

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

BETWEEN:

COLLEGE OF PHYSIOTHERAPISTS OF ONTARIO

- and -

SAMUEL SHEPHERD, Registration Number 13208

NOTICE OF HEARING

The Inquiries, Complaints and Reports Committee of the College of Physiotherapists of Ontario has referred specified allegations against Samuel Shepherd 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 25/18

A handwritten signature in black ink, appearing to read 'Shenda Tanchak', written over a horizontal line.

Shenda Tanchak
Registrar & CEO
College of Physiotherapists of Ontario

TO: Samuel Shepherd

Statement of Allegations

1. At all material times, Samuel Shepherd was a registered member of the College.
2. During the period September 1, 2014 and July 31, 2017, Mr. Shepherd 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 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 28 (signing or issuing a document containing a statement that the member knows or ought to know contains a false or misleading statement);
 - e. paragraph 32 (submitting an account or charge for services that the member knows or ought to know is false or misleading);
 - f. paragraph 33 (failing to take reasonable steps to ensure that any accounts in the member's name or billing number are fair and accurate);
 - g. paragraph 40 (continuing the treatment of a patient where it is no longer indicated, has ceased to be effective or is unnecessary).

PARTICULARS OF THE ALLEGATIONS

1. At all materials times, Mr. Samuel Shepherd (the "Member") was a registered member of the College.
2. In August 2016 the Member's billings were reviewed by an insurer, and as a result of a report by the insurer to the College, the Member's practice was reviewed by the College in February and June 2017. Twenty two (22) patient charts were pulled and reviewed in the College's investigation process.
3. It is the responsibility of the physiotherapist to document a treatment in the patient's chart, including for the purposes of patient safety, continuity and quality of patient care, to substantiate the clinical basis for continuity of treatment, and to demonstrate that the service was in fact provided.
4. In the following patient files, there were no progress or treatment notes for numerous visits, which absence of progress notes in some cases continued over an extended period of time: D.G., JE.R, S.C., T.W. , M.K., N.L., S.M., E.D., L.C., D.L., C.S., H.M. and S.L..
5. Further, the patients in paragraph 4 above were invoiced for treatments for which there was no progress note in the patient record.
6. In respect of patient JE.R., 15 treatments were invoiced where there was neither a progress note in the patient record nor a record of the patient's attendance at the clinic.
7. The Member's patient records did not meet the standards of practice for record keeping and reflected excessive treatment and/or a failure to provide patients with patient-centred care specific to the patient and the patient's condition, based on a clearly identified clinical rationale and developed treatment plan, substantiated by objective measures and progress: P.A., J.A., H.B., K.R. L.S., and the patients listed in paragraph 4 above.
8. In respect of the patients listed in paragraph 4 above, the treatment provided was excessive and was not supported by objective data for the continued treatment provided.

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.