

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

B E T W E E N :

COLLEGE OF PHYSIOTHERAPISTS OF ONTARIO

- and -

MAHMOOD KALBASY, Registration Number 10692

NOTICE OF HEARING

The Inquiries, Complaints and Reports Committee of the College of Physiotherapists of Ontario has referred specified allegations against Mahmood Kalbasy 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 a date and time to be fixed by the Registrar. A discipline panel will subsequently convene 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:

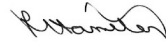
Ursel Phillips Fellows Hopkinson LLP
555 Richmond St. West, Suite 1200
Toronto, ON M5V 3B1

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: June 3, 2021



Rod Hamilton, Registrar
College of Physiotherapists of Ontario

TO: Patrick Metzler
208 Evans Avenue
Suite 218
Toronto, Ontario
M8Z 1J7

Counsel for
Mahmood Kalbasy

Statement of Allegations

1. At all material times Mahmood Kalbasy was a registered physiotherapist with the College of Physiotherapists of Ontario.

2. Between August 1, 2016 and April 30, 2019, Mr. Kalbasy 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 15 (contravening a federal, provincial or territorial law relevant to the member's suitability to practice);
 - 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);
 - d. paragraph 26 (failing to keep records in accordance with the standards of practice of the profession);
 - e. paragraph 27 (falsifying a record);
 - f. paragraph 28 (signing or issuing a document containing a statement that the member knows or ought to know contains a false or misleading statement);
 - g. paragraph 32 (submitting an account or charge for services that the member knows or ought to know is false or misleading);
 - h. 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);
 - i. 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 material times, Mr. Kalbasy was a physiotherapist registered with the College of Physiotherapists of Ontario and the owner of Utmost Physiotherapy & Rehab Clinic located in Richmond Hill, Ontario, (the “Clinic”).

2. In the period of August to September 2018, Mr. Kalbasy engaged in insurance fraud in respect of two undercover investigators from a third-party insurer who attended at the Clinic, which included:
 - a. Asking/directing the investigators to sign blank insurance claim forms;
 - b. Asking/directing the investigators to sign attendance records to confirm appointments which the investigators had not attended;
 - c. Falsifying treatment records for physiotherapy treatments that were not provided;
 - d. Issuing forty four (44) invoices for physiotherapy treatments under Mr. Kalbasy’s name and College registration number, twenty two (22) to each of the two investigators, for services that were not provided;
 - e. Engaging in a 60:40 cash-splitting scheme with the two investigators whereby Mr. Kalbasy issued invoices for services that were not provided and submitted them to the third party insurer, and received payment of cash from the two investigators for 60% of the total amount of the invoices for which the investigators would be reimbursed by the insurer;
 - f. Instructing and/or directing the investigators to refuse to speak to the third party insurer should the insurer make inquiries.

3. On December 15, 2020, Mr. Kalbasy plead guilty to and was convicted of the *Criminal Code of Canada* R.S.C. 1985, c.C-46, offence of fraud under \$5,000, in respect of the above acts.

4. In May 2019, the College undertook a chart review of thirty two (32) patient records for patients of Mr. Kalbasy who had attended at the Clinic over a period of August 1, 2016 to April 30, 2019.
5. Mr. Kalbasy's records failed to maintain the standards of practice in respect of record-keeping, including that:
 - a. In the files reviewed, the majority of patient appointments in 2018 were not recorded in the appointment calendar;
 - b. Patient consent to treatment was not documented in 26 of the 32 patient records, and where it was documented, the documentation did not meet the standards of practice of the profession;
 - c. In all 32 patient records, the assessment and/or treatment notes failed to record, or adequately record, objective data specific to the client's condition and/or contained generic and repetitive information;
 - d. In the majority of the patient records, subjective patient information was duplicative and generic;
 - e. For various patients the treatment goals and/or treatment plans were duplicative, generic and/or lacked sufficient detail to track progress (Patients A.E., M.A., S.A.)
 - f. Twelve (12) of the patient records failed to contain a documented diagnosis;
 - g. Treatment was continued for patients over an excessive period of time without progress, change in treatment, or objective justification for continued treatment documented in the chart (Patient #4, 130 appointments over 16 months); (Patient #5, 149 appointments over a

19 month period); (Patient #25, 29 appointments with minimal changes to treatment).

- h. In seventeen (17) patient records, treatments ceased without explanation or discharge documented in the patient record.
- i. Where patients were recommended a home exercise program, the patient record provides no details on what exercises were recommended;

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.