

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

B E T W E E N :

COLLEGE OF PHYSIOTHERAPISTS OF ONTARIO

- and -

PATRICIA VOGEL, Registration Number 13677

NOTICE OF HEARING

The Inquiries, Complaints and Reports Committee of the College of Physiotherapists of Ontario has referred specified allegations against Patricia Vogel 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, 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:

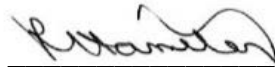
Ursel Phillips Fellows Hopkinson LLP
555 Richmond St. West, Suite 1200
Toronto, ON M5V 3B1

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: September 28, 2021



Rod Hamilton, Registrar
College of Physiotherapists of Ontario

TO:

Patricia Vogel

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Statement of Allegations

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

2. In the period of June 3, 2017 to September 15, 2021, Ms. Vogel 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 13 (failing to reply appropriately or within a reasonable time to a written inquiry from the College);
 - c. paragraph 14 (contravening, by act or omission the *Physiotherapy Act, 1991* the *Regulated Health Professions Act, 1991* or the regulations under either of those Acts);
 - d. paragraph 15 (contravening a federal, provincial or territorial law relevant to the member's suitability to practice)
 - e. 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);
 - f. paragraph 26 (failing to keep records in accordance with the standards of practice of the profession).

3. In the period August 5, 2020 to September 15, 2021, Ms. Vogel failed to cooperate fully with an Investigator from the College as required by s.76(3.1) of the Health Professions Procedural Code, being schedule 2 to the *Regulated Health Professions Act, 1991* R.S.O. 1991, c.18.

PARTICULARS OF THE ALLEGATIONS

1. At all material times Ms. Vogel was a physiotherapist registered with the College of Physiotherapists of Ontario, and the owner of a Clinic in Sudbury, which operated under the name Colibri Physiotherapy (the “Clinic”).
2. In the period of June 3, 2017 to September 14, 2017, Ms. Vogel treated Patient A on numerous occasions in relation to a whiplash injury sustained by Patient A in a motor vehicle accident.
3. In the months of March 2019 to August 2020, Patient A and Patient A’s legal counsel made repeated requests from Ms. Vogel for a copy of Patient A’s clinical records. Ms. Vogel never provided a copy of the clinical records to Patient A or their counsel.
4. In August 2020, the College attempted to assist Patient A in obtaining their records from Ms. Vogel. The College made numerous attempts to contact Ms. Vogel at the contact information provided by Ms. Vogel to the College. The phone number(s) were not in service. Ms. Vogel did not respond to emails from the College sent to her email address provided by her to the College.
5. In or about October 1, 2020, Ms. Vogel renewed her Certification of Registration with the College and provided certain updated contact information to the College.
6. Ms. Vogel did not respond to further communications from the College directed to her updated contact information, which further communications included but were not limited to:
 - a. Repeated delivery of the Notice of Patient A’s Complaint by email on October 7 and 26, 2020;

- b. Delivery of the Notice of Patient A's Complaint sent via Constant Contact on November 3, 2020;
 - c. Delivery of the Notices of Complaint and Registrar's Investigation served personally on Ms. Vogel via process server on December 11, 2020;
 - d. Voice mail messages left with Ms. Vogel at the phone number she provided to the College, including messages left on October 26, 2020 and January 18, 2021;
 - e. Email to Ms. Vogel on January 18, 2021
 - f. A summons from the College served personally on Ms. Vogel by process server on February 17, 2021, compelling Ms. Vogel to produce Patient A's clinical records;
 - g. Delivery of the Notices of Complaint and Registrar's Investigation served personally on Ms. Vogel via process server on May 5, 2021;
 - h. Delivery of the Notices of Complaint and Registrar's Investigation sent via Constant Contact on May 5, 2021;
 - i. Delivery of the Notice of Complaint and Registrar's Investigation sent via Constant Contact on June 15, 2021.
7. To date, Ms. Vogel has not responded to any communications from the College nor has she produced Patient A's clinical records to the College or Patient A.

8. Ms. Vogel failed to maintain patient records and failed to provide Patient A with copies of their clinical records in a timely way or at all, as required by the standards of practice for the profession and the *Personal Health Information Protection Act, 2004, S.O. 2004, c. 3* (“PHIPA”).

9. Ms. Vogel failed to provide updated contact and practice information to the College, 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.