

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

B E T W E E N :

COLLEGE OF PHYSIOTHERAPISTS OF ONTARIO

- and -

SATISH KUMAR SELVARAJ, Registration Number 16720

NOTICE OF HEARING

The Inquiries, Complaints and Reports Committee of the College of Physiotherapists of Ontario has referred specified allegations against Satish Kumar Selvaraj 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 November 30, 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: May 22, 2020



Rod Hamilton, Registrar
College of Physiotherapists of Ontario

TO: SATISH KUMAR SELVARAJ

Statement of Allegations

1. At all material times Satish Kumar Selvaraj (“Mr. Selvaraj”) was a registered physiotherapist with the College of Physiotherapists of Ontario.

2. In or about May 1 – June 30, 2019, Mr. Selvaraj 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);
and
 - h. paragraph 41 (failing to supervise in accordance with the standards of practice of the profession).

PARTICULARS OF THE ALLEGATIONS

1. At all material times Satish Kumar Selvaraj (“Mr. Selvaraj”) was a physiotherapist registered with the College of Physiotherapists of Ontario. During the period of May and June 2019, Mr. Selvaraj practiced physiotherapy at a number of locations, including a home-based gym business, Hi End Fitness, in Guelph, Ontario (“Hi End Fitness”).
2. Hi End Fitness is owned or co-owned by a person or persons who are not physiotherapists and who provide individual and/or group-based fitness training.
3. On or about March 20, 2019, an undercover investigator (“Patient I”) retained by the College attended at Hi End Fitness for a fitness assessment and thirty-minute workout with the owner or co-owner of the gym, J.D. Patient I was advised by J.D. that fitness sessions could be covered by workplace physiotherapy benefits.
4. On March 22, 2019 and May 15, 2019, Patient I was again advised by J.D. by text and telephone communication respectively, that fitness training at Hi End Fitness could be covered by workplace physiotherapy benefits.
5. On or about May 21, 2019, Patient I attended Hi End Fitness and participated in a group-based fitness class. Patient I confirmed that he had no pain and did not require physiotherapy. Patient I paid Hi End Fitness \$175.00 in cash as a partial payment toward a \$350.00 monthly fitness fee. Despite confirming that he had no pain and did not require physiotherapy, Patient I was advised by J.D. that the sum of \$175.00 would be invoiced at a later date as physiotherapy services, following a physiotherapy assessment which would be performed in order to ‘justify’ the fitness sessions as physiotherapy services.
6. On or about May 23, 2019, Patient I attended Hi End Fitness for a physiotherapy assessment with Mr. Selvaraj. Patient I advised Mr. Selvaraj that he had no current pain or presenting conditions and that he was seeking fitness training only. Mr. Selvaraj stated that a presenting condition was necessary for services at Hi End Fitness to be submitted as physiotherapy services under a workplace benefits plan. Patient I advised Mr. Selvaraj that Patient I was comfortable with whatever Mr.

Selvaraj wrote in the clinical chart so as to facilitate reimbursement through workplace benefits.

7. Immediately following the physiotherapy assessment, Patient I attended a thirty-minute workout at the gym with a personal trainer and/or co-owner of the gym, D.D.. There was no discussion of any physiotherapy treatment plan between D.D. and Patient I, nor between Mr. Selvaraj and D.D..
8. On or about May 28, 2019, May 29, 2019 and May 30, 2019, Patient I attended at Hi End Fitness and participated in group-based fitness classes with approximately six to seven other individuals, led by J.D. or D.D..
9. On or about May 30, 2019, Hi End Fitness provided a receipt to Patient I in the amount of \$210.00 for physiotherapy services provided (or purportedly provided) on May 24, 2019, May 27, 2019 and May 30, 2019. The invoice was issued under Mr. Selvaraj's name and registration number. Neither the names of J.D. or D.D. were listed on the invoice as having provided services as physiotherapist assistants.
10. The clinical notes of the assessment of Patient I prepared by Mr. Selvaraj indicate "complaints of low back pain" when Patient I had in fact told Mr. Selvaraj that he was not in pain and was only interested in fitness training.
11. Mr. Selvaraj falsified clinical notes by recording information on Patient I's clinical chart that was not true and/or accurate. Further, the false and/or inaccurate information on Patient I's assessment, was included for the purpose of facilitating access to workplace insurance benefits when Mr. Selvaraj knew or ought to have known that the fitness classes provided by Hi End Fitness were not, and did not qualify as, physiotherapy treatments or services.
12. Following the assessment on May 23, 2019, Patient I's clinical chart contains three progress notes, dated May 24, May 27 and May 30, 2019 respectively. Patient I did not attend Hi End Fitness on May 24, 2019 or May 27, 2019. The progress notes indicate that Patient I had "really low back pain" and "back is a little sore" with a pain level of "8/10" (May 24 and May 30), when this pain was not reported by Patient I. The progress notes further do not reflect that any services provided were thirty-minute

group-based exercise classes in which all 6-7 participants performed the same exercises. There was no signature on the progress notes.

13. The invoices issued to Patient I under Mr. Selvaraj's name and registration number were false and misleading, including by:
 - a. Invoicing personal training or fitness sessions as physiotherapy services, when the fitness sessions were not, and did not qualify as, physiotherapy treatments or services;
 - b. Invoicing for services when no services were provided on that date;
 - c. Invoicing for \$210.00 in services when the patient was charged \$175.00;
 - d. Invoicing for \$210.00 on May 30, 2019 for three services on May 24, 27 and 30, 2019, when in fact the amount charged was intended to apply to services provided prior to May 24, 2019 and/or subsequent to May 30, 2019; and
 - e. Listing only the name of Mr. Selvaraj on the invoices when any services in question were provided by D.D. or J.D and not by Mr. Selvaraj.
14. Mr. Selvaraj was at all material times responsible for invoices issued under his name and registration number.
15. Mr. Selvaraj knew or ought to have known that Hi End Fitness was issuing invoices under his name and registration that were false and/or misleading and that were improperly billing personal training and/or fitness sessions as physiotherapy services.
16. In respect of Patient I, Mr. Selvaraj failed to obtain informed consent to the involvement of a physiotherapist assistant in the care of Patient I in accordance with the standards of practice of the profession.
17. In respect of Patient I, and in his standard consent form, Mr. Selvaraj failed to create and maintain a written communication protocol that set out how and when he will

discuss patient care with persons acting as physiotherapist assistants under his supervision, in accordance with the standards of practice of the profession.

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.