

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

BETWEEN:

COLLEGE OF PHYSIOTHERAPISTS OF ONTARIO

- and -

NOSHIN LUFF, Registration Number 13269

NOTICE OF HEARING

The Inquiries, Complaints and Reports Committee of the College of Physiotherapists of Ontario has referred specified allegations against Noshin Luff 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, no later than September 10, 2020, 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: March 10, 2020



Rod Hamilton, Registrar
College of Physiotherapists of Ontario

TO: NOSHIN LUFF

Statement of Allegations

1. At all material times Noshin Luff (“Ms. Luff”) was a registered physiotherapist with the College of Physiotherapists of Ontario.

2. Between August 9, 2017 and August 30, 2019, Ms. Luff 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 27 (falsifying a record);
 - e. paragraph 28 (signing or issuing a document containing a statement that the member knows or ought to know is false or misleading);
 - f. paragraph 32 (submitting an account or charge for services that the member knows or ought to know is false or misleading);
 - g. paragraph 33 (failing to take reasonable steps to ensure that any accounts submitted in the member’s name or billing number are fair and accurate;
 - h. paragraph 40 (continuing the treatment of a patient where it is no longer indicated, has ceased to be effective or is unnecessary); and
 - i. paragraph 41 (failing to supervise in accordance with the standards of practice of the profession).

PARTICULARS OF THE ALLEGATIONS

1. At all material times, Noshin Luff (Ms. Luff) was a physiotherapist registered with the College of Physiotherapists of Ontario. During the period August 9, 2017 to August 30, 2019, Ms. Luff practiced at Lifesource Wellness Clinic in Barrie, Ontario (the "Clinic"). Ms. Luff practiced at the Clinic on a part-time business, attending at the Clinic approximately once a week for most of her employment.
2. The Clinic is owned by a person who is not a physiotherapist but who provides services at the Clinic as a personal-trainer and/or as a physiotherapist assistant. The treatment modality at the Clinic is primarily exercise based.
3. Invoices for physiotherapy treatments were issued to Clinic clients under Ms. Luff's name and registration number for services that were in fact personal training sessions and/or that did not qualify as a physiotherapy treatment or service that could be invoiced under Ms. Luff's name and registration number.
4. During the period of Ms. Luff's employment with the Clinic, invoices for physiotherapy treatments were issued under Ms. Luff's name and registration number, when Ms. Luff had not assessed the patient and/or had not provided any physiotherapy treatment to the patient and/or where there was no assessment documented in the patient chart: (K.S., C.F., N.P., S.N., S.B., V.G.)
5. During the period of Ms. Luff's employment with the Clinic, Ms. Luff's assessments and treatment plans fell below the standard of practice of the profession, including by failing to contain any clinical analysis, diagnosis or treatment plan and/or by failing to contain a treatment that plan that was sufficiently detailed and specific to the patient's condition (D.B., D.J., J.H., Y.P.)

6. During the period of Ms. Luff's employment with the Clinic, Ms. Luff failed to supervise physiotherapist assistants ("PTA") consistent with the standards of practice of the profession including in that Ms. Luff had no control or direction over what PTA was assigned to her patients, failed to develop adequate or any treatment plans and/or to provide adequate guidance to PTAs, and permitted or otherwise did not prevent PTAs from developing, evaluating, interpreting and/or altering treatment plans.
7. Further, Ms. Luff failed to obtain the informed consent of the patient for the involvement of a physiotherapist assistant in their care, in a manner consistent with the standards of practice of the profession.
8. During the period of Ms. Luff's employment with the Clinic, Ms. Luff failed to assess and/or reassess patients of the Clinic, either adequately or at all.
9. During the period of Ms. Luff's employment with the Clinic, Ms. Luff failed to discharge patients when it was clinically indicated to do so. Treatment or services were continued to Clinic clients, and invoices for physiotherapy services issued under Ms. Luff's name and registration number, when treatment or services were no longer effective or clinically indicated and/or were unnecessary.
10. During the period of Ms. Luff's employment with the Clinic, Ms. Luff created and signed progress notes for patients when Ms. Luff had not been present for the treatment and did not provide care to the patient on the date in question. The creation of these notes constitutes professional misconduct regardless of whether Ms. Luff prepared the records under duress.
11. During the period of Ms. Luff's employment with the Clinic, Ms. Luff failed to maintain the standards of practice of the profession in respect of record keeping.

12. Ms. Luff failed to register her place of practice at the Clinic on the College's register as required by s.23(2) of the *Health Professions Procedural Code* being Schedule 2 to the *Regulated Health Professions Act, 1991*, S.O. 1991, c.18 and s.8.1(1) of the *By-Laws of the College of Physiotherapists of Ontario, 2017* (as amended);

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.