

CORU

IN THE MATTER OF AN INQUIRY UNDER PART 6
OF THE HEALTH AND SOCIAL CARE PROFESSIONALS ACT 2005

RE: MR. IGOR CASTRO - PT043675

HEARING BEFORE THE PROFESSIONAL CONDUCT COMMITTEE
AT THE OFFICES OF CORU, INFINITY BUILDING, GEORGE'S LANE,
SMITHFIELD, DUBLIN
ON TUESDAY, 10TH DECEMBER 2024

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ATTENDANCES

COMMITTEE MEMBERS: MS. GERALDINE FEENEY
MS. AILEEN SHEEHAN
MR. DAVID TIGHE

LEGAL ASSESSOR: MR. FRANK BEATTY SC

FOR THE REGISTRAR: MS. CAOIMHE DALY BL

INSTRUCTED BY: MS. RUTH GAHAN
FIELD FISHER SOLICITORS

FOR THE REGISTRANT: MR. SHAUN SMYTH BL

INSTRUCTED BY: MR. CONOR RUANE
RUANE AND COMPANY SOLICITORS

ALSO PRESENT: MR. IGOR CASTRO
REGISTRANT

MR. KEVIN KELLY BL
PUPIL TO MS. DALY

MR. PEARSE COLLINS BL
PUPIL TO MR. SMYTH

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1 THE HEARING COMMENCED AS FOLLOWS ON TUESDAY,
2 10TH DECEMBER 2024:

3
4 CHAIRPERSON: Good morning. This is an Inquiry
5 convened under the Part 6 of the Health and Social Care 10:42
6 Professionals Act 2005 in respect of Igor Castro,
7 registered physiotherapist, registration number
8 PT043675.

9
10 This Inquiry will be conducted in public. The 10:42
11 recording or live-streaming of this Inquiry is strictly
12 prohibited. No one is permitted to make any video or
13 audio or other recording or image whatsoever of any
14 part of the Inquiry. This prohibition includes a
15 photograph, screenshot or screen grab or any like or 10:43
16 related mechanisms.

17
18 My name is am Geraldine Feeney. I am a lay person. I
19 am not a Registrant of CORU. I am the Chairperson of
20 this Committee. As Chairperson, I am responsible for 10:43
21 the conduct of this hearing. The other members sitting
22 with me today are Ms. Aileen Sheehan is sitting on my
23 right, Aileen is a registered physiotherapist, and
24 Mr. David Tighe is sitting on my far left who is a
25 registered radiographer. 10:43
26

27 Mr. Frank Beatty, Senior Counsel, is sitting on my
28 left. Mr. Beatty is the legal assessor to the
29 Committee. The legal assessor is not a member of the

1 Committee. The legal assessor's role is to assist and
2 advise the Committee in relation to legal issues that
3 may arise during the course of the hearing. The legal
4 assessor will provide his legal advice to the Committee
5 of Inquiry in the presence of everyone here today. I 10:44
6 will ask the parties to make submissions in relation to
7 the legal assessor's advice.

8
9 I intend to conduct this Inquiry in accordance with
10 natural and constitutional justice and in accordance 10:44
11 with fair procedures.

12
13 During the Inquiry, I request the parties or the legal
14 representative for the parties when making any
15 submission to the Professional Conduct Committee to 10:44
16 address through me as Chairperson. The Committee may
17 retire to make its decision in camera will contract
18 decisions made and any legal advice from the legal
19 assessor. I will now take appearances.

20 MS. DALY: Good morning, Chair and members of the 10:44
21 Committee. My name is Caoimhe Daly. I am counsel
22 appearing on behalf of the Registrar instructed by Ruth
23 Gahan of Field Fisher Solicitors and immediately behind
24 me is Mr. Kevin Kelly BL who is my devil.

25 CHAIRPERSON: Thank you very much, Ms. Daly. 10:45

26 MR. SMYTH: Good morning, Madam Chair, Committee
27 members. My name is Shaun Smyth, counsel. I am
28 instructed by Mr. Conor Ruane, solicitor, who is to my
29 immediate right, for the Registrant, Mr. Igor Castro,

1 who is present, and at the extreme right of my table,
2 your extreme left is my pupil Mr. Pearse Collins,
3 barrister.

4 CHAIRPERSON: Thank you very much. Ms. Daly.

10:45

6 APPLICATION BY MS. DALY:

8 MS. DALY: In terms of there is one preliminary
9 application and that's in relation to the Notice of
10 Inquiry and an amendment, and that application is made 10:45
11 on consent between the parties. If one turns to tab 1
12 and page 3 of that tab.

13 CHAIRPERSON: Sorry, can you guide us again, what is it
14 under?

15 MS. DALY: It's tab 1, page 3. It's the Notice of 10:45
16 Inquiry itself.

17 CHAIRPERSON: Thank you.

18 MS. DALY: And if one goes down that page, you can see
19 the number 26:

10:46

21 "Make sure that any advertising is truthful,
22 accurate..."

24 Immediately below that paragraph, so following the (a)
25 and (b), it should provide:

10:46

27 "and thereby constitutes professional misconduct."

29 So the amendment being sought is the inclusion of:

1 "and thereby constitutes professional misconduct."

2
3 And as members of the Committee will learn through the
4 evidence and the opening this morning, the matter was
5 referred on the basis of professional misconduct. It's 10:46
6 apparent from the documentation that professional
7 misconduct is part of the allegation and has always
8 been so. The expert report is included within the Core
9 Book and it makes findings of professional misconduct,
10 subject indeed to the Committee. But ultimately it's 10:46
11 at all times been part of the case. So just to reflect
12 the totality and clarity, it's included and is being
13 sought:

14
15 "and thereby constitutes professional misconduct." 10:47
16

17 As I say, that's on agreement between the parties.

18 MR. SMYTH: I can confirm that, Madam Chair. I am on
19 notice of that amendment and subject to the Committee,
20 there is no difficulty from my perspective. Ms. Daly 10:47
21 is quite correct that the substance of those
22 allegations are readily apparent from the core booklet
23 in its entirety, so no difficulty.

24 CHAIRPERSON: Great, thank you, Mr. Smyth. Ms. Daly.

25 MS. DALY: In terms of that amendment, I don't know 10:47
26 whether --

27 CHAIRPERSON: Can we take legal advice on that?

28 MR. BEATTY: I don't think it's necessary for me to...

29 CHAIRPERSON: I just assumed when it was agreed, yes.

1 MS. DALY: That's fine, there's no difficulty. Then
2 moving forward in terms of housekeeping and how we
3 proceed, as will become apparent in due course, there
4 are full admissions to what is contained within the
5 Notice of Inquiry. That being so, it is proposed, and 10:47
6 ultimately it's a matter for the Committee how the
7 Committee want to proceed, but what is being suggested
8 is that I open the case and during the course of that
9 opening, I will read in the witness statements that are
10 part of the Core Book, which would have been the live 10:48
11 evidence that the Committee would have heard were it
12 the case that the matter was to be contested. I will
13 read that in as part of my opening.

14
15 In addition to that, I will read in the sections of the 10:48
16 expert report. If the Committee wish to hear from the
17 expert, the expert is here but her report is there and
18 the opinions expressed therein. And then at the
19 conclusion of my opening address, I will then make a
20 brief submission on sanction and at that juncture I 10:48
21 will hand matters over to Mr. Smyth who can then
22 address you with regards to what his submissions are in
23 terms of the appropriate course for the Committee I
24 think by way of sanction.

25 10:48
26 So that I suppose is a screenshot as it were of how we
27 would propose to progress matters this morning, but
28 ultimately it's a matter for the Committee whether you
29 are satisfied with that approach or whether there is an

1 alternative approach that you would rather progress
2 with this morning.

3 CHAIRPERSON: It's now ten to 11. I would suggest that
4 we proceed along the lines you have outlined and we
5 will go until 1 o'clock and we will break for lunch 10:49
6 from 1 until 2 and back in. How long do you think you
7 are going to be, Ms. Daly?

8 MS. DALY: I loathe when a barrister is asked that
9 question, but I would hope half an hour maybe. As you
10 can see from the Core Book, there is not a substantial 10:49
11 amount of the material in it and hopefully by reading
12 it, it will short circuit.

13 CHAIRPERSON: No, and the reason I ask that is just so
14 that my housekeeping will flow. But we'll start and
15 that's the intention we were going to rise but there 10:49
16 may be some adjournments and back in and out in the
17 meantime.

18 MS. DALY: Thank you.

19 CHAIRPERSON: Thank you, thanks, Ms. Daly.

20 MR. BEATTY: I wonder just to short circuit matters, if 10:49
21 I could just look for one or two clarifications. So
22 the allegations are being admitted as to fact?

23 MR. SMYTH: Indeed, I can address that for the benefit
24 of the Chair and the Committee, and I am obliged to
25 Mr. Beatty for raising it. So as a preliminary I 10:50
26 suppose concession, I can indicate that as previously
27 indicated in writing by my instructing solicitor, each
28 individual allegation is admitted in full. The factual
29 basis grounding each complaint or each allegation as

1 set out in the core booklet is also admitted. So no
2 issue is being taken with any of the evidence to be
3 called by Ms. Daly, hence should the Committee agree
4 with the dispensing of viva voce oral evidence, I have
5 no difficulty with that, with the reading in of all of 10:50
6 the evidence. And indeed it's further admitted that
7 the breaches which are admitted do amount to
8 professional misconduct. So that's not required by the
9 Registrant to be proven by Ms. Daly, subject of course
10 as always to the Committee if that's of some 10:50
11 assistance.

12 MR. BEATTY: I just wonder if I could just tease that
13 out a little. So the allegations are being admitted as
14 to fact and that's very helpful. The allegations are
15 being admitted as to poor professional performance? 10:51

16 MS. DALY: That's what I was about to clarify.

17 MR. BEATTY: Yes.

18 MR. SMYTH: Yes, I think that's --

19 MR. BEATTY: Is that individually each allegation and
20 sub-allegation? 10:51

21 MR. SMYTH: Yes.

22 MR. BEATTY: And as to professional misconduct, each
23 allegation and sub-allegation individually amounts to
24 professional misconduct.

25 MR. SMYTH: Yes. 10:51

26 MR. BEATTY: And then I presume insofar as it comes
27 under the definition of professional misconduct, each
28 alleged breach of the Code is admitted then as well?

29 MR. SMYTH: Precisely so.

1 MR. BEATTY: Yes, that's very helpful, Mr. Smyth. And
2 then in relation to the documentation, I just want to
3 make sure that I understand this correctly, in relation
4 to the documentation, the Committee as I understand it
5 have a Core Book. That Core Book goes from tabs 1
6 through to 10. Now, some of that I am sure is the Code
7 of Professional Conduct but those documents are
8 admitted without the necessity for formal proof?

10:51

9 MR. SMYTH: Correct.

10 MR. BEATTY: And as to the truth of their content?

10:52

11 MR. SMYTH: Correct, yes.

12
13 LEGAL ADVICE BY MR. BEATTY:

14
15 MR. BEATTY: That's very helpful. So that means that
16 the Committee can take the documents at face value so
17 to speak. Then the only issue that arises is the
18 expert report, and that's ultimately a matter for the
19 Committee because it's for the Committee to decide not
20 only in relation to the evidence but as to the weight
21 given to the evidence and in that respect I understand
22 that Ms. Daly -- sorry, I understand from Mr. Smyth
23 that the expert report is agreed, so that too is very
24 helpful. And then Ms. Daly has simply signalled to the
25 Committee that it can either decide to read the report
26 or it can hear from the witness herself and of course
27 that's a decision that the Committee do not have to
28 come to at this stage. I suppose logistically the
29 expert is in another room and is awaiting whatever

10:52

10:52

10:52

1 decision you make. So it seems to me just for
2 proficiency and efficiency that you may wish to make
3 that decision not now but you may wish as early as you
4 can and maybe if there was a coffee break later on or
5 if there was a break, you could consider the report and 10:53
6 decide if you need to hear from the witnesses. So
7 those are the only advices I would give as regards
8 proceeding.

9 CHAIRPERSON: Okay, Ms. Daly, do you want to come back
10 in on the advice we've just heard? 10:53

11 MS. DALY: I've no difficulty with anything that's been
12 raised by Mr. Beatty and indeed in relation to the
13 expert, I will open her report and that may assist the
14 Committee in terms of considering whether they want to
15 hear from her. 10:53

16 CHAIRPERSON: Okay, thank you. Mr. Smyth, you're okay
17 can with that advice?

18 MR. SMYTH: I think that makes great sense, Chair,
19 thank you, yes.

20 CHAIRPERSON: Great, okay. 10:53

21 MR. BEATTY: Ms. Daly, and I promise this is the last
22 interruption, just the amendment, I just for some
23 reason didn't seem to get it.

24 MS. DALY: If you go to page 3 of the Notice of Inquiry
25 and halfway down there is a number 26 and then (a) and 10:53
26 (b) and underneath that it should provide:

27
28 "and thereby constitutes professional misconduct."
29

1 MR. BEATTY: Thank you.

2
3 SUBMISSION BY MS. DALY:

4
5 MS. DALY: So if we could stay then with that Notice of 10:54
6 Inquiry and I will commence at that juncture. So tab 1
7 provides the Notice of Inquiry and we can see it sets
8 out:

9
10 "NOTICE OF INTENTION TO HOLD AN INQUIRY UNDER PART 6 OF 10:54
11 THE ACT",

12
13 and it's addressed to Mr. Castro at his registered
14 address and it provides his registration number as
15 PT043675. Then the Notice provides: 10:54

16
17 "WHEREAS the Preliminary Proceedings Committee having
18 considered all information furnished to them in
19 relation to the complaint of Dr Sean Fitzpatrick, 51
20 Parnell Square West, Dublin 1 (the "Complaint")
21 pursuant to Part 6 of the Act, was of the opinion that
22 there was sufficient cause to warrant further action
23 being taken in relation to the Complaint against you on
24 the grounds of:

25
26 "a) professional misconduct within the meaning of
27 Section 52(1)(a) of the Act as that term is defined by
28 Section 50 of the Act;

1 "b) poor professional performance within the meaning of
2 Section 52(1)(b) of the Act, as that term is defined by
3 Section 50 of the Act; and,
4

5 "AND WHEREAS the Complaint was referred by the
6 Preliminary Proceedings Committee pursuant to Section
7 56(1)(b)(i) of the Act to a Professional Conduct
8 Committee.
9

10 "AND WHEREAS you were notified by the Registrar in
11 accordance with the provisions of Section 57(1) of the
12 Act that the Complaint had been referred to a
13 Professional Conduct Committee.
14

15 "NOW TAKE NOTICE that a Professional Conduct Committee
16 will proceed to hold the Inquiry, on a date to be
17 identified, at the offices of CORU, Dublin 7
18

19 "AND FURTHER TAKE NOTICE that the allegations to be
20 considered at the Inquiry are as follows:
21

22 "That you, being a registered Physiotherapist,
23 practising at 'Igor Castro Pain Relief Clinic', Floor
24 3, Prosperity Chambers, O'Connell Street, Dublin 1
25 ("practice premises");
26

27 "1. In or around October 2023 administered "Liztox", a
28 Korean brand of Botulinum Toxin ("Botox") at your
29 practice premises to one or more of the following

1 clients:

2
3 "• Client A; and/or
4 • Client B; and/or
5 • Client C; when such administration fell outside of
6 the scope of practise of a registered physiotherapist;
7 and/or

8
9 "2. Between in or around October 2023 and in or around
10 November 2023 published one or more posts via Instagram
11 accounts @iglcastro and/or @igorcastropainrelief
12 promoting the fact that you were administering Botox to
13 clients/patients when such administration fell outside
14 of the scope of practise of a registered
15 physiotherapist; and/or

16
17 "3. Such further allegations as may be notified to you
18 in advance of the Inquiry."

19
20 And there are no such further allegations. Thereafter
21 the Notice provides:

10:56

22
23 "AND FURTHER TAKE NOTICE that the act(s), omission(s)
24 or pattern(s) of conduct at one or more of allegations
25 at 1 – 3 above amount individually and/or in
26 combination and/or cumulatively to act(s), omission(s)
27 or pattern(s) of conduct that constitute a failure by
28 you to meet the standards of competence that may
29 reasonably be expected of a registered physiotherapist

1 and thereby constitute poor professional performance.

2
3 "AND FURTHER TAKE NOTICE that it is alleged that the
4 act(s) and/or omission(s) and/or pattern(s) of conduct
5 at one or more of allegation 1 and/or 2 above, amount
6 individually and/or in combination and/or cumulatively
7 to act(s), and/or omission(s) and/or pattern(s) of
8 conduct that constitute a breach/breaches of the
9 following sections of the Physiotherapists Registration
10 Board Code of Professional Conduct and Ethics, adopted
11 by the Physiotherapists Registration Board [contained
12 in the Schedule to the Code of Professional Conduct and
13 Ethics for Physiotherapists Bye-Law 2019 (S.I. No.
14 45 of 2019) which came into effect on 28 February
15 2019]:

16
17 "3. Maintain high standards of personal conduct and
18 behaviour

19 3.1 You must:

20 b. Conduct yourself in a manner that enhances public
21 confidence in you and your profession

22
23 "4. Use social media responsibly

24 4.2 You must not:

25 a. Use social media in a way that would breach any of
26 your obligations under this Code

27
28 "7. Obey laws, regulations and guidelines

29 You must

1 a. Know and work within the laws, regulations and
2 guidelines governing your practice and keep up to date
3 with any changes in legislation or regulation or
4 guidelines

5 b. Obey the laws of the country in which you live and
6 work in both your professional practice and your
7 personal life.

8
9 "9. Act within the limits of your knowledge, skills,
10 competence and experience

11 You must

12 a. Act within the limits of your knowledge, skills,
13 competence and experience

14 b. Practise only in areas in which you have relevant
15 knowledge, skills, competence, experience or are
16 appropriately supervised

17 f. Be able to justify any decisions you make within
18 your scope of practice. You are always accountable for
19 what you do, what you fail to do, and for your
20 behaviour

21 g. Meet professional standards of practice and work in
22 a lawful, safe and effective manner

23
24 "22. Demonstrate ethical awareness

25 22.1 You must:

26 c. Make sure you read, understand and comply with this
27 Code of Professional Conduct and Ethics

28
29 "26. Make sure that any advertising is truthful,

1 accurate, lawful and not misleading

2 You must:

3 a. Make sure that any advertising is truthful,

4 accurate, lawful and not misleading

5 b. Only advertise, promote or recommend a product or

6 service that is based on your professional opinion as

7 to service user needs

8
9 "and thereby constitutes professional misconduct."

10
11 I propose, subject to the Committee, to take the

12 remainder of the Notice as read and if one turns over

13 to page 4, you can see that it is signed by Ms. Claire

14 O'Cleary, the Registrar for the Physiotherapists

15 Registration Board, and it is dated 8th November 2024.

10:59

16
17 Then there over at page 5, we can see the list of what

18 were proposed witnesses and ultimately by virtue of the

19 indication that has been given by Mr. Smyth this

20 morning on behalf of his client, those witness

11:00

21 statements that are included within the bundle are now

22 agreed.

23
24 If one turns to tab 2A, page 4, which is page 9 of the

25 overall pagination, the Committee can see there an

11:00

26 e-mail dated 22nd February 2023.

27 MS. SHEEHAN: Sorry, we can't...

28 MS. DALY: You can't, sorry.

29 MS. SHEEHAN: So what page is it again now?

1 MS. DALY: It's tab 2A, page 4 or overall pagination 9.

2 MR. SMYTH: I have page 12 overall pagination.

3 CHAIRPERSON: what date is on the e-mail? 22nd
4 November, is that the e-mail?

5 MS. DALY: Indeed, yes. we'll get there. So there is 11:00
6 an e-mail from Dr. Fitzpatrick, and you can see it's
7 addressed to:

8
9 "Dear Lorna

10 As requested I have completed the FTP form provided and
11 I also attached relevant evidence."

12
13 And if one moves through that bundle three pages
14 forward, which is my page 7 but I think it's going to
15 be someone else's, you will see there the complaint 11:01
16 form itself, page 15, yeah, page 15, you can see the
17 complaint form.

18
19 And then turning over to page 16 you can see it's from
20 Mr. Fitzpatrick. It sets out his e-mail address and 11:01
21 his mobile telephone phone number, and if one continues
22 on thereafter, you can see two pages on the complaint
23 is being made in relation to Mr. Castro and it sets out
24 his work address as Floor 3, Prosperity Chambers
25 O'Connell Street, Dublin 1. Then there over the page 11:02
26 at section 3 it provides details of complaint, which is
27 page 21, and it sets out:

28
29 "Mr Castro is offering Botulinum Toxin treatments in

1 his practice. He is the marketing these procedures via
2 his Instagram page. He is administering the
3 prescription drug and has posted images of this on his
4 social media platform.

5
6 "Time(s) the things you are complaining about happened"

7
8 and set out there is:

9
10 "Presently.

11
12 "Where did the things you are complaining about happen?

13 - Mr Castro's clinic

14 - Advertising the services via his Instagram and
15 website".

16
17 Thereafter the following box is:

18
19 "What happened?

20
21 "In Ireland it is very clear in the law that Botulinum
22 Toxin treatments can ONLY be prescribed and
23 administered by registered medical doctors and/or
24 dentists.

25
26 "Please see the medicines. i.e guidelines for toxin
27 brands.

28
29 "I refer to the most recent case of a Psychiatric nurse

1 who was found guilty in the High Court and fined
2 €10,000 for the criminal offence.

3
4 "Mr Castro's activities have been reported to the HPRA
5 and it is beholden on me to ensure that his regulatory
6 body is made aware of these illegal activities."

7
8 And if one then moves forward to the end of that, which
9 is my page 15, which is page 23, we can see that it's
10 signed by Sean Fitzpatrick and it's dated 22nd November 11:03
11 2023.

12
13 If one moves on through that pagination to in
14 particular page 18, my page 18, which is page 26 of the
15 overall pagination, 11:04

16 CHAIRPERSON: I don't think they're matching up,
17 Ms. Daly -- sorry, the earlier ones weren't, we were
18 two behind you but this one seems to be okay, thank
19 you.

20 MS. DALY: The top of that page should be an e-mail 11:04
21 from Dr. Fitzpatrick to the Fitness to Practise and
22 what you can see immediately below on that page is
23 correspondence that Dr. Fitzpatrick was having with
24 HPRA. So in effect what occurred is Dr. Fitzpatrick
25 made a complaint to HPRA. HPRA then communicated with 11:04
26 Dr. Fitzpatrick and then Dr. Fitzpatrick has forwarded
27 that communication in the context of making that
28 complaint to CORU, and you can see in the body of that
29 e-mail, which is dated 13th November 2023:

1 "I hope this email finds you well. I would like to
2 submit a report of a previous patient of mine, Mr Igor
3 Castro. This gentleman is a physiotherapist trained in
4 Brazil. He is currently offering Botox treatments via
5 his Instagram page and clinic website. He is the
6 administrator of the treatments as clearly shown in the
7 images attached which is in direct contravention to the
8 current prescribing regulations.

9
10 "Many thanks for looking into this for me."

11
12 And if one continues over the page, you can see a
13 screenshot of the images of the top of that page, and
14 then at the bottom we can see that there is further
15 correspondence from Mr. Ciaran Wright to Mr. Cullen and 11:05
16 it sets out the legal framework in relation to toxin
17 treatments and how it is regulated in this
18 jurisdiction, and I will take you to the statement from
19 Mr. Ciaran Wright in due course in relation to that.

20 11:05
21 With regards to the images that have been attached, if
22 one turns to tab 4, which is page 114, we can see that
23 this is correspondence that was provided by
24 Dr. Fitzpatrick but at page 115, you can see clearer
25 images of those images that you have just seen coupled 11:06
26 together. So at page 115, you can see an Instagram
27 image and you can see in the top left-hand corner it
28 has the iglcastro and then if one moves on to 117, you
29 can see the iglcastro homepage, Instagram homepage.

1 Then if one continues on over the page you can see a
2 reel, "Watch Full Reel", iglcastro, and an image of the
3 Botox being administered on the Instagram page.

4
5 If one returns to tab 2B, we can see there set out is 11:06
6 correspondence that was provided by Mr. Castro's legal
7 representatives on foot of being made aware of the
8 complaint and in particular at page 2 of tab 2B, which
9 is page 43, we can see there is an e-mail from
10 Mr. Ruane dated 7th December 2023 and this is on foot 11:07
11 of Mr. Castro being made aware of the complaint and he
12 provides:

13
14 "Dear Mr Kiernan,

15
16 "We have recently been instructed on behalf of the
17 above named, Igor Castro. Our client has never been in
18 this situation before. Please be assured he is taking
19 the complaint very seriously and anxious to cooperate
20 with the process."

21
22 And if one then moves to tab 2C and page 3 within tab
23 2C and the overall pagination, page 52, there was then
24 provided a further letter from Ruane and Co. on behalf
25 of Mr. Castro and we can see it's dated 11th December 11:08
26 2023 and the letter provides:

27
28 "Dear Officer,

1 "We refer to the above matter and your correspondence
2 yesterday and note that a preliminary meeting will be
3 held on Wednesday 13th December, 2023.

4
5 "We ask that the following submissions and/or
6 information be put before the meeting:

7
8 "1. Our client admits the complaint. Our client accepts
9 the evidence put forward by Dr Sean Fitzpatrick in his
10 complaint form and does not wish to place any further
11 evidential burden on either the Complainant or CORU and
12 will provide whatever cooperation, assistance and
13 clarification when requested to do so. Please note that
14 Dr Fitzpatrick previously performed Botox treatment on
15 our client and we are instructed that he practices
16 almost exclusively in this area.

17
18 "2. Our client, a Brazilian national, has been in
19 practice as a self employed physiotherapist for the
20 past 3 years. No other complaint has been made against
21 him. Our client has experience in the area of
22 Aesthetics. In Brazil, the health regulations allow a
23 qualified physiotherapist carry out Botox treatment.
24 Our client regrets the very serious mistake of assuming
25 that he was permitted to carry out the procedure in
26 Ireland and regrets very deeply not clarifying this
27 before he advertised his services for this work.

28
29 "3. Our client only became aware of the fact that he

1 was not permitted to carry out Botox treatment on 23
2 November 2023 when the HPRA attended at his practice.
3 He is presently cooperating with the HPRA in this
4 regard. Our client has removed the pictures attached to
5 Dr Fitzpatrick's complaint From his Instagram page. Our
6 client has removed the advertisement of Botox Treatment
7 from his Website.

8
9 "4. We are instructed that our client carried out Botox
10 treatment on 3 clients. We are instructed all work was
11 reviewed and all his clients were happy with the
12 treatment. Our client has kept all case files and
13 details of the three clients who are in a position to
14 be contacted if required.

15
16 "We submit on behalf of our client that there is no
17 present danger to public health in circumstances where
18 all treatment has been carried out, it has been carried
19 out successfully and our client understands that he
20 cannot practice administering Botox treatment. Our
21 client is self employed presently with a small
22 practice. Our client undertakes and intends to practice
23 exclusively in conventional physiotherapy from now on.
24 Our client has a lot of Brazilian clients who have just
25 been operated on and require significant physiotherapy
26 and our client instructs that it will be difficult to
27 find another physiotherapist immediately if our client
28 cannot practice, particularly a practitioner with
29 Portuguese to make the process easier for patients. We

1 submit in these circumstances for these reasons that
2 this is a case where immediate suspension should not be
3 considered.

4
5 "Should you require anything further, please do not
6 hesitate to contact us."

7
8 Thereafter the complaint was ultimately referred on the
9 grounds as set out in the Notice of Inquiry, namely
10 poor professional performance, professional misconduct 11:11
11 and a breach of the Code, and thereafter the matter was
12 further investigated by Fieldfisher, it having been
13 referred.

14
15 In the context of those investigations, a statement was 11:11
16 taken from Mr. Ciaran Wright who was the enforcement
17 officer of the Health Products Regulation Authority who
18 attended at Mr. Castro's premises in November 2023 and
19 his statement is to be found at tab 5, which is overall
20 pagination 119 and we can see it provides: 11:11

21
22 "Statement of evidence of: Ciaran Wright
23 Occupation: Enforcement Officer"

24
25 and sets out the address of HPRA and the statement 11:12
26 commences with the usual declaration in that:

27
28 "This statement is true to the best of my knowledge and
29 belief and I make it knowing that if it is tendered in

1 evidence, I will be liable to prosecution if I state in
2 it anything which I know to be false or do not believe
3 to be true."

4
5 And thereafter the statement provides:

11:12

6
7 "My name is Ciaran Wright. I am an Authorised Officer
8 and Enforcement Officer at the Health Products
9 Regulatory Authority (HPRA). I have held this position
10 for 23 years. On the 13th November 2023, I received
11 confidential information regarding a Physiotherapist
12 based in Dublin allegedly advertising Botox treatment
13 from his Clinic. The Clinic was located at Igor Castro
14 Pain Management, 5-7 O'Connell Street, Dublin 1. On the
15 22 November 2023 accompanied by Alan Smullen HPRA I
16 carried out an inspection of Igor Castro Pain
17 Management Clinic under the Irish Medicines Board
18 (Miscellaneous Provisions) Act 2006, Regulation 32B(3)
19 in relation to the advertising, supply and placing on
20 the market of unauthorised medicinal products. On
21 entering the Clinic I identified myself to a person who
22 I now know to be Igor Castro. I informed Igor Castro
23 who I was and presented him with both my warrant of
24 authorisation and a business card. I explained the
25 purpose of the inspection and the powers of an
26 Authorised Officer. During that inspection unauthorised
27 Prescription Only Medicines were identified and removed
28 from a fridge found on the premises. Also removed were
29 3 Client consent forms for the supply of Botulinum

1 Toxin which Igor Castro printed off on my request.
2 HPRA Receipt 02023 was issued in relation to 2 Units of
3 the unauthorised Prescription only medicine Liztox
4 which listed Botulinum toxin as its active ingredient
5 and the client documentation. Igor Castro was present
6 during the inspection. Igor Castro was cautioned at the
7 time of the inspection and stated that he wished to
8 speak with his Solicitor before answering any
9 questions. No questions were put to Mr Castro at that
10 time but he was invited to attend the offices of the
11 HPRA with his legal representative for a formal
12 interview under caution at a future date. On the 23
13 November 2023 I carried out a search of the HPRA
14 Database registry which contains names of businesses
15 and persons authorised as holders of Wholesalers
16 authorisations for the name Igor Castro or Igor Castro
17 Pain Management, neither the name nor the address
18 appears on the Health Products Regulatory Authority
19 Licensing Data Base. I also carried out a search of the
20 Health Products Regulatory Authorities, Drug Data base
21 which lists all authorised medicinal products licensed
22 for sale or supply in Ireland and those centrally
23 authorised for the European marketplace. The Health
24 Products Regulatory Authority (formally known as the
25 Irish Medicines Board) issue marketing authorisations
26 for medicinal products which are authorised for sale or
27 supply in the Irish Marketplace. The medicinal product
28 Liztox does not have a Marketing Authorisation for the
29 Irish Marketplace nor does it hold a Central

1 authorisation for the European Marketplace. The listed
2 active ingredient in Liztox is Botulinum Toxin.
3 Botulinum Toxin is listed in the first schedule of the
4 medicinal products (Prescription and control of Supply)
5 Regulations SI 540 of 2003, as amended, classifying
6 Liztox as an unauthorised prescription only medicine.
7 On the 7th March 2024, Igor Castro and his Solicitor
8 Conor Ruane of Ruane Solicitors attended the offices of
9 the HPRA where a statement under caution was recorded.
10 I cautioned Igor Castro using the following words
11 "You are not obliged to say anything unless you wish to
12 do so but anything you do say will be taken down in
13 writing and maybe given in evidence." Igor Castro
14 signed that he understood the words of the caution and
15 that he had attended the interview voluntarily and he
16 knew he was not under arrest and was free to leave the
17 interview at any time he so wished. I put a number of
18 questions to Igor Castro which were transcribed in
19 writing as were his responses to these questions.
20 During the statement under caution Igor Castro
21 confirmed the following:

- 22
- 23 "• Owner operator of Igor Castro Pain Management Ltd,
24 5-7 O Connell Street, Dublin 1.
- 25 • A registered Physiotherapist accredited with CORU.
- 26 • Was present when Authorised Officers of the HPRA
27 carried out an inspection of his business premises on
28 the 22 November 2023.
- 29 • Was present when Authorised Officers of the HPRA

1 recovered 2 units of Unauthorised Prescription only
2 medicinal products from his fridge located within his
3 practice.

4 • Was present when 3 Client consent forms were located
5 which indicated the supply of Botulinum Toxin Type A to
6 them.

7 • Confirmed that he had administered Botulinum Toxin
8 Type A in the form of Liztox an unauthorised
9 Prescription only medicine.

10 • Was trained by [redacted] who operates a beauty
11 Clinic in the same building.

12 • Was of the understanding that his Aesthetic training
13 was accredited.

14 • He believes [redacted] is a Biomedic Technician.

15 • Paid €3000 euros for Aesthetic training to
16 [redacted].

17 • Paid €80 for each vial of Liztox he purchased off
18 [redacted]

19 • Charged clients €160 per treatment.

20 • Only carried out 3 botulinum toxin treatments at his
21 clinic

22 • Confirmed the names of the 3 clients he administered
23 too.

24 • Confirmed he did not use medicines during his
25 Physiotherapist practice.

26 • Apologised to the HPRA and was never going to
27 anything like this again and that none of his clients
28 had any adverse reactions to his treatment.

1 "On conclusion of this interview the statement was read
2 back to Igor Castro and his Solicitor and they agreed
3 it was correct. Igor Castro cooperated fully during
4 this investigation. "

5
6 And we can see that it then says that:

7
8 "This concludes my statement"

9
10 and it is signed the 16th April 2024.

11:18

11
12 If one continues in that tab, attached are the relevant
13 documentation that was being referred to and we can see
14 the receipt form is behind tab 5A, page 2, and that's
15 in relation to the Liztox that was taken from the
16 fridge and the patients' form signed.

11:18

17
18 Then tab 5B is the statement under caution in
19 handwritten format.

20
21 And tab 5C is a transcribed investigation of that
22 handwritten format, and if I could draw you to --
23 MS. SHEEHAN: what's the page number you're looking at?
24 MS. DALY: 126 of the global pagination is the
25 handwritten caution interview under caution and then if
26 we move to 132, we can see the transcribed version of
27 that interview under caution and the second page of
28 that halfway down, we can see:

11:18

1 "Q What is your qualification

2 A Physiotherapy. My original degree is from Brazil. I
3 have been accredited here in Ireland I have a level 8
4 qualification. "

5
6 And thereafter:

7
8 "Q Do you hold any medical qualifications > Are you a
9 registered medical practitioner, dentist or
10 Nurse

11 A No

12 Q Do you hold any authorisations to import medicinal
13 products into Ireland

14 A No

15 Q Do you know what a prescription medicine is

16 A Yes

17 Q Can you explain the medicines found at your business
18 premises on the 22 Nov 23

19 A Botulinum Toxin

20 Q Who placed them in the fridge

21 A Me".

22
23 And then he sets out where he obtained the medication
24 from. If one turns over to page 15 of that tab, but
25 overall pagination, 135, immediately under page 5 of 7: 11:20

26
27 "Q Is there a requirement to use Botulinum Toxin in the
28 practice of physiotherapy

29 A Yes with regard to neurological patients

1 Q As a physiotherapist in Ireland are you qualified to
2 use Botulinum toxin"

3
4 To which the answer is "No".

5 11:20

6 If one then continues on to 5D, which is the overall
7 pagination 137, we can see a statement that has been
8 provided by Ms. Kissane, Registrar and Chief Officer of
9 the Pharmaceutical Society of Ireland and it provides:

10
11 "I, Joanne Kissane, Registrar and Chief Officer of the
12 Pharmaceutical Society of Ireland, hereby certify that
13 the business named Igor Castro Pain Management Ltd did
14 not appear in the Register of Retail Pharmacy
15 Businesses kept by the Pharmaceutical Society of
16 Ireland under Section 13 of the 2007 Pharmacy Act
17 [Number 20 of 2007] from the 01 January 2023 - 31 March
18 2024 inclusive."

19
20 And then if one turns over to a tab 5E and overall
21 pagination 140, the same Joanne Kissane has provided a
22 statement which sets out:

11:21

23
24 "I, Joanne Kissane, Registrar and Chief Officer of the
25 Pharmaceutical Society of Ireland, hereby certify that
26 the name of Igor Castro, date of birth 22/09/1986, did
27 not appear in the Register of Pharmacists or in the
28 Register of Pharmaceutical Assistants kept by the
29 Pharmaceutical Society of Ireland under Section 13 of

1 the 2007 Pharmacy Act [Number 20 of 2007] from the
2 01/01/2023 to the 31/03/2024, inclusive. "

3
4 So what is evident is that Mr. Castro nor his business
5 were registered as a retail pharmacy business or indeed 11:22
6 as an individual who could dispense medications in that
7 regard.

8
9 If one then turns over to tab 6A, which is overall
10 pagination 141, you can see each of the consent forms 11:22
11 for the three patients that are referred to at
12 Allegation 1 of the Notice of Inquiry.

13
14 If we then turn to tab 7, which is overall pagination
15 151, there set out is the statement from Mr. Kevin 11:23
16 O'Donnell and we can see the title of that statement
17 provides:

18
19 "Expert Statement concerning 'Liztox Injection
20 Clostridium Botulinum Toxin Type A' " 11:23
21

22 The author is Dr. Kevin O'Donnell, the position is a
23 Market Compliance Manager at HPRA and again the same
24 declaration that he was apparent on Mr. Wright's
25 statement is there set out and you can see it is signed 11:23
26 there about Dr. O'Donnell. He then sets out the
27 contents of his statement and immediately below we can
28 see at paragraph 1 an introduction:
29

1 "1.1 I am Dr. Kevin O'Donnell, currently employed as
2 the Market Compliance Manager in the Compliance
3 Department in the Health Products Regulatory Authority
4 (HPRA). The HPRA is the Competent Authority in Ireland
5 for regulating human and veterinary medicinal products,
6 medical devices, and other health products. It was
7 previously known as the Irish Medicines Board (IMB).
8

9 "1.2 I have been employed in the HPRA since July 9th,
10 2001. I commenced my employment working on quality
11 defects in medicines and performing surveillance
12 activities, also on medicines. In 2002, I was
13 appointed as a Good Manufacturing Practice (GMP)
14 Inspector, and in 2005, as Market Compliance Manager. I
15 am also a Senior GMP Inspector and a member of the
16 senior management team within the Compliance
17 Department.
18

19 "1.3 Prior to my employment at the HPRA, I was employed
20 at a number of pharmaceutical companies in various
21 roles.
22

23 "1.4 By qualification, I have a degree in chemistry
24 (1991) and a higher diploma in education (1997), both
25 awarded by University College Galway. I also hold a
26 master's degree in Pharmaceutical Quality Assurance
27 (2002) and a doctorate in Quality Risk Management
28 (2008), both awarded by the Dublin Institute of
29 Technology. In March 2024, I was appointed as an

1 Adjunct Professor at the Technological University,
2 Dublin, within the School of Chemical and
3 Biopharmaceutical Sciences.

4
5 "1.5 I have been requested to provide an expert
6 statement concerning Liztox Injection Clostridium
7 Botulinum Toxin Type A. This statement covers the
8 presentation of the product, its authorisation status,
9 and its associated risks.

10
11 "2 Presentation of the product

12
13 "2.1 I was presented with a sealed evidence bag
14 containing two glass vials, each of which contained a
15 white powder. The vials each had a white label with
16 black text in the Korean language, and the labels also
17 carried a QR Code. There was green artwork on the
18 labels, showing the number '200'. The words 'Dilution
19 Date/Time' were also present on the labels, in English.

20
21 "2.2 Each of the vials had a dark coloured bung and a
22 silver-coloured cap which was capped with a
23 green-coloured outer cap.

24
25 "2.3 There was no English translation provided for the
26 labelled details that were in the Korean language. A
27 translation of the labelled details by the HPRA
28 indicated the following particulars:

1 "2.3.1 The product name was Liztox Injection
2 Clostridium Botulinum Toxin Type A
3

4 "2.3.2 The product was labelled to contain Botulinum
5 Toxin Type A
6

7 "2.3.3 The product strength was 200 units
8

9 "2.3.4 The product was intended for intramuscular
10 injection (I.M.)
11

12 "2.3.5 The wording 'Drugs approved for national
13 shipment' indicated that the product was intended to be
14 used as a medicine.
15

16 "2.3.6 The wording 'Prescription Drugs' indicated that
17 this medicine was subject to prescription control.
18

19 "2.3.7 The vials had an associated 'manufacturing
20 number', VQ2011, which I took to correspond to a batch
21 number.
22

23 "2.3.8 The vials had an expiry date of 2024.11.10.
24

25 2.3.9 The product was intended to be refrigerated at
26 2-8°.
27

28 "2.3.10 The product was manufactured by Huons Biopharma
29 Co., Ltd.

1 "2.4 I considered whether the product was a medicinal
2 product."

3
4 And he then provides that:

5
6 "2.4.1 Article 1 of Directive 2001/83/EC of the
7 European Parliament and of the Council of 6 November
8 2001 on the Community code relating to medicinal
9 products for human use (Ref. 1), as amended, sets out
10 the EU definition of a medicinal product. This is as
11 follows:

12
13 "' Medicinal Product:

14
15 "(a) Any substance or combination of substances
16 presented as having properties for treating or
17 preventing disease in human beings; or

18
19 "(b) Any substance or combination of substances which
20 may be used in or administered to human beings either
21 with a view to restoring, correcting or modifying
22 physiological functions by exerting a pharmacological,
23 immunological or metabolic action, or to making a
24 medical diagnosis.'

25
26 "2.4.2 The above definition of a medicinal product was
27 incorporated into Irish law via the Irish Medicines
28 Board (Miscellaneous Provisions) Act 2006 (Ref. 2).

1 "2.4.3 This product 'Liztox Injection Clostridium
2 Botulinum Toxin Type A' was labelled to contain
3 Botulinum Toxin Type A. Botulinum Toxin Type A is the
4 active substance in a number of medicinal products that
5 are authorised in Ireland and in the EU. One of those
6 products is BOTOX 200 Allergan Units Powder for
7 solution for injection. Another is Dysport 500 units
8 Powder for solution for injection.

9
10 "2.4.4 The former medicinal product (hereafter referred
11 to as 'BOTOX') is indicated for the management of a
12 number of neurologic disorders, such as focal
13 spasticity of the ankle and foot in certain types of
14 ambulant paediatric cerebral palsy patients, and
15 chronic migraine in adult patients. It is also
16 indicated for a number of bladder disorders, such as
17 overactive bladder with urinary incontinence as a
18 symptom. It is also indicated for a skin disorder
19 called hyperhidrosis of the axillae, which is commonly
20 referred to as excessive underarm sweating. Dysport 500
21 units Powder for solution for injection, hereafter
22 referred to as 'DYSPORT', is authorised in Ireland to
23 treat a number of similar conditions.

24
25 "2.4.5 The fact that the product 'Liztox Injection
26 Clostridium Botulinum Toxin Type A' was labelled to
27 contain this active substance, and the fact that the
28 product was labelled as a drug for intramuscular
29 injectable use and subject to prescription control,

1 meant that the product met the EU definition of a
2 medicinal product, as listed above. This is because the
3 product was presented as containing a substance which
4 may be administered to human beings with a view to
5 restoring, correcting or modifying physiological
6 functions in human beings. The product 'Liztox
7 Injection Clostridium Botulinum Toxin Type A' was,
8 thus, considered to be a medicinal product in
9 accordance with EU legislation and Irish law.

10
11 "2.5 The product 'Liztox Injection Clostridium
12 Botulinum Toxin Type A' was not appropriately labelled.
13 As per Regulation 16(1) of the Medicinal Products
14 (Control of Placing on the Market) Regulations 2007,
15 S.I. No. 540/2007 as amended, the labelling of
16 medicinal products must comply with Title V of
17 Directive 2001/83/EC. This means that, when a medicine
18 is supplied to the Irish market, the particulars for
19 the labelling must be in English or in both English and
20 Irish. In the case of 'Liztox Injection Clostridium
21 Botulinum Toxin Type A', the labelling was mainly in
22 Korean, and there was no English translation provided.

23
24 "3 Authorisation status of 'Liztox Injection
25 Clostridium Botulinum Toxin Type A'

26
27 "3.1 This product has not been authorised for use in
28 Ireland. Thus, it is an unauthorised medicinal product
29 in Ireland.

1 "3.2 In accordance with the Medicinal Products (Control
2 of Placing on the Market) Regulations, 2007, SI. No.
3 540 of 2007 as amended, the sale or supply of an
4 unauthorised medicinal product may only be made in
5 response to a bona fide unsolicited order, formulated
6 in accordance with the specifications of a practitioner
7 for use by his individual patients on his direct
8 personal responsibility, in order to fulfil the special
9 needs of those patients. I understand that there was
10 no such bona fide unsolicited order in place for this
11 product.

12
13 "3.3 In addition, only authorised persons, such as a
14 holder of a manufacturing and import authorisation, or
15 a holder of wholesaler's authorisation, are legally
16 entitled to supply medicinal products. I understand
17 that this was not complied with in this case.

18
19 "4 Risks associated with the administration of 'Liztox
20 Injection Clostridium Botulinum Toxin Type A'

21
22 "4.1 Botulinum Toxin Type A is a toxin. It is produced
23 by the Clostridium botulinum bacterium under low-oxygen
24 conditions. According to the World Health Organisation,
25 Botulinum toxins are one of the most lethal substances
26 known. They block nerve functions and can lead to
27 respiratory and muscular paralysis.

28
29 "4.2 Botulinum Toxin Type A is a muscle relaxant. Its

1 mechanism of action involves blocking the release of a
2 neurotransmitter called acetylcholine at certain nerve
3 endings. Acetylcholine is a chemical that is released
4 by motor neurons of the nervous system to activate
5 muscles. The toxin essentially inhibits the release
6 of..."

7
8 I am saying that wrong but:

9
10 "...acetylcholine, and in doing so, it acts as a muscle 11:32
11 relaxant.

12
13 "4.3 As mentioned above, the substance Botulinum Toxin
14 Type A is present in a number of authorised medicinal
15 products, including 'BOTOX'. The approved product
16 information for 'BOTOX' includes a number of warnings
17 and precautions that should be adhered to during
18 administration, and these relate to the potential risks
19 that administration of the product may present. For
20 example, the following text is taken from the Summary
21 of Product Characteristics for BOTOX 200 Allergan Units
22 Powder for solution for injection:

23
24 "4.3.1 'BOTOX' should only be given by physicians with
25 appropriate qualifications, and expertise in the
26 treatment and the use of the required equipment.
27 Generally valid optimum dose levels and number of
28 injection sites per muscle have not been established
29 for all indications. In these cases, individual

1 treatment regimens should therefore be drawn up by the
2 physician. Optimum dose levels should be determined by
3 titration but the recommended maximum dose should not
4 be exceeded. '

5
6 "4.3.2 'The recommended dosages and frequencies of
7 administration of BOTOX should not be exceeded due to
8 the potential for overdose, exaggerated muscle
9 weakness, distant spread of toxin and the formation of
10 neutralising antibodies. Initial dosing in treatment
11 naïve patients should begin with the lowest recommended
12 dose for the specific indication. '

13
14 "4.3.3 'Prescribers and patients should be aware that
15 side effects can occur despite previous injections
16 being well tolerated. Caution should therefore be
17 exercised on the occasion of each administration. '

18
19 "4.3.4 'Side effects related to spread of toxin distant
20 from the site of administration have been reported,
21 sometimes resulting in death, which in some cases was
22 associated with dysphagia, pneumonia and/or significant
23 debility. The symptoms are consistent with the
24 mechanism of action of botulinum toxin and have been
25 reported hours to weeks after injection. The risk of
26 symptoms is probably greatest in patients who have
27 underlying conditions and comorbidities that would
28 predispose them to these symptoms, including children
29 and adults treated for spasticity, and are treated with

1 high doses. '

2
3 "4.3.5 ' There have also been reports of adverse events
4 following administration of BOTOX involving the
5 cardiovascular system, including arrhythmia and
6 myocardial infarction, some with fatal outcomes. Some
7 of these patients had risk factors including
8 cardiovascular disease. '

9
10 "4.3.6 ' BOTOX should only be used with extreme caution
11 and under close supervision in patients with
12 subclinical or clinical evidence of defective
13 neuromuscular transmission. . . '

14
15 "4.3.7 ' Serious adverse events including fatal outcomes
16 have been reported in patients who had received
17 off-label injections of BOTOX directly into salivary
18 glands, the oro-lingual-pharyngeal region, oesophagus
19 and stomach. Some patients had pre-existing dysphagia
20 or significant debility. '

21
22 "4.3.8 Botulinum toxin units are not interchangeable
23 from one product to another. Doses recommended in
24 Allergan Units are different from other botulinum toxin
25 preparations.

11:32

26
27 "5 Summary and Conclusion

28
29 "5.1 The product ' Liztox Injection Clostridium

1 Botulinum Toxin Type A' was labelled to contain
2 Botulinum Toxin Type A. This, together with its
3 presentation as a drug for intramuscular injection
4 subject to prescription control rendered it to be a
5 medicinal product in accordance with EU legislation and
6 Irish law.

7
8 "5.2 Botulinum Toxin Type A is a toxin and a muscle
9 relaxant. There are a number of authorised medicinal
10 products in Ireland that contain this active substance,
11 and they are indicated for a number of serious medical
12 and other conditions.

13
14 "5.3 The product 'Liztox Injection Clostridium
15 Botulinum Toxin Type A' was not authorised for sale or
16 supply in Ireland. It was also not appropriately
17 labelled. Its labelling was mainly in Korean, and
18 there was no English translation provided. This,
19 together with the risks that are associated with the
20 administration of Botulinum Toxin Type A medicinal
21 products, gave rise to the potential for serious
22 consequences for the health of patients.

23
24 5.4 This concludes my report."

25
26 In terms of other documentation that was provided by
27 Dr. Fitzpatrick, which is to be found at tab 4 and
28 overall pagination 114, Dr. Fitzpatrick, when providing
29 those images that I've already taken to you, sent an

1 e-mail which was dated 19th March 2024 and in it you
2 can see it's addressed to Ms. Gahan and it's a follow
3 up from phone call and it provides:

4
5 "Dear Ruth,

6
7 "As per my conversation with you this afternoon, I
8 would like to communicate to the FTP panel that I would
9 not wish for Mr Castro to be unfairly reprimanded as a
10 result of my complaint. I understand that the HPRA
11 intervened quite quickly and Mr Castro has cooperated
12 in full. Given that there is little understanding in
13 general about the laws governing toxin administration
14 in the Rep. Of Ireland (as demonstrated by the recent
15 RTE Investigates programme that I was involved with), I
16 would hope that Mr Castro is given the benefit of the
17 doubt in their instance.

18
19 "Though his actions were regrettable, I would hope that
20 Mr Castro has fully apprised himself of the current
21 legislation and can demonstrate this adequately to the
22 fitness to practice committee. I see no need for this
23 man's reputation and career to be affected by a once
24 off error of judgement.

25
26 "As per your request, I attach the screenshots taken on
27 November 13th 2023. I do in fact recall that I had
28 checked his professional website at the time and was
29 unable to see toxin being offered."

1 So that is further correspondence from the individual
2 who made the initial complaint to CORU.

3
4 In addition to the statement from Dr. O'Donnell, which
5 relates to the product itself and its availability in 11:38
6 this jurisdiction, there is also an expert report from
7 Ms. Hanlon, which is at tab 3 and overall pagination
8 54, and you can see that Ms. Hanlon's report runs to
9 several pages, the first page of which is the table of
10 contents and it summarises there and the following page 11:39
11 the introduction and at page, the overall pagination
12 57, it sets out Ms. Hanlon's qualifications and
13 Ms. Hanlon is a physiotherapist and it is she that
14 comes before this Committee as the expert, a
15 physiotherapist expert to give evidence in the context 11:39
16 of her report as to the interrelationship between
17 Botox, the role of a physiotherapist and whether
18 outside Mr. Castro's scope and thereby whether it
19 amounts to professional misconduct and poor
20 professional performance and a breach the Code. 11:39

21
22 So Dr. O'Donnell is the medicinal product, the risks
23 and then Ms. Hanlon is the registered physiotherapist,
24 which is what you're here to assess Mr. Castro in the
25 context of his registration as a physiotherapist with 11:40
26 CORU. So they are two separate tranches of evidence as
27 it were in relation to the matter before you.

28
29 So turning to Ms. Hanlon's report, you can see her

1 qualifications are quite clearly set out and that she
2 obtained her original qualification in 1991 from
3 Trinity College Dublin and then she went on to obtain
4 further education in Musculoskeletal Physiotherapy at
5 University College Dublin and we can see thereafter she 11:40
6 sets out her other relevant experience and she has been
7 Chairperson Chartered Physiotherapists in private
8 practice from the 2017 to 2022, and then from 2023 to
9 present she is on the executive board of the
10 International Private Practice Association in relation 11:40
11 to the physiotherapists. We can see that between 2010
12 and 2014 she was Vice President of the Irish Society of
13 Chartered Physiotherapists and I don't propose to take
14 you through going back further but there is a
15 significant amount of expertise set out thereafter. 11:41

16
17 If one then moves to page 61 of the overall pagination,
18 Ms. Hanlon there considers the allegation as included
19 within the Notice of Inquiry and we can see she sets
20 out Allegation 1 and this is in relation to the 11:41
21 professional misconduct:

22
23 "1. In or around October 2023 administered "Liztox", a
24 Korean brand of Botulinum Toxin ("Botox") at your
25 practice premises to one or more of the following
26 clients:

- 27
28 "• Client A; and/or
29 • Client B; and/or

1 • Client C;

2
3 "when such administration fell outside of the scope of
4 practise of a registered physiotherapist",

5
6 and she sets out:

7
8 "Opinion as to Professional Misconduct: Yes. This is a
9 serious breach of the following sections of the Code of
10 Professional Conduct and Ethics",

11
12 and she sets out there Principle 7:

13
14 "You must:

15 a. Know and work within the laws, regulations and
16 guidelines governing your practice and keep up to date
17 with any changes in legislation or regulation or
18 guidelines

19 b. Obey the laws of the country in which you live and
20 work in both your professional practice and your
21 personal life.

22 9. You must:

23 a. Act within the limits of your knowledge, skills,
24 competence and experience

25 b. Practice only in areas in which you have relevant
26 knowledge, skills, competence, experience or are
27 appropriately supervised.

28 f. Be able to justify any decisions you make within
29 your scope of practice. You are always accountable for

1 what you do, what you fail to do, and for your
2 behaviour

3 g. Meet professional standards of practice and work in
4 a lawful, safe and effective manner.

5 22.1 You must:

6 c. Make sure you read, understand and comply with this
7 Code of Professional Conduct and Ethics."

8
9 So there set out are Ms. Hanlon's views in terms of
10 what breaches of the Code have occurred and then if one 11:42
11 turns over the page, she sets out her reasons for
12 those:

13
14 "If it were to be proven at the Inquiry that Mr Castro
15 administered "Liztox", at his practice premises to one
16 or more of the following clients:

- 17
18 "• Client A; and/or
19 • Client B; and/or
20 • Client C;

21
22 "when such administration fell outside of the scope of
23 practise of a registered physiotherapist, I am of the
24 view that this proven conduct would amount to
25 professional misconduct because this action is a
26 serious breach of the Code of Professional Conduct and
27 Ethics as outlined above.

28
29 "The code clearly states that you must know and

1 understand both the laws in the country and those
2 governing your practice and of course you must then not
3 breach these laws.

4
5 • I refer to the factual statement prepared by Dr.
6 Kevin O Donnell:

7
8 "- It verifies that the product taken from the fridge
9 in the Igor Castro pain clinic was a medicinal product
10 labelled as Liztox Injection Clostridium Botulinum
11 Toxin Type A which met the EU definition of a medicinal
12 product but had not been authorised for use in Ireland.

13
14 "- It states the many risks to patient safety
15 associated with the administration of Botulinum Toxin

16
17 "In page 27 of the Brief to Expert: MR Ciaran Wright
18 notes that in Regulation 4A, amending S.I. 412 of 2005
19 and inserted by S.I. 442 of 2009, provides for who may
20 administer medicinal products. It states that medicinal
21 products must only be administered by registered
22 medical practitioners or dentists in the course of his
23 or her practice of dentistry.

24
25 "If it is proven at the inquiry that Mr. Castro
26 administered Liztox, it was clearly against the law for
27 Mr. Castro as a physiotherapist to administer Botulinum
28 Toxin.

1 "• Administration of Botox is not in the scope of
2 practice of a physiotherapist. Physiotherapists do not
3 administer aesthetic beauty treatments. There is no
4 clinical justification for this type of treatment.
5 Clinical Specialist Physiotherapists can administer
6 injections into joints after specialist training. There
7 is no situation in which they would be trained to
8 administer injections to the face. Furthermore, they
9 would not be trained to administer anaphylactic shock
10 treatment, should an adverse reaction occur after the
11 administration of "Liztox".

12
13 "Code 9..."

14
15 which is internal page 16 of the Code,

11:45

16
17 "...outlines the rules pertaining to scope of practice;
18 part f emphasises that the registrant must be
19 responsible for the decisions they make, ensuring that
20 they work in a lawful and safe manner. In this case, it
21 seems that Mr Castro was not mindful of the laws and of
22 his responsibility to uphold them. He has not been
23 compliant with the Code of Ethics. He was not working
24 in a safe manner as he was administering an unlicensed
25 product, that is potentially harmful and furthermore is
26 inadequately trained for such an activity.

27
28 "• 9g of the Code of conduct states that you must meet
29 the professional standards and work in a lawful and

1 safe manner. This behaviour does not meet professional
2 standards and as pointed out in Dr O'Donnell's
3 statement, it is far from safe and lawful.

4
5 "• Finally 22.1 states that you must understand and
6 comply with the Code of Ethics. This activity, if
7 proven to be true demonstrates a complete lack of
8 knowledge and/or understanding of the rules and
9 regulations.

10
11 "• It must be noted that as physiotherapists are
12 established health professionals, working across all
13 areas of medicine, it is likely that patients/clients
14 would believe that the registrant was qualified to and
15 lawful in providing such a service.

16
17 "• Physiotherapists working in private practice must
18 have professional indemnity insurance. The registrant
19 would not be insured to work outside of the scope of
20 practice under the professional indemnity scheme that
21 the majority of physiotherapists in Ireland would
22 employ. I don't know if additional insurance was put
23 into place to cover any adverse events that may occur
24 from the use of Botox. In this case. If there was
25 inadequate insurance, there would be a breach of code
26 21 which states you must ensure that you maintain
27 adequate professional indemnity cover for any
28 assessment, intervention, treatment or service you
29 provide or have provided.

1 "Considering all the reasons as outlined above; the
2 fact that patients were misled and potentially put at
3 risk, this behaviour amounts to a serious breach of the
4 code of professional conduct and ethics and therefore
5 constitutes professional misconduct."

11:45

6
7 If one then turns over the page, Ms. Hanlon then
8 considers the allegation in the context of poor
9 professional performance and she has also reached the
10 view that it does amount to poor professional
11 performance:

11:47

12
13 "The Irish Society of Chartered Physiotherapists Scope
14 of Practice document..."

11:47

15
16 and that's appended to her report,

17
18 "...states that the scope of practice of physiotherapy
19 is defined as any activity undertaken by a
20 physiotherapist which is within the framework and
21 ethical boundaries of the profession, and in which the
22 individual is educated, trained and competent to
23 perform.

24
25 "Irish Society of Chartered Physiotherapists
26 Professional Code:

27 Safety

28 - Patients, their safety and well-being are always your
29 first concern.

1 - Use only equipment and appliances that are of proven
2 standard of safety and efficacy, and are also the
3 subject of such permits or authorisation or licences as
4 may be required by law.

5
6 "Reasons:

7
8 "If it were to be proven at the Inquiry that Mr Castro
9 administered "Liztox", at his practice premises to one
10 or more of the following clients:

- 11
12 "• Client A; and/or
13 • Client B; and/or
14 • Client C;

15
16 "when such administration fell outside of the scope of
17 practise of a registered physiotherapist, I am of the
18 view that this proven conduct would amount to poor
19 Professional performance because:

20
21 "Injecting Botox does not fit within the framework and
22 ethical boundaries of the profession. Poor professional
23 performance means the failure of the registrant to meet
24 the standards of competence that may reasonably be
25 expected of registrants practicing the profession. It
26 is incompetent to think that injecting Botox would fall
27 under the scope of practice of a physiotherapist.
28 Dr Kevin O'Donnell, in his factual statement outlines
29 that the "Liztox" was not authorised for use in

1 Ireland, that there was no bona fide unsolicited order
2 in place for this product. Furthermore he believes that
3 there was no authorised persons legally entitled to
4 supply these medicinal products. In short, the whole
5 process of accessing "liztox" and using it was
6 illegal. Handling and administering illegal medicines
7 to a patient demonstrates a serious lack of judgement
8 amounting to poor professional performance.

9
10 "In part 4 of his statement, Dr O'Donnell outlines that
11 according to the World Health Organisation, Botulinum
12 toxins are one of the most lethal substances known:
13 They block nerve function and can lead to respiratory
14 and muscular paralysis. His report further outlines:

15
16 "• that it must be administered by physicians with
17 appropriate qualifications and expertise as "generally
18 valid optimum dose levels and number of injection sites
19 per muscles have not been established for all
20 indications".

21
22 "• Botox should only be used with extreme caution and
23 under close supervision in patients with subclinical or
24 clinical evidence of defective neuromuscular
25 transmission.

26
27 "• Serious adverse events including fatal outcomes have
28 been reported in patients who had received off label
29 injections of Botox directly into salivary glands, the

1 oro-lingual pharyngeal region, oesophagus and stomach.

2
3 "• Botulinum toxin units are not interchangeable from
4 one product to another.

5
6 "I have noted these particular points from the factual
7 statement to highlight that the administration of the
8 unlicensed product was not only illegal but dangerous.
9 It does not show due care for patient safety. The
10 professional Code of Conduct of the Irish Society of
11 Chartered Physiotherapists, under point 8, Safety:
12 outlines that patients safety and wellbeing are always
13 your first concern. It clearly states that to use only
14 equipment and appliances that are of a proven standard
15 of safety and efficacy and are also the subjects of
16 such permits or authorisations or licences as may be
17 required by law.

18
19 "Considering that the use of Botox is not within the
20 scope of practice of a physiotherapist and the lack of
21 care for patient safety that this behaviour
22 demonstrates, this action is a serious demonstration of
23 poor professional performance."

24
25 If one then moves on, Ms. Hanlon considers Allegation 2 11:50
26 in the context of professional misconduct and poor
27 professional performance and you can see in relation to
28 professional misconduct she has formed the view that
29 Allegation 2 does amount to professional misconduct if

1 found proven and that:

2
3 "This is a serious breach of the following parts of the
4 Code of Professional conduct and Ethics:

5
6 4.2a. You must not: Use social media in a way that
7 would breach any of your obligations under this Code.

8
9 "26a. You must: Make sure that any advertising is
10 truthful, accurate, lawful and not misleading

11 b. You must only advertise, promote or recommend a
12 product or service that is based on your professional
13 opinion as to a service user needs.

14
15 "3.1b You must: Conduct yourself in a manner that
16 enhances public confidence in you and your profession

17
18 "Reasons:

19
20 "If it were to be proven at the Inquiry that Mr Castro
21 published one or more posts via Instagram accounts
22 @iglcastro and/or @igorcastropainrelief promoting the
23 fact that Mr Castro was administering Botox to
24 clients/patients, I am of the view that this proven
25 conduct would amount to professional misconduct
26 because:

27
28 "• The expert report of Mr Wright and the factual
29 statement by Dr O'Donnell confirm that it was illegal

1 for Mr Castro to administer Botox to his patients. This
2 means that Mr Castro's use of social media to advertise
3 this service is a breach of code 4.2a and 26a in my
4 opinion. The advertising is misleading as the
5 practitioner is not trained as a physiotherapist to be
6 competent or eligible to practice in this way.

7
8 "• Part b of code 26 refers to the professional opinion
9 of the physiotherapist as to the service user needs.
10 There is little circumstance that a physiotherapist
11 would be of a professional opinion that a patient would
12 need Botox. There are some very limited clinical
13 scenarios where Botox is being used for the treatment
14 of a chronically overactive muscles for facial pain and
15 headaches. In these cases, the Botox would obviously be
16 injected by a medical practitioner trained and licenced
17 to do so. On reviewing the social media posts contained
18 in the brief, there is no reference to the use of Botox
19 for such medical reasons, but even so it is not in the
20 remit of the physiotherapist to administer these
21 treatments.

22
23 "• Code 3.1b refers to conducting oneself in a manner
24 that enhances public confidence in the profession. In
25 my opinion a physiotherapist offering Botox treatments
26 on social media, working out of their scope of
27 practice, brings the profession into disrepute and
28 belittles all the work we do in enabling people to
29 reach their optimal physical capacity to enhance their

1 health. It is completely contrary to the aims of all
2 physiotherapy treatment which facilitates and
3 encourages healthy living.
4

5 "• The fact that a physiotherapist is advertising such
6 treatments could confuse the public as to the realities
7 around such treatments i.e. that they come with risk
8 and should not be part of any endeavour to achieve
9 optimal health. A core tenet of the profession is to
10 enable people to lead healthy pain-free lives and by
11 all means to do no harm. Advertisement of such services
12 does not promote healthy living and indeed the
13 procedure itself may cause harm.
14

15 "• There is a further concern that as a physiotherapist
16 is advertising such services, then service users assume
17 that he is licenced to do so and will be using licenced
18 products: Both of which were untrue. This advertising
19 is therefore false and dangerous.
20

21 "This behaviour, which is misleading and puts service
22 users at risk, in my opinion is a serious breach of the
23 rules and regulations and amounts to professional
24 misconduct. "
25

26 And then finally over the page, Ms. Hanlon considers
27 Allegation 2 in the context of poor professional
28 performance and finds that the conduct alleged if found
29 proven, which is now admitted, amounts to poor

professional performance and sets out:

"The Irish Society of Chartered Physiotherapists Code of Conduct and Ethics states:

"2. Comply with the laws and regulations governing the practice of Physiotherapy

"3. Accept responsibility for the exercise of sound judgement

"5. Recognise the limitations of their professional expertise and undertake only those activities which are within their professional competence

"1.7 Chartered Physiotherapists, upon accepting a patient for treatment, shall, on examination and assessment of the patient and on being satisfied with the diagnosis, carry out such treatment in fields of Physiotherapy, which shall be recognised by the profession.

"1.8 Chartered Physiotherapists shall confine themselves in practice to areas in which they have particular skills or professional competence as a result of experience or specialist training and shall at all times have regard to the Society's Scope of Practice Code.

1 "Reasons:

2
3 "If it were to be proven at the Inquiry..."

4
5 that the allegation is made out,

6
7 "...I am of the view that this proven conduct would
8 amount to poor professional performance because the
9 actual administration of Botox is illegal and
10 advertisement of such behaviour is damaging to the
11 profession and all working within the industry. More
12 importantly it is an activity that could harm patients;
13 for one to advertise such activity compounds the poor
14 behaviour and the seriousness of such behaviour.

15
16 "Advertising on social media indicates an intent to
17 grow a business performing such activity. It is
18 therefore not intended to be a once off occurrence.
19 Patients/clients are likely to believe such advertising
20 by a recognised healthcare professional and assume that
21 the professional is trained to perform such an activity
22 and therefore would assume that they are using licenced
23 products. The likelihood is that the general public is
24 being misled.

25
26 "This behaviour demonstrates a clear lack of
27 understanding of the basic rules, accepted norms and
28 ethical standards of the profession. This is a serious
29 breach of the rules and regulations of the

1 representative body of the profession i.e. the ISCP
2 (Irish Society of Chartered Physiotherapists) which is
3 aligned with World Physiotherapy (WCPT), the
4 overarching worldwide representative body for the
5 profession.

6
7 "Advertising on social media that you are offering a
8 service that is not within the scope of practice of
9 physiotherapy, using unlicensed products which you are
10 not legally qualified to administer; using potentially
11 harmful substances, therefore putting patients at risk,
12 demonstrates extremely poor judgement and brings the
13 profession into disrepute. In my opinion it
14 demonstrates a serious breach of the accepted norms and
15 competencies of the profession amounting to poor
16 professional performance."

17
18 And then you can see set over the page is her
19 conclusion in that regard, which summarises those
20 section that is I've taken you through.

11:56

21
22 That is the factual matrix and the underlying
23 documentation which, as has been indicated, is all
24 agreed by Mr. Castro through his legal representatives
25 this morning. In terms of what flows from that, and
26 it's ultimately a matter for the Committee, what
27 sanction is appropriate in any given circumstances,
28 from the Registrar's perspective in our submission this
29 can be viewed as nothing other than serious conduct and

11:56

1 in terms of why that is so, one must look at where the
2 complaint came from. Mr. Castro himself attended a
3 doctor to obtain Botox. So that was what Mr. Castro
4 himself did when he embarked on this treatment himself.
5 One then looks at the conduct the subject matter of the 11:57
6 allegations. We have an unlicensed product being
7 dispensed and administered to patients in a scenario
8 that is outside the scope of practice. So it is simply
9 something that cannot, must not, should not be done
10 under any circumstances, and one could argue that this 11:58
11 ought to have been known to Mr. Castro, particularly in
12 circumstances web when he himself went to Dr. Fitzpatrick
13 to obtain the same treatment. So that can only be
14 viewed as serious in our submission.

15 11:58
16 In terms of the purpose of sanction and the role of
17 sanction, it is an overarching consideration and it is
18 not a consideration that is solely limited to
19 Mr. Castro in terms of the insight that he has shown
20 and the admissions that he has made and that is not to 11:58
21 move him away from those. Mr. Castro, his premises
22 were entered and in sort he was caught red-handed with
23 the products, with what was occurring and the available
24 evidence that was on Instagram. So it is in that
25 context that those admissions were made and continued 11:59
26 to be made.

27
28 But leaving that to one side, the purpose of regulation
29 is not solely Mr. Castro, it is for the profession. By

1 virtue of being a member of a profession, it is a
2 privilege and it is a responsibility. So one also has
3 to maintain confidence in that profession and one also
4 has to uphold public confidence in that profession, not
5 only in the profession as a whole but also in the 11:59
6 regulatory process. And that is the public interest
7 that comes into play when one is imposing a sanction
8 and it is that that is of significance also on the
9 facts of this case because here we have a registered
10 physiotherapist who is performing an act that is an 11:59
11 illegal act outside their scope of practice that is
12 putting potentially patients at risk.

13
14 And while Mr. Smyth may make submission that is HPRA
15 dealt with it in a particular way, HPRA have a role and 12:00
16 a function and you as the regulator of physiotherapists
17 have a role and a function and you have different hats
18 with different purposes and that must be borne in mind
19 in the context of any appropriate sanction that you
20 deem necessary. 12:00

21
22 So the sanction must fit the actions that have been
23 admitted. It must be proportionate having regard to an
24 it must be as lenient as possible. But none of those
25 aspects outweigh the overarching principle of promoting 12:00
26 and protecting the public and that includes upholding
27 standards, upholding confidence and sending out a
28 message to other individuals who are regulated that
29 this conduct is unacceptable and it is for those

1 reasons in our submission that this cannot be viewed as
2 anything other than serious given what has occurred.

3
4 In terms of the sanction guidance notes, Mr. Beatty I
5 am sure will take you through it in due course and you 12:01
6 may hear further submissions in relation to it, but the
7 method by which one would approach it is you invariably
8 start at the least restrictive first, you analyse the
9 facts of the case, you see whether that is
10 proportionate and amenable to the facts of that case 12:01
11 and if it is not, you then progress your way through
12 each of the sanctions as you go through moving right up
13 to the top if that's what you deem is appropriate in
14 the circumstances. Then having regard to that, you
15 factor in any aggravating and mitigating circumstances 12:01
16 that you have identified and then also factor in
17 proportionality and leniency.

18
19 But going back to where I started in terms of my
20 submissions on sanctions, it is our submission that 12:01
21 this cannot be viewed as anything other than serious,
22 given the conduct involved, the medicinal products
23 being used, that it is quite plainly outside the scope
24 of practice of a physiotherapist and ultimately the
25 serious risk that could have occurred to the patients 12:02
26 involved.

27 CHAIRPERSON: Okay, thank you for that, Ms. Daly.
28 Mr. Smyth.

29 MR. SMYTH: I will be led at this juncture, Madam

1 chair, by what the Committee sees best as to how to
2 proceed. In terms of my case, which as the Committee
3 will likely apprehend, is essentially a case in
4 mitigation given the admissions that were made, I
5 expect to be in a position to conclude same by 12:02
6 lunchtime I suppose. I wonder if I might ask the
7 indulgence of the Committee for ten minutes at this
8 juncture. I think I'd still be in the timeframe before
9 I open my case in mitigation if that were appropriate.
10 CHAIRPERSON: of course, take as much time as you need. 12:02
11 MR. SMYTH: I think we had indicated at the start, I
12 know we had an expert witness, Ms. Hanlon, waiting in
13 the wings, I think at this juncture, subject to
14 Ms. Daly's view, I think the Committee seem to have
15 been happy to take her evidence as read? 12:03
16 CHAIRPERSON: No, the Committee is happy with the
17 report of Ms. Hanlon and what we have heard in
18 Ms. Daly's submission to us.
19 MR. SMYTH: Very good.
20 CHAIRPERSON: we are happy to let her go. 12:03
21 MS. DALY: Thank you. we'll convey that.
22 MR. SMYTH: I wonder could I ask then for until ten
23 past 12 if appropriate.
24 CHAIRPERSON: sorry, say again?
25 MR. SMYTH: Could I ask to commence my case at ten past 12:03
26 12.
27 CHAIRPERSON: Yes, of course, of course.
28 MR. SMYTH: I'm very much obliged.
29 CHAIRPERSON: That's only five minutes away. Do you

1 need ten?

2 MR. SMYTH: No, that's absolutely fine, it's just to
3 be....

4 CHAIRPERSON: okay, okay.

12:04

5
6 THE HEARING ADJOURNED BRIEFLY AND RESUMED AS FOLLOWS:

7
8 CHAIRPERSON: Mr. Smyth:

9
10 SUBMISSION BY MR. SMYTH:

12:15

11
12 MR. SMYTH: Thank you, Madam Chair, and I am grateful
13 for that time and to the entire Committee indeed. So
14 in terms I suppose of a roadmap of my mitigation this
15 afternoon, first I suppose I would ask Mr. Collins to
16 dispense to the Committee a very brief booklet in
17 mitigation which has been copied to my friend Ms. Daly
18 and her solicitor and which I propose to open to the
19 Committee with the Committee's consent of course in due
20 course and I will take the Committee through that
21 booklet item by item. It contains a statement of
22 regret of the Registrant, Mr. Castro, my client, but I
23 do also intend to call Mr. Castro briefly to speak to
24 the Committee I suppose as to the context and the
25 reasons for making the mistakes that he has admitted.

12:15

12:16

12:16

26
27 Before I do so, I suppose I might with the Committee's
28 consent just refer the Committee to two items in the
29 core booklet that weren't directly opened by Ms. Daly,

1 no doubt with the good intention of expedience. The
2 first thereof is page 133 of the core booklet
3 pagination, I hope I have that right, that brings us to
4 part way through the interview of the Registrant with
5 Mr. Wright of the HPRA conducted on 7th March 2024 and 12:16
6 there just was a portion thereof that I wanted to draw
7 to the Committee's attention beginning at the bottom of
8 page 133 of the general pagination, page 13 of the
9 internal pagination, and the following exchange
10 invariably deals with a person whose identity has been 12:17
11 redacted and the Committee will have seen such
12 redaction having been applied throughout the core
13 booklet and for the sake of convenience I might just
14 refer to that person as Person A if I may, but I don't
15 think any issue will be taken by my friend that the 12:17
16 person whose name is redacted is the same person at all
17 material times.
18 MR. BEATTY: There is already a Patient A, B and C so
19 you might just say Person D.
20 MR. SMYTH: Person D or even Person X if that helps 12:17
21 bifurcate it subsequently.
22 MR. BEATTY: That's fine.
23 MR. SMYTH: Person X then, yes. I'm obliged to
24 Mr. Beatty for that. So commencing at the bottom of
25 page 133 after Mr. Castro accepts that what is found in 12:17
26 his premises is Botulinum Toxin and that he was the
27 person who placed them in the fridge:
28
29 "Q Where did you obtain these medicines from

1 A From my tutor
2 Q What is her name
3 A Person X
4 Q Who is Person X
5 A Person X is a bio medical professional that works in
6 the same building as me
7 Q How much did they cost you
8 A €80 each
9 Q Have you undergone approved aesthetic training
10 A According to my tutor, the training I undertook was
11 accredited
12 Q Did this training facility have a name",
13
14 and I don't think it will be in controversy that the
15 address given by the Registrant was the self-same
16 building in which he himself carries out his
17 physiotherapy practice.
18
19 "Q When did you start providing Botox treatments
20 A October November of 2023 I haven't done Botox since
21 you guys came to me, that was the only time
22 Q How many clients did you have
23 A Three
24 Q Authorised Officers from the HPRA recovered records
25 pertaining to three clients receiving botulinum toxin
26 treatments. Are these your records. Is that your
27 signature
28 A Yes
29 Q Who is Patient A

12:18

1 A My patient",

2
3 and then he goes on to confirm supplying botulinum
4 toxin to that same person and gives similar responses
5 in respect of Patient B and Patient C, and I think then 12:19
6 that brings us back to the portions of the interview
7 that was opened by Ms. Daly.

8
9 The second portion of the core booklet I wish to just
10 simply open to the Committee for the sake of 12:19
11 completeness is at page 157 of the overall core booklet
12 pagination and it's a recent letter from my instructing
13 solicitor, Mr. Ruane, to Ms. Gahan, solicitor in
14 Fieldfisher, and simply I suppose bolsters and follows
15 up on the general admissions that were made a year 12:19
16 prior, which were opened to the Committee by Ms. Daly.
17 It's a letter dated December 2024 and it reads:

18
19 "Dear Ms Gahan,

20
21 "We refer to the above matter and your email of
22 November 21 last.

23
24 "We have taken and confirmed our clients instructions
25 and in an effort to clarify matters, please note and
26 instruct the tribunal of the following;

27
28 "1. Charge/Allegation No. 1 as set out in Notice of
29 Intention to hold an Inquiry dated 8 November 2024 is

1 admitted by our client and does not require to be
2 proven".

3
4 And identical concession is made in respect of charge
5 Allegation 2. In point 3 it's asserted:

12:20

6
7 "Our client is not calling professional evidence in
8 answer to the report of Ms Margaret Hanlon and to that
9 extent is accepted;

10
11 "4. Our client accepts the evidence of both Mr Ciaran
12 Wright and Dr Kevin O'Donnell and will not be calling
13 evidence in answer and/or contradiction of same.
14 Please have Mr Wright available on 10 December."

15
16 Now, I should say we have subsequently resiled from
17 that request simply in circumstances where we had hoped
18 to have Mr. Wright confirm certain mitigatory aspects
19 of our case but I think by the kind agreement of my
20 friend, I think I will simply assert those mitigatory
21 aspects without contradiction and as such Mr. Wright's
22 attendance was dispensed with. And finally we accept
23 the proper service of the Notice of Inquiry.

12:21

24
25 There is an elusion as well to an application to have
26 the matter is heard otherwise than in public. I have
27 taken an instruction and given certain advices and we
28 haven't obviously followed up on that application
29 absent any good reason to do so in light of the very

12:21

1 high standard applicable to such an application and
2 hopefully all that is in the interests of expediting
3 matters and saving some time.

4
5 Directing then if I may the Committee to the booklet 12:21
6 that we have put before the Committee and the index
7 thereto, the contents thereof I suppose are divided
8 into three component parts by virtue of the spacing
9 between them.

10 12:22
11 The first is a statement of regret by the Registrant
12 which he has asked me, if the Committee will permit, to
13 read into the Committee for him. I do intend to call
14 evidence from him but he is quite nervous and softly
15 spoken and I suppose is apprehensive about reading the 12:22
16 statement in such a long form in its entirety.

17
18 The third tranche of statements, documents 2 to 4
19 inclusive, are titled references but I suppose that's
20 something of misnomer. Those three e-mails are in 12:22
21 truth arise from the three relevant patients and I've
22 no difficulty of course in any recording or report of
23 proceedings that for the purposes of the record they
24 are redacted or amended in respect of Patient A, B and
25 C. But I am instructed that those three persons who 12:22
26 have provided e-mails to Mr. Castro are Patients A, B
27 and C, and those e-mails were provided from those
28 patients to indicate to the Committee Mr. Castro having
29 immediately after allegations of impropriety were

1 brought to his attention, immediately e-mailed all
2 three patients upon whom he had administered Botulinum
3 to tell them he would no longer be offering any
4 aesthetic treatments and each person reverts back
5 indicating essentially that they have had no adverse 12:23
6 outcomes to the treatment. And I suppose that's simply
7 there as indicative of Mr. Castro's bona fides in
8 taking immediate corrective action to apprise all three
9 persons that aesthetic treatments were no longer on the
10 table. 12:23

11
12 References 5 and 6 are general references from patients
13 of Mr. Castro's general physiotherapy practice, [REDACTED]
14 [REDACTED] They are divided from
15 the final tranche of references for the following 12:24
16 reason: When Mr. Castro was set to work by my
17 instructing solicitor gathering patient references in
18 contemplation of this Committee, he gathered same by
19 way of e-mail. They were all good references but I
20 suppose what I wanted to have for Mr. Castro was to 12:24
21 make clear to the authors of all three references that
22 they were aware of the purpose of such references, that
23 they were aware that they were prepared in
24 contemplation of a professional misconduct hearing but
25 were willingly provided nonetheless. That information 12:24
26 was conveyed unfortunately to Mr. Castro at a late
27 stage yesterday. He did sterling work attempting to
28 follow up on the referees, and referees 5 and 6 were
29 able to alter their references to confirm their

1 awareness of their conduct of a professional misconduct
2 hearing. He wasn't able to contact or hear back from
3 references 7 through 9 in good time. So I suppose that
4 might be relevant to the Committee in terms of the
5 weight to attribute respectively to the references. 12:25
6 References 7 to 9 are left in situ as it were I suppose
7 for what they are worth in terms of general references
8 as to Mr. Castro.

9
10 So I might commence by opening with the statement of 12:25
11 regret by Mr. Castro on the first page of my mitigation
12 booklet and these are Mr. Castro's words prepared by
13 himself which he can confirm in his viva voce evidence:

14
15 "I am writing to express my sincere regret for having
16 acted outside my scope of practice. I understand the
17 importance of adhering to professional boundaries and
18 to the Professional Code of Conduct and the potential
19 implications of my actions. I am truly sorry for any
20 harm or inconvenience this may have caused.

21
22 "My ability to practice physiotherapy is extremely
23 important to me. It represents not only my professional
24 identity but also my commitment to providing care and
25 improving the well-being of my patients. This
26 profession is more than just a job; it is a calling
27 that I am deeply passionate about.

28
29 "The financial impact of this situation has been

1 significant. My practice, which sees an average
2 of 20 patients a week is now struggling, and I have had
3 to find another job to make ends meet."

4
5 And just to explain to the Committee by what Mr. Castro 12:26
6 means by that assertion of the financial impact of the
7 situation, he is not pleading the poor mouth or
8 anything like that, he is simply I suppose averring to
9 the fact that he has had to go to the expense of
10 instructing solicitor and counsel. As the Committee 12:26
11 will appreciate, because the activities that he has
12 accepted carrying out go beyond the scope of his
13 general professional indemnity cover, the instructing
14 of a solicitor and counsel is something he has had to
15 quite rightly pay for out of his own pocket but I 12:26
16 suppose that has had an ongoing ancillary impact upon
17 him.

18
19 "In an effort to improve my knowledge and ensure such
20 an incident never happens again, firstly I undertake to
21 never administer Liztox or any other brand of Botulinum
22 Toxin and secondly not to advertise for services that
23 are outside my scope of practice as a registered
24 physiotherapist.

25
26 "In September 2024 I started a Masters, Msc Primary
27 Care (Orthopaedics and Musculoskeletal Medicine) in the
28 University College Dublin. This is a 2 year part-time
29 course. As part of this course, a requirement is

1 practical experience in a hospital. I have invested
2 significantly financially and I see this as part of the
3 future of my career as a physiotherapist and I take
4 extremely seriously upskilling and continuing to grow
5 and learn as a professional."

12:26

6
7 That hope is obviously subject to whatever outcome this
8 Committee sees fit to recommend at the conclusion of
9 its business.

10
11 "As part of this Statement I wish to submit references
12 from my patients, which are attached. These are
13 positive reviews. I strive to always provide the best
14 possible care for my patients. The vast majority of my
15 work and business did not include the administration of
16 Botox.

17
18 "Once again, I apologize for my actions and appreciate
19 your understanding as I work to rectify this situation.

20
21 Sincerely,
22 Igor Castro"

23
24 We then turn if I may to the three I suppose affected
25 persons and their responses to Mr. Castro's reaching
26 out to them and I suppose as is always the case, the
27 e-mails are somewhat in reverse order. So on internal
28 page 2 of that e-mail, we see that Igor Castro Pain
29 Relief e-mails to [REDACTED]:

12:28

1 "I am emailing you to confirm that I have been in
2 contact with you previously and explained my
3 situation. I have clarified that I am no longer doing
4 anti wrinkles treatment. I also made sure that you are
5 safe without any adverse effect from you latest
6 treatment with me."

7
8 "Hi Igor"

9
10 is the response.

12:29

11
12 "Thanks for your email."

13
14 "I appreciate your message about discontinuing the
15 anti-wrinkle service.

16
17 "I'd like to highlight the fantastic results of the
18 anti-wrinkle treatment - truly impressive. I'm
19 genuinely pleased with how smoothly the procedure went;
20 no adverse effects, not a single bruise. Given my very
21 sensitive skin, this says a lot, especially considering
22 my past experiences elsewhere.

23
24 "It's unfortunate you won't be offering this service
25 anymore, as I've genuinely appreciated your approach
26 and the exceptional results.

27
28 "Wishing you the best and a merry Christmas. Thank you
29 for consistently providing care with such kindness and

1 professionalism."

2
3 And it's signed by that particular patient. That's an
4 e-mail of 8th December 2023.

5
6 The second such e-mail is from [REDACTED]. It
7 starts Mr. Castro Pain Relief e-mailing:

8
9 "I am emailing you to confirm that I have been in
10 contact with you previously and explained my situation.
11 I am clarify that I am no longer doing anti wrinkles
12 treatment. I also made sure that you are safe without
13 any adverse effect from you latest treatment with me."

14
15 The response, 10th December 2023:

16
17 "Hi Igor

18
19 "Thanks for your email.

20
21 "I am very pleased with the results of your treatment,
22 I am very fond of your professionalism and care. I
23 appreciate that you updated me of the situation and I
24 understand that won't provide the services anymore. I
25 have to say that it is a shame as you have done an
26 amazing job."

27
28 The final such e-mail of an affected person:
29

1 "Hi [REDACTED]

2
3 and for the sake of expediency, it contains the same I
4 think communication about the cessation of such
5 treatments, and the response elicited on 10th December
6 2023 is:

12:30

7
8 "Hey Igor, thanks for being in touch. I can assure
9 that I am perfectly fine after you treatment and I am
10 really sorry that you won't be able to offer the
11 services anymore, after a long time I finally found a
12 professional who could address my needs and perform the
13 treatment smoothly and painless. If you come back in
14 the future, please let me know."

15
16 Now, obviously there is a misunderstanding there as to
17 the finality of matters but I suppose hopefully upon
18 hearing from Mr. Castro in person and having heard I
19 think what will be the uncontradicted assertion that
20 after having given an undertaking to CORU back in
21 November 2023 or December I think 2023 by virtue of
22 Mr. Ruane's e-mail to undertake no longer to administer
23 such treatments, that has been the case and will
24 continue to be the case.

12:31

25
26 Overleaf then is an e-mail from [REDACTED] of
27 yesterday's date based on Mr. Castro having gone back
28 to her to make clear that she understood the reason for
29 the e-mail:

12:31

1 "I would like to highly recommend Igor Castro.

2
3 "He is an exceptional and well-prepared professional,
4 combining technical expertise with a genuine sense of
5 humanity and compassion.

6
7 "In 2022, after experiencing constant pain in my hips,
8 I visited a doctor who diagnosed me with a tear and
9 tendinitis in both hips through an MRI. The doctor
10 prescribed physical therapy, and since then, Igor has
11 been guiding me through the treatment process. He
12 explained that it would be a long journey and
13 emphasized that while most of the work would be up to
14 me, he would be there to guide and support me along the
15 way - and he truly did.

16
17 "At his clinic, Igor conducted thorough assessments and
18 instructed me on exercises to do at home and in the gym
19 to strengthen my body. He also combined various
20 techniques and technologies, including shock therapy
21 and infrared ultrasound to help alleviate my pain.
22 After a few sessions, I was able to run without pain.
23 However, unfortunately, after a few months, the pain
24 returned.

25
26 "A new MRI showed that the tendinitis had resolved, but
27 the tear remained. The doctor advised that I continue
28 physical therapy and, if the pain worsened. Surgery
29 might be the next step. I was terrified at the thought

1 of hip surgery and was determined to avoid it.

2
3 "I returned to Igor, who once again reassured me and
4 explained that there might be other options to explore
5 before considering surgery. We did another round of
6 physical exercises, stretching and treatments with
7 shock therapy and ultrasound. While the pain became
8 more manageable, it still persisted. Igor then
9 suggested that hyaluronic acid injections could be
10 helpful, a treatment no one had ever mentioned to me
11 before.

12
13 "I sought a doctor who specializes in this treatment
14 and after three injections of hyaluronic therapy I have
15 been pain-free for almost eight months.

16
17 "Anyone who has lived with chronic pain for nearly
18 three years can truly appreciate what an incredible
19 achievement it is to be pain-free and medication-free
20 for such an extended period.

21
22 "I would like to sincerely thank Igor for his
23 professionalism, kindness and dedication. He
24 continuously updates his skills through courses and
25 studies, always striving to provide the best care
26 possible for his patients.

27
28 "While I now understand that I have a vulnerable area
29 in my body, and that surgery might eventually be

1 necessary. I am at peace knowing that I have explored
2 all possible options before considering it. I am deeply
3 grateful to God for bringing such a skilled
4 professional into my path, someone who supported me
5 throughout the entire process.

6
7 "I am fully aware that this is a reference letter for a
8 fitness-to-practice hearing."

9
10 And then there is a mobile number provided should 12:33
11 anyone see fit to contact the deponent or the author of
12 the e-mail and what is below is simply Mr. Castro's
13 reaching out to that patient seeking the initial
14 reference.

15 12:34
16 Might I just pause there and I suppose ask the
17 Committee's guidance, I hope it's appropriate in terms
18 of my reading verbatim the references. I am not sure
19 if the Committee prefers in these circumstances to
20 simply read them themselves in their own time. I am 12:34
21 very happy to continue if that's deemed appropriate by
22 the Committee. I don't wish to be --

23 CHAIRPERSON: We are quite happy with how you're
24 approaching it.

25 MR. SMYTH: Thank you, Madam Chair. The next reference 12:34
26 is from [REDACTED] and it's again dated yesterday's
27 date at 18:40:

28
29 "I was Igor's patient for about 1 year in 2022. He

1 helped me through the worst time of my life. I started
2 doing physiotherapy with him after suffering a stroke
3 where I lost part of my mobility. At that time, I
4 received symbolic assistance from the government of
5 8.50 euros per week, and of course it was impossible to
6 pay for my physiotherapy. Igor, as a professional and
7 as a human person, gave me physiotherapy sessions for
8 free, 2 x a week, and helped me a lot to regain my
9 independence. I am very grateful to Igor for all the
10 help he gave me. Igor is a great professional, kind and
11 charitable. I'm fully aware that is a reference letter
12 for a fitness to practice hearing."

13
14 And then the contact details where the Irish mobile
15 phone of that author is provided.

12:35

16
17 The final three references or referees then are persons
18 whom were not contacted in sufficient time to render
19 clear in their statement the knowledge of the purpose
20 of their statement, but for what they are worth in any
21 event as general reference, [REDACTED] with a given
22 address and a dated reference of 5th December this year
23 states:

12:35

24
25 "I have been visiting Igor for physiotherapy since Amy
26 2024. Initially this was for an ongoing shoulder
27 injury. He undertook a thorough examination and gave me
28 exercises to do, as well as acupuncture and TENS
29 treatment.

1 "After a few sessions and adherence to my exercises,
2 the pain substantially reduced and the range of motion
3 improved significantly. This meant I could quickly
4 return to regular intense CrossFit sessions.

5
6 "I also have visited Igor for a cruciate ligament
7 issue. Again, the exercises and treatment helped a
8 great deal. Before my most recent visit my knee was
9 very sore and after 45 minutes with Igor it had
10 improved considerably. I am always reassured by Igor's
11 knowledge and session in his treatment room are always
12 professional but also relaxed and helped by his warm
13 personal ity.

14
15 "I would highly recommend Igor as a physiotherapist."

16
17 Signed by Mr. Smyth.

18
19 The penultimate reference is from [REDACTED]
20 sent by way of e-mail, dated five days ago, 5th
21 December 2024 and states:

12:36

22
23 "To Whom It May Concern,

24
25 "I am pleased to write this letter as a testimonial for
26 Igor, who has been my physiotherapist for the past
27 year. During this time. I have benefited greatly from
28 his expertise, dedication, and thoughtful care in
29 addressing my injuries and helping me regain my quality

of life.

"My Journey with Igor began when I started experiencing persistent pain in my left groin area and lower back following a soccer injury in December 2023. Over the course of the year, Igor has carried out detailed assessments, provided tailored rehabilitation programs, and guided me through every step of the recovery process. His professionalism, knowledge, and readiness to respond, even in emergencies, have been exceptional.

"One of the pivotal moments in my treatment was when Igor recognized the need for advanced imaging, leading to the identification of disc bulges, extrusions, and later bursitis and tendinitis in the gluteal region, as well as a bone cyst in my femur. Each time, Igor adapted my rehabilitation plan to address these challenges with precision and care, ensuring that my progress was consistent while respecting my body's limits. His Interventions significantly alleviated my symptoms and allowed me to return to both daily activities and physical routines, including the gym with greater strength and confidence.

"Thanks to Igor's services, I have made remarkable progress. My lower back pain, muscle burning sensations, and overall discomfort have significantly decreased. I am now cautiously reintroducing gym activities under his guidance, building strength while

1 preventing future setbacks. Igor's ability to combine
2 technical expertise with empathy has made a profound
3 impact on my recovery and overall well-being.
4

5 "I am extremely satisfied with Igor's care and
6 wholeheartedly recommend his services as a
7 physiotherapist. His dedication to my rehabilitation
8 has been a key factor in overcoming what could have
9 been long-lasting and debilitating injuries. He has not
10 only improved my physical condition but has also
11 provided the tools and guidance necessary to maintain
12 long-term health."
13

14 And that's followed by the initial e-mail from my
15 client soliciting the reference letter.

12:38

16
17 And the final reference then comes from [REDACTED]
18 and it's dated 5th December 2024 and reads as follows:
19

20 "My feedback as a patient of Igor Castro:
21

22 "Igor Castro has been fundamental to my health this
23 year. In March, we had our first appointment. I
24 explained all the issues I was experiencing with my
25 shoulder, such as pain at night, difficulty with
26 certain movements, and even struggling to take off a
27 simple T-shirt. He carefully evaluated my condition,
28 gave a precise diagnosis, and informed me that I had a
29 frozen shoulder.

1 "He clearly explained the nature of the problem,
2 outlined the treatment plan, and provided all the
3 necessary details including that the recovery process
4 would take several months. His professionalism
5 reassured me, and his calm demeanor helped ease my
6 anxiety about the situation.

7
8 "We decided to begin the treatment, and I had to visit
9 my GP to get painkillers. This was the only way I could
10 continue working while managing the pain. I got a MRI
11 done that confirm the diagnosis.

12
13 "After a few months, I started to notice significant
14 progress. I was able to move my arms and shoulder
15 again, and the pain was no longer as intense as it had
16 been. In the beginning. This month, I'm happy to say
17 that my quality of life has returned. I no longer need
18 painkillers and can now work and even go to the gym.

19
20 "I am 95% better and I am incredibly grateful every day
21 for the dedication and care of this physiotherapist."

22
23 And that's finally followed again by the initial e-mail
24 from Mr. Castro soliciting the reference.

25
26 That, Committee, Madam Chair and Committee, concludes
27 the content of the mitigation booklet. Unless there is
28 any observations or questions at this juncture I
29 propose to call Mr. Castro I suppose to give some

12:40

1 evidence to the Committee if I may. Mr. Castro, I
2 think would you like to -- apologies

3 MR. BEATTY: Sorry, just before that, I might just
4 intervene here to set out for Mr. Smyth how I would
5 ultimately or how I may ultimately be advising the
6 Committee depending on whether his client gives
7 evidence or not, and obviously Mr. Smyth will be aware
8 of the consequences and the repercussions of calling
9 his client.

12:41

10
11 So essentially I will, and of course it's subject to
12 whatever election is made, but I may ultimately be
13 advising the Committee that in fact there is no
14 obligation upon the Registrant to give evidence and
15 that no adverse inference should be drawn from that
16 election.

12:41

12:41

17
18 Equally, the Registrant can go into evidence but if the
19 Registrant goes into evidence, then he is subject to
20 cross-examination.

12:41

21
22 Then the third option is that the Registrant gives a
23 statement, in which case the Registrant gives a
24 statement but he doesn't do so by way of sworn
25 evidence. It doesn't have the same weight as sworn
26 evidence or evidence that has been admitted, whether it
27 be documentary that has been admitted as to the truth
28 of the its content, and then he will not be
29 cross-examined. And I have no doubt that Mr. Smyth has

12:41

1 taken instructions in that regard but in circumstances
2 where depending on what election was decided I may
3 ultimately be advising the Committee, I decided that I
4 should just highlight that at the moment in case that
5 informs you at all or if you need to take instructions. 12:42

6 MR. SMYTH: No, I am obliged to Mr. Beatty for that
7 clarification. I will just confirm, I don't think I
8 need any time. No, I am obliged, Mr. Beatty. Subject
9 to the Chair, I still intend to call Mr. Castro.

10 CHAIRPERSON: Okay, thank you very much. Mr. Castro. 12:42
11 So, Mr. Castro, I might just say to you there is no
12 need to be nervous or frightened, we are here to hear
13 from you in your own words and we are much obliged.

14
15 MR. IGOR CASTRO, HAVING AFFIRMED, WAS DIRECTLY 12:43
16 EXAMINED BY MR. SMYTH AS FOLLOWS:

17
18 1 Q. MR. SMYTH: Now, Mr. Castro -- sorry, I'll just ask
19 Mr. Collins to bring some water. You have some beside
20 you there, very good. So, Mr. Castro, I just echo what 12:43
21 the Chair has said to you; just take your time in
22 answering questions that I ask you. If you're not
23 quite clear on what is question is, don't hesitate to
24 ask for it to be repeated. You're quite softly spoken,
25 so if you could do your best to pull yourself close 12:44
26 into microphone. So, Mr. Castro, first of all you have
27 heard me read to the Committee a statement in
28 mitigation just recently, is that correct?

29 A. It is, correct.

1 2 Q. Was that a statement that you prepared yourself?
2 A. The statement of regret of my actions.
3 3 Q. You prepared that yourself?
4 A. I did, yeah.
5 4 Q. And can you confirm the truth and accuracy of its 12:44
6 contents?
7 A. Yeah, that's true, it was my own words on the document.
8 5 Q. Thank you. Can you tell the Committee what age are
9 you, Mr. Castro?
10 A. I am 38. 12:44
11 6 Q. 38 and I think you're a Brazil national. Whereabouts
12 in Brazil do you come from?
13 A. From Salvador.
14 7 Q. Salvador. Is that a city?
15 A. Yeah, the north. 12:44
16 8 Q. That's in the north.
17 CHAIRPERSON: Sorry, Mr. Smyth, Mr. Castro, I might
18 just ask you to speak up a little louder.
19 A. Sorry.
20 CHAIRPERSON: The stenographer -- you can, okay. 12:44
21 9 Q. MR. SMYTH: Very good. Just don't be afraid to raise
22 your voice quite loud so we can all hear you. So
23 you're from Salvador, the city in the north of Brazil.
24 where did you study physiotherapy?
25 A. I studied in Brazil. 12:45
26 10 Q. where?
27 A. In Salvador.
28 11 Q. In Salvador.
29 A. In Salvador.

1 12 Q. In your home city. Can you just briefly tell the
2 Committee how you came, what reason you came to study
3 physiotherapy?

4 A. Yeah, so originally I was studying to do medicine in
5 Brazil because we have public and private schools there 12:45
6 and the medicine was all in the public. So I was
7 studying for there but then I took the exam for the
8 private in physiotherapy and I got second place and I
9 got a scholarship, so I started to do physio and fall
10 in love with the profession. 12:45

11 13 Q. Was that a bachelor's degree the record also show
12 degree in physiotherapy?

13 A. Yeah.

14 14 Q. And how long did that bachelor's degree take?

15 A. Five years. 12:46

16 15 Q. Five years, and in what year did you finish?

17 A. 2011.

18 16 Q. 2011. Now, staying with your time in Brazil, in
19 relation to your basic physiotherapy degree, did you
20 complete any additional qualifications or training in 12:46
21 Brazil?

22 A. I did. Yeah, I did the neurological rehabilitation
23 extension. I did cardiologic and pulmonary
24 physiopathology in medicine and I did physiotherapy in
25 ICU. 12:46

26 17 Q. Physiotherapy in ICU as well.

27 A. Yeah.

28 18 Q. What level of qualifications were they, you said
29 extensions?

1 A. Extensions, before the post graduation is the level, is
2 the practical level, we take 350/400 hours of practical
3 and theory learning.

4 19 Q. Okay, thank you. What year did you come to live in
5 Ireland? 12:46

6 A. 2016.

7 20 Q. And why did you come to Ireland?

8 A. So I came to improve my English originally and I would
9 maybe stay here for two years and then I met my husband
10 straight way. 12:47

11 21 Q. You met your husband?

12 A. Yeah.

13 22 Q. And what year did you marry your husband?

14 A. I married in 2019.

15 23 Q. Is he -- 12:47

16 A. I met him one month after I arrived to here.

17 24 Q. Okay. Is he originally an Irish gentleman?

18 A. Yeah.

19 25 Q. Okay. And did you work initially upon coming to
20 Ireland? 12:47

21 A. In Ireland I work as a healthcare assistant.

22 26 Q. For what sort of institute?

23 A. It's a home care company. So I start work as a home
24 care assistant, cycling, go to people's house and then
25 I moved from another company called Bluebird Care and 12:47
26 there I build up my career to become a healthcare
27 assistant coordinator.

28 27 Q. So does that mean you were managing other healthcare
29 assistants?

1 A. Yeah.

2 28 Q. Thank you. And I think you live in the [REDACTED] area,
3 is that correct?

4 A. Yeah.

5 29 Q. Now, I think in terms of how you came to practise 12:48
6 physiotherapy in Ireland, I think you gained entry onto
7 the Register of Physiotherapists in June 2021, is that
8 correct?

9 A. Yeah.

10 30 Q. And you set up your own practice in rooms over 12:48
11 O'Connell street, is that right?

12 A. Yeah.

13 31 Q. And was that after attaining recognition of your
14 Brazilian qualification in this country?

15 A. Yeah. 12:48

16 32 Q. Okay. Do you enjoy your work?

17 A. I love it.

18 33 Q. What do you like about it? You're okay, take your
19 time.

20 CHAIRPERSON: Mr. Castro, would you like us to take a 12:48
21 five-minute break?

22 A. No, I'm going to be fine.

23 34 Q. MR. SMYTH: I can move on to another question and we
24 can come back.

25 A. No, that's fine. Physiotherapy mean a lot to me. It's 12:49
26 not only what I do, it's how I feel inside. I applied
27 to be registered as physio because I couldn't see
28 myself as being something else. I couldn't be myself
29 work as a care assistant as I know that I could help

1 people more. It's what I do every day that I go to
2 work is knowing that someone I get in the room is going
3 to leave in a better way than they came.

4 35 Q. Okay. Okay, Mr. Castro, now, in just a moment we'll
5 talk about the serious allegations that you have 12:49
6 accepted, which is obviously why we are all here.

7 A. Yeah.

8 36 Q. But I just want to get a little bit more background
9 about your practice as a physiotherapist in Ireland.
10 So do you work essentially as a sole trader in your 12:49
11 premises --

12 A. Yeah, it's only me.

13 37 Q. -- in O'Connell street. Is it a successful business or
14 how would you describe it?

15 A. It is from the point of view the majority of my 12:50
16 patients are Brazilians, so yeah, I have a kind of busy
17 schedule with my Brazilian patients and that pay my
18 bills.

19 38 Q. That what? That pays the bills?

20 A. That pay my bills, yeah. Before I working two places 12:50
21 at the same time. One when I start, when I made the
22 mistake, I decided to go fully on the clinic but before
23 that I was working two places.

24 39 Q. Okay. When you say you made the mistake, you're
25 talking about the charges that you admitted? 12:50
26 A. Yeah.

27 40 Q. Okay. What, for example, do you have an idea of what
28 your average turnover is annually?

29 A. It's around 60,000 a year.

1 41 Q. Six zero.
2 A. 65, yeah, 60.
3 42 Q. Six zero, 65, okay. Are you aware of your continuing
4 professional development obligations as a
5 physiotherapist in Ireland? 12:50
6 A. Yes, I am fully aware of that.
7 43 Q. Do you comply with your obligations?
8 A. Totally.
9 44 Q. In terms of upskilling, can you, and I think you
10 mentioned it in your statement of regret, but can you 12:51
11 tell the Committee about any other courses, legitimate
12 courses that you have taken part in?
13 A. So after what happened, I start to think what I could
14 do to do better after what has been done and I realised
15 that I am really good at musculoskeletal and I want to 12:51
16 help more people in the area.
17 45 Q. In the skeletal area?
18 A. Yeah, musculoskeletal, the orthopaedics rehabilitation.
19 So then I decided to take up the Masters course to
20 upskill my knowledge to be more aware of the 12:51
21 legislation here and be able to help people in another
22 skill, another basic that I've been doing.
23 46 Q. I understand. And is that a two-year masters?
24 A. In primary care.
25 47 Q. In primary care, orthopaedics and musculoskeletal 12:51
26 medicine?
27 A. Yeah.
28 48 Q. How far into that course are you now? How much of it
29 have you completed?

1 A. It's the half, I just finish the semester. Tomorrow is
2 my next exam, my last exam.

3 49 Q. You have an exam tomorrow, okay. And how much is the
4 total cost of that course.

5 A. It's 14 grand. 12:52

6 50 Q. €14,000?

7 A. Yeah.

8 51 Q. Okay. It's a very different area from aesthetics?

9 A. Oh totally.

10 52 Q. Can we take it that aesthetics is no longer in your -- 12:52

11 A. No.

12 53 Q. Now, I want to talk about your administration of
13 Botulinum Toxin and obviously your advertising it as
14 well on your social media. I think first of all to be
15 clear you accept every single detail of the allegations 12:52
16 that were made to this tribunal today, isn't that
17 correct?

18 A. That's correct.

19 54 Q. And you also accept, based on your understanding of
20 what is professional misconduct, that what you have 12:52
21 done is professional misconduct as well as poor
22 professional performance?

23 A. Yes.

24 55 Q. Is that right?

25 A. Yeah. 12:53

26 56 Q. And you understand that misconduct is behaviour that
27 breaches your code of ethics your code of conduct and
28 code of ethics as a physio?

29 A. Yeah.

1 57 Q. And that it can also undermine public trust in your
2 profession. I want to ask you some questions about how
3 you became involved briefly in administering Liztox,
4 that Korean-branded Botulinum Toxin. First of all I
5 think you have heard and you agree that you first in 12:53
6 Ireland I think received Botox treatment yourself from
7 Dr. Sean Fitzpatrick --
8 A. Yeah.
9 58 Q. -- who was the gentleman who initially alerted I think
10 the HPRA and CORU as to what you were doing, is that 12:53
11 right?
12 A. Yeah.
13 59 Q. I think then subsequently the Committee has heard of a
14 person whose name is redacted throughout the
15 proceedings who I referred to as Person X? 12:53
16 A. Mm-hmm.
17 60 Q. Is Person X someone who you understood to be a
18 biomedical scientist who had rooms in the building from
19 where you practised, is that correct?
20 A. Yeah. 12:54
21 61 Q. Did Person X ever administer Botox on you --
22 A. Yeah.
23 62 Q. -- subsequent to you getting Botox from
24 Dr. Fitzpatrick?
25 A. Yeah, so I got Botox from Dr. Fitzpatrick in 2019 for 12:54
26 my wedding and then after that I found Person X's
27 service. So I started to do the service with her since
28 then.
29 63 Q. Okay, and what was your understanding foolishly or

1 otherwise about whether or not she was entitled as a
2 biomedical scientist to administer Botox?

3 A. So I didn't look on there, because she has been, back
4 then she receive a lot of awards, she has been on the
5 newspapers with awards of her clinic and her 12:54
6 treatments. So I failed to look deeply on that, I just
7 assumed that everything was correct.

8 64 Q. And on that point then did she lead you to any
9 understanding about whether or not you would be
10 entitled to administer Botulinum Toxin? 12:55

11 A. When she offered the course, she said yes, that I would
12 be fully allowed to do.

13 65 Q. What course did she offer?

14 A. She offered me the Botox course.

15 66 Q. And what was the name of that course? 12:55

16 A. It's master class Botox and filler course one to one.

17 67 Q. Now, obviously it's accepted that in Ireland, simply
18 put, a physiotherapist cannot administer Botox but just
19 to show the Committee your state of mind, what is the
20 situation in Brazil regarding that entitlement? 12:55

21 A. So in Brazil we are fully allowed to do Botox. In
22 Brazil we have a special, under the physiotherapy
23 professional code, a dermatology code function,
24 physiotherapy, which we work on all the aesthetics.
25 It's not like here, the aesthetics profession is the 12:56
26 aesthetics. In Brazil you need to be a physiotherapist
27 or you need to be a nurse to get the professional title
28 and in Brazil we fully, fully regulate it.

29 68 Q. Now, I just want to be very clear on this, are you

1 saying that Brazil every single physiotherapist from
2 the start can administer Botox?

3 A. No, they need to go through, they need to go through
4 the course. They need to get the postgraduate
5 certification to do the Botox or any other procedure 12:56
6 they're going to do, a separate course.

7 69 Q. So you were offered a course anyway by Person X in the
8 same building as you. Did you undergo that course?

9 A. Yes.

10 70 Q. Who delivered the course? 12:57

11 A. Person X.

12 71 Q. How long did it last?

13 A. That last three days.

14 72 Q. Three days. Did you have to pay for it?

15 A. Yeah. 12:57

16 73 Q. How much?

17 A. €3,300.

18 74 Q. €3,300. When did you do that course?

19 A. In October.

20 75 Q. Of what year? 12:57

21 A. 2023.

22 76 Q. I see. And where was it conducted?

23 A. In the same building that I work. She used to run a
24 clinic upstairs on the fourth floor.

25 77 Q. Sorry, I am just going to ask Mr. Collins to show you a 12:57
26 document and then I can distribute it amongst the
27 Committee. I am sorry, there's only four copies, I
28 thought I had more. [To Mr. Collins] So you might show
29 Ms. Daly on the way over if you would.

1 CHAIRPERSON: So does Ms. Daly need to see it?
2 MR. SMYTH: That's what I was saying, yes, sorry,
3 apologies, Chair. So you might just show Mr. Castro
4 what we were talking about in advance and then we can
5 distribute it amongst the Committee. 12:58

6 A. Yeah, that's the back of the, that's the back of the,
7 yeah, that's the back of that one that she's seeing.
8 This is the front, this is the back for this one.
9 Yeah, and that's the back from that one page she's
10 holding. 12:58

11 78 Q. So apologies, it seems we might only have two copies
12 front and back. I can ask Mr. Ruane to attend to that
13 so the Committee all have a copy. But is this in
14 essence, Mr. Castro, the certificate that you were
15 given by Person X? 12:58

16 A. Yeah.

17 79 Q. And what did you understand that that...?
18 A. I understood that I was allowed to start working with
19 the procedure that I learned from her.

20 80 Q. And I might arrange for that to be properly copied and 12:59
21 available as soon as humanly possible and apologies.

22 CHAIRPERSON: Mr. Smyth, can I just say can we mark
23 this, the Core Book can be Exhibit 1 and this is
24 Exhibit 2.

25 81 Q. MR. SMYTH: I would be grateful, thank you, Madam 12:59
26 Chair. Now, I think for the benefit of the Committee
27 you accept looking back now -- well, what do you say
28 about the legitimacy of that course looking back now?
29 A. It's not legit of the course. Now I understand that I

1 made a mistake.

2 82 Q. You made a mistake?

3 A. I made a mistake.

4 83 Q. What is your feeling towards Person X after her

5 offering you this course? 12:59

6 A. At the beginning I got very angry but I can't hold on

7 that, that's her to follow her mistakes and I take

8 action for my own mistake, which I didn't follow

9 through the guidelines that I should, supposed to be in

10 the Irish society. 13:00

11 84 Q. Yes. Do you know where Person X is now?

12 A. No.

13 85 Q. Okay. Is she still practising in the same building in

14 O'Connell Street?

15 A. No. 13:00

16 86 Q. Okay. So I think then as the charges you have accepted

17 set out, you administered Liztox to three persons, is

18 that correct?

19 A. That's correct.

20 87 Q. Patient A, Patient B and Patient C. What nationality 13:00

21 were those persons?

22 A. Brazilians.

23 88 Q. All Brazilians. And you accept that on your Instagram

24 account -- and I'm sorry, I should say I've echoed

25 Ms. Daly in that I've grossly underestimated the time I 13:00

26 would take in terms of my mitigation. I am not sure if

27 the Committee prefers to break for lunch at this

28 juncture or to continue with my examination?

29 CHAIRPERSON: How long more are you going to be?

1 MR. SMYTH: I think there is certainly -- I don't want
2 to mislead the Committee again, I think there's
3 certainly 15 minutes left in my questioning anyway.
4 CHAIRPERSON: Okay.
5 MS. DALY: And I will be cross-examining. 13:01
6 CHAIRPERSON: Pardon?
7 MS. DALY: And I will be cross-examining.
8 CHAIRPERSON: Yeah, okay, I think we will break for
9 lunch and we might take a shorter lunch than we had
10 envisaged earlier on. would 40 minutes be suitable? 13:01
11 MR. SMYTH: Of course.
12 CHAIRPERSON: You're okay with that? Okay, we'll be
13 back at 20 minutes to two. Okay, thank you.
14
15 THE HEARING ADJOURNED FOR LUNCH 13:01
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1 THE HEARING CONTINUED AFTER LUNCH AS FOLLOWS:

2
3 CHAIRPERSON: We are ready whenever you are, Mr. Smyth.

4 89 Q. MR. SMYTH: Thank you, Madam Chair. First as a matter
5 of housekeeping and with the assistance of CORU staff, 13:51
6 for which I'm very grateful, we've managed to sub in a
7 more appropriately copied version of the exhibit that
8 we've tendered, the certificate. So I would ask
9 Mr. Collins, Ms. Daly has a copy already, I would ask
10 Mr. Collins to distribute them to the Committee and to 13:51
11 Mr. Castro as well. They are copied front and back in
12 colour and we have manually redacted Person X's name on
13 the face of that certificate. So I just apply to
14 simply swap in that tendered version at the expense of
15 the originally tendered and inappropriately back and 13:51
16 front copied version.

17
18 So just to pick up on that point if I may with
19 Mr. Castro; Mr. Castro, hopefully you have in front of
20 you what appears to be a copy of a certificate copied 13:51
21 in colour front and back, is that correct?

22 A. Correct.

23 90 Q. You have described to the Committee you being given a
24 certificate by Person X after the supposed training you
25 underwent with her, is that correct? 13:52

26 A. Correct.

27 91 Q. Is that a copy of the certificate which you were given?

28 A. Yes.

29 92 Q. Bearing in mind I suppose -- well, not to make any

1 suppositions, but presumably most people here do not
2 speak Portuguese; can you briefly describe the content
3 of that statement, what it says?

4 A. Yeah, that's the front is certificado means
5 certificate. That's the date of the course. 13:52

6 93 Q. Could you just speak into the microphone and raise your
7 voice please, thank you.

8 A. Certificado means certificate and that's the date for
9 the course.

10 94 Q. And in terms of the dates of the course, what dates 13:52
11 does that give?

12 A. 4th September 2023 and 2nd September 2023.

13 95 Q. Okay, I think you had earlier said October for the
14 dates you underwent the course?

15 A. Yeah, no, I got it wrong, the dates. 13:52

16 96 Q. You got the dates wrong, okay. Okay, anything else on
17 the face of the certificate?

18 A. Yeah, the hours which is 24 hours, the location which
19 is Dublin, Ireland. That's my name.

20 13:53

21 "We certify that Igor Lima Castro completed
22 successfully VIP course of Botulinum Toxin Type A and
23 Dermal Fillers.

24

25 Realised by Professor Doctor [REDACTED] through 13:53
26 the Institute of [REDACTED]. "

27

28 97 Q. okay, and that's the certificate you were given. Now,
29 I think you accept in hindsight based on what you now

1 know, that was not a valid course, that was not a valid
2 certificate, is that correct?

3 A. Correct.

4 98 Q. And do you accept now, Mr. Castro, looking back that
5 it's up to you as someone privileged to be a registrant 13:53
6 of a professional body to familiarise yourself with all
7 the laws and regulations relevant to what you can and
8 cannot do?

9 A. Yes.

10 99 Q. I think you also accept that -- just where we had left 13:54
11 off before lunch, you had said that you administered
12 Botulinum Toxin to three persons, all Brazilian
13 nationals, is that correct?

14 A. Yes, yeah.

15 100 Q. And do you accept on your Instagram account by virtue 13:54
16 of publishing screenshots of what appears to be you
17 administering the toxin, you were suggesting to the
18 public at large that you could provide Botox-style
19 aesthetic treatments?

20 A. Yeah. 13:54

21 101 Q. Do you accept that that's what you were suggesting?

22 A. Yeah, correct.

23 102 Q. I think there are two Instagram accounts which are
24 viewable in the screenshot provided to the CORU
25 booklet. I think are they your professional Instagram 13:54
26 account and also your personal Instagram account? The
27 screenshot which was tendered by Ms. Daly to the
28 Committee, is that your personal Instagram account
29 republishing something that was published on your

1 professional Instagram account, is that the way it
2 works?

3 A. Correct, yeah.

4 103 Q. Was that viewable by anyone with an Instagram account?
5 A. No, only my followers. 13:55

6 104 Q. Only your followers?
7 A. Yeah.

8 105 Q. It was limited to your followers, I see.
9 MS. SHEEHAN: 2,000 followers, is that correct?
10 MR. SMYTH: Sorry? 13:55

11 MS. SHEEHAN: 2,000 followers?
12 A. Yeah.

13 106 Q. MR. SMYTH: 2,000, is that for your personal or your
14 professional or both approximately?
15 A. I think it's both approximately the same. 13:55

16 107 Q. Both about 2,000, okay. Now, you accept I think that
17 you were simply not permitted to administer Botox,
18 which is obviously a brand name, but more generally
19 Botulinum or the Korean variant Liztox, you accept all
20 that? 13:55

21 A. Yeah.

22 108 Q. I want to ask you about something that the expert,
23 Ms. Hanlon, in her expert report at page, for the
24 Committee's benefit page 56 of the overall pagination
25 and in fact at 63 internally within that expert report, 13:55
26 Ms. Hanlon, Mr. Castro, notes that:
27
28 "A physiotherapist would not be trained to administer
29 anaphylactic shock treatment should an adverse reaction

1 occur after the administration of Liztox."

2

3 Now, you accept that she was quite right to say that in

4 general terms I think?

5 A. Yes. 13:56

6 109 Q. But I suppose is there anything of relevance you have

7 undergone yourself that might allay those concerns that

8 she expressed in terms of anaphylactic shock treatment?

9 A. I've done the anaphylactic first aid course.

10 110 Q. Anaphylactic first aid course? 13:56

11 A. Yeah.

12 111 Q. In what context or why did you do that and when?

13 A. So before I get my registration with CORU, I was

14 applying to be -- I got the letter from CORU to say

15 that I was physio but I didn't get the registration. 13:56

16 So I applied to be a vaccinator on the Covid vaccine

17 and then I went through the course.

18 112 Q. So you applied to be a person who administers the Covid

19 vaccine?

20 A. Yeah. 13:57

21 113 Q. When was this approximately?

22 A. 2020.

23 114 Q. 2020 and you underwent the course.

24 A. Yeah.

25 115 Q. And what relevance does that have with anaphylactic 13:57

26 shock treatment?

27 A. The relevance?

28 116 Q. Did you do training?

29 A. I did the training but I didn't finish it but I

1 start -- I got the CORU licence then. I went to a
2 physio role instead.

3 117 Q. Are you saying you did not finish the training or did
4 not take up the job?

5 A. I didn't take the job. It was a practical part of the 13:57
6 training that I didn't do when you start the job and I
7 didn't start the job.

8 118 Q. Okay, but in terms of the anaphylactic shock training,
9 are you trained to do that?

10 A. No, not fully trained. 13:57

11 119 Q. Not fully trained but you have some knowledge of it?

12 A. Yeah.

13 120 Q. Thank you. Now, I just want to take you through some
14 of the admissions you made to Mr. Wright in the context
15 of his interview with you in March of this year and as 13:57
16 Ms. Daly has fairly outlined to the Committee, you
17 accepted certain things and you gave him certain
18 information. So I just want to reiterate some of that
19 because you're now giving sworn evidence. So I think
20 you told Mr. Wright, Mr. Castro, that in terms of who 13:58
21 provided Liztox to you, was it -- well, who was it?

22 A. [REDACTED]

23 121 Q. Well --

24 A. My tutor.

25 122 Q. We are referring to her as Person -- 13:58

26 A. Oh sorry, X.

27 123 Q. No, that's okay.

28 A. X.

29 124 Q. Person X. And in what context did she provide the

1 Liztox to you? Did you have to pay for it or was it
2 free?

3 A. Yeah, I had to pay.

4 125 Q. How much?

5 A. €80.

13:58

6 126 Q. And you accepted or you explained all that to
7 Mr. Wright?

8 A. Yeah.

9 127 Q. And when did you become aware that you were not
10 entitled to administer Botulinum Toxin?

13:58

11 A. When the HPRA came to my premises.

12 128 Q. And when that was?

13 A. In November '23.

14 129 Q. November '23?

15 A. '23.

13:59

16 130 Q. You had that meeting with Mr. Wright on behalf of
17 the --

18 A. HPRA.

19 131 Q. In the conduct of his investigation on behalf of the
20 HPRA in March 2024. What happened as a result of the
21 HPRA investigation, Mr. Castro?

13:59

22 A. What happened with...? Can you repeat for me?

23 132 Q. Was there a prosecution started by HPRA about your
24 behaviour?

25 A. No, no, no, they decided to give me a warning and
26 maintain the process for seven years in the files and
27 if I do this again, they are going to bring the case
28 back, which is not going to be the case.

13:59

29 133 Q. Okay, so there will be a note on your file for seven

1 years --

2 A. Yeah.

3 134 Q. -- after you were given a warning. Now, Ms. Daly
4 referred to an e-mail from your solicitor, Mr. Ruane,
5 which he wrote to CORU back on 11th December 2023 and 13:59
6 in the course of that -- actually I think it was a
7 letter sent by e-mail, and in the course of your letter
8 on your behalf, he admitted all the allegations against
9 you and also on your behalf he gave an undertaking that
10 you would only practise conventional physiotherapy. 14:00
11 That was on 11th December 2023. Were you aware of that
12 letter?

13 A. No.

14 135 Q. Did you know about that undertaking to practise
15 conventional physiotherapy only? 14:00

16 A. Sorry, I don't follow.

17 136 Q. No, that's okay, don't worry. So back in December
18 2023, your solicitor, Mr. Ruane --

19 A. Yeah.

20 137 Q. -- wrote to CORU and this was just before the 14:00
21 Preliminary Committee --

22 A. Okay, yeah.

23 138 Q. -- were going to examine whether there was I suppose a
24 case to answer.

25 A. Yeah. 14:00

26 139 Q. And in that letter Mr. Ruane said on your behalf that
27 you would only take part in conventional physiotherapy.

28 A. Yeah.

29 140 Q. Meaning no aesthetic treatment.

1 A. No.

2 141 Q. Nothing like.

3 A. No, yeah.

4 142 Q. Did you stick to that undertaking?

5 A. Oh totally, totally. 14:00

6 143 Q. Okay. You practised only conventional physiotherapy?

7 A. Only physiotherapy.

8 144 Q. Have you ever administered Botulinum Toxin since --

9 A. No, Jesus, no.

10 145 Q. -- the incidents in October 2023? 14:01

11 A. No.

12 146 Q. I think as I have outlined to the Committee, after you

13 became aware of what you had done wrong, you wrote to

14 the three patient, Patient A, B and C explaining that

15 you could no longer do aesthetic treatments, is that 14:01

16 right?

17 A. Yeah.

18 147 Q. I'm nearly finished asking you some questions,

19 Mr. Castro. Can I ask, you were aware I think of the

20 possible sanctions that this Committee can recommend be 14:01

21 imposed upon you, isn't that right?

22 A. Yeah.

23 148 Q. And I suppose you're aware that the most serious of

24 those is a ruling that you can not practise

25 physiotherapy for a very lengthy amount of time. What 14:01

26 -- you accept you have done wrong, you accept that you

27 were the person who has caused you to be here.

28 A. Mm-hmm.

29 149 Q. But what would the consequences of you not being able

1 to be a physiotherapist be?

2 A. I think mostly for my patients. I have been looking

3 after a lot of people, especially Brazilians that have

4 come here to study English. They don't have family,

5 they don't know the language properly. So I'm there to 14:02

6 intervene in helping them to go through the Irish

7 health system. I help them with letters to go to the

8 hospital, how they need to approach through a GP to get

9 the tests that they need. I work not only as a physio,

10 I work as a healthcare professional there and the most 14:02

11 important thing for me now is about them because I made

12 the mistake and I am fully aware that I shouldn't have

13 done this and the risks of my actions was terrible.

14 Thank God nothing worse happened and I hope I can

15 continue to help people because that's what I do 14:03

16 mainly.

17 150 Q. Are you aware, let's just take the Dublin region, are

18 you aware of whether or not there are many practising

19 physiotherapists with the Portuguese language in that

20 location? 14:03

21 A. No, city centre, no, there's only one.

22 151 Q. Sorry?

23 A. Not in city centre. They have --

24 152 Q. well, let's take Dublin county as whole approximately

25 even? 14:03

26 A. Oh Dublin county, three.

27 153 Q. Sorry?

28 A. Three or four.

29 154 Q. Three or four who speak Portuguese?

1 A. Portuguese, yeah.

2 155 Q. Okay. If you were given the opportunity and the
3 privilege of continuing to practise physiotherapy, will
4 you ever administer any type of medication?

5 A. No, I wouldn't. 14:03

6 156 Q. Any type of injection or any type of aesthetic
7 treatment again?

8 A. No, I would never do that.

9 157 Q. What will your focus be on in terms of your practice?

10 A. My focus is on physiotherapy and musculature 14:03
11 rehabilitation.

12 158 Q. Musculature rehabilitation?

13 A. Yeah, primary care.

14 159 Q. Is that a promise and a solemn undertaking --

15 A. It is, yeah. 14:03

16 160 Q. -- you can give having made an oath, an affirmation to
17 the Committee?

18 A. Definitely, yes.

19 161 Q. Have you anything to say by way of an apology to the
20 Committee? 14:04

21 A. I am really sorry for what I made for the Irish
22 society, for the risk that I put everybody through and
23 I understand fully the actions that I took and
24 everything that I should have done and I just hope that
25 I can work as a physio because that's my calling, 14:04
26 that's what I love to do, that's part of me. But I do
27 understand also if you guys think that it's a risk. I
28 wish you guys think that I made a mistake and I am
29 truly regret this and that's it I think.

1 MR. SMYTH: Okay, Mr. Castro, I've finished asking you
2 questions but Ms. Daly might have some questions for
3 you or the Committee might have some questions for you,
4 so you might remain where you are.

5 A. Yeah. 14:04

6

7 MR. CASTRO WAS CROSS-EXAMINED BY MS. DALY AS FOLLOWS:

8

9 162 Q. MS. DALY: Good afternoon, Mr. Castro.

10 A. Hi. 14:04

11 163 Q. I just have some questions arising from the evidence
12 that you have given in response to questions from
13 Mr. Smyth. I understand that you qualified is it in
14 2011?

15 A. Yeah. 14:05

16 164 Q. That's what you said, in Brazil. And in the context of
17 your evidence, you said that in Brazil you're fully
18 allowed to administer Botox?

19 A. Yeah.

20 165 Q. And in that context you said that you're fully allowed 14:05
21 but only in circumstances, and your language was that
22 you have to do a post-graduate course?

23 A. Yeah.

24 166 Q. So presumably because it's a post-graduate course , it
25 involves training, time? 14:05

26 A. Yeah.

27 167 Q. And over a duration?

28 A. Of time, yeah.

29 168 Q. So it's not a day or two course, it as post-graduate

1 course that takes some time?

2 A. Yeah, yeah.

3 169 Q. And that's what's required in Brazil in order to

4 perform Botox?

5 A. Yeah. 14:05

6 170 Q. If one then looks at when you moved here, you said that

7 you first worked as a HCA?

8 A. Yeah.

9 171 Q. A healthcare assistant?

10 A. Yeah. 14:05

11 172 Q. And you did so because you had to get the qualification

12 recognised here, is that correct as I understand your

13 evidence to be?

14 A. Yeah.

15 173 Q. And then as part of your recognition here, you had to 14:06

16 do an accreditation course?

17 A. No.

18 174 Q. How did you come to be recognised here?

19 A. We apply for the recognition process, which are the

20 subject that we learn in college, and after that CORU 14:06

21 give us the response if we are equipped or not.

22 175 Q. I understand. So you accumulated all of your

23 accreditations --

24 A. Yeah.

25 176 Q. -- and certificates from Brazil? 14:06

26 A. Yeah.

27 177 Q. Which did not include a post-graduate course in Botox?

28 A. No.

29 178 Q. And you submitted that to CORU?

1 A. Yeah.

2 179 Q. CORU then assessed all of that material?

3 A. Yeah.

4 180 Q. And then determined whether it was appropriate to enter
5 you onto the Register or not, is that correct? 14:06

6 A. Yeah, correct.

7 181 Q. And ultimately they did enter you onto the Register and
8 I think from your evidence you said that was 2016?

9 A. No, '21.

10 182 Q. '21, okay. In terms of being a registered 14:06
11 physiotherapist, you're aware of the code?

12 A. Yeah.

13 183 Q. And you're aware it's your responsibility to be
14 familiar with what is occurring?

15 A. Yes. 14:07

16 184 Q. And you're aware that your practice is your
17 responsibility?

18 A. Yes.

19 185 Q. And you're aware that being familiar what you can and
20 can't do is your responsibility? 14:07

21 A. I do, yeah.

22 186 Q. And so if one looks at your own experiences, we have
23 obviously heard the complaint from Dr. Sean Fitzpatrick
24 and he is someone that attended for Botox?

25 A. Yeah. 14:07

26 187 Q. And he's a plastic surgeon, isn't that right?

27 A. No.

28 188 Q. A plastic consultant?

29 A. No, he's just aesthetic doctor.

1	189	Q.	He's a doctor.	
2		A.	Yeah.	
3	190	Q.	And he specialises in plastics.	
4		A.	No, I didn't know that.	
5	191	Q.	Either which way, you accept that he's a qualified	14:07
6			doctor?	
7		A.	Yeah.	
8	192	Q.	And it was a doctor that you attended for your Botox	
9			initially?	
10		A.	Yeah.	14:07
11	193	Q.	So you didn't attend a physiotherapist?	
12		A.	No.	
13	194	Q.	You attended a doctor?	
14		A.	Yes.	
15	195	Q.	If we then look at your evidence in terms of the	14:08
16			training that you undertook with a view to performing	
17			Botox, the individual you attended was in your building	
18			as I understand it?	
19		A.	No, in her clinic.	
20	196	Q.	In her clinic?	14:08
21		A.	Yeah.	
22	197	Q.	But it wasn't in your building?	
23		A.	Yeah, it's the same building, yeah.	
24	198	Q.	So it was in your building on a different floor?	
25		A.	Yeah.	14:08
26	199	Q.	And in terms of this individual, did you approach your	
27			regulator to see if it was okay to do this?	
28		A.	No.	
29	200	Q.	No, and you weren't aware of other physios that were	

1 doing this, this was something new for you and a new
2 venture?

3 A. No, no, I didn't know back.

4 201 Q. And you didn't contact anyone?

5 A. No. 14:08

6 202 Q. So a new venture, you weren't aware of other physios
7 doing this and you didn't contact anyone to check if it
8 was okay for you to do it, is that correct?

9 A. No, correct.

10 203 Q. In terms of your evidence, you said you undertook the 14:08
11 course in October 2023. That's what your evidence was
12 this morning, you said October 2023.

13 A. No, it was September, yeah.

14 204 Q. No, your evidence this morning was October 2023. A?

15 A. Okay. 14:09

16 205 Q. Your evidence this morning was that it was also over
17 three days.

18 A. Okay.

19 206 Q. That was your evidence this morning. So in evidence
20 before lunch the course was October 2023 and lasted 14:09
21 three days, and if we look at certificate that you
22 produced, it actually says the 1st September 2023 is
23 when it started, so a month earlier than your evidence
24 this morning and it also says that the course concluded
25 the following day on the 2nd September 2023. So 14:09
26 according to this certificate, the course was two days
27 in September and not three days in October as you said
28 in evidence this morning.

29 A. Correct.

1 207 Q. So which is it?

2 A. No, because she gave me a material to study before the

3 day, so that's why I thought it was three days. I put

4 in my head it was three days but the certificate is

5 correct. 14:10

6 208 Q. So she gave you material before?

7 A. Yeah.

8 209 Q. Which is why you thought it was three days?

9 A. Yeah, no, I thought it was three days --

10 210 Q. But your evidence was that it -- 14:10

11 MR. SMYTH: If he could be permitted to finish his

12 thought please, Chair.

13 A. She gave me material to study. Then I started Monday

14 prior to take the -- to go to the practical course,

15 which was two days, the practical course. That's why I 14:10

16 thought it was three days. But the certificate is only

17 24 hours.

18 211 Q. MS. DALY: But the certificate doesn't say anything of

19 that nature.

20 A. Okay. 14:10

21 212 Q. If we just look at the certificate, it says date

22 course, 1st September 2023; course finishes, 2nd

23 September 2023; course duration, 24 hours.

24 A. Okay.

25 213 Q. So if you look on the face of that certificate, the 14:10

26 course took two days and lasted 24 hours. So there's

27 no reference to three days and course material, it says

28 something completely different.

29 A. Okay.

1 214 Q. Do you accept that?
2 A. I accept that.
3 215 Q. And if this certificate is correct, it would mean that
4 potentially that you did 12 hours without lunch on the
5 first and 12 hours without lunch on the 2nd. 14:11
6 A. No, no, it wasn't like this.
7 216 Q. So the certificate is wrong, is that what you're
8 saying?
9 A. No, the certificate is correct. I am really sorry for
10 the things, I am trying to get my mind to remember what 14:11
11 the fact was. I went to study on the Monday. I did
12 the two days practical with her, which was the whole
13 day of training and then we did one more day what's the
14 review of patients that is not on the certificate.
15 217 Q. So something else that isn't on the certificate? 14:11
16 A. Yeah.
17 218 Q. So what you said in evidence before lunch, which was
18 October 2023 for two days, is incorrect completely from
19 what your evidence is this afternoon.
20 A. Yeah. 14:11
21 219 Q. And then it also transpires that the certificate is
22 correct as well because it doesn't include things that
23 were part of your training, is that what I understand?
24 A. It doesn't include the correct dates, though it
25 included the correct time. 14:12
26 220 Q. So the dates were wrong but includes the correct time?
27 A. Yeah.
28 221 Q. So we simply don't actually know what was happening
29 because you have a version this morning, a version this

1 afternoon, a certificate that isn't reflective of what
2 actually happened and then another account that's been
3 given in response to my questions?
4 A. I don't know.
5 222 Q. Do you see that -- 14:12
6 A. I do understand that, yeah, I do understand that
7 totally.
8 223 Q. Okay, if we move on through the certificate, can you,
9 and you may not be able to help me in this regard, why
10 is the front of the certificate in Portuguese and the 14:12
11 back of the certificate half in Portuguese and half in
12 English?
13 A. I don't know. She gave me another certificate in
14 English as well, that's she giving another American
15 certificate. I think it was the other one, material 14:12
16 that I got. Did you guys show her?
17 224 Q. So you can't explain why it is. Would you be able to
18 help me as well, why on the right-hand corner up here
19 does it have "Doctor Igor -- "?
20 A. In Brazil physiotherapists are called doctor. We use 14:13
21 it --
22 225 Q. In Brazil?
23 A. Yeah.
24 226 Q. Okay.
25 A. We use it -- 14:13
26 227 Q. So that's indicative of how you're called in Brazil as
27 opposed to how you're called in Ireland?
28 A. Yeah.
29 228 Q. Okay. In terms of when you were giving evidence this

1 morning, you said that this individual had a high
2 profile in terms of visibility and that that was part
3 of why you were led to her because of her high profile
4 and visibility. If we then look at you, you have 2,000
5 followers and you were also doing that thing of 14:13
6 profiling and visibility. So do you accept and see how
7 that nature of advertising is highly misleading?

8 A. Yes, I do.

9 229 Q. If we then move on to the -- you were asked about
10 anaphylactic shock. I think you ultimately when 14:13
11 questioned further accepted that not fully trained but
12 you had some knowledge?

13 A. Yes, correct.

14 230 Q. So it's fair to say that you weren't in a position to
15 deal with anaphylactic shock -- 14:14

16 A. Correct.

17 231 Q. -- if that was to arise, is that correct?

18 A. Correct.

19 232 Q. Dealing with the actual facts of the case at hand, you
20 said that the three clients were Brazilians and in that 14:14
21 context that's how you came to know them and they came
22 to see you and if we -- do you speak Korean?

23 A. No.

24 233 Q. And in terms of the labeling that was on the Liztox
25 boxes, you couldn't understand what was written on it 14:14
26 then?

27 A. Correct.

28 234 Q. So you weren't aware of what the medication itself and
29 the advice was on it?

1 A. Correct.

2 235 Q. And notwithstanding the fact that you knew you couldn't
3 understand Korean, you administered it to those
4 patients?

5 A. Correct. 14:14

6 236 Q. And in terms of getting the medication, you know it was
7 a registered product, a medicinal product?

8 A. Yeah.

9 237 Q. But you knew you were injecting Botox into someone's
10 face? 14:14

11 A. Yeah.

12 238 Q. And in terms of where you got it, you just went
13 upstairs?

14 A. Yeah.

15 239 Q. And I am assuming upstairs wasn't a pharmacy? 14:15

16 A. No.

17 240 Q. There wasn't a pharmacist?

18 A. No.

19 241 Q. It was simply a room and you got it from a room?

20 A. Yes. 14:15

21 242 Q. And in terms of the individual whom you got it from, I
22 think you have said it was a bio --

23 A. Biomedical.

24 243 Q. A biomedical. So it was a person who wasn't a doctor,
25 wasn't a pharmacist, had no qualification of that 14:15
26 regard, there was no one in the room with any
27 qualification of that kind? You're nodding, that's
28 yes?

29 A. Yes -- no -- yeah, correct.

1 244 Q. There was no prescription?
2 A. No.
3 245 Q. You couldn't read what was on the label?
4 A. Correct.
5 246 Q. You weren't aware of what the risks of what the product 14:15
6 was?
7 A. Correct.
8 247 Q. In some regards you may not have even known what the
9 product was because you couldn't even read the label?
10 A. Correct. 14:15
11 248 Q. And notwithstanding all of those factors, you still
12 injected that into three of your patients when you
13 hadn't checked with anyone that it was okay to do this?
14 A. So [REDACTED] had been using the medicine for long time and
15 she use it myself as well during her treatment, so I 14:16
16 presumed that everything was correct. That's why I use
17 the same product. I failed, I failed on look at those
18 things.
19 249 Q. But, Mr. Castro, you're a registered --
20 A. I do understand. 14:16
21 250 Q. -- physiotherapist?
22 A. Yeah.
23 251 Q. And that is a huge privilege.
24 A. It is.
25 252 Q. And with that privilege comes responsibility and you 14:16
26 have just accepted that that product, you couldn't
27 understand what was on the label?
28 A. Mm-hmm.
29 253 Q. You went upstairs and obtained it from an individual

1 rather than a medical practitioner and you did that
2 without a prescription and knowingly administered that
3 to three patients.

4 A. That's correct.

5 254 Q. And you're relying on this certificate as a training as 14:17
6 to a supposed understanding to do so, isn't that
7 correct?

8 A. Correct.

9 MR. SMYTH: Perhaps that question could be put a little
10 more clearly, I am not sure I quite understand the 14:17
11 premise of it.

12 255 Q. MS. DALY: You're relying on this certificate as what
13 you understood to be training of what happened and how
14 you come to be able to administer Botox?

15 A. Correct. 14:17

16 256 Q. And you're not -- this morning you couldn't remember
17 when the training happened based on what was in this
18 certificate, which is different, you said a different
19 time, isn't that correct?

20 A. Okay, correct, yes. 14:17

21 257 Q. And this morning you said a different duration, isn't
22 that correct, you said three days?

23 A. Different dates but it's the same time, the same amount
24 of hours. But you're correct, yeah, I said -- mix it
25 up. 14:17

26 258 Q. You mixed it up. But, Mr. Castro, in terms of
27 appearing before your regulator, I understand this is
28 the first time you have been in this situation?

29 A. Yeah.

1 259 Q. It's serious?
2 A. I know, yes.
3 260 Q. And to come before a Committee and mix up the dates,
4 the time, the nature of the training that you undertook
5 which you say justifies or you thought justified your 14:18
6 ability to administrator Botox --
7 A. No, the --
8 261 Q. Is somewhat perplexing, isn't it?
9 A. No, they never judge by my actions though.
10 262 Q. I am asking you a different question. You have never 14:18
11 been in this position before and notwithstanding that
12 you can't get the dates straight in terms of when you
13 undertook the training?
14 A. Sorry?
15 263 Q. This morning you said October, the certificate says 14:18
16 September.
17 A. Okay.
18 264 Q. In terms of the allegations, I think I've taken you
19 through the difficulties in terms of the grave risk
20 that patients were put at, you accept that? 14:19
21 A. I do, yeah.
22 265 Q. The lack of care that you took ensuring that the
23 patient safety was paramount?
24 A. Yes.
25 266 Q. And you would accept that but for HPRA attending, you 14:19
26 wouldn't have known and would have continued?
27 A. If the H -- no, probably --
28 267 Q. You've given evidence to say that up until the point
29 that HPRA attended at your premises, you say that you

1 were unaware that you were doing anything wrong.
2 That's what you say, is that your evidence?
3 A. Yeah.
4 268 Q. And you say that in the context of you have given
5 evidence that you didn't know another physiotherapist 14:19
6 who was doing this, is that correct?
7 A. Yeah.
8 269 Q. That's what your evidence was. You've also said that
9 you didn't check with anyone whether you could do that.
10 A. That's correct. 14:19
11 270 Q. And it's only for the first time, you say, that it's
12 when they attended you became aware of that?
13 A. Yes, correct.
14 CHAIRPERSON: Okay, thank you, Ms. Daly. Mr. Smyth, do
15 you want to come back in? 14:20
16
17 MR. CASTRO WAS RE-EXAMINED BY MR. SMYTH AS FOLLOWS:
18
19 271 Q. MR. SMYTH: Just briefly arising if I may, Chair.
20 Person X who we have heard operated upstairs to you, 14:20
21 for what kind of -- how long had you known her?
22 A. Since 2020.
23 272 Q. Did you have professional respect for her?
24 A. Yes.
25 273 Q. Did you trust her? 14:20
26 A. Yes.
27 274 Q. For all intents and purposes did you see her as a
28 competent professional who knew what she was doing?
29 A. Yes.

1 275 Q. She had administered Botox treatment to you after your
2 initial --
3 A. Yes.
4 276 Q. -- treatment by Dr. Fitzpatrick, is that right?
5 A. Yes. 14:20
6 277 Q. How many times approximately?
7 A. Three.
8 278 Q. Three. And what medication to your knowledge did she
9 use in administering those treatments?
10 A. Probably the same. 14:20
11 279 Q. Did anything go wrong or did you experience any adverse
12 reactions?
13 A. No.
14 MR. SMYTH: Nothing further, thank you, Madam Chair,
15 thanks for the opportunity. 14:21
16 MS. DALY: Just arising from that --
17 MR. SMYTH: well, I am not sure if there is much
18 precedent for re re-examination but I'll defer to
19 Mr. Beatty and his wisdom on that.
20 14:21
21 LEGAL ADVICE BY MR. BEATTY:
22
23 MR. BEATTY: Sorry, if something arose that hadn't
24 arisen.
25 MS. DALY: Absolutely. 14:21
26
27
28
29

1 MR. CASTRO WAS FURTHER RE-EXAMINED BY MS. DALY AS
2 FOLLOWS:
3
4 280 Q. MS. DALY: I think the answer was "probably the same".
5 So you don't actually know whether it was the same 14:21
6 medication at all?
7 A. I don't remember. It's been so many years ago.
8 MS. DALY: No further questions.
9 CHAIRPERSON: Mr. Smyth, I take it you're....
10 MR. SMYTH: I am, thank you very much. Mr. Castro, you 14:21
11 can -- unless the Committee have any questions for him.
12 CHAIRPERSON: Yes.
13 MR. SMYTH: Yes, sorry, apologies.
14
15 MR. CASTRO WAS QUESTIONED BY THE COMMITTEE AS FOLLOWS: 14:21
16
17 281 Q. MR. TIGHE: It's just with regarding your -- you came
18 to Dublin in 2016 and you got your accreditation in
19 2021, so for those five years you didn't undertake any
20 physio? 14:21
21 A. No.
22 282 Q. Did CORU ask for any back to -- return-to-practice --
23 A. Yeah.
24 283 Q. -- training in that time?
25 A. Yeah. 14:22
26 284 Q. So before you got your accreditation?
27 A. Registration.
28 MR. TIGHE: okay, that's fine, thank you very much.
29

1 285 Q. MS. SHEEHAN: This, what you produced earlier on seems
2 to be a different certificate to this, is that correct?
3 A. Yeah, it's the same but she said that I can get an
4 America licence.
5 286 Q. So the date on this says from 9/2/23. 14:22
6 A. It's opposite.
7 CHAIRPERSON: 9th.
8 287 Q. MS. SHEEHAN: It's the opposite now?
9 A. Yeah, now 9/2 means September. She's just putting the
10 month before the date. 14:22
11 288 Q. Okay, so it's one way on this and it's the other way on
12 this, is that correct? So it's date, month, year on
13 this?
14 A. Yeah.
15 289 Q. And then it's month -- 14:22
16 A. Date on the...
17 290 Q. CHAIRPERSON: Can I ask you, Mr. Castro, you had two
18 experiences of having Botox administered to yourself,
19 one by Dr. Fitzpatrick and the other by Person X, is
20 that what we are referring to? 14:23
21 A. Mm-hmm.
22 291 Q. Can you remember what they were like? Can you describe
23 if Dr. Fitzpatrick's was anything different in how the
24 practitioner approached you, what they talked to you
25 about? 14:23
26 A. No, they are both similar.
27 292 Q. Sorry?
28 A. No, the both were the same approach.
29 293 Q. Okay.

1 A. Very professional, explain everything to me.

2 294 Q. Okay, and did Dr. Fitzpatrick explain to you what he
3 was using or give you the name or...?

4 A. No.

5 295 Q. No? 14:23

6 A. No, I don't remember.

7 296 Q. So will you explain to me what happens, I've never had
8 Botox, but what happens when you go in to a
9 practitioner, what do they talk about?

10 A. When you go to the practitioner for anti-wrinkle 14:24
11 injection, they tell you, you sign the form about the
12 risks of the Botox and then they bring you to a room
13 and apply the medication on your forehead. It's only
14 three areas, forehead and eyes, and in 15 days those
15 muscles start to stop and in two weeks you will know 14:24
16 what the fact.

17 297 Q. Do they talk about side effects or any --

18 A. Yeah.

19 298 Q. -- repercussions?

20 A. Yeah. 14:24

21 299 Q. Yeah. So really what I am asking, were both of them
22 identical?

23 A. Yeah.

24 300 Q. Dr. Fitzpatrick --

25 A. Yeah. 14:24

26 301 Q. -- told you exactly what Person X --

27 A. Yeah.

28 302 Q. -- had told you? Okay, and was there a difference in
29 fee they were charging?

1 A. I don't remember.
2 303 Q. You can't remember.
3 A. Yeah.
4 304 Q. Okay.
5 A. The same. 14:25
6 CHAIRPERSON: Okay, that's all my questions. If there
7 is nothing else, I am going to call on Mr. Beatty to
8 give the Committee --
9 MR. BEATTY: You might just let --
10 CHAIRPERSON: Sorry, you're finished giving evidence 14:25
11 now, Mr. Castro, if you want to take your seat back at
12 the table, and I am going to ask the legal assessor to
13 the Committee, Mr. Beatty, now to advise the Committee.
14 MR. SMYTH: Might I just inquire, Madam Chair, I
15 suppose I am not as au fait with these proceedings as 14:25
16 Ms. Daly might be. I had intending to make I suppose a
17 plea in mitigation as it were but I am not sure if the
18 time for that has yet to come after that or what is
19 most appropriate.
20 CHAIRPERSON: Mr. Beatty, what do you think? 14:25
21 MR. BEATTY: well, I was just about to ask, are the
22 parties, are you finished your evidence?
23 MR. SMYTH: I am finished my evidence insofar as such
24 evidence as I intend to call, yes. So I suppose my
25 case as it were is over. 14:26
26 MR. BEATTY: Then the appropriate way to proceed is for
27 closing submissions if the parties wish to make closing
28 submission and I am happy to give my advice after that.
29

1 CHAIRPERSON: Yes. So, Ms. Daly, had you intended
2 giving closing submissions?
3

4 CLOSING SUBMISSION BY MS. DALY:
5

6 MS. DALY: I think in reality I have set out much of my
7 stall as it were and I suppose only to reiterate the
8 view that the Registrar has in terms of the seriousness
9 of this conduct and that the conduct, in our
10 submission, would be at the upper end of the scale in
11 terms of what has occurred here. I think in light of
12 the evidence that you have heard and the material that
13 is before you in the Core Book, I don't think that
14 alters in any way the submissions that I've already
15 made, so I am not going to repeat everything that you
16 have already attentively listened to and heard and I am
17 not sure repeating myself is going to take it any
18 further.

19 CHAIRPERSON: Okay, okay, Ms. Daly, thank you.
20 Mr. Smyth.
21

22 CLOSING SUBMISSION BY MR. SMYTH:
23

24 MR. SMYTH: Thank you, Madam Chair. I suppose I do
25 agree with Ms. Daly insofar as her characterisation of
26 the breaches to which we have admitted are serious.
27 There is no way of getting away from that, nor am I
28 instructed to gainsay that. But I suppose as to
29 sanction, I would ask the Committee, as I know it will,

1 to have regard to the booklet presented to it,
2 Mr. Castro's statement in mitigation and his patient
3 references and indeed the contemporaneous evidence of
4 his reaching out towards Patient A through C to advise
5 them very soon after his encounter with HPRA of the
6 cessation of all, any and all aesthetic treatments.

14:27

7
8 The Committee has had the benefit of hearing from
9 Mr. Castro who put himself in the position, the
10 precarious position of giving evidence notwithstanding
11 he was advised of course that he did not have to do so,
12 and I would ask the, I would entreat really upon the
13 Committee to find at first instance that he is a
14 genuine, polite and hopefully diligent person of
15 previous good character who over I suppose the past
16 year and months since his first encounters with CORU in
17 an adverse context has gone through a seismic year,
18 albeit one of his own making.

14:27

14:28

19
20 There is no getting away from the seriousness of the
21 matters he has admitted to and in isolation I suppose
22 and devoid of context, explaining to a passerby on the
23 street the nature of what he has admitted, reading
24 those allegations coldly and in isolation, these are
25 matters that would bring to mind the most serious, the
26 most immediate and serious of sanctions in cold,
27 light-of-day isolation and absent mitigatory and
28 explanatory context because at the end of the day a
29 person without a properly, a proper Irish

14:28

14:28

1 qualification, medical qualification or a qualification
2 in dentistry injected a paralytic toxin into the faces
3 of three people and he advised members of the public
4 that that was a service at the very least that was on
5 offer from his practice. And when I was briefed in 14:29
6 this matter, that was my first instinct, what am I
7 going to say about this gentleman. It's behaviour of
8 the utmost seriousness and the utmost callousness I
9 suppose. But having heard from Mr. Castro, having seen
10 him, I hope this Committee will not find that he was a 14:29
11 man who acted callously and without knowing and willful
12 disregard for patient safety because I suppose
13 notwithstanding the objective seriousness that his
14 behaviour brings to mind, matters I suppose are rarely
15 as simple as that and what I had hoped to impress upon 14:30
16 the Committee in my submission is that what we are
17 dealing with here is a decent man and a good
18 physiotherapist in his practice of conventional
19 physiotherapy, a patient-focused man, particularly I
20 suppose of value to those in his own community, to his 14:30
21 own compatriots, who made a stupid mistake; a serious
22 one but one that was very thankfully limited in time
23 and limited across three patients; a mistake from which
24 I hope the Committee will accept that he will learn if
25 the privileged position he is in to be allowed to 14:30
26 practise continues in one shape or another.

27
28 I suppose in terms of Mr. Castro's mindset, what
29 committing the offences that he has admitted, the

1 Committee will have gleaned from his evidence and from
2 even his answers as far back as March to Mr. Wright's
3 questions, and the elephant in the room is that there
4 was, putting it kindly, an ignorance of protocol and
5 ignorance of law and ignorance of code of ethics and an 14:31
6 ignorance of regulations, and in every walk of life
7 ignorance of the law is no excuse whatsoever and it is
8 up to Mr. Castro, as he accepted in evidence in answer
9 to my questions, to apprise himself of the relevant
10 laws and regulations and customs even of his country of 14:31
11 practice, the scopes of his entitlements.
12

13 But I suppose ignorance of the law is no excuse but
14 where his mindset, in my respectful submission, does
15 become relevant is that this Tribunal, this Committee 14:31
16 can take some comfort from the fact that because his
17 behaviour was not willful, was not intentional, because
18 he was not knowingly flaunting the law, it's very,
19 very, very unlikely to be repeated if he is given the
20 benefit of continued practice, compared to a person who 14:31
21 for example was flaunting the law knowingly without
22 restraint.
23

24 And in the absence, in my submission, of compelling
25 evidence to the contrary, I would ask you to take his 14:31
26 evidence as to his mindset at face value, his
27 assertions that he thought he was entitled to do what
28 he did, foolishly, glibly as Ms. Daly fairly elicited
29 from him, without asking questions he should have

1 asked.

2
3 You have heard as well his evidence that physios who
4 attain certain extended qualifications on top of their
5 base qualification in Brazil are permitted to carry out 14:32
6 certain aesthetic training and perhaps accept that
7 there was something of a culture shock, a culture shock
8 that he should have been able to reconcile by his own
9 proper inquiries and his own due diligence but he did
10 not. And naively and somewhat pathetically even 14:32
11 looking back when you hear it in the cold light of day,
12 he thinks okay, well, this lady who I respect, this
13 biomedical technician, she can accredit me to do
14 something that some of my compatriots back home can do
15 by topping up their base qualifications. And it cost 14:33
16 him €3,300 of his money to do so and he is given a
17 certificate that isn't worth the paper it's written on
18 of course and it's replete with inconsistencies and
19 doesn't make sense, but I would ask you to accept his
20 evidence at face value that foolishly in the cold light 14:33
21 of day especially in the context where he had received
22 without complaint Botulinum treatment from this lady,
23 which he found to be of good quality, that he thought
24 okay, I've topped up my experience to be able to do
25 this now. 14:33

26
27 And I suppose if the Committee is in doubt as to
28 whether or not he actually did harbour this belief that
29 he was entitled to do what he was doing, what if he is

1 spinning some yarn for example to lessen his
2 culpability post facto saying ah well, I thought what I
3 was doing was grand, well the answer to that, in my
4 respectful submission, lies in one of the charges that
5 he is openly advertising this to thousands of people. 14:34
6 This isn't some kind of back-alley, stealth-type of
7 operation. In my respectful submission, it's not
8 surreptitious. He is openly advertising on a
9 widely-viewable social media account. There is nothing
10 insidious to his mind about it, and I would suggest 14:34
11 that that's evidence the Committee can rely on. He
12 thought he was running a legitimate service and
13 advertising on social media as many people who do offer
14 legitimate services do.

15 14:34
16 And, look, much has been made of the fact that he
17 contradicted himself, October, September, two days,
18 three days; the Committee has had the opportunity to
19 assess his demeanour and from that you can glean your
20 own finding as a tribunal of fact as to his 14:34
21 credibility. Is he knowingly trying to pull the wool
22 over the Committee's eyes by getting something as I
23 suppose, in my respectful submission, relatively banal
24 as the space of a month, two days versus three, wrong
25 or is he simply a human who has made a mistake? 14:35
26

27 I would ask the Committee furthermore to grant
28 Mr. Castro all due weight for his conduct and
29 cooperation throughout his interaction with CORU, Madam

1 chair and Committee, and the manner he has met the
2 charges against him. He has shown a degree of
3 cooperation without any prevarication whatsoever, which
4 has hopefully rendered significant assistance to the
5 work this Committee has to do. I would suggest first 14:35
6 that in keeping with the spirit of Principle 5(c) of
7 the physiotherapists Code of Professional Conduct, he
8 has shown full cooperation and I would submit that
9 cooperation is present in very early course even during
10 the HPRA visit to his premises where he gives 14:35
11 Mr. Wright, it's recorded no trouble during such
12 visitation, printed off client documentation at his
13 request, presenting no obstruction to the taking of the
14 vials from the fridge, and that's followed up by frank
15 and unequivocal admissions from the very first line of 14:36
16 my solicitor's letter of 11th December 2023 admitting
17 the complaint. I think it says verbatim the complaint
18 is admitted and that admission it's important to note
19 comes before the convening, just the day before the
20 convening of the Preliminary Proceedings Committee, the 14:36
21 initial Committee, thus hopefully preempting certain
22 investigative legwork or evidential burdens.

23
24 Ms. Daly alluded to this, and I understand why she did
25 and I might do the same if I was prosecuting or 14:36
26 presenting this matter, she alluded too, well, the
27 stuff is found on his premises, there is material on
28 the social media, there is client lists, etc., He has
29 been caught red-handed but frankly he could have stood

1 mute, he could have said nothing. He could have relied
2 on the high standard of proof that attracts this type
3 of Inquiry. He could have banked perhaps on the
4 availability of witnesses as persons the subject of
5 allegations often do. He could have held fast hoping 14:37
6 that some kind of technical defence might have emerged,
7 some chain of evidence issue, something like that. He
8 could have argued the evidence was circumstantial. If
9 defending it as the equivalent of a criminal case, he
10 could contend for example that, well, there's photos of 14:37
11 me posing over someone with a needle but there's no
12 evidence really what I'm doing. And the Committee
13 might be sceptical and say, well, look, we can infer
14 well what's happening, and rightly so, but I'm simply
15 trying to state the fact that his admissions are of 14:37
16 considerable value. It's not just the case that there
17 was a degree of inevitability from the get-go about his
18 interactions before the Committee. The presence of
19 Liztox in his fridge doesn't necessarily mean that's
20 what's being administered in the photos for example, 14:37
21 nor do the client consents.

22
23 So I suppose it's his admissions by way of my
24 solicitor's letter and to Mr. Wright in the March
25 interview; piece all those pieces of circumstantial 14:38
26 evidence together in an unambiguous way. And I am not
27 saying, I stress, that he would have succeeded in any
28 such defence but his admissions and his cooperation
29 should not be set at nought. They are not nothing and

1 in my respectful submission, they are of assistance.

2
3 In terms of how he has met the matter, at very early
4 course he has instructed a solicitor at his own expense
5 because obviously insurance are not covering and 14:38
6 rightly so, and in due course counsel and he has made
7 admission. And I can't overstate the speed of how he
8 did so because he has written of the institution of the
9 complaint in late November I think. My solicitor, as
10 you will see, makes contact with the case officer, 14:38
11 Mr. Kiernan, 7th December and says we are consulting
12 with our client, hold fast please. It demonstrates how
13 quickly and how seriously Mr. Castro is meeting the
14 matter. He doesn't bury his head in the sand, he
15 doesn't stand mute. He also removes the impugned 14:39
16 pictures that have been highlighted by
17 Dr. Fitzpatrick's initial complaint from his Instagram.
18 He is behaving appropriately, meeting the allegations
19 against him in early course.

20
21 So this again is before the preliminary consideration
22 by the Preliminary Committee, and at that juncture we
23 are writing saying we don't want to place any
24 evidential burden on Dr. Fitzpatrick or on CORU itself.
25 Those statements are contained in Mr. Ruane's letters. 14:39
26 None of the usual we reserve our position or we will
27 vindicate our client's name that these Committees might
28 encounter from time to time. And not only that, at
29 this juncture he is undertaking in correspondence I

1 suggest to provide cooperation and he is also
2 undertaking in Mr. Ruane's letter of 11th December not
3 to administer Botulinum Toxin, whether Liztox, Botox or
4 any other type of toxin. He undertakes and has done,
5 according to his evidence, to practise exclusively in
6 conventional physiotherapy.

14:40

7
8 I suppose, yes, I agree with Ms. Daly that HPRA and
9 this institution wear different hats and invariably
10 their engagement with these issues follow somewhat
11 separate courses, but much has been made of the danger
12 of the toxin which Mr. Castro used and of course it's
13 dangerous, it's a paralytic, I can't get away from
14 that, I am not instructed to do that, but in terms of
15 the inappropriate use of medication that is in some
16 ways the bailiwick of the HPRA, they have had their
17 engagement with Mr. Castro on that matter; and on the
18 day I am instructed, and I will be corrected on this if
19 I am incorrect, on the day of his interview with
20 Mr. Wright, that process was concluded with a warning
21 and a note on his file I suppose as the equivalent
22 almost of a suspended sentence in criminal matters but
23 no prosecution, which is well, as the Committee will be
24 aware, within the powers of the HPRA to institute.

14:40

14:40

14:40

25
26 There was an apology forthcoming in early course and an
27 apology reiterated today as well as a renewal of his
28 undertaking never to repeat his behaviour and he
29 accepts as far back as his interview with Mr. Wright in

14:41

1 March that he simply wasn't entitled to do what he did
2 in this country. So I would ask the Committee to give
3 him full benefit and credit for his cooperation.
4

5 The last I suppose tranche of my submissions in 14:41
6 mitigation I would like the Committee to have regard to
7 if it would be considerations as to public protection.
8 Ms. Daly rightly pointed out in her earlier address to
9 the Committee that all disciplinary tribunals, all
10 professional regulatory bodies, protection of the 14:41
11 public is of paramount concern, patient safety is
12 paramount, client safety is paramount and he accepts
13 that.
14

15 Dr. O'Donnell's expert statement serves as a flat 14:42
16 reminder how dangerous Botulinum Toxin can be if
17 administered by unskilled persons. Mr. Castro gets
18 that. And proof of harm of course is not required to
19 find Mr. Castro guilty of professional negligence, he
20 has accepted professional negligence, but I suppose I 14:42
21 would ask the Committee to give him such credit as is
22 due for the absence of any patient complaint from the
23 limited numbers of persons to whom this treatment was
24 administered. He was negligent of course from the risk
25 point of view as he wasn't entitled to administer what 14:42
26 he did, but we can take some comfort from the fact that
27 no adverse consequences flowed from what he did, nor
28 will it ever because I hope the Committee can take it
29 at face value he will not be doing this again.

1 On that note I suppose, and again without attempting to
2 sound like a broken record, back to my solicitor's
3 letter of 11th December, not only did my solicitor
4 promise full cooperation and make full admissions but
5 he offered on Mr. Castro's instructions that the three 14:43
6 persons to whom treatment was administered could be
7 contacted if necessary. So he wasn't hiding behind a
8 bush trying to sweep the facts of these cases under the
9 carpet. He said, look, we'll provide you with the
10 contact details of these persons if you wish. 14:43

11
12 It's something of a cliché whenever a barrister makes a
13 plea in mitigation but in my respectful submission to
14 this Committee, what Mr. Castro has underwent over the
15 last year and a half or, sorry, year and one month and 14:43
16 in his time here today before this Committee, it
17 constitutes a wake-up call, Madam Chair, Committee.
18 It's a wake-up call I suppose in retrospect he has
19 instructed me he is relieved to have received because
20 he is lucky, and Ms. Daly touched on this from another 14:44
21 perspective, but from Mr. Castro's perspective he's
22 quite lucky matters were noticed when they were after
23 only three patients after a period of less than a month
24 because in terms of the timeline, he does that
25 training, the treatments are administered in October, 14:44
26 the records are there in his office as seized by
27 Mr. Wright with his cooperation, he gets caught up in
28 the excitement of something new, publishes his
29 Instagram story, that Dr. Fitzpatrick as a follower, as

1 someone who knew him sees and takes exception to quite
2 rightly. But it's all in something of a flurry, all in
3 something of a rush, and Mr. Castro bears no ill will
4 of course to Dr. Fitzpatrick for his complaint, he is
5 his own aesthetic doctor in the first place before 14:45
6 moving on to where he shouldn't have moved on to he now
7 realises but he is and he wants me to put on the record
8 very grateful to the very generous e-mail
9 Dr. Fitzpatrick subsequently sent, which is contained
10 at page 114 of the core booklet, asking that Mr. Castro 14:45
11 be given the benefit of the doubt and acknowledging,
12 and this is Dr. Fitzpatrick as an aesthetic
13 practitioner acknowledging the fact that there is
14 perhaps little understanding of the law in Ireland
15 about who may administer such treatments. So I would 14:45
16 ask the Committee to have regard to Dr. Fitzpatrick's
17 letter.

18
19 Look, obviously Dr. Fitzpatrick, even though he is the
20 initial complainant, he doesn't have carriage of this 14:45
21 Inquiry, but I would ask you to give his subsequent
22 e-mail all due weight emanating from a doctor who is
23 entitled to practise in the area, who himself
24 acknowledges the confusion that abounds about aesthetic
25 treatment in Ireland. And the fact of the matter 14:46
26 Mr. Castro tells me for better or worse, he regards
27 himself as on CORU's radar, under the microscope to a
28 certain extent if permitted to continue practising as
29 well as on the radar of HPRA. And he's happy to be.

1 He knows that if he puts a foot wrong again if given
2 the privilege of continued practice, that if there is
3 initial leniency from this Committee and he, God
4 forbid, puts a foot wrong again, there can be no
5 further leniency. That goes without saying. But 14:46
6 simply put, this is not something that will be done
7 again and he is happy to have any conditions the
8 Committee wishes, might see fit to impose on his
9 continued practice as a prerequisite for such continued
10 practice. 14:46

11
12 So by way of conclusion, Mr. Castro acknowledges and
13 accepts the allegations brought against him. He takes
14 full responsibility for his actions. He offers his
15 sincerest apologies for the errors he has made. I 14:46
16 would entreat the Committee to find that he acted
17 however without malice or intent to deceive, which is
18 borne out with his engagement with this entity and with
19 HPRA all the way through.

20 14:47
21 He made assumptions he should not have made about the
22 similarity of precepts and customs in his home country
23 and here. It was a stupid thing to do. And the
24 Committee may have reservations about the entitlement
25 to continue practice of a stupid person but I hope you 14:47
26 would find that he was an idiotic person who has
27 learned a lesson.

28
29 I would ask the Committee again to have regard to the

1 limited nature temporarily of the behaviour itself,
2 that there is no evidence of any huge financial gain in
3 the context of what the Committee has heard is a modest
4 practice with a turnover of approximately €60,000,
5 albeit any breach of medical standards when patient
6 safety is at risk is serious regardless of its scale.

14:47

7
8 But I would ask the Committee having regard to all I've
9 said to come to the view that in light of the
10 particular context particular to Mr. Castro, the
11 particular mitigatory circumstances, the public
12 interest, which is I suppose paramount in all cases,
13 perhaps is not best served by immediately removing
14 Mr. Castro from the practice of conventional
15 physiotherapy, particularly in light of his what I
16 would suggest is compelling and convincing evidence as
17 to his vocation for that practice and to the efforts he
18 is undertaking to further specialise and enhance his
19 practice by way of his CPD obligations, which are of
20 course a bare minimum, but also the undertaking of a
21 significant Masters degree at significant expense.

14:48

14:48

14:48

22
23 I don't think I have any further submissions, I'll just
24 take a quick instruction. No, unless I can be of any
25 further assistance, I'm obliged to the Committee for
26 its patience.

14:48

27 CHAIRPERSON: Thank you very much, Mr. Smyth. If that
28 is everything we are going to hear, I am going to call
29 Mr. Beatty now to advise the Committee.

1 MR. BEATTY: Yes, just before I give my advices, there
2 are just three issues I want to ask for clarification
3 on and, Mr. Smyth, I may have put you in a difficult
4 position at the start but there just seems to be a
5 small disconnect between your solicitor's letter of 14:49
6 11th December I think it was and that seems to suggest
7 in relation to the expert evidence if one looks at
8 paragraph no. 3, this is the letter of 28th November
9 2024, if one looks at paragraph no. 3 it says:

10
11 "Our client is not calling professional evidence in
12 answer to the report of Ms Margaret Hanlon and to that
13 extent is accepted",

14
15 which would suggest that the admissions in relation to 14:49
16 poor professional performance and professional
17 misconduct are limited to those contained within the
18 report, do you understand?

19 MR. SMYTH: I do, yes.

20 MR. BEATTY: And I asked you, and I possibly put you in 14:49
21 an unfair position but I want to just make sure because
22 it goes to my advice to the Committee, do I understand
23 that -- I understand your position that you're
24 admitting all of the facts, all of the allegations as
25 to fact, as to professional misconduct and poor 14:50
26 professional performance and I had asked you and you
27 said, sorry, you had said yes but I just noticed a
28 small disconnect in that and I am just wondering is
29 that the extent of your admissions.

1 MR. SMYTH: No, and apologies if that letter from my
2 solicitor was confusing, Mr. Beatty, there was no
3 intention in that letter to qualify.

4 MR. BEATTY: No, no, no, it's a criticism at all, I
5 just want to make sure that I advise the Committee
6 correctly. 14:50

7 MR. SMYTH: There is no qualification, thank you.

8 MR. BEATTY: There is no qualification, all right. And
9 then, Ms. Daly, just in relation to you, references
10 have been handed in and documentation has been handed
11 in, can that be admitted without formal proof and as to
12 the truth of its content? You may need to take
13 instructions. 14:50

14 MS. DALY: I may but obviously I can't say gainsay
15 anything that's in it but I am not sure we will be able
16 to go as far as to the truth of its content in the
17 circumstances, but I will take instructions. That
18 might take a moment. 14:51

19 MR. BEATTY: Then I'll just raise the third issue which
20 I want to raise and that is that when giving evidence,
21 I am sorry I am raising so many issues, but when giving
22 evidence, the respondent was asked, from memory this
23 is, the respondent was asked does he undertake not to
24 repeat the behaviour and it just sounded very like a
25 Section 61 application, which I assume there is no
26 Section 61 application before the Committee, and I just
27 want to make sure that that doesn't resurface again.
28 There is no application being made pursuant to Section
29 61, I don't need to advise the Committee in that 14:51

1 respect? Again, Mr. Smyth, this is to give a consent
2 and undertaking rather than any findings being made and
3 I want to just make sure that that question, that there
4 is no misunderstanding from the parties in that respect
5 and you may again wish to take instructions and we can 14:51
6 deal with all of that before I give my advice.

7 MR. SMYTH: Yes, perhaps so, Mr. Beatty.

8 CHAIRPERSON: Okay. Ms. Sheehan has one question.

9 MS. SHEEHAN: I just have one question to Mr. Smyth.

10 You used the term at least four times in your 14:52
11 submission about practising conventional physiotherapy.
12 Is there any other kind of physiotherapy or is there
13 conventional law? I mean there's either -- do you
14 really mean physiotherapy within the scope of practice?

15 MR. SMYTH: I do, and forgive me if my parlance was 14:52
16 misleading or anything like that. I suppose I simply
17 mean physiotherapy as it's commonly understood, the
18 activity that's it's commonly understood to encompass,
19 which obviously in this country does not include
20 aesthetic treatments or the administration of 14:52
21 treatments or anything of that nature. I hope that
22 assists.

23 MS. SHEEHAN: Thank you.

24 MS. DALY: I will need a few moments to take
25 instructions in relation to that. 14:53

26 CHAIRPERSON: Okay, we are going to rise for maybe five
27 minutes and come back. Does that give you enough time,
28 Mr. Smyth, in relation to what you're going to
29 discuss --

1 MR. SMYTH: I think so.

2 CHAIRPERSON: -- in relation to Section 61. Thank you.

3
4 THE HEARING ADJOURNED BRIEFLY AND RESUMED AS FOLLOWS:

5
6 CHAIRPERSON: Ms. Daly.

7
8 SUBMISSION BY MS. DALY:

9
10 MS. DALY: From my part of the house, we can't agree it 15:02
11 to the truth of their contents but we have no
12 difficulty with it going before the Committee. There
13 is nothing we can say to gainsay what's in it but I
14 can't go as far as to admitting to the truth of their
15 contents. 15:02

16
17 SUBMISSION BY MR. SMYTH:

18
19 MR. SMYTH: I suppose I am somewhat at a loss, and
20 forgive me, as to what the implications of that are. 15:02
21 It seems somewhat equivocal. I know my friend can't
22 accept per se the truth of their contents but it seems
23 to be she is taking no issue by not gainsaying the
24 truth of the contents, upon which circumstances I would
25 have thought it appropriate that the Committee simply 15:03
26 would take them at face value.

27 MR. BEATTY: I think and I will be ultimately be
28 advising the Committee but I suppose I will tease it
29 out now only because I don't want to advise the

1 Committee and you to decide that you would have
2 preferred to have made submission before I advise the
3 Committee, although obviously you will get the
4 opportunity to do it after. So essentially as I
5 understand Ms. Daly's position on behalf of the
6 Registrar, she has no difficulty with the Committee
7 receiving the documents.

15:03

8 MR. SMYTH: Yes.

9 MR. BEATTY: And considering the documents but she is
10 not accepting the truth of the documents and therefore
11 what is left for the Committee to do, the Committee can
12 consider the documents but they essentially constitute
13 hearsay and I will be advising the Committee of this.
14 So that goes to the weight that will be given to the
15 documents. So that's the issue. Now, of course if
16 it's the case that you wish to prove the documents, and
17 I will be advising the Committee you should be given
18 that opportunity.

15:03

15:04

19 MR. SMYTH: Yes.

20 MR. BEATTY: And I appreciate that you have given, that
21 you have admitted documents and the truth of those
22 documents but that's the position that the Committee
23 finds itself in and I will be advising the Committee.

15:04

24 MR. SMYTH: Yes, I appreciate that. I may then have in
25 those circumstances have to take an instruction from
26 Mr. Castro as to whether he instructs me to seek to
27 seek an adjournment to call vive voce testamentary
28 evidence speaking to the references I've tendered. I
29 suppose it's an unusual type of situation. As you have

15:04

1 pointed out, we have without prevarication agreed and
2 accepted all of the hearsay evidence.

3 MR. BEATTY: It appears to me there's two documents
4 really at issue. One is the references and the other
5 is the certificate.

15:04

6 MS. DALY: I don't think this is in relation to the
7 certificate.

8 MR. SMYTH: No, the certificate has been tendered as
9 real evidence I suppose because we are not saying that
10 it's a true certificate permitting --

15:05

11 MR. BEATTY: All right, okay.

12 MR. SMYTH: So I suppose it has been tendered as real
13 evidence as a physical document vouching his evidence
14 as to his state of mind.

15 MR. BEATTY: That's okay.

15:05

16 MR. SMYTH: So I don't think that necessarily would
17 require evidence from Person X as the purported author
18 of same.

19 MS. DALY: I am taking instructions in terms of any
20 adjournment application but our position is we're not
21 trying to gainsay what's in it, we're just not in a
22 position to formally agree it. But obviously if
23 there's going to be an adjournment application to
24 require the necessity of all those witnesses to be
25 here, I am going to try and take a practical solution
26 to it but you understand the submission I've made and
27 why we're in the position that we are. Ultimately the
28 references were only received this morning in any
29 event.

15:05

15:05

1 MR. BEATTY: It's not a criticism of anybody, I just
2 wants to be able to tell the Committee or the advise
3 the Committee the weight to which they can give the
4 documents. It's just a simple logistical thing as
5 regards my advice ultimately.

15:05

6 MS. DALY: As I say, my instructions are that we're not
7 in a position to agree them but we're not trying to
8 gainsay them.

9 CHAIRPERSON: No, and that's understandable, Ms. Daly.
10 I take it your solicitor has gone now to talk to the
11 Registrar.

15:06

12 MS. DALY: well, if there's going to be an adjournment
13 application, which I don't know whether there is or
14 there isn't, which is what's being invited by you I
15 understand.

15:06

16 MR. BEATTY: well, it's not being invited, I am simply
17 saying that that is the alternative option if it's a
18 case that he wishes to prove the documents.

19 MR. SMYTH: I suppose I'm afraid the final position of
20 the...

15:06

21 MS. DALY: He is currently incontactable, we can't take
22 instructions at this moment, we have left a message to
23 get them.

24 CHAIRPERSON: Okay.

25 MR. SMYTH: I should say in respect of the Committee's
26 query, Mr. Beatty query as to Section 61, I'm not
27 suggesting, I wasn't speaking in terms of an
28 undertaking as contemplated by Section 61. Of course
29 matters are beyond that. I am simply saying that

15:06

1 Mr. Castro has made a promise.

2 MR. BEATTY: Yes, yes, no, I understand that entirely.
3 So as things stand, I am happy to give my advice but it
4 will be along the basis that I've indicated to you,
5 which is the documents have been admitted and do not 15:07
6 require formal proof but are not being accepted as to
7 their content, and that goes to the weight that can be
8 given by the Committee. Now, I will be advising the
9 Committee that ultimately they are references, so they
10 don't go to the issues that are involved but they do go 15:07
11 to the issue of mitigation. So it's a matter for you
12 whether you want the documents proved in circumstances
13 where they are not being admitted as to their content
14 or you don't and it goes to the weight that the
15 Committee can give them. 15:07

16 MR. SMYTH: Yes, well, not being accepted but I suppose
17 if your advice Mr. Beatty would still be that the
18 Committee are entitled to make their own qualified
19 assessment as to the weight to be attributed to the
20 references, then I don't anticipate having a difficulty 15:07
21 and if such advice would also I suppose be to the
22 effect that there was no contradictory evidence
23 undermining or negating or contradicting the content of
24 the references.

25 MR. BEATTY: well, I probably won't go that far. I 15:08
26 will just be advising them as to the weight of the
27 evidence is all I will be doing. I won't be indicating
28 whether they should go one way or the other. That's a
29 matter entirely for the Committee.

1 MR. SMYTH: Yes. well, I think I might just have to do
2 my best for my client, just take a brief instruction as
3 to whether we are to seek an adjournment in such
4 circumstances or whether we are satisfied to I suppose
5 submit to whatever way the Committee would give those 15:08
6 references if that makes sense.

7 CHAIRPERSON: Okay.

8 MR. SMYTH: I am obliged.

9 MR. BEATTY: Do you want the Committee to...?

10 MR. SMYTH: I don't want to discommode the Committee 15:08
11 but I think we can step outside the door if that were
12 okay.

13 CHAIRPERSON: Yeah, okay, of course, of course.

14
15 THE HEARING ADJOURNED BRIEFLY AND RESUMED AS FOLLOWS: 15:08
16

17 MR. SMYTH: I am obliged for that, Madam Chair,
18 Committee and Mr. Beatty. I've taken instructions and
19 I've spoken briefly to Ms. Daly, and I think from
20 Mr. Castro's point of view the preeminent sense that he 15:14
21 wishes to impress upon the Committee from the booklet
22 of mitigation, that he wants all available weight
23 attributed to are the three patients I suppose who
24 confirm the absence of harm and that from his
25 perspective is paramount. I've just discussed it 15:14
26 briefly with Ms. Daly. I think from her perspective we
27 are ad idem that there is no evidence of harm to put
28 before the Committee.

29 MS. DALY: No, there's no...

1 MR. SMYTH: So I'd ask whatever weight is attributed to
2 the general references as to Mr. Castro's practice as a
3 physiotherapist, that the assertions of the absence of
4 harm are taken at face value and in those circumstances
5 I wouldn't be seeking any adjournment or anything of
6 that nature.

15:15

7 MS. DALY: And we accept that there was no harm.

8
9 LEGAL ADVICE BY MR. BEATTY:

10
11 MR. BEATTY: All right. Well, then I won't delay
12 things any further. I can advise the Committee. So
13 the onus of the proof, as the Committee knows, is on
14 the Registrar, and the burden is on the Registrar to
15 prove the allegations as to fact and to prove them as
16 to misconduct, in this instance poor professional
17 performance and professional misconduct. So there is
18 no burden on the Registrant to prove that the
19 allegations are unfounded or that the allegations do
20 not amount to either professional misconduct or poor
21 professional performance. So there is a presumption of
22 innocence so to speak and the Committee might ask me,
23 well, in circumstances where there are admissions,
24 where does that lie and I suppose, and this is
25 something I will touch on later, but the Registrant
26 should be given all credit for making the admissions
27 that he has made here today.

15:15

15:15

15:15

15:16

28
29 so the role of the Committee is to consider the

1 allegations and I do think that is important to
2 consider both Allegation 1 and allegation 2. There is
3 no allegation in those that any harm was done to a
4 patient just as regards the issue that was raised just
5 before I started to give these advices. But in
6 addition to that, insofar as in cross-examination it
7 was teased out as to whether the Respondent knew of
8 what he was administering to the patient involved
9 because he wasn't able to read Korean, I should just
10 remind the Committee that in fact there is no
11 allegation that he administered something that he
12 didn't know what it was and I just thought that that
13 was an important qualification to emphasise. So it is
14 important for the Committee to consider only the
15 allegations and to review the evidence, and the weight
16 to be attached to the evidence is purely a matter for
17 the Committee and I will advise the Committee in
18 relation to that.

15:16

15:16

15:17

19
20 It's for the Registrar to prove the allegations beyond
21 reasonable doubt and as to whether they constitute
22 misconduct. In the instance of this case, as I say,
23 it's poor professional performance and professional
24 misconduct. Section 50 of the Health and Social Care
25 Professionals Act 2005 defines poor professional
26 performance and it defines it:

15:17

15:17

27
28 "In relation to a registrant of a designated
29 profession. . .",

1 in this case physiotherapy,

2
3 "...means any failure of the registrant to meet the
4 standards of competence that may reasonably be expected
5 of registrants practising that profession."

6
7 And professional misconduct for the purpose of these
8 advices:

9
10 "In relation to a registrant of a designated
11 profession, means any act, omission or pattern of
12 conduct of the registrant that -

13
14 "(a) is a breach of the code of professional conduct
15 and ethics adopted by the registration board of that
16 profession..."

17
18 which again is physiotherapy in this instance. So you
19 must be satisfied when making a finding of poor
20 professional performance or professional misconduct, 15:18
21 that the act and omission was a serious falling short
22 and that has been held in the case of Corbally by
23 Mr. Justice O'Donnell.

24
25 So in that respect you have the evidence, which is not 15:18
26 disputed, from the expert called on behalf of the
27 Registrar and you can take that into account when
28 deciding whether the different allegations, if proved,
29 amount to poor professional performance or professional

1 misconduct.

2
3 In that respect I should say that it's important to
4 note in relation to the expert that she refers in
5 relation to professional misconduct, she refers to 15:18
6 particular breaches of the Code in relation to both
7 Allegation 1 and Allegation 2 and you can certainly
8 rely on that evidence. In addition to that, you have
9 the admissions of the Respondent in relation to the
10 remaining breaches of the Code. 15:19

11
12 There is law to the effect that you can make findings
13 as to poor professional performance certainly in the
14 absence of an expert but in that respect I would just
15 remind you that you do have the expert evidence in 15:19
16 relation to the allegations as articulated in the
17 report and that allows you make the findings that you
18 need to make both in relation to poor professional
19 performance and professional misconduct.

20 15:19
21 The Registrar must prove the allegations beyond
22 reasonable doubt, as I say, both in relation to fact
23 and in relation to poor professional performance and
24 professional misconduct and of course you can take into
25 account the admissions that have been made in that 15:20
26 respect.

27
28 In relation to hearsay evidence, I better just touch
29 upon that, so hearsay evidence is evidence where the

1 statement is admitted for the purpose of proving the
2 content of the statement. So in that respect, all of
3 the documentation that the Registrar is relying on has
4 been admitted and you can take it into consideration,
5 both -- and you can take the truth of it on the face of 15:20
6 the document.

7
8 In relation to the documentary evidence that you have
9 been provided with by the Respondent, that evidence can
10 be admitted. You can consider it but you cannot 15:20
11 presume the truth of the content and that goes to the
12 weight that you give it. And in that respect, there
13 are two documents that have been -- sorry, three types
14 of documents that have been provided to you.

15 15:21
16 The first is the evidence from the patients insofar as
17 no damage or injury was done to the patients, and I
18 understand that that is not in issue.

19
20 The second is documents that go to the references. 15:21
21

22 And the third is the certificate, and it's important to
23 note in that respect that the certificate is not being
24 relied upon and is not being admitted to prove the
25 truth of the information in the certificate but is 15:21
26 being introduced to support the understanding that the
27 Respondent had when the alleged conduct occurred.

28
29 I should advise you in relation to your relationship

1 with me. So the role of the legal assessor is to give
2 advice to you and intervene for the purpose of ensuring
3 that there is fair procedure and there is no mistake in
4 relation to procedure. I do not make a decision for
5 the Committee and I do not give directions or sum up 15:21
6 the evidence. You're obliged to accept my advice but
7 if you do not accept my advice, you should give reasons
8 as to why you're not accepting my advice and that has
9 been held by the Courts.

10
11 In relation to expert evidence, you should give expert
12 evidence great weight. Again, you're not obliged to
13 accept that evidence but you should give reasons why
14 you're not accepting it.

15
16 Section 65 of the 2005 Act provides that on completing
17 an Inquiry into a complaint, a Committee of Inquiry
18 shall make a written report on its findings to Council,
19 and the report to the Committee of Inquiry must specify
20 the following: 15:22

21
22 (a) the nature of the complaint that resulted in an
23 Inquiry;

24
25 (b) the evidence presented to the Committee; 15:22

26
27 (c) the Committee's findings as to whether any
28 allegation made by a complainant against the Registrant
29 is substantiated.

1 And in addition to that, you can consider other matters
2 and that usually relates to if you make adverse
3 findings against a Respondent, that you can make
4 recommendations in relation to sanction if you consider
5 that appropriate.

15:23

6
7 The available sanctions to you are provided for in
8 Section 66 and they include one or more than one of the
9 following:

10
11 "(a) an admonishment or a censure;

12
13 "(b) the attachment of conditions to his or her
14 registration, including restrictions on the practice of
15 the designated profession by the registrant;

16
17 "(c) the suspension of his or her registration for a
18 specified period;

19
20 "(d) the cancellation of his or her registration;

21
22 "(e) a prohibition from applying for a specified period
23 for restoration to the register."

24
25 I should just also emphasise the considerations that
26 have been taken into account by the Courts when it
27 comes to the issue of a sanction that should be imposed
28 and they are essentially four considerations.

15:23

1 One is the serious view taken of the extent and nature
2 of the misconduct so as to deter the practitioner from
3 being likely on resuming practice to be guilty of
4 similar misconduct.

5
6 The second is to point to the gravity of the offence of
7 professional misconduct to other members of the
8 profession because that goes to the reputation of the
9 profession and the integrity of the regulatory process.

10
11 The third is the protection of the public.

12
13 And the fourth is the obligation to assist the
14 Respondent with as much leniency as possible.

15
16 Those have been endorsed in many cases but especially
17 in relation to mitigation, and mitigation includes
18 remorse, insight, previous blemish-free record, whether
19 it's a once-off incident, and in that respect Mr. Smyth
20 has understandably laid considerable emphasis on the
21 issue of mitigation and he says that it should --
22 sorry, he submitted to the Committee that the
23 admissions that were made should not be taken lightly.
24 Obviously that is a matter for the Committee but he is
25 entirely correct that that is the type of mitigation
26 that the Committee should consider and that is because
27 admissions that are made both before and after a
28 complaint and before and after an Inquiry and during an
29 Inquiry go to, the Courts have recognised, go to the

1 insight that a Respondent has in relation to the
2 alleged misconduct if it's found or the misconduct if
3 it's found.
4

5 So what the Courts have recognised is that if a 15:25
6 Respondent who is found guilty has come in at an early
7 stage, because the Courts have also recognised that the
8 earlier the admissions, they are qualitatively better
9 than admissions made at a later stage, but the Courts
10 have recognised that this goes to the Respondent's -- 15:26
11 sorry, the likelihood of the Respondent repeating the
12 conduct.
13

14 So if a Respondent makes admissions early and if a
15 Respondent expresses remorse and if a Respondent is 15:26
16 contrite, that indicates his understanding of any
17 wrongdoing and also supports a proposition that in fact
18 the conduct will not be repeated. So he should be
19 given all credit, not only in relation to that aspect,
20 that is the admissions, but also the admissions that 15:26
21 were made to the different authorities that arose.
22

23 And in that respect I would just say one thing, and
24 that is that Mr. Smyth said that no prosecution
25 proceeded in that case so that it was akin to a 15:26
26 suspended sentence. In fact it was much more
27 favourable to the Respondent than that because there
28 was no charge made at all and that is something that
29 you can take into account.

1 In that respect, some emphasis has been laid
2 understandably on the e-mail from the complainant and
3 whilst you can of course take into account the e-mail
4 of the complainant, that is the one that says that he
5 understands -- I don't remember offhand what it says 15:27
6 but I think what it says is that he accepts that in
7 fact the Respondent is somebody who will not repeat the
8 behaviour. Obviously that is something that you can
9 take account of but it's really a matter for the
10 Committee and not the complainant to come to the 15:27
11 decision or the judgment in relation to whether it is
12 conduct that would be repeated.

13
14 There is a guidance on sanctions and you should
15 consider that and ensure that any recommendation that 15:27
16 you make is proportionate and takes account of all
17 mitigation.

18
19 whatever decision you make, you should give reasons.
20 They do not require to be a discursive judgment but 15:28
21 they should inform the Respondent and indeed the
22 Registrar not only of your decision but the basis of
23 your decision and that is because if the Respondent
24 wishes to review your decision for whatever reason, he
25 will not only know the decision that you have made but 15:28
26 the basis for that decision. And indeed it doesn't
27 just inform the Respondent and the Registrar but it
28 informs the Council who may be imposing a sanction or
29 may not be imposing sanction that you have recommended

1 in the event that you make adverse findings against the
2 Respondent. And then ultimately it may inform the High
3 Court in the event that they are confirming any
4 sanctions that are ultimately imposed by the Board
5 based on any recommendation that you have included.

15:28

6
7 So those are my advices. Ms. Daly should be given an
8 opportunity to agree or disagree with those, as should
9 Mr. Smyth, and I can advise the Committee further if
10 they wish.

15:29

11 CHAIRPERSON: Okay, thank you very much, Mr. Beatty.
12 Ms. Daly.

13 MS. DALY: I've nothing to add.

14 CHAIRPERSON: Okay, thank you. Mr. Smyth.

15 MR. SMYTH: No requisitions, thank you, Madam Chair.

15:29

16 CHAIRPERSON: Okay. Well, in that event it's half past
17 three now, I should have said earlier that we were
18 hoping to rise for four. So the Committee will go in
19 inside and have a discussion in camera. We may not be
20 back with our report by 4 o'clock but we'll let you
21 know before 4 o'clock. Thank you, thank you very much.

15:29

22 MR. SMYTH: Thank you, Madam Chair, thank you,
23 Committee.

24
25 THE HEARING ADJOURNED BRIEFLY AND RESUMED AS FOLLOWS:

15:29

26
27 CHAIRPERSON: Thank you very much. The Committee has
28 decided we will issue our report in approximately six
29 weeks' time. I would like to thank you all for coming

1 here today and being part of the Inquiry process and
2 the Inquiry is now closed.

3 MR. SMYTH: Very good. Obligated, Madam Chair and the
4 Committee, for your consideration, thank you.

5 CHAIRPERSON: Thank you, Mr. Smyth. Thank you,
6 Ms. Daly.

15:50

7
8 THE HEARING ADJOURNED BRIEFLY AND RESUMED AS FOLLOWS:

9
10 CHAIRPERSON: The Committee would like to put on the
11 record that we will give our decision remotely on the
12 31st January 2025 at 8am. Okay, thank you very much.

16:01

13
14 THE HEARING WAS ADJOURNED TO 31ST JANUARY 2025 AT 8AM