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 an allegation by the Professional Conduct Committee

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

<table>
<thead>
<tr>
<th>Name of Respondent:</th>
<th>Hooman Zahedi</th>
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</table>
| Address of Respondent: | Pain and Posture  
                         20 Toolang Road  
                         Sydney  
                         New South Wales 2075  
                         Australia |
| Registration Number of Respondent: | 01998 |

On 3-7 February 2014 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: ALLEGATION A:**

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

44 Wicklow Street, London WC1X 9HL Tel 020 7713 5155 Fax 020 7713 5844 enquiries@gcc-uk.org www.gcc-uk.org
PARTICULARS OF ALLEGATION A:

That, being a registered chiropractor:

1 At all material times you practised as a chiropractor at Glasgow Chiropractic Clinic, 994 Crow Road, Glasgow G13 1JN (“the Clinic”).

Patient A

2 On or around 10th November 2004, you failed to record sufficient clinical justification for the x-rays of Patient A taken on or around 10th November 2004.

3 You provided treatment to Patient A on around 50 occasions during the period between November 2004 and May 2005 and in doing so you:
   a) acted contrary to the best interests of Patient A;
   b) provided treatments at a frequency which was not clinically justified.

4 During Patient A’s appointment with you on or around 12th November 2004 you attempted unduly to influence Patient A to commence treatment in that you said to Patient A words to the effect that:
   a) her neck and back were out of alignment and she needed work on her back to prevent her stooping in later years;
   b) she needed treatment otherwise she would end up in a right state;
   c) she needed to decide straight away whether to accept the course of treatment.

Patient B

5 On or around 1st March 2006, you failed to record sufficient clinical justification for the x-rays of Patient B taken on or around 1st March 2006.

6 During Patient B’s appointment with you on or around 3rd March 2006 you attempted unduly to influence Patient B to commence treatment in that you said to Patient B words to the effect that:
   a) her spine was in very poor condition;
   b) it was essential that she commence treatment immediately;
   c) she could not afford not to sign up to the treatment.
During the period that you treated Patient B, you failed to:

a) obtain her informed consent to treatment;

b) inform her of your diagnosis.

Between around 21st March 2006 and 29th March 2006, on being told Patient B’s symptoms, you failed to refer her for immediate medical assessment.

ALLEGATION B:

That being a registered chiropractor you are guilty of professional incompetence.

PARTICULARS OF ALLEGATION B:

That, being a registered chiropractor:

1. At all material times you practised as a chiropractor at Glasgow Chiropractic Clinic, 994 Crow Road, Glasgow G13 1JN (“the Clinic”).

Patient A

2. On or around 10th November 2004, you failed to formulate a working diagnosis or clinical impression which properly took account of the x-rays taken on or around 10th November 2004.

3. During the period when you treated Patient A, you failed to select the appropriate treatment for her in that you manipulated Patient A’s neck when it was not appropriate to do so because of the extent of her arthritis.

4. You failed to maintain adequate records in relation to Patient A, in that:

a) you failed adequately to record subjective and objective findings during the period when you treated Patient A;

b) between around 10th November 2004 and around 30th March 2005, you failed to keep adequate records of your reviews of Patient A.

5. During the period when you treated Patient A, you failed to undertake adequate reviews in that:

a) between around 10th November 2004 and around 30th March 2005, your reviews of Patient A were inadequate;

b) between around 31st March 2005 and around 28th April 2005, despite Patient A reporting increasing neck pain, no reviews were carried out.
Patient B

On or around 1st March 2006, you failed to formulate a working diagnosis or rationale for care which properly took account of the x-rays taken on or around 1st March 2006.

You failed to re-take the radiograph of Patient B’s lateral lumbar region which you took on or around 1st March 2006 and which was not of sufficient quality to enable a diagnosis to be made.

During the period when you treated Patient B, you failed to maintain adequate records in relation to her, in that you failed adequately to record subjective and objective findings.

During the period when you treated Patient B, you failed to:

a) inform her of the outcome of your assessment of her;
b) review your plan of care, despite Patient B reporting:
   i) that the treatment caused pain;
   ii) that she felt paralysis;
   iii) difficulties with speech, opening her eyes, jaw numbness and facial parasthesia.
c) identify that Patient B’s health needs would be better met through the care offered by another healthcare professional.

During the period when you treated Patient B, you failed to select the appropriate treatment for her in that you manipulated Patient B’s neck when it was not appropriate to do so, in view of the level of fusion at C6 – C7 and instability at C5 – C6.

That being a registered chiropractor you are guilty of unacceptable professional conduct and/or professional incompetence

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

Decisions on Allegation A of Unacceptable Professional Conduct and Allegation B of Professional Incompetence
Particulars to be determined

At the outset of this hearing, Particulars 1, 3 (a), 3 (b) of Allegation A, Unacceptable Professional Conduct, were admitted and found proved. Paragraph (a) of Particular 4 was dismissed on day two of this hearing when the GCC offered no evidence. Paragraphs (b) and (c) of Particular 4 were announced not to be proved following submissions made at the close of the General Chiropractic Council’s case.

All other Particulars of Allegation A remained to be determined by the Committee.

In relation to Allegation B, that being a registered chiropractor Mr Zahedi is guilty of Professional Incompetence, Particulars 1, 4 (a) (ii), 4 (b), 5 (a), 5 (b) and 7 (b) were admitted and announced proved at the outset of the hearing. Particular 3 was dismissed at the outset of this hearing when the GCC offered no evidence.

All other Particulars of Allegation B remained to be determined by the Committee.

The Committee bore in mind that it is for the General Chiropractic Council (the GCC) to prove, on the balance of probabilities, the Particulars of the Allegations. It accepted the legal assessor’s advice that assessment of whether any facts found proved amount to Unacceptable Professional Conduct and/or Professional Incompetence is a matter of judgement for the Committee.

Background

This case relates to two patients, Patient A and Patient B. Patient A attended at Glasgow Chiropractic Clinic (‘the clinic’) after sustaining a back injury in the course of her work. She was treated by Mr Zahedi on around 50 occasions between November 2004 and May 2005. Patient B attended Glasgow Chiropractic Clinic between 1 March 2006 and 29 March 2006. She was seen by Mr Zahedi on around twelve occasions. She initially attended for a chiropractic assessment of long standing neck and back issues, having visited a stall promoting Glasgow Chiropractic Clinic at a local show. She met with Mr Zahedi for the last time on 29 March 2006 when she attended the clinic to report symptoms including difficulties with speech, opening her eyes, jaw numbness and facial parasthesia.

Mr Zahedi qualified as a chiropractor in Australia in 2002. His appointment at Glasgow Chiropractic Clinic was his first substantive post. At the clinic, he typically saw between one hundred and one hundred and twenty patients per week.

Evidence and Submissions

In considering the Allegation of Unacceptable Professional Conduct and the Allegation of Professional Incompetence, the Committee has taken into account the submissions of Ms Broome, counsel for the GCC, and Mr Goldring, counsel for Mr Zahedi, including those made by both parties at the end of the GCC’s case. It has also considered all the oral and documentary evidence before it. The documentary evidence includes Mr Zahedi’s contemporaneous clinical notes and Patient B’s diary of her chiropractic care.

The Committee has received reports and oral evidence from two expert witnesses, Mr Young and Mr Tait, called by the GCC. As requested by Mr Goldring, the Committee has disregarded the report by Mr Bowman, expert for the defence, which was entered into evidence at an earlier stage in this hearing.
The Committee had the benefit of hearing substantial oral evidence from Mr Zahedi, Patient B and Patient A. There are no outstanding matters of fact for the Committee to determine which rely on an assessment of Patient A’s evidence following the Committee’s decisions at the close of the GCC case. On some key matters, there is conflict between the evidence of Mr Zahedi and Patient B. One example is what was said by Mr Zahedi to Patient B at an appointment on 3 March 2006.

Legal Advice

The legal assessor gave advice on the matters that the Committee had to consider, including the standard and burden of proof as well as the conceptual difference between an Allegation of Unacceptable Professional Conduct and an Allegation of Professional Incompetence. In one minor respect Mr Goldring disagreed with it. His submission (based on Spencer v General Osteopathic Council) was that ‘No single instance of negligence or unacceptable care would be sufficient to found a conclusion of “professional incompetence”.’ The legal assessor advised that this statement did not form part of the reasoning in the decision in Spencer v GOS. Other authorities, particularly Sadler v GMC [2003] UKHL 59 show that in an appropriate case a single incident could give rise to a finding of Professional Incompetence. The Committee accepted the legal assessor’s advice.

The witnesses

The issues concerning Patient A are clinical and do not depend on her factual evidence.

The Committee found Patient B to be a reliable witness who was trying her best to assist the committee. She had appeared to be a systematic person who kept detailed records and had a good recollection of events. She acknowledged when she could not remember things. She had given slightly different versions of events over the years, but was generally consistent on important points. She was cross-examined robustly but did not waver, although she was fair and made concessions where appropriate. The Committee considered her to be very credible with a good understanding of the issues.

Mr Tait struck the committee as a very knowledgeable clinician who gave factual, clear, consistent evidence. He was careful not to stray beyond his area of expertise as a Consultant Orthopaedic Surgeon.

Mr Young was an impressive expert on matters of chiropractic. He gave carefully considered answers and clearly understood his duties as an expert. He was consistent in his evidence but fair and balanced.

The Committee found Mr Zahedi’s evidence to be of variable quality. In the main he appeared to be attempting to assist the committee. Understandably, he had little independent recollection of many of the events, which took place nearly 10 years ago. However, on some critical points his evidence changed significantly under questioning and he became defensive. The Committee found his evidence to be inconsistent in relation to key issues, such as whether he considered at the time that there was instability in Patient B’s neck, whether he had adjusted Patient B’s neck at all and the significance of his recorded justification for x-rays.

Allegation A:

That being a registered chiropractor you are guilty of Unacceptable Professional Conduct.
Particular 2

The Committee finds Particular 2 proved.

This Particular, and Particular 5, relate to recording the justification for taking x-rays. The system used by Mr Zahedi was a printed form containing fourteen tick boxes. It was common ground that these tick boxes represented the then-current guidelines for justifying exposure to x-rays as proposed by Deyo and Diehl (‘the D&D Guidelines’). Mr Young gave his opinion on the correct interpretation of the guidelines, which the Committee accepted. In cross-examination Mr Zahedi accepted Mr Young’s interpretation, although in re-examination he changed his position somewhat.

It is accepted that on or around 10 November 2004 Mr Zahedi took lumbar and cervical spine films. The recorded justification is indicated by ticks in the boxes ‘50+’, ‘Biomechanical’, and ‘Posture’. Mr Young accepted that the onset of lower back pain at age 59 was a sufficient clinical justification for the lumbar radiograph of Patient A. However, in his opinion the three guidelines ticked had no relevance when considering the justification for the cervical films. Patient A’s presentation did not fall within those guidelines for the reasons set out in detail in his evidence, which the committee accepted. In cross-examination Mr Zahedi accepted that the guidelines he ticked were not applicable but sought to justify the x-rays on other grounds. However, this Particular is concerned with what was recorded.

Mr Goldring argued that since Mr Zahedi had ticked three of the boxes, there was a recorded justification for x-ray. Since an x-ray can be justified if only one of the guidelines applies, he argued that the justification was sufficient. However, this argument assumes that the ticks represented meaningful information about Patient A. The committee concluded that in relation to the cervical films the guidelines referred to did not apply to patient A. They were therefore insufficient to justify the exposure to radiation. The committee concluded that Mr Zahedi failed to record sufficient (or any) clinical justification for the cervical x-rays.

Particular 5

The Committee finds Particular 5 to be proved.

It is accepted that on or around 1 March 2006 Mr Zahedi took x-rays of Patient B. On the form referred to above Mr Zahedi again ticked the boxes ‘50+’, ‘Biomechanical’ and ‘Postural’. Mr Young gave evidence on the interpretation of these categories and gave his opinion that they were not appropriate to Patient B’s presentation. He stated that he considered that there was justification for taking x-rays of Patient B’s spine but that the justification was not that recorded by Mr Zahedi. He stated that, on this basis, he considered this allegation to be proved.

The Committee found Mr Zahedi’s evidence on this Particular to be confused and contradictory. He stated both in examination in chief and in cross-examination that he took x-rays to establish the alignment of Patient B’s spine and the extent of any osteo-arthritis. However, in cross-examination, Mr Zahedi conceded the following:

- these were not justifications according to the D&D guidelines;
- that he agreed with Mr Young’s interpretation of the guidelines;
- that he accepted the guidelines;
- that the boxes reflected the D&D guidelines;
- that the boxes he had ticked did not apply to and were not appropriate to Patient B’s presentation;
- that his actual justification, to identify and assess osteo-arthritis and misalignment, was not recorded.

In re-examination, he resiled from this position and stated that he did not accept Mr Young's interpretation and that he believed the boxes he had ticked were appropriate to Patient B's presentation.

The Committee accepts Mr Young's evidence and, where it was inconsistent with Mr Young's evidence, rejects that of Mr Zahedi. It concludes that on 1 March 2006, Mr Zahedi did record inappropriate clinical justification for the x-rays of Patient B. It rejects Mr Goldring's submission that the Committee should consider the recorded justification as appropriate because it falls within the D&D Guidelines. The issue is not whether the tick boxes were capable in principle of amounting to justification for an x-ray, but whether the boxes ticked applied to this particular patient.

**Particular 6 (a), (b) and (c)**

The Committee finds Paragraphs (a), (b) and (c) of Particular 6 are proved.

The Committee considered each paragraph of this Particular separately. It considered the evidence of Mr Zahedi and Patient B in relation to what Mr Zahedi said during this appointment.

Patient B stated in her oral evidence that during the appointment on 3 March 2006 Mr Zahedi used words to the effect of each limb and that she felt he was putting pressure on her to commence treatment. Mr Zahedi agreed that he suggested it would be better for Patient B to start treatment sooner rather than later. He stated that this was in order to relieve her pain. He denied using words to the effect that her spine was in very poor condition but suggested he may have said it contained areas of 'decay'. He denied that his communication on 3 March 2006 with Patient B amounted to undue influence.

The Committee preferred the evidence of Patient B, who was clear and compelling in her oral evidence on each paragraph of this Particular. On this basis, the Committee concluded that Mr Zahedi did use words to the effect of 6 (a), (b) and (c).

It then went on to consider whether doing so amounted to an attempt to unduly influence Patient B to commence treatment. In making this judgement, it took into account Mr Zahedi's evidence, that of Patient B and Mr Young's expert report which states that if these limbs are proved, in his opinion, this would amount to an attempt to influence unduly Patient B.

The Committee finds, on the basis of Mr Young's evidence and its own judgment, that Mr Zahedi's words did amount to an attempt to influence unduly Patient B to commence treatment.

**Particular 7 (a) and (b)**

The Committee finds Paragraphs (a) and (b) of Particular 7 are proved.

7 (a)

Patient B described Mr Zahedi describing chiropractic as an “all benefits” treatment. She also described Mr Zahedi undertaking a manoeuvre in the region of her sacro-illiac joint, which caused her significant pain, without any explanation or introduction.
Mr Zahedi states that Patient B was a well-informed patient who was well aware of the risks of chiropractic, illustrated by her possession of newspaper articles on the subject. Further, he states that he would have explained any adjustment to the sacro-illiac joint before undertaking such a procedure.

The Panel accepts Patient B’s consistent and repeated evidence that Mr Zahedi described chiropractic as an “all benefits treatment”. In doing so, the Panel considers that Mr Zahedi misrepresented the risks and benefits of chiropractic treatment and therefore did not obtain informed consent to treatment. As this misrepresentation continued throughout Patient B’s treatment, during which Mr Zahedi reassured Patient B that “Nothing dangerous could happen to me” and was not remedied, the Committee considers that Mr Zahedi failed to obtain her informed consent to treatment during the period he treated her. The Committee considers that as it has found that informed consent to treatment was not obtained generally, it is not necessary to consider consent in relation to any specific adjustment. The Committee concludes that this Paragraph is proved.

7 (b)

The Committee is satisfied on the basis of the evidence of Patient B, which was clear and consistent, that Mr Zahedi did not inform her of his diagnosis. Mr Zahedi stated that he would probably not have told Patient B of his diagnosis in her notes of chronic cervical facet syndrome with associated referred pain and bi-lateral sacro-illiac sprain – chronic. He stated he that would have explained it, using other words more appropriate to a patient. He was unable to remember what words he may have used.

The Committee took into account Patient B’s treatment diary, which is highly detailed and does not document any diagnosis throughout the period of treatment. Patient B expressed surprise in her oral evidence at the documented diagnosis, in particular the diagnosis of bi-lateral sacro-illiac sprain. The Committee accepted her evidence that Mr Zahedi did not convey to her, even in lay terms, any diagnosis that correlates with his entry under ‘clinical impression/working hypothesis’. The Committee is satisfied that Patient B would have remembered and documented any diagnosis given and concludes that none was communicated to Patient B.

It therefore finds this Paragraph proved.

Particular 8

The Committee finds Particular 8 proved.

Patient B told the Panel she was experiencing pain following adjustments on 8 March 2006 and that she felt ‘paralysis’ on 22 March 2006. Having heard her evidence and considered that of Mr Young, the Committee is satisfied that Patient B used this term to relate difficulty in mobility and not paralysis in the clinical sense.

Mr Zahedi telephoned Patient B on 28 March 2006 to establish why she had cancelled her appointment and she reported to him a stabbing pain in her ribs. She told the Committee that she also felt she was experiencing paralysis but stated in oral evidence that she was unable to remember whether she conveyed this to Mr Zahedi in the course of the telephone call.

On 29 March 2006, she attended the clinic, although she did not have an appointment, and reported to him symptoms including difficulty speaking, difficulty opening her eyes and facial paraesthesia. This is reflected in Mr Zahedi’s notes and is not in dispute. Mr Zahedi told the Panel he observed Patient B’s difficulty with speaking and opening her eyes. Patient B’s evidence was that she told Mr Zahedi that she was frightened by the symptoms and was concerned to be at home alone. She told the
Committee that Mr Zahedi was with her for approximately forty-five minutes and that he left the room at times to treat other patients.

Mr Zahedi accepts that he did not refer Patient B for immediate medical assessment but asserts that this was not a failure on his part. Mr Zahedi told the Panel that he was not concerned that Patient B’s symptoms may be due to any serious medical emergency, such as a stroke, as her symptoms improved during his meeting with her. He stated that he believed Patient B’s symptoms were the product of anxiety and that some were psychosomatic in nature. He initially stated that he believed Patient B was preparing a litigation case against him and that he took extensive notes because of this belief. Later in his evidence, under cross-examination, he appeared reluctant to repeat this belief but did so after some time. In his notes he wrote “malingering”.

Mr Zahedi told the Committee that he did not undertake any cranial nerve testing to establish whether her symptoms had a physiological basis as he was confident of his conclusion.

The Committee considered Mr Young’s evidence on this. In his report at paragraph 61.7 he states:

“There are a number of possible reasons for these symptoms.

The most pressing concern is that Patient B could have been suffering from multiple embolic infarcts affecting the lungs (pulmonary embolism) and brainstem (cerebrovascular incident)...

It is my opinion that Patient B was showing the symptoms of at least one and probably two serious medical conditions that required emergency medical assessment and that he totally failed to identify this.

Failing to recognise Patient B’s requirement for emergency medical assessment was clearly not in her best interests and, in my opinion, Mr Zahedi acted in a manner that any reasonable body of chiropractors would regard as both unacceptable and potentially highly dangerous.”

The Committee notes that Mr Young concludes in his report that Mr Zahedi should have referred Patient B for immediate medical assessment on the 28 March 2006 and again had an opportunity on the 29th. He does not consider an urgent medical referral was indicated on 22 March 2006 when Patient B reported impaired mobility, using the term ‘paralysis’.

The Committee agrees with Mr Young’s conclusion in relation to 22 March 2006. Having considered the oral evidence of Patient B, the Committee considers that it is not clear that symptoms such as facial paraesthesia and jaw numbness which Mr Young states necessitate a referral were reported to Mr Zahedi before 29 March 2006. However, it is agreed that Patient B reported slowness of speech, difficulty in keeping her eyes open and facial paraesthesia on 29 March 2006.

The Committee has concluded that it has not been proved that Patient B reported these symptoms before this date and has therefore considered whether referral for immediate medical assessment was warranted, in the light of reported symptoms, on this date only.

The Committee considers that, notwithstanding Mr Zahedi’s assessment of the basis for Patient B’s symptoms, he should have referred Patient B for urgent medical assessment and failed to do so. It was wholly inappropriate to rely on his own assessment of the basis of her symptoms without reference to a medical practitioner, given that the potentially catastrophic consequences if he were mistaken. His failure is exacerbated by the fact that he undertook no testing to explore his conclusion.
The Committee does not consider his failure to be mitigated by the fact that Patient B was discharged without concern when she did attend hospital of her own volition on 30 March 2006. Mr Zahedi is not qualified to perform the immediate medical assessment warranted by Patient B’s symptoms and by failing to refer to medical professionals who were, he put her at risk of serious harm.

On the basis of Mr Young’s evidence, the Committee is clear that it was Mr Zahedi’s duty on hearing of Patient B’s symptoms on 29 March 2006 to refer her for immediate medical assessment. It therefore finds this Particular proved in relation to 29 March 2006 only.

UNACCEPTABLE PROFESSIONAL CONDUCT

Conclusion on Unacceptable Professional Conduct

The Committee went on to consider whether Mr Zahedi is guilty of Unacceptable Professional Conduct on the basis of the facts found proved in relation to Allegation A.

Unacceptable Professional Conduct (UPC) is defined in Section 20(2) of the Chiropractors Act 1994 as conduct which “falls short of the standard required of a registered chiropractor”. In coming to its decision, the Committee bore in mind that, as set out in Spencer v General Osteopathic Council and other cases, mere negligence does not amount to Unacceptable Professional Conduct and that a single act of negligence is less likely to amount to UPC than multiple acts. The Committee also bore in mind that Section 19(4) of the Act states that failure to comply with the Code does not of itself amount to UPC but shall be taken into account.

The facts found proved relate to two patients. Patient A’s care spans a period of seven months and relates to treatment on around fifty occasions. The Particulars in relation to Patient B cover a period of one month and around twelve treatments. The facts relate to a range of failings including excessive treatment, inappropriate recorded justification for x-rays, attempting to unduly influence a patient to commence treatment, failure to obtain informed consent and failure to referral for immediate medical assessment.

The Committee referred to the two relevant versions of the Code of Practice and Standard of Proficiency. Patients are entitled to expect chiropractors to act in their best interests and to only provide treatment which is clinically justified. Prospective patients must be able to rely on the information they are given about their condition and chiropractic treatment in order to make informed decisions about whether to commence chiropractic treatment. If treatment is commenced, they must be confident that chiropractors will appropriately justify any exposure to radiation and will make immediate medical referrals when indicated.

Mr Zahedi’s conduct fell seriously short of what is required of a registered chiropractor. His failure to refer a patient for immediate medical assessment is as serious as it is incomprehensible and put that patient at risk of significant harm. In addition, Mr Zahedi breached the trust of the public and patients by providing treatments at a frequency that was not clinically justified and attempting to exert undue influence to commence treatment. He also failed to record appropriate or sufficient justification for exposing patients to radiation.

His misconduct is wide ranging and serious. It undermines public confidence and has put patients at risk of harm. The Committee considers that fellow practitioners and the public would consider his conduct deplorable and that it warrants the opprobrium attached to a finding of Unacceptable Professional Conduct.
In all the circumstances, the Committee has concluded that the allegation of Unacceptable Professional Conduct is well founded.

**Decision on Allegation of Professional Incompetence**

**Particular 2**

The Committee finds Particular 2 proved.

Mr Young in his report states “It is my opinion that any reasonable body of chiropractors would consider this examination grossly deficient in multiple aspects and insufficient to form any accurate diagnosis”.

Mr Zahedi agreed that he did not examine or test Patient A’s hip or shoulder as he considered the pain in these areas to be referred. He stated that he did perform some tests but that these were not recorded. He stated, in effect, that as his diagnosis appears to have been appropriate, his examination of Patient A cannot have been deficient.

The Committee rejects this assertion. It went on to consider whether the examination was adequate to enable him to reach an informed working diagnosis. The Committee concluded, on the basis of Mr Young’s report and oral evidence that, even allowing for the possibility that Mr Zahedi did perform the tests he described, his examination was inadequate to enable an informed working diagnosis. It therefore finds this Particular proved.

**Particular 4 (a) (i)**

The Committee finds Particular 4 (a) (i) proved.

The Committee finds this proved on the basis of Mr Young’s assessment of the inadequacy of the notes in relation to the recording of subjective findings, as set out in his report and oral evidence. Mr Young identifies two subjective findings across around fifty treatments over a period of five months. It considered whether this assessment is undermined by the presence of the two review documents completed by Patient A during her five months of treatment, as asserted by Mr Goldring on Mr Zahedi’s behalf. It concluded that Mr Young’s assessment is not undermined by these documents. The review documents were filled out by Patient A and do not contribute substantially to any recording by Mr Zahedi of subjective findings.

The Committee therefore concludes, on the basis of Mr Young’s evidence, that this Particular is proved.

**Particular 6**

The Committee finds Particular 6 proved.

The key issue in relation to this Particular is whether Mr Zahedi recognised and/or took into account the possible instability in Patient B’s cervical spine at C5/C6, identified by both experts from the x-rays of Patient B, in formulating his working diagnosis or rationale for care. The Committee is satisfied on the basis of the evidence of Mr Young and Mr Tait that possible instability was evident on the x-ray and that Mr Zahedi should have taken this into account when formulating his working diagnosis and rationale for care.

Initially Mr Zahedi denied that there was instability. He suggested that he recognised from the x-ray the possible instability but that he reassured himself that Patient B’s neck was not unstable after
palpating her neck. Later in his evidence, he conceded that it was not possible to exclude instability by palpation and indicated that his entry on the records “C5/6 DJD”, meaning degenerative joint disease at C5/6, was intended to indicate possible instability. He stated that he had taken this into account when treating and later stated in evidence that he had not manipulated her neck either at C5/6 or at all.

The Committee did not accept that the recording of ‘degenerative joint disease’ at C5/6 equates to a recording of instability or indicates that Mr Zahedi recognised possible instability. The Committee considers that there is no reference to possible instability in Mr Zahedi’s clinical impression or in his recording of the findings of the radiographic report.

Further, there is no evidence that Mr Zahedi has taken into account possible instability in his rationale for care. The Committee concludes that the notes indicate that Mr Zahedi did manipulate C5/6. It rejects his explanation that entries could relate either to mobilisation or manipulation and do not specify which. On the basis that there are entries specifically identifying mobilisations but none identifying manipulations/adjustments, it concludes that the entries by default indicate a manipulation and that Mr Zahedi indicates only when this is not the case. The Committee concludes that Mr Zahedi did manipulate Patient B’s neck at C5/6, which he and Mr Young agree is absolutely contra-indicated if instability is suspected. The Committee considers that this demonstrates he failed to take possible instability into account when developing his a working diagnosis or rationale for care.

On the basis of the evidence of Mr Young and its own examination of the clinical notes, the Committee finds this Particular proved.

**Particular 7 (a)**

The Committee finds Particular 7 (a) **proved**.

Mr Young and Mr Tait both gave evidence that this x-ray was not of sufficient quality to make a diagnosis. In cross-examination, Mr Zahedi conceded that he could not see all the lumbar vertebrae and that it was therefore not of sufficient quality to make a diagnosis.

On the basis of the expert evidence and Mr Zahedi’s evidence, the Committee finds this Particular proved.

**Particular 8**

The Committee finds Particular 8 **proved**.

Mr Young gave evidence that the clinical records largely document the treatment given and that he repeatedly failed to record adequately subjective and objective findings. The Committee reviewed the notes with his evidence in mind. Having done so, the Committee accepted Mr Young’s evidence and finds this Particular proved on this basis.

**Particular 9**

a) is found **proved**.

The Committee has considered Patient B’s diary, Patient B’s oral evidence and the clinical notes carefully. There is no evidence within any of these sources that Mr Zahedi informed Patient B of the outcome of any assessments of her. The Committee considers, having heard from Patient B and seen her diary entries, that had she been informed of the outcome of any assessments, these would have
been documented by her and she would have remembered them. The Committee is therefore satisfied that Mr Zahedi failed to inform Patient B of his assessment of her during the period of her care.

b) (i) is found proved.

Patient B told the Committee that she reported to Mr Zahedi that she was experiencing pain after treatment. Mr Zahedi agreed that Patient B did report pain after treatment and this is documented in the clinical notes on 8 March 2006.

Patient B said in oral evidence that when she reported the pain to Mr Zahedi he “told me that there was no gain without pain, that it was worth sticking with the treatment no matter how painful it was because I would benefit in the end and that I would get worse and continue to get worse and I think you call that the healing crisis or the healing aggravation.”

The Committee agrees with Mr Young’s assessment that the notes indicate there was no formal review of his treatment plan until 29 March 2006 when he discussed using the Activator Technique. It notes that Mr Zahedi modifies his treatment on the thoracic spine on 22 March 2006 but does not consider that this equates to a review of the plan of care. On the basis of Patient B’s evidence, the clinical notes and Mr Young’s evidence, the Committee finds this Particular proved.

(ii) is found proved.

The Committee accepts Patient B’s evidence that she reported ‘feeling paralysis’ on 22 March 2006. Whilst the Committee accepts that this does not equate to paralysis in the clinical sense, the Committee considers that Patient B’s report of impaired mobility warranted a review of the plan of care. Whilst some changes were made to her treatment, as set out above, her plan of care was not reviewed and the Committee therefore finds this proved on the same basis as 9 b) (i).

(iii) is found not proved

It is common ground that Patient B did report difficulties with speech, opening her eyes, jaw numbness and facial paraesthesia on 29 March 2006. However, the Committee accepts Mr Young’s evidence in his report that Mr Zahedi did review Patient B’s plan of care during his meeting with her on 29 March 2006. Whilst Mr Zahedi’s decision making during this meeting was fatally flawed, in that he failed to refer her for immediate medical assessment, he did not fail to review her plan of care. The Committee therefore finds this not proved.

c) is found proved.

The Committee has already determined that Mr Zahedi failed to refer Patient B for immediate medical assessment when he should have done so. The Committee considers that he did so partly because he failed to recognise that, as a chiropractor, he was not qualified to make that medical assessment himself. Mr Zahedi did advise Patient B to consult her GP if necessary after 29 March 2006. However, this did not address the need of Patient B to have urgent medical assessment. The Committee concludes that Mr Zahedi did fail to identify that Patient B’s health needs would be better met through the care offered by another health professional and that he inappropriately undertook that assessment of red flag symptoms himself.

**Particular 10**

The Committee finds Particular 10 proved.
As set out in Particular 6, the Committee has concluded that Mr Zahedi did manipulate Patient B’s neck at C5/6. It comes to this conclusion having assessed the notes and rejected Mr Zahedi’s oral evidence that he did not manipulate Patient B’s neck at all. It notes that Mr Zahedi’s documents that he did adjust Patient B’s neck, albeit at C3/4, in the handwritten note which he gave to Patient B on 29 March 2006.

The Committee accepts the expert evidence of Mr Young that possible instability is an absolute contra-indication to manipulation. It accepts his evidence that the consequences can be “complete paralysis of the lower limbs, loss of sphincter control, loss of joint movement. You would retain some movement in the shoulder and upper arms but it would effectively render the upper limbs useless as well, so effectively quadriplegia.”

The Panel also considers, on the basis of the notes and its analysis of them set out above, that Mr Zahedi did attempt to manipulate C6/7 despite having identified fusion in this segment. The Committee accepts Mr Young’s evidence that it is inappropriate to attempt to manipulate the spine if fusion is present (check he said that).

On the basis of the expert evidence and clinical notes, the Committee finds that Particular 10 is proved.

**Conclusion on Professional Incompetence**

The Committee went on to consider whether Mr Zahedi is guilty of professional incompetence on the basis of the facts found proved under Allegation B.

The Committee bore in mind that Professional Incompetence is conceptually different from UPC. Professional Incompetence refers to a standard of professional performance which is unacceptably low and which will generally have been demonstrated by reference to a fair sample of work.

The matters found proved under Allegation B raise serious questions about Mr Zahedi’s knowledge and skills at the time. It is elementary that a chiropractor should conduct an examination of any new patient so as to reach an informed working diagnosis and should review and assess the patient at suitable intervals. Again, it is elementary good practice that records are kept of subjective and objective findings, assessments and reviews. Mr Zahedi failed to do these things in relation to Patient A.

In relation to Patient B, Particulars 6, 7 and 10 indicate a consistent failing by Mr Zahedi in taking and interpreting x-rays. The Committee was concerned about his evidence in relation to the recorded justification for x-rays. It concluded that, at the relevant time, he did not have an adequate understanding of the Guidelines or their importance. Mr Zahedi also failed to maintain adequate records for Patient B, as he had for Patient A.

Further, the Committee was greatly concerned that Mr Zahedi manipulated Patient B’s neck and did not appear to recognise or take into account the potentially catastrophic implications for Patient B.

Particular 9 of Allegation B is concerning because Mr Zahedi appears not to have understood fully the potential significance of Patient B’s presentation on 29 March 2006 or recognised the limits of his own scope of practice.

The Committee is aware that only a relatively small sample of his work has been presented at this hearing. It has taken into account that he had been qualified for around two years when treating Patient A and for between three and four years when treating Patient B. It has considered carefully
whether it is possible to form a judgement about his competence at the relevant time on the basis of this sample. It has concluded that it is possible to form such a judgement. The facts found proved amounted to repeated failings to exercise the basic skills and knowledge required of a chiropractor. The Committee has concluded that Allegation B is well founded.

SANCTION

Decisions on sanction

In considering sanction, the Committee took into account all the evidence it has received thus far as well as the bundle of references and testimonials provided by Mr Goldring on Mr Zahedi’s behalf. It also took account of the letter provided by Mr Goldring from the GCC to Mr Zahedi dated 31 August 2011 which stated that Mr Tait, the original complainant in this case, had withdrawn his complaint.

The legal assessor advised that under section 22(2) of the Chiropractors Act 1994, once the Committee is satisfied that an allegation is well founded it ‘shall’ take certain steps. In this case it is therefore mandatory for the Committee to impose a sanction of some kind. Unusually, the Committee has before it two Allegations. Since it has determined that they were both well founded, the legal assessor advised that the Act seems to require that a sanction be imposed for each Allegation. The GCC agreed with this advice and Mr Goldring made no comment.

The Committee accepted the legal assessor’s advice and proceeded to consider separately for each Allegation what sanction to impose. In doing so, it took into account the GCC’s published Guidance on Sanctions 2010. It has borne in mind that the purpose of sanctions is not to punish the respondent but to protect the public and the wider public interest, namely to maintain public confidence and uphold professional standards. Any sanction imposed should be proportionate, balancing the public interest against the respondent’s own interests. In relation to each Allegation, the Committee considered the least restrictive sanction first, namely admonishment, and considering each in ascending order, concluding at the sanction that was sufficient to protect the public interest.

Ms Broome for the GCC made no specific submissions as to the appropriate sanction. Mr Goldring accepted on behalf of Mr Zahedi that it would be difficult to justify admonishment as a sanction in this case. He submitted that conditions would be impracticable as Mr Zahedi now practises in Australia and has no intention of returning to the UK. Mr Goldring emphasised that this hearing concerns events nearly 10 years ago and that Mr Zahedi has been practising successfully since that time. He said that there were no complaints about his practice. He produced a number of supportive references and testimonials from colleagues, patients and friends. He submitted that removal from the register would be disproportionate given Mr Zahedi’s unblemished record both before and since the events with which this hearing is concerned.

In determining the appropriate sanction in this case, the Committee bore in mind that the events which led to the findings of Unacceptable Professional Conduct and Professional Incompetence occurred between 2004 and 2006, some eight to ten years ago. The Committee heard from the GCC that the original complainant in this case was Mr Tait, Consultant Orthopaedic Surgeon, who gave evidence in this case. In 2005 and 2009 he was instructed to examine Patient A in connection with a medico-legal claim. In 2009 he was instructed to examine Patient B, also in relation to a medico-legal claim. Having examined both patients, he realised that they had been treated by the same chiropractor. He wrote to the GCC in March 2009 expressing concerns about Mr Zahedi. However, in 2010 Mr Tait declined to provide a statement of evidence and stated that he was not the formal complainant in this
case. The GCC Registrar then submitted a complaint against Mr Zahedi, having been asked by the Investigating Committee whether he wished to do so, in the interests of public protection.

The Committee accepts that the reasons for the delay are outside Mr Zahedi’s control and recognises that the delay is undesirable. It has taken the delay into account when considering what the appropriate sanctions are in relation to UPC and Professional Incompetence.

**Professional Incompetence**

The Committee determined that Mr Zahedi was guilty of Professional Incompetence on the basis of systemic failures between 2004 and 2006 relating to two patients.

The Committee took into account the testimonials and references before it. Mr Zahedi provided thirteen letters to the Committee, including references from his accountant, marketing consultant, a number of friends who are also his patients, as well as one from a patient who testifies on behalf of herself and her family. There are also a number from colleagues, including one chiropractor who taught Mr Zahedi chiropractic techniques. The Committee took into account that there is no evidence before it of any repetition of events. It notes the GCC’s statement that there are no previous regulatory findings against him in the UK and Mr Goldring’s assertion that there are none in Australia, where Mr Zahedi is currently in practice.

The referees portray Mr Zahedi as demonstrating a caring attitude, being passionate about chiropractic care and being professional in his dealings. Whilst the references do touch on issues of competence, the Committee considers that they are of more assistance to the Committee in assessing his approach to care than in assessing his competence in specific areas. The Committee has no evidence of Mr Zahedi’s recent training. It does not have any other evidence as to Mr Zahedi’s current clinical competence other than its assessment of his evidence during the course of this hearing.

The Committee’s finding of Professional Incompetence relates to Mr Zahedi’s ability to select safe and appropriate treatment, his competence to recognise a potential medical emergency and refer to other health professionals when indicated, his competence in assessment and review as well as his ability to interpret x-rays to enable safe and appropriate care.

Mr Zahedi admitted that his assessments and reviews of Patient A during the period he cared for her were inadequate. He admitted that he did not undertake any review of Patient A’s care despite her reports of increasing neck pain. The Committee also found that he failed to review Patient B’s plan of care despite her reporting pain and that she felt paralysis.

Mr Zahedi told the Committee that he has adopted a different mode of practice and works to a different protocol in relation to assessment and review. The Committee does not have evidence of this other than Mr Zahedi’s testimony but considers that his admission of some of the particulars relating to the inadequacy of his assessment and reviews is supportive of his assertion. However, the Committee does not have evidence before it to conclude that he has addressed the significant deficiencies he has demonstrated in relation to assessment and review. On the contrary, it considers that he has not addressed those deficiencies.

The Committee has grave concerns, from his evidence to the Committee, about Mr Zahedi’s competence to refer appropriately to other health professionals, to interpret x-rays appropriately and to select safe and appropriate treatment.
Mr Zahedi told the Committee that he could not understand why he was being questioned on the possible significance of the symptoms displayed and/or reported by Patient B on 29 March 2006, such as slurred speech and difficulty opening her eyes, given that she had not, in fact, suffered from a serious medical condition of the kind that Mr Young stated these symptoms could indicate.

He maintained his position that it was appropriate for him to rely on his skills and experience as a chiropractor to make an assessment that these symptoms did not have a physiological basis and that immediate referral for medical assessment was not necessary. This aspect of Mr Zahedi’s evidence causes the Committee grave concern about his current level of competency and the risk he poses to patients.

The Committee also remains concerned, on the basis of his live evidence, about his competence to interpret x-rays and to select safe and appropriate treatment. At the beginning of his evidence, he appeared to agree that a particular x-ray was suggestive of instability at C5/6 of Patient B’s neck but that, after palpation, he satisfied himself that this was not the case. On questioning, he subsequently stated that it is not possible to exclude instability by palpation. He maintained he had not manipulated at C5/6, although the Committee found that he had.

The Committee accepts that Mr Zahedi knew and knows that a joint should not be manipulated if it is unstable due to the potentially catastrophic consequences for patients. Mr Zahedi therefore either did not recognise potential instability, which the Committee considers to be the most likely explanation given its absence from the notes, or considered it and excluded it by palpation. Either is a highly dangerous level of incompetence. Nothing in Mr Zahedi’s oral evidence or in the documentation before the Committee reassures it that Mr Zahedi is now competent to recognise potential instability and select appropriate treatment to maintain patient safety.

Whilst the Committee accepts that the failure to recognise instability and subsequent treatment of the neck at C5/6 over a period of a month’s treatment relates to a small part of Mr Zahedi’s practice, it is deeply concerning because, like the failure to refer, it is such a fundamental falling short of basic competency and poses such significant risks to patients.

Having reviewed the evidence before it as to Mr Zahedi’s current competency, notwithstanding the fact that there is no evidence before it of repetition, the Committee considers that there is a risk of repetition in the future. The Committee has concluded that, despite the passage of time, Mr Zahedi currently presents a risk to the public.

The Committee first considered whether an admonishment is sufficient to meet the public interest in this case. It decided that an admonishment would be wholly inadequate to protect patients, maintain public confidence and uphold professional standards. Mr Zahedi’s incompetence is such that the Committee concluded patients would be at risk of harm were Mr Zahedi to be subject only to an admonishment.

It therefore went on to consider conditions. It took account of the Guidance on Sanctions. The Committee is not satisfied that there are identifiable areas of Mr Zahedi’s practice in need of review, retraining and assessment or that Mr Zahedi has sufficient insight into his failings to successfully engage with any conditions. His failings are basic and wide ranging. The risk posed by his failure to recognise the need to involve medical colleagues is difficult to address with conditions. He told the Committee that he was aware of the potential significance of Patient B’s symptoms but that, effectively, he was qualified to make the assessment himself. The Committee was not satisfied that
patients would be protected if Mr Zahedi were to provide care whilst under conditions and it therefore concluded that conditions were insufficient to meet the public interest.

The Committee then went on to consider whether suspension is the appropriate and proportionate sanction for Mr Zahedi's professional incompetence. Patients would be protected whilst the suspension was in force. However, in the light of the oral evidence Mr Zahedi gave to the Committee, it has no evidence that Mr Zahedi has the potential to address his lack of competence during a period of suspension.

The events in question took place around eight years ago. The Committee has heard that Patient B made a claim against Mr Zahedi in 2006 and the events in question have been the subject of enquiry and investigation for many years. Mr Zahedi has had ample opportunity to address his knowledge base and insight with regard to, for example, recognising the need to involve medical colleagues. His evidence to the Committee demonstrates that his incompetence in identifying risks to patients and acting appropriately remain current. The Committee concluded that a period of suspension would not address Mr Zahedi's incompetence and that it is necessary for the protection of patients and public confidence that Mr Zahedi's name is removed from the register.

The Committee considered whether removal is a disproportionate act, given the length of time elapsed since these events. It concluded that removal was necessary to protect patients and that, notwithstanding the delay, removal is therefore the appropriate and proportionate sanction.

**Unacceptable Professional Conduct**

The Committee considered what sanction to impose as a result of its finding of UPC. The facts found proved include: excessive treatment; failing to give information about a diagnosis; failure to obtain informed consent; using undue influence to persuade a patient to commence treatment; failures in relation to recording the justification for X-rays; failure to refer a patient for immediate medical assessment. The latter was particularly serious. Patient B presented with symptoms that should lead any health care professional to suspect the possibility of a stroke or other medical emergency. Mr Zahedi relied on his own assessment of his symptoms rather than referring the patient to a medical practitioner.

The Committee first considered the sanction of admonishment. Few of the factors listed in the Sanctions Guidance are present in this case: Mr Zahedi's misconduct had the potential to cause patient harm; he lacks insight; the Committee is not dealing with an isolated incident; Mr Zahedi has not expressed regret or apology. Furthermore, the Guidance states that admonishment may be appropriate if the allegation is at the lower end of the spectrum. The Committee regards the misconduct in this case as too serious to be dealt with by admonishment. It concludes that the public interest would not be sufficiently met by issuing an admonishment.

The Committee next considered conditions. It was concerned about Mr Zahedi's insight and attitude. In relation to the failure to refer, he does not accept that he did anything wrong. In relation to recording the justification for X-rays, he seemed not to understand the meaning or importance of the guidelines that Chiropractors are expected to follow. An order for conditions would not address the concerns about unduly influencing patients. The Committee concluded that even if conditions had been practicable, an order for conditions would not have been sufficient to protect the public.
The next sanction available is suspension. The Committee accepts that the unacceptable professional conduct occurred some years ago and that there has been no repetition. Furthermore, Mr Zahedi has produced a number of references and testimonials as already set out. However, the Committee remains very concerned about insight and attitudinal problems and the implications of these for patient safety. Further, it considers that, such is the gravity and breadth of Mr Zahedi's Unacceptable Professional Conduct that a suspension would not be sufficient to maintain public confidence and uphold professional standards. For these reasons the Committee has concluded that suspension would not be a sufficient sanction in this case.

It has therefore determined the appropriate and proportionate response to Mr Zahedi’s Unacceptable Professional Conduct is to remove his name from the register.

Consideration of Immediate Order

In considering whether to impose an immediate order, the Committee took into account the advice of the legal assessor that the Committee may only do so if it is satisfied that it is necessary for the protection of members of the public. Ms Broome submitted that an immediate order of suspension is necessary to protect patients in the light of the Committee's findings, notwithstanding the fact that Mr Zahedi is currently working in Australia. Ms Lane, on behalf of Mr Zahedi, made no submission.

The Committee concluded that it is necessary for the protection of members of the public to suspend Mr Zahedi’s registration immediately. It has already determined that Mr Zahedi poses a risk to patients. If the Committee does not impose an immediate order of suspension, Mr Zahedi would be free to practise for the next twenty eight days and possibly significantly longer, should he lodge an appeal. The Committee considers that this is incompatible with public protection and therefore directs that his registration should be suspended with immediate effect.

In accordance with Section 31 of the Chiropractors Act 1994, this decision will not have effect until the expiry of 28 days from the date on which notification is served on you or, where an appeal is made, until the appeal is withdrawn or otherwise disposed of.

That concludes this case.

Chair 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.

As of 1 January 2009, the Council for Healthcare Regulatory Excellence has a period of 40 days, in addition to any appeal period provided to the chiropractor, in which to lodge an appeal.

Signed: Neema Patel

Dated: 7 February 2014
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.