELEPHONE  
FOR  
APPOINTMENTS  
01308 459979  
www.chiropractor.bridport.com"**

(c) Displaying, causing or allowing to be displayed outside your practice premises at 8 West Street, Bridport, Dorset, a business plaque containing the following words:

**"Chiropractor  
Dr Lorna Fox B.Sc. DC  
Member of the BCA  
Tel: 01308 459979  
Top Floor"**

(d) By using or causing to be used a business card containing the following words:

**"Lorna Fox B.Sc. Dc  
Chiropractor  
Member of BCA  
8 West Street  
Bridport  
01308 459979"**

(e) On 20 August 2007 you indicated to a telephone caller who requested a chiropractic appointment that you would be able to provide such an appointment for him and that you provided chiropractic treatment;

8. The contents of your advertisement, business plaque and business card referred to in paragraph 6(b), (c) and (d) above were untrue because during 2007 you were not entitled to hold yourself out as a member of the British Chiropractic Association.

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.

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## **DECISION ON APPLICATION TO PROCEED IN THE ABSENCE OF THE RESPONDENT**

At the beginning of today's hearing, the Committee heard an application by the GCC to proceed against the Respondent, Dr Lorna Fox, in her absence, pursuant to Rule 6(1) of the GCC (Professional Conduct Committee) Rules. The Committee granted this application for the following reasons.

The application had to be considered in two stages: first, the Committee had to be satisfied that the Respondent has been properly served with notice of today's hearing in accordance with Rule 6(1) and 21(1) of the GCC (Professional Conduct Committee) Rules; secondly, if the Committee was so satisfied, it had to go on to consider whether it should exercise its discretion in favour of allowing the case to proceed in the absence of the Respondent.

The Committee finds on the basis of the evidence before it that the Respondent has been served with the notice of this hearing in accordance with the Rules.

As to the exercise of discretion, the Respondent clearly indicated that she did not intend to attend the hearing. The Respondent indicated that she would be out of the country at the time. The Respondent was asked if her non-attendance was merely due to the fact she intended to be out of the country at the time of the hearing and she failed to answer this question despite replying to the email concerned. Having considered all of the correspondence the Committee has come to the conclusion that the Respondent has waived her right to attend the hearing.

In these circumstances, the Committee decided that no useful purpose would be served by adjourning these proceedings. It is therefore in the public interest to proceed with the hearing of the issue of unacceptable professional conduct in the absence of the Respondent.

### **DECISION**

At the start of the hearing, Miss Sullivan, on behalf of the GCC proposed an amendment to Particular 8 so that it would read:

*"The contents of your advertisement, business plaque and business card referred to in paragraph 7(b), (c) and (d) above were untrue because during 2007 you were not entitled to hold yourself out as a member of the British Chiropractic Association."*

Miss Sullivan told the Committee that Dr Fox had been informed in advance that she would be making this application. The Committee agreed to this amendment, since it could be made without injustice to Dr Fox as it was merely a typographical correction.

During the GCC's case the Committee, of its own motion, amended Particular 7(e) for clarification purposes to read:

*"On 20 August 2007 you indicated to a telephone caller who requested a chiropractic appointment that you would be able to provide such an appointment for him and you told him that you provided chiropractic treatment;"*

The Committee has considered carefully all the oral and documentary evidence submitted and the submissions made by the GCC before reaching a decision on the allegation. It has also taken into account the advice of the Legal Assessor, and has borne in mind that the burden of proof is on the GCC to prove its case and that the standard of proof is the civil standard, so that the Committee is satisfied that the facts are proved on the balance of probabilities.

The Committee heard oral evidence from nine witnesses all of whom it found to be credible and reliable.

The Committee received oral evidence from Ms Coats, the Chief Executive and Registrar of the GCC. Ms Coats produced a copy of Dr Fox's application for retention on the register as a non-practising chiropractor, a copy of the non-practising certificate that was issued and a letter from her to Dr Fox explaining the limitations of the non-practising status.

In relation to Particular 1, the Committee is satisfied that Dr Fox submitted an application form for retention on the register in or around November 2006. On that form, Dr Fox stated she had sustained an injury to her left shoulder during a cycle accident and was unable to practise chiropractic during 2007 because of her injury. Consequently, the Committee finds Particular 1 proved.

In respect of Particular 2, the Committee saw a letter that Ms Coats sent to Dr Fox informing her that if she sought to resume practice at any time in 2007 she must first revert to practising status. The letter produced by Ms Coats was dated as postmarked but the Committee is satisfied that it was sent out to Dr Fox shortly after the application form was received by the GCC on 13 November 2006. That letter contained the words set out in Particular 2 and the certificate enclosed with that letter also made it clear that Dr Fox was not entitled to practise. Thus, the Committee finds Particular 2 proved.

In respect of Particular 3, the Committee is satisfied that Dr Fox received the GCC's letter and the non-practising certificate and that she knew she was registered as non-practising for the calendar year 2007. In an email to the GCC dated 29 January 2008, Dr Fox stated that she was not "registered as a chiropractor at the time". Dr Fox knew that she was registered as non-practising and the Committee therefore find this Particular proved.

In relation to Particular 4, the Committee heard evidence from a former employee of AXA PPP Healthcare, Sharron Taylor, who had received an email dated 15 June 2007 from Dr Fox, which included the following statement:

"This letter is to confirm that I am still a practicing [*sic*] chiropractor and at the same address..."

Sharron Taylor contacted the GCC on 20 June 2007 to confirm Dr Fox's practising status. The Committee therefore finds Particular 4 is proved.

In relation to Particular 5, the Committee heard evidence from Patient A that she was specifically seeking chiropractic help having already tried other forms of healthcare. Patient A found the details of Dr Fox in a telephone directory. Patient A gave evidence that she had received chiropractic treatment from Dr Fox at her practice address in Bridport on 4 July 2007 and on 11 July 2007. Patient A inquired if Dr Fox was registered and Dr Fox replied that she was. Patient A described the treatment that she received from Dr Fox, which the

Committee finds is consistent with what a member of the public would regard as chiropractic treatment. Patient A then cancelled a further appointment with Dr Fox having confirmed with the GCC that Dr Fox was a non-practising chiropractor. On questioning by the Committee, Patient A stated that Dr Fox had never said that she was registered as non-practising, nor had she made reference to any restrictions in the types of treatment she could provide.

The Committee finds that Patient A clearly and reasonably believed that she was receiving chiropractic treatment from a practising chiropractor. The Committee finds that Dr Fox took no steps to indicate that she was registered as a non-practising chiropractor. For all these reasons, the Committee finds that Particular 5 is proved in its entirety.

In relation to Particular 6, the Committee heard evidence from Mr Burgess, a senior underwriter of Towergate Professional Risks, an insurance company, who confirmed that Dr Fox had professional indemnity insurance for the relevant period but not for chiropractic treatment. A copy of the insurance certificate was produced to the Committee. It clearly did not cover chiropractic treatment.

In emails dated 24 and 29 January 2008 from Dr Fox to the GCC, Dr Fox confirmed that she did not have insurance cover for chiropractic treatment and added that she was not practising chiropractic at the time but could not be clear as to the precise dates. The Committee also received oral evidence from Ms Susan Wakefield, the Executive Director of the British Chiropractic Association (BCA) that Dr Fox had resigned from the BCA in November 2004 and was therefore no longer covered by the BCA's block policy for professional indemnity insurance. As Dr Fox was practising as a chiropractor on 4 and 11 July 2007, she did not have proper insurance cover in place at that time. The Committee therefore finds that Particular 6 is proved.

The Committee finds that Dr Fox did hold herself out to be a practising chiropractor in a number of different ways.

In relation to Particular 7(a), the Committee heard evidence from Mr Stuart Broom, an employee of View from Publishing Limited the publishers of a free community newspaper entitled "View from Bridport". Mr Broom confirmed that Dr Fox first placed an advert with them on 8 November 2006 in the terms specified in Particular 7(a). That advert was then renewed by Dr Fox during 2007 and the Committee was shown adverts in the following editions:

28 February 2007

4 July 2007

18 July 2007

By placing the advert in Particular 7(a), Dr Fox held herself out to be a practising chiropractor because she was inviting patients to contact her for an appointment with her as a chiropractor. There was nothing in the advert to indicate that she was non-practising. The Committee therefore find this Particular proved.

In relation to Particular 7(b) the Committee heard evidence from Mr Robert White, the former advertising manager of the "Bride Valley News" who confirmed that during 2007 an advert was placed in the newspaper using the words outlined in the Particular. By placing the advert in Particular 7(b), Dr Fox held herself out to be a practising chiropractor because

she was inviting patients to contact her for an appointment with her as a chiropractor. There was nothing in the advert to indicate that she was non-practising. The Committee therefore find this Particular proved.

In relation to Particular 7(c) the Committee received evidence from Mr Andrew Muth that he visited Dr Fox's practice at 8 West Street, Bridport on 16 July 2007 and took photographs of the business plaque outside these premises. The Committee saw that the business plaque contained the words identified in Particular 7(c). The business plaque had the effect of inviting patients to make an appointment for chiropractic treatment. There was nothing to indicate that she was non-practising. Dr Fox was holding herself out as a practising chiropractor and this Particular is therefore proved.

In relation to Particular 7(d) the Committee heard evidence from Ms Susan Cull that she had visited Dr Fox's practice at 8 West Street, Bridport on 12 July 2007 to enquire about chiropractic treatment. Ms Cull was handed a business card by Dr Fox and a question and answer sheet about chiropractic treatment published by the Chiropractic Patients' Association. The business card contains the words identified in Particular 7(d). The Committee notes that although Dr Fox was entitled to use the title chiropractor, giving the business card to a prospective patient seeking chiropractic treatment amounts to Dr Fox holding herself out as a practising chiropractor. The business card contained nothing to indicate that Dr Fox was non-practising. The Committee therefore finds that this Particular is proved.

In relation to Particular 7(e) the Committee received a transcript of a telephone conversation between Mr Philip Swift and Dr Fox and heard a recording of that telephone conversation which took place on 20 August 2007. During that conversation Dr Fox was asked what treatments she provided, Dr Fox answered "Chiropractic treatment, SOT, Acupuncture, ultra sound, Kinesiology". Dr Fox clearly indicated that she could provide Mr Swift with a chiropractic appointment and suggested a number of times between 20 August 2007 and 31 August 2007. Dr Fox made no attempt to indicate that she was registered as non-practising. Dr Fox was holding herself out as a practising chiropractor and accordingly the Committee finds Particular 7(e) proved.

In relation to Particular 8, the Committee received evidence from Ms Susan Wakefield, the Executive Director of the British Chiropractic Association (BCA) that Dr Fox had resigned from the BCA in November 2004 and had not been a member of the BCA since. Ms Wakefield also explained to the Committee that she had cause to write to Dr Fox in 2005 to demand that Dr Fox stop using the words "member of the BCA" on her headed notepaper. The Committee has already found as a matter of fact that Dr Fox described herself as a member of the BCA during 2007 in an advert in the "Bride Valley", on her business plaque outside her practice premises and on her business card. In 2007 Dr Fox was not a member of the BCA. The Committee therefore finds this Particular proved.

Dr Fox did not attend the hearing and was not represented. Therefore in considering each Particular, the Committee was mindful of the correspondence Dr Fox had submitted in relation to the allegation. In a letter to the GCC dated 28 September 2007, Dr Fox indicated that she had resumed working in 2007 and confirmed that she was using the title chiropractor but was not practising as a chiropractor. Dr Fox indicated that she "only used activator ultrasound, acupuncture and SOT techniques". In emails to the GCC dated 24 and 29 January 2008, Dr Fox stated that she was practising spinal therapy and acupuncture and was unable to use manipulation techniques due to her injury. In Dr Fox's application for retention on the

register as non-practising, Dr Fox had explained that the reason she sought non-practising status was because she was unable to perform manipulations due to her injury. During the course of this hearing the Committee received evidence that contradicted Dr Fox's case, which amongst other things, included:

- (a) The Committee was shown an editorial advert using wording supplied by Dr Fox in the publication "View from Bridport" dated 28 February 2007, where Dr Fox had described herself as a chiropractor using "a combination of manipulation, pressure points, acupuncture and ultrasound..."
- (b) Patient A gave clear evidence that Dr Fox appeared fit with no apparent restrictions to her movement and it was Patient A's evidence that she received chiropractic manipulation, which she clearly described to the Committee.
- (c) The Committee heard a recording of a telephone conversation during which Dr Fox said to a potential patient that she was able to provide chiropractic treatment.
- (d) Dr Fox had sent an email to AXA PPP Healthcare in June 2007 stating that she was still practising as a chiropractor.

In these circumstances, the Committee rejects the notion that Dr Fox was not a practising chiropractor at the relevant time.

## **UNACCEPTABLE PROFESSIONAL CONDUCT**

The Committee went on to consider whether the facts found proved amounted 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 Committee determined that the facts and matters found proved do amount to Unacceptable Professional Conduct for the following reasons.

The Committee is satisfied that Dr Fox's conduct whilst she was registered as non-practising was inappropriate. She held herself out in a number of ways as a practising chiropractor, she advertised as a chiropractor in the circumstances specified in Particular 7, she offered to provide chiropractic treatment to Mr Swift and she, in fact, provided treatment to Patient A.

Dr Fox's behaviour is further compounded by claiming membership of the BCA when she was not a member. Dr Fox knew that she was registered as non-practising. She had requested retention as a non-practising chiropractor in November 2006 and Ms Coats' letter and certificate could have left her in no doubt that she was not entitled to practice as a chiropractor. Dr Fox knew she was not registered as a practising chiropractor when she treated Patient A and when she offered to treat Mr Swift. As a chiropractor, registered as non-practising, she benefitted from belonging to a regulated profession, yet by her actions she undermined public confidence in the system of statutory regulation for chiropractors in the UK and the need to maintain proper standards of practice.

The Code of Practice requires that chiropractors must act in accordance with a number of principles, more particularly that chiropractors must justify public trust and confidence by being honest and trustworthy.



Section C1.6 of the Code of Practice states that

*“If chiropractors, or others on their behalf, do publicise, the information used must be factual and verifiable. The information must not be misleading or inaccurate in any way. It must not, in any way, abuse the trust of members of the public nor exploit their lack of experience or knowledge about either health or chiropractic matters.”*

It is also a requirement under section C1.8 of the Code of Practice that chiropractors *“must not use any title or qualification in such a way that the public may be misled as to its meaning or significance.”*

Dr Fox’s behaviour breached these principles and brings into question her professional integrity. Dr Fox misrepresented her professional status and membership of the BCA.

Practising without proper insurance cover exposes patients to the unacceptable risk that they will not be properly compensated if they are negligently treated by the uninsured practitioner. Such conduct is contrary to Rule 3.1 of the GCC (Professional Indemnity Insurance) Rules 1999, which provides:

*“Every registered chiropractor practising as a chiropractor in the United Kingdom shall, whilst in practice, secure and maintain insurance against liability to or in relation to his patients in respect of the prescribed risks.”*

Rule 6.1 of these Rules also provides that:

*“A failure by a registered chiropractor to comply with these Rules shall constitute unacceptable professional conduct.”*

It is also a requirement of the Standard of Proficiency at section B2.1 that:

*“Chiropractors must, while in practice, secure and maintain the necessary professional indemnity insurance.”*

In addition, practising without proper insurance cover undermines public confidence in the chiropractic profession and fails to uphold proper standards. Members of the public are entitled to expect that chiropractors will only practice when entitled to do so and that they will be properly insured. It was unacceptable for Dr Fox to practise as a chiropractor without the appropriate insurance.

In failing in all of these respects, Dr Fox’s standards fell significantly short of those required of a registered chiropractor.

## **SANCTION**

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 GCC Indicative Sanctions Guidance, and been mindful that any sanction should be proportionate and is not intended to be punitive.

The Committee noted the submission of Miss Sullivan that Dr Fox's behaviour was a serious departure from the standards required of a registered chiropractor. However the Committee has made its own independent judgement. It has also taken into account the advice of the legal assessor.

First the Committee considered Admonishment. In view of the serious departures from expected standards of behaviour, the Committee has no doubt that this would be an inadequate sanction.

In considering whether to impose a Conditions of Practice Order, the Committee decided that the deliberate and repeated nature of Dr Fox's conduct demonstrated serious and harmful attitudinal problems. In addition, there was no evidence of potential or willingness to respond positively to further training or assessment.

Furthermore, the Committee was not satisfied that appropriate and workable conditions could be imposed on Dr Fox's registration to protect patients. The only appropriate conditions would simply repeat the requirements of registration that apply to all registered chiropractors. The Committee concluded that a Conditions of Practice Order would not be sufficient to protect the public interest or mark the seriousness of the conduct.

The Committee therefore went on to consider whether to impose a Suspension Order.

Dr Fox's behaviour amounted to a series of serious incidents of Unacceptable Professional Conduct. She continued to disregard the rules of the profession. The evidence shows that Dr Fox continued to promote herself as a practising chiropractor even after she became aware of these proceedings.

Dr Fox repeatedly misrepresented her professional status. She seems to have done so deliberately so as to avoid paying the practising fee. She discontinued membership of the BCA while continuing to advertise that she was a member. In doing so she terminated her professional indemnity insurance cover for chiropractic practice. She told AXA PPP, the medical health insurer, that she was still a practising chiropractor although she had told her regulatory body and professional association that she was unable to practise and was registered as non-practising.

Dr Fox's failure to arrange appropriate professional indemnity insurance to cover chiropractic treatment was particularly serious.

One of the purposes of professional regulation is to give confidence to the public. Dr Fox demonstrated a blatant disregard for the system of registration, which is designed to safeguard the interests of patients and to maintain high standards within the profession.

The Committee considers that it is of fundamental importance that practitioners adhere to the rules applicable to chiropractors. Dr Fox failed to do so, both with regard to abiding by the registration process and also in relation to engaging with these proceedings.

The Committee noted that Dr Fox had continued to advertise herself as a chiropractor as late as June 2008 in a way that would lead the public to conclude that she was a practising chiropractor. It was therefore not satisfied that they could be sure that Dr Fox would not repeat her behaviour again.

The integrity of the regulatory system for chiropractors and the maintenance of public confidence in it depends on the cooperation and support of individual members of the profession. Adequate protection of the public requires that chiropractors should have appropriate insurance in place when providing treatment to patients. Dr Fox disregarded both these considerations in failing to register as a practising chiropractor and then providing treatment without having proper professional indemnity insurance cover.

In light of Dr Fox's conduct which breached a number of provisions in the Code of Practice and Standard of Proficiency, the Committee was not satisfied that Dr Fox has a proper understanding of: the role of the GCC as her regulatory body; the GCC Code of Practice and Standard of Proficiency, and the importance of maintaining professional indemnity insurance, whenever treatment is provided to patients.

The Committee came to the conclusion that a Suspension Order would not be sufficient to mark the seriousness of Dr Fox's conduct, nor would it be sufficient to protect members of the public. The Committee had no confidence that during a period of suspension Dr Fox would gain insight into the responsibilities that come with the privilege of professional status.

Accordingly the Committee has determined that it must order the Registrar to remove Dr Fox's name from the Register.

In accordance with Section 31 of the Chiropractors Act 1994 and Rule 18(1)(a) of the GCC (Professional Conduct Committee) Rules 2000, this order will come into effect 28 days from the date on which notification of the decision is sent to Dr Fox, unless she exercises her 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.

*Chairman of the Professional Conduct Committee*

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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: 1 September 2008

**Winnie Walsh**

Specialist Officer (Regulation)

On behalf of the Professional Conduct Committee

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*Explanatory Notes:*

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

1. The Allegations: 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 allegations 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.