

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

BETWEEN :

COLLEGE OF PHYSIOTHERAPISTS OF ONTARIO

- and -

Samir Satyaprak Shah, Registration Number 12039

NOTICE OF HEARING

The Inquiries, Complaints and Reports Committee of the College of Physiotherapists of Ontario has referred specified allegations against Samir Satyaprak Shah 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
Samir Shah

Statement of Allegations

1. At all material times Samir Satyaprak Shah was a registered member of the College.
2. During the period of July 2012 to February 23, 2014, Mr. Shah 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 14 (contravening, by act or omission, the Act, the *Regulated Health Professions Act, 1991* or the regulations under either of those Acts);
 - c. 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); and
 - d. paragraph 28 (signing or issuing a document containing a statement that the member knows or ought to know contains a false or misleading statement).

PARTICULARS OF THE ALLEGATIONS

1. At all material times Mr. Samir Satyaprak Shah (the "Member") was a physiotherapist practicing at a clinic in Ontario and a registered member of the College.
2. During the period of July 1, 2012 to February 23, 2014, Mr. Shah practiced physiotherapy and did not have professional liability insurance.
3. At all material times, section 17 of O. Reg 532/98 under the *Physiotherapy Act 1991* provided that it is a non-exemptible registration requirement for all certificates of registration that the applicant demonstrates that he or she holds professional liability insurance in accordance with the College by-laws.
4. At the material times, the College by-laws provided that:
 - (1) A registrant must hold professional liability insurance that provides coverage for physiotherapy practice that includes patient care, whether in a paid or volunteer capacity.
 - (2) The professional liability insurance coverage referred to in subsection (1) may be obtained by the individual physiotherapist directly or may be provided through the policy of an employing agency so long as it covers the entire practice of physiotherapy by the physiotherapist.
 - (3) The professional liability insurance referred to in subsection (1) must have,
 - (a) a liability limit of at least \$5,000,000 on any one incident; and
 - (b) a \$5,000,000 minimum for the annual policy period for each insured individual.
 - (4) The professional liability insurance referred to in subsection (1) must not be subject to a deductible.
 - (5) The professional liability insurance referred to in subsection (1) must provide coverage for incidents that occurred during physiotherapy practice, even if the claim is not reported until after the physiotherapist has ceased practice to a minimum of 10 years.
 - (6) The professional liability insurance referred to in subsection (1) is subject only to such exclusions and conditions and terms as are consistent with normal insurance industry practices.
 - (7) Within 30 days of any request by the College, a registrant required to hold the professional liability insurance referred to in subsection (1) shall provide current documentary proof, acceptable to the Registrar, that his/her professional liability insurance coverage complies with the requirements set out in this section.
5. Mr. Shah completed the annual renewal process for the College in each of the following years and confirmed as follows:

a) 2005, 2006

In the Declaration Section of the annual renewal process he declared that he met the professional liability insurance guidelines as described in the College position statement, Professional Liability Insurance

b) 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015

In the Declaration section of the annual renewal process he declared that he met the professional liability insurance guidelines as described in the College by-laws.

6. When completing the declaration above that he met the professional liability insurance requirements of the College, Mr. Shah further confirmed that: "I hereby certify that all statements made on this form are complete and correct to the best of my knowledge and belief."
7. Mr. Shah knew or ought to have known that it was his professional obligation to hold professional liability insurance, yet for the period of July 1, 2012 to February 23, 2014 he failed to maintain professional liability insurance.
8. Mr. Shah misrepresented information to the College when he completed the annual renewal process for 2013-2014 and declared in his annual renewal that "(I) meet the professional liability insurance requirements as described in the College by-laws."
9. In September 2012, Mr. Shah was found guilty of professional misconduct by the Discipline Committee of the College, including for making a false verbal and written report to his employer and an inaccurate statement to the College. In April 2015, Mr. Shah was found guilty of professional misconduct by the Discipline Committee of the College, including for falsifying records and breaching an Order of the Discipline Committee.
10. Mr. Shah has demonstrated a pattern of disrespect and disregard for the College and its rules and standards.

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.