

**DISCIPLINE COMMITTEE OF
THE COLLEGE OF PHYSIOTHERAPISTS OF ONTARIO**

BETWEEN:

COLLEGE OF PHYSIOTHERAPISTS OF ONTARIO

- and -

CHRISTINE ZIMMERMANN, Registration Number 14717

NOTICE OF HEARING

The Inquiries, Complaints and Reports Committee of the College of Physiotherapists of Ontario has referred specified allegations against Christine Zimmermann to the Discipline Committee of the College. The allegations were referred in accordance with paragraph 26(1)1 of the *Health Professions Procedural Code*. The statement of allegations is attached to this notice of hearing. A discipline panel will hold a hearing under the authority of sections 38 to 56 of the *Health Professions Procedural Code*, as amended, for the purposes of deciding whether the allegations are true. A **pre-hearing conference** may be held at the offices of the College of Physiotherapists of Ontario at 375 University Avenue, Suite 800, Toronto, Ontario, at a date and time to be fixed by the Registrar. A discipline panel will subsequently convene at the offices of the College of Physiotherapists of Ontario at 375 University Avenue, Suite 800, Toronto, Ontario, also at a date and time to be fixed by the Registrar, for the purposes of conducting the **hearing**.

IF YOU DO NOT ATTEND AT THE HEARING IN ACCORDANCE WITH THE PRECEDING PARAGRAPH, THE DISCIPLINE PANEL MAY PROCEED IN YOUR ABSENCE AND YOU WILL NOT BE ENTITLED TO ANY FURTHER NOTICE IN THE PROCEEDINGS.

If the discipline panel finds that you have engaged in professional misconduct, it may make one or more of the following orders:

1. Direct the Registrar to revoke the member's certificate of registration.
2. Direct the Registrar to suspend the member's certificate of registration for a specified period of time.
3. Direct the Registrar to impose specified terms, conditions and limitations on the member's certificate of registration for a specified or indefinite period of time.
4. Require the member to appear before the panel to be reprimanded.
5. Require the member to pay a fine of not more than \$35,000 to the Minister of Finance.

The discipline panel may, in an appropriate case, make an order requiring you to pay all or part of the College's costs and expenses pursuant to section 53.1 of the *Health Professions Procedural Code*.

You are entitled to disclosure of the evidence against you in accordance with section 42(1) of the *Health Professions Procedural Code*, as amended. You, or your representative, may contact the solicitor for the College, Joanna Birenbaum, in this matter at:

Ursel Phillips Fellows Hopkinson LLP
555 Richmond St. West, Suite 1200
Toronto, ON M5V 3B1

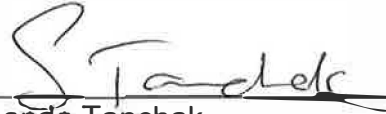
Telephone: (416) 968-3333
Facsimile: (416) 968-0325
Email: jbirenbaum@upfhlaw.ca

You must also make disclosure in accordance with section 42.1 of the *Health Professions Procedural Code*, which states as follows:

Evidence of an expert led by a person other than the College is not admissible unless the person gives the College, at least ten days before the hearing, the identity of the expert and a copy of the expert's written report or, if there is no written report, a written summary of the evidence.

Date:

Sept 7, 2018



Shenda Tanchak
Registrar & CEO
College of Physiotherapists of Ontario

TO: Sarah Willis

Legal counsel for Christine
Zimmermann

Statement of Allegations

1. At all material times Christine Zimmermann was a registered Member of the College of Physiotherapists of Ontario.

2. During the period from January 1, 2013 to December 31, 2016, Ms. Zimmermann engaged in professional misconduct within the meaning of the following paragraphs of section 1 of the *Professional Misconduct Regulation*, O. Reg. 388/08:
 - a. paragraph 1 (failing to maintain the standards of practice of the profession);
 - b. paragraph 18 (engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional);
 - c. paragraph 26 (failing to keep records in accordance with the standards of practice of the profession);
 - d. paragraph 32 (submitting an account or charge for service that the member knows or ought to know is false or misleading);
 - e. paragraph 34 (charging a fee that is excessive in relation to the service performed);
 - f. paragraph 40 (continuing treatment of a patient where it is no longer indicated, has ceased to be effective or is unnecessary); and
 - g. paragraph 41 (failing to supervise in accordance with the standards of practice of the profession).

PARTICULARS OF THE ALLEGATIONS

1. At all material times Christine Zimmermann was a registered Member of the College of Physiotherapists of Ontario (the "College").
2. During the relevant times, Ms. Zimmermann practiced at a sports medicine clinic (the "clinic") that was associated with a gym. The clinic offered the services of a chiropractor and massage therapist as well as physiotherapy services.
3. Ms. Zimmermann's practice included conducting assessments of patients, some of whom she then referred to personal trainers and/or athletic therapists and/or kinesiologists employed by the gym, with a recommendation for exercise-based treatment programs. Exercise sessions at the gym were invoiced as supervised physiotherapy under Ms. Zimmermann's name and registration number. Exercise sessions at the gym involved no treatment modality other than supervised exercise.
4. On August 30, 2016, an investigator from the College attended at the clinic for an appointment with Ms. Zimmermann. The investigator (T.O.) indicated that she had no pain, weakness or injury, and that her primary concern and interest was weight-loss. Ms. Zimmermann conducted an assessment and identified muscle weakness in T.O.'s core and right gluteus muscle and recommended a supervised exercise program at the gym. Ms. Zimmermann confirmed that T.O. could submit the invoices for the supervised exercise program to T.O.'s insurer as physiotherapy treatments.
5. On December 9, 2016, the College investigator pulled nine (9) representative charts of patients of Ms. Zimmermann for whom supervised physiotherapy treatments were provided by employees of the gym acting as physiotherapist assistants.

Excessive and Unnecessary Treatment

Failure to Maintain the Standards of Practice of the Profession: Re-Assessment, Treatment Plans

6. The following patients were assessed by Ms. Zimmermann and referred to the gym for exercise-based programs, which were invoiced as supervised physiotherapy under Ms. Zimmermann's name and registration number. These patients continued gym-based supervised exercise programs over prolonged periods of time, in the absence of objective measures or findings documenting clinical benefit or change:

- E.C. 112 gym-based treatments (of a total of 173 invoiced treatments) over a 2 ½ year period for back pain, with no re-assessment.

- J.G. 243 gym-based treatments (of a total of 271 invoiced treatments) for a period of 3 ¾ years, for lung function and conditioning and, for a period of time, back and shoulder pain.

- C.H. 232 gym-based treatments (of a total 423 invoiced treatments) over a 3 ½ year period, for back and knee injury.

- D.P. 80 gym-based treatments (of a total 88 invoiced treatments) over a 1 ½ year period, for knee problems.

- S.P. 79 gym-based treatments (of a total 133 invoiced treatments) over a 1 ¾ year period, for neck and back pain.

- J.D. 61 gym-based treatments (of a total of 65 invoiced treatments) over a 2 ½ year period for increased strength (and where the child patient's presenting condition was muscle imbalance prior to hockey season commencing).

T.D. 61 gym-based treatments (of a total of 65 invoiced treatments) over a 2 ½ year period for increased strength (and where the child patient had no presenting condition after September 2016 other than muscle imbalance prior to hockey season commencing).

L.M. All 9 treatments following the initial assessment were gym-based, where there were no presenting injuries or conditions (other than muscle imbalance).

7. Ms. Zimmermann failed to re-assess patients in accordance with the standards of practice of the profession. For example: Patient E.C. was never re-assessed over 2 ½ years; Patient C.H. was only re-assessed six times in 3 ½ years and 423 appointments; Patient J.G. was not re-assessed for periods of seven months (and 50 treatments) and a year (and 75 treatments) over a period of 3 ¾ years; Patient S.P. was not assessed over an 8-month period (and 45 treatments); Patients J.D. and T.D. were not reassessed for periods of 14 months and seven months.

8. Over lengthy periods of time, Ms. Zimmermann failed to review or adjust the treatment plans of the patients listed above.

9. In respect of the above patients, Ms. Zimmermann failed to develop/recommend treatment plans that promoted the patient's transition to independence in the management of their care.

Supervision of Physiotherapist Assistants

10. Ms. Zimmermann failed to supervise persons acting as physiotherapist assistants consistent with the standards of practice of the profession. In particular, Ms. Zimmermann:

- a. Permitted or otherwise did not prevent physiotherapist assistants from developing, interpreting and/or altering treatment plans: E.C., C.H., J.W., J.G., J.D., T.D., S.P. D.P.;
- b. Permitted or otherwise did not prevent a physiotherapist assistant from assessing patient E.C. for an ankle injury;
- c. Failed to provide a treatment plan for the physiotherapist assistant to follow: J.W..
- d. Failed to ensure that the clinical notes/records of physiotherapist assistants were maintained in accordance with the standards of practice of the profession;
- e. Failed to schedule an assessment/reassessment when a client's condition had plateaued and/or a reassessment was otherwise clinically indicated: E.C., C.H., J.G., J.D., T.D., S.P.; and
- f. Failed to adequately monitor the patient's progress under the care of the physiotherapist assistant.

Inaccurate, Misleading and/or False Invoices

11. In respect of patient S.P., twenty-eight (28) treatments were invoiced as physiotherapy under Ms. Zimmermann's name and registration number when in fact these treatments were chiropractic treatments delivered by a chiropractor. Further, the 28 chiropractic treatments invoiced as physiotherapy treatments were spinal manipulations. Ms. Zimmermann is not rostered for spinal manipulations on the College's public register.

Record Keeping

12. During the relevant period, Ms. Zimmermann's record-keeping fell below the standards of practice of the profession, including that:

- a. Chart notes lacked subjective and objective measures, data and/or findings.
- b. In respect of all 9 patient charts, progress notes prepared by the gym employees acting as physiotherapist assistants contained only a list of exercises/workouts and contained no or insufficient subjective and objective information and measures, to enable the Member to provide adequate oversight;
- c. Discharge documentation was absent from the clinical records.

APPENDIX

1. Take notice that the documents that have been and will later be disclosed to you will be tendered as business documents pursuant to the *Evidence Act* of Ontario.
2. All documents that are disclosed to you in this matter are disclosed on the basis that they are to be used solely for the purpose of this proceeding and for no other purpose.