

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

B E T W E E N :

COLLEGE OF PHYSIOTHERAPISTS OF ONTARIO

- and -

KELLY-LYNNE NEALE, Registration Number 11947

NOTICE OF HEARING

The Inquiries, Complaints and Reports Committee of the College of Physiotherapists of Ontario has referred specified allegations against Kelly-Lynne Neale 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: December 17, 2024



Craig Roxborough, Registrar & CEO
College of Physiotherapists of Ontario

TO: Josh Koziembrocki
Koziembrocki Law
60 Shaftesbury Ave,
Toronto, ON M4T 1A3
josh@koziembrockilaw.com

Statement of Allegations

1. At all material times Kelly-Lynne Neale (the “Registrant”) was a registered physiotherapist with the College of Physiotherapists of Ontario and the co-owner and principal of MOVE Physiotherapy and Massage Therapy in Burlington, Ontario (the “Clinic”).
2. In the period January 1, 2018 to April 2023, the Registrant 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 maintain records in accordance with the standards of practice of the profession).

PARTICULARS OF THE ALLEGATIONS

1. At all material times Kelly-Lynne Neale (the “Registrant”) was a physiotherapist registered with the College of Physiotherapists of Ontario, and the co-owner and principal of MOVE Physiotherapy and Massage Therapy in Burlington, Ontario, (the “Clinic”) where the Registrant practices physiotherapy.
2. In the period of January 1, 2021 to December 31, 2021, the Registrant possessed, used on a patient, and sold to a patient and others, an illicit cannabis product (a topical cannabis cream), as defined by the *Cannabis Act*, S.C. 2018, c.16.
3. In the period of January 1, 2021 to December 31, 2021, the Registrant possessed, used on a patient, and sold to a patient and others, a cannabis cream containing CBD and/or CBD and THC, when the Registrant did not hold a provincial or federal license or authorization to possess, distribute, or sell cannabis products.
4. In or about August 14, 2021, the Registrant sold cannabis cream to a patient for \$50 cash. On this date, the Registrant asked the patient not to report the Registrant to the College of Physiotherapists.
5. At the material times, the Registrant possessed, distributed and/or sold to a patient, a cannabis cream which the Registrant knew or believed the cannabis cream to be an illicit cannabis product as defined by the *Cannabis Act* and when the Registrant knew that she should not be using the cream on, or selling the cream to, patients of her practice.
6. In respect of the allegations set out above, the Registrant contravened one or more of ss. 8(1)(b), 9(1), 9(2), 10, 17(1) and 18(1) of the *Cannabis Act*, S.C. 2018, c.16; and ss. 6(1) and 15(1) of the *Cannabis Control Act*, S.O. 2017, c. 26.
7. In the appointment(s) with the patient to whom the Registrant sold the cannabis cream, the Registrant failed to maintain the standards of practice of the profession with respect to informed consent when providing direct clinical care to, and/or touching, and/or applying cream to, the patient’s body.
8. In the course of the investigation, the College obtained the clinical records of twelve (12) patients who were treated by the Registrant on dates during the period of January 2018 to April 2023. The clinical records did not maintain the standards of practice of the profession in respect of record keeping and/or fees and billing, including in that:
 - a. Of the twelve charts reviewed, two charts contained only invoices and no other clinical notes or entries;
 - b. The remaining ten charts failed to contain any or adequate objective or subjective data or assessments, clinical analysis, diagnosis, patient goals or treatment plans;

- c. Consent to treatment was not documented;
- d. The charts were not legible;
- e. Provider information was absent, including identifying the physiotherapist and/or the physiotherapist assistant involved in the patient's care;
- f. The clinical notes did not permit continuity of care by another treating professional;
- g. Invoices were missing for appointments that were billed;
- h. Some charts contained the personal identifying information of other patients.

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.