

**DISCIPLINE COMMITTEE OF
THE COLLEGE OF OCCUPATIONAL THERAPISTS OF ONTARIO**

B E T W E E N:

COLLEGE OF OCCUPATIONAL THERAPISTS OF ONTARIO

- and -

DAVE KAMINSKI

NOTICE OF HEARING

The Inquiries, Complaints and Reports Committee of the College of Occupational Therapists of Ontario (the "College") has referred specified allegations against Dave Kaminski to the Discipline Committee of the College. The allegations were referred in accordance with section 26 of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991* (the "Code"). The Statement of Allegations is attached to this Notice of Hearing. A panel of the Discipline Committee of the College will hold a hearing under the authority of sections 38 to 56 of the *Code*, as amended, for the purposes of deciding whether the allegations are true. A discipline panel will convene at a location to be determined by the Registrar and on a date and time to be determined by the Registrar, or as soon thereafter as the panel can be convened, for the purposes of conducting the discipline hearing.

IF YOU DO NOT ATTEND ON THE DATE FOR 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 a member such as yourself has 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.
6. If the act of professional misconduct was the sexual abuse of a patient, require the member to reimburse the College for funding provided for that patient under the program required under section 85.7 of the *Code*.
7. If the panel makes an order under paragraph 6, require the member to post security acceptable to the College to guarantee the payment of any amounts the member may be required to reimburse under the order under paragraph 6.

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 *Code*.

You are entitled to disclosure of the evidence against you in accordance with section 42(1) of the *Code*, as amended. You, or your representative, may contact the solicitor for the College in this matter:

Rebecca Durcan
Steinecke Maciura LeBlanc
Barristers & Solicitors
401 Bay Street
Suite 2308, P.O. Box 23

Toronto, ON M5H 2Y4

Telephone: (416) 644-4783

Facsimile: (416) 593-7867

You must also make disclosure in accordance with section 42.1 of the *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.

You must also make disclosure in accordance with the *Discipline Committee Rules of Procedure*, which states as follows (please refer to the whole rule so you are fully informed):

7.01(1) A party to a hearing shall, at least ten (10) days before the pre-hearing conference,

(a) disclose to the other party the existence of every document and thing that the party will refer to or give in evidence at the hearing; and

(b) produce to the other party a list of witnesses and a witness statement for any witness to be called by that party, or for any witness where a statement does not exist, a summary of the evidence that the witness will give at the hearing, including in either case, the name and contact information for the witness, the substance of the evidence of the witness and any document that the witness will refer to.

7.01(2) Where a party discovers a document or thing that it will refer to or give in evidence at the hearing or discovers a witness or additional substance of the evidence of an already identified witness after the disclosure date specified in subrule 7.01(1), the party shall make the disclosure immediately after the discovery.

Date: _____

Elinor Larney
Registrar
College of Occupational Therapists of
Ontario

TO: Dave Kaminski
55 Southwood Crescent
London, Ontario
Canada N6J1S8

DAVE KAMINSKI

STATEMENT OF ALLEGATIONS

The Registrant

1. At the material times, David Kaminski (the "Registrant") was a duly registered member of the College of Occupational Therapists of Ontario (the "College").
2. At the material times, the Registrant practised occupational therapy at a hospital in London, Ontario.

The Client

3. The Registrant provided occupational therapy services to a female client (the "Client") from in or about June 2014 to in or about February 2016.
4. During the treating relationship, the Registrant learned that the Client was suffering from anxiety, depression, an eating disorder and/or alcohol use problems.
5. During the treating relationship, the Registrant disclosed personal information about his own family to the Client, including problems with his marriage and/or sex life.
6. Prior to the end of the treating relationship, the Registrant gave his personal cellphone number to the Client and encouraged her to contact him if she needed a friend, or words to that effect.
7. Within approximately one month of the end of the treating relationship, the Registrant entered into a personal relationship with the Client which lasted until in or about 2017, and included one or more of the following:
 - a. Exchanging emails and texts of a personal and/or sexual nature; and/or
 - b. Kissing and hugging; and/or
 - c. Touching of a sexual nature; and/or
 - d. Sexual intercourse.

Professional Misconduct Alleged

8. It is alleged that the above conduct constitutes professional misconduct pursuant to one or more of the following:
 - a. Clause 51(1)(c) of the Code and as defined in one or more of the following paragraphs of section 1 of Ontario Regulation 95/07 made under the *Occupational Therapy Act, 1991*:
 - i. paragraph 1 (Contravening, by act or omission, a standard of practice of the profession or failing to maintain the standard of practice of the profession (including but not limited to the Standard for Professional Boundaries); and/or
 - ii. paragraph 4 (Engaging in conduct of a sexual nature with someone, other than a client, i. with whom the member has a professional relationship, or ii. In relation to whom the member is in a position of authority or trust)
 - iii. paragraph 48 (Engaging in conduct or performing an act, relevant to the practise of the profession, that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional); and/or
 - iv. paragraph 49: (Engaging in conduct that would reasonably be regarded by members as conduct unbecoming an occupational therapist).

APPENDIX

1. The documents to be tendered in evidence at the hearing have been sent with this Notice of Hearing.
2. Take notice that the documents that have been and may later be disclosed to you will be tendered as business documents pursuant to the *Evidence Act* of Ontario.
3. 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.

DISCIPLINE COMMITTEE OF THE
COLLEGE OF OCCUPATIONAL
THERAPISTS OF ONTARIO

NOTICE OF HEARING

STEINECKE MACIURA LEBLANC

Barristers & Solicitors
401 Bay Street
Suite 2308, P.O. Box 23
Toronto, ON M5H 2Y4

Rebecca C. Durcan, LSO #45930V

Telephone: (416) 644-4783
Facsimile: (416) 593-7867
E-Mail: rdurcan@sml-law.com

Solicitors for the College of Occupational
Therapists of Ontario