

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

BETWEEN:

COLLEGE OF PHYSIOTHERAPISTS OF ONTARIO

- and -

MICHAEL FONG, Registration Number 16156

NOTICE OF HEARING

The Inquiries, Complaints and Reports Committee of the College of Physiotherapists of Ontario has referred specified allegations against Michael Fong 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@upflaw.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: November 7, 2018



Rod Hamilton
Registrar
College of Physiotherapists of Ontario

TO: Michael Fong

Statement of Allegations

1. At all materials times, Michael Fong was a registered member of the College.

2. During the period April 1, 2017 and September 30, 2018, Mr. Fong 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 the profession);

 - b. paragraph 4 (practicing the profession while the member's certificate of registration has been suspended);

 - c. paragraph 13 (failing to reply appropriately or within a reasonable time to a written inquiry from the College);

 - d. paragraph 14 (contravening, by act or omission, the *Physiotherapy Act*, the *Regulated Professional Act, 1991* or the regulations under either act); and

 - e. 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);

PARTICULARS OF THE ALLEGATIONS

1. At all materials times, Mr. Michael Fong (the "Member") was a registered member of the College and practiced physiotherapy at a clinic in Toronto, Ontario (the "Clinic"). The Member is also the owner of the Clinic.
2. On or about May 8, 2017, the Member's certificate of registration with the College was suspended for non-payment of fees. The Member's certificate of registration remained suspended for a period of approximately one year.
3. During the period May 8, 2017 April 29, 2018, when the Member's certificate of registration was suspended, the Member continued to practice physiotherapy and provided physiotherapy treatments to patients.
4. On or about August 24, 2017, the College delivered a Cease and Desist letter to the Member, advising him that he was in breach of paragraph four of section one of the *Professional Misconduct Regulation* and that he "must immediately cease practicing the profession of physiotherapy" while his certificate of registration with the College is suspended.
5. Despite receipt of the Cease and Desist Letter and multiple verbal and email communications with the College following receipt of the Cease and Desist Letter, the Member continued to practice physiotherapy while his certificate of registration was suspended. The Member also continued to advertise his services as a practicing physiotherapist on the Clinic's website, during the period in which his certificate of registration was suspended.
6. Section 3 of Ontario Regulation 532/98 made under the *Physiotherapy Act, 1991*, S.O. 1991, c.37, provides that: "Every member shall conduct an annual self-assessment."
7. In 2017, the Member failed to complete his *Professional Issues Self-Assessment (PISA)* by the March 31, 2017 deadline, despite repeated notices from the College of the PISA requirement and the deadline for completing the PISA.
8. Following receipt of the Cease and Desist letter and telephone and other communications with the College, the Member completed the PISA on or about

September 22, 2017. However, as stated above, the Member did not take any steps at this time to renew his certificate of registration.

9. The Member failed to respond in a timely or appropriate way to multiple communications from the College in verbal and written form.

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.