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**REPORT OF PROFESSIONAL CONDUCT /HEALTH COMMITTEE FOLLOWING AN
INQUIRY HELD PURSUANT TO SECTION 58 OF THE HEALTH AND SOCIAL CARE
PROFESSIONALS ACT 2005 ("THE ACT ")**


Name of Registrant: Igor Castro (the "Respondent")

Registrant in Attendance: Yes

Registration Board: Physiotherapists Registration Board

Register: Physiotherapist Register

Registration No: PT043675

Registered Address: 

Case Number: C411

Date(s) of Inquiry: 10 December 2024

Members of Inquiry Committee: Ms Geraldine Feeney – Chairperson
Mr David Tighe, Registered Professional Member
Ms Aileen Sheehan, Registered Professional Member

Legal Assessor: Frank Beatty SC

Appearances:

For the Registrar: Ms Caoimhe Daly, B.L. Instructed by Ruth Gahan of Fieldfisher Solicitors

For the Registrant: Mr Shaun Smith BL Instructed by Conor Ruane of Bowler Geraghty Solicitors

Inquiry held in Public

The Nature of the Complaint that resulted in the Inquiry:

The Preliminary Proceedings Committee ("the Preliminary Committee"), on 12 December 2024, having considered all information furnished to it relation to the Complaint of Dr Shaun Fitzpatrick,

51 Parnell Square West, Dublin 1 (the "Complaint") pursuant to Part 6 of the Act, was of the opinion that there was a sufficient cause to warrant further action being taken in relation to the Complaint against the Respondent on the grounds of professional misconduct within the meaning of s.52(1)(a) of the Health and Social Care Professionals Act 2005 (as amended) (the 2005 Act), and poor professional performance within the meaning of s.52(1)(b) of the 2005 Act, as those terms are defined by s.50 of the 2005 Act.

The Notice of Inquiry dated 8 November 2024 (the Notice of Inquiry) contained the following allegations:-

1. *That the Respondent, being a registered physiotherapist, practicing at "Igor Castro Pain Relief Clinic", Floor 3, Prosperity Chambers, O'Connell Street, Dublin 1 ("Practice Premises"), in or around October 2023 administered "Liztox", a Korean brand of Botulinum ("Botox") at the Practice Premises to one or more of the following clients:-*

- *Client A: and/or*
- *Client B; and/or*
- *Client C.*

When such administration fell outside of the scope of practice of a Registered Physiotherapist.

2. *That the Respondent, being a Registered Physiotherapist, practicing at the Practice Premises, between in or around October 2023 and in or around November 2023 published one or more posts via Instagram accounts at @iglcastro and/or at @igorcastropainrelief promoting the fact that the Respondent was administering Botox to clients/patients when such administration fell outside the scope of practice of a registered physiotherapist.*

Further, the Committee noted it was alleged that the act(s), omission(s) or pattern(s) of conduct at one or more of the Allegations at 1-2 above amount individually and/or in combination and/or cumulatively to act(s), omission(s) or pattern(s) of conduct that constitute a failure by you to meet the standards of competence that may reasonably be expected of a Registered Physiotherapist and thereby constitute Poor Professional Performance.

Further, the Committee notes that it is alleged the act(s) and/or omission(s) and/or pattern(s) of conduct at one or more of Allegation 1 and/or 2 above, amount individually and/or in combination and/or cumulatively to act(s), and/or omission(s) and/or pattern(s) of conduct that constitute a breach/breaches of the following sections of the Physiotherapists Registration Board Code of Professional Conduct and Ethics, adopted by the Physiotherapists Registration Board (contained in the Schedule to the Code of Professional Conduct and Ethics Bye-Law 2019 (S.I. No. 45 of 2019) (the Code of Conduct), which came into effect on 28th February 2019) and specifically paragraphs 3.1(b), 4.2(a), 7(a), 7(b), 9(a), 9(b), 9(f), 9(g), 22.1(c), 26(a) and 26(b) and thereby constitute Professional Misconduct.

Evidence presented to the Committee:

The Committee heard and/or received evidence from the following witnesses on behalf of the Registrar by way of Witness Statements, which were agreed by the Registrar and the Respondent to be admitted without the necessity for formal proof and as to the truth of their content:-

1. Expert Report of Margaret Hanlon (undated).

2. Statement of Mr Ciaran Wright, Enforcement Officer, Health Products Regulatory Authority dated 16 April 2024 (including the Appendices and the Statements of Joanne Kissane dated 19 April 2024 contained at Appendix D and E).
3. Expert Statement of Mr Kevin O'Donnell concerning "*Liztox Injection Clostridium Botulinum Toxin Type A*" dated 16 July 2024.

The Committee heard viva voce sworn evidence from the following witnesses on behalf of the Respondent:-

1. The Respondent.

The Committee considered the following exhibits:-

1. Core Book in circumstances where each of the documents were admitted without the necessity for formal proof and as to the truth of their content.
2. Index to Booklet submitted by the Respondent and including the following documents (which the Committee admitted and received as o the truth of its content):-
 - (a) Statement of Regret of the Respondent.
 - (b) Reference of [REDACTED] dated 8 December 2023.
 - (c) Reference of [REDACTED] dated 10 December 2023.
 - (d) Reference of [REDACTED] dated 10 December 2023.
 - (e) Reference of [REDACTED] dated 7 December 2024.
 - (f) Reference of [REDACTED] dated 4 December 2024.
 - (g) Reference of [REDACTED] dated 5 December 2024.
 - (h) Reference of [REDACTED] dated 5 December 2024.
 - (i) Reference of [REDACTED] dated 5 December 2024.
 - (j) Documents entitled "Certificate" (x 2) regarding a course(s) undertaken by the Respondent.

Findings of the Committee:

Allegation 1

1. *That the Respondent, being a registered physiotherapist, practicing at the Practice Premises, in or around October 2023 administered “Liztox”, a Korean brand of botulinum (“Botox”) at the Practice Premises to one or more of the following clients:-*

- *Client A: and/or*
- *Client B; and/or*
- *Client C.*

When such administration fell outside of the scope of practice of a Registered Physiotherapist.

FINDINGS AS TO FACT

The Committee finds Allegation 1 proved as to fact beyond reasonable doubt.

REASONS

Allegation 1 was proved as to fact beyond reasonable doubt by reason of: -

1. The admission of the Respondent.
2. The uncontroverted evidence of Mr Ciaran Wright, Enforcement Officer, Health Products Regulatory Authority dated 16 April 2024 (including the uncontroverted evidence of Ms Joanne Kissane as contained in her Statements dated 19 April as contained in Appendices D and E).
3. The uncontroverted evidence Mr Kevin O'Donnell as contained in his expert Statement concerning “Liztox Injection Clostridium Botulinum Toxin Type A” dated 16 July 2024.

FINDINGS AS TO POOR PROFESSIONAL PERFORMANCE

The Committee finds Allegation 1, as proved, individually, constituted Poor Professional Performance beyond reasonable doubt.

REASONS

Allegation 1 was proved as to poor professional performance beyond reasonable doubt by reason of: -

1. The admission of the Respondent.
2. The uncontroverted evidence of Mr Ciaran Wright, Enforcement Officer, Health Products Regulatory Authority dated 16 April 2024 (including the uncontroverted evidence of Ms Joanne Kissane as contained in her Statements dated 19 April as contained in Appendices D and E).

3. The uncontroverted evidence Mr Kevin O'Donnell as contained in his expert Statement concerning "*Liztox Injection Clostridium Botulinum Toxin Type A*" dated 16 July 2024.
4. By reason of the uncontroverted evidence of Ms Margaret Hanlon, Chartered Physiotherapist as contained in her report (undated).

FINDINGS AS TO PROFESSIONAL MISCONDUCT

The Committee finds Allegation 1 as proved, , individually, constituted Professional Misconduct beyond reasonable doubt as being a breach of paragraphs 7(a), 7(b), 9(a), 9(b), 9(f), 9(g) and 22.1(c) of the Code of Conduct.

REASONS

Allegation 1 was proved as to professional misconduct beyond reasonable doubt by reason of: -

1. The admission of the Respondent.
2. The uncontroverted evidence of Mr Ciaran Wright, Enforcement Officer, Health Products Regulatory Authority dated 16 April 2024 (including the uncontroverted evidence of Ms Joanne Kissane as contained in her Statements dated 19 April as contained in Appendices D and E).
3. The uncontroverted evidence Mr Kevin O'Donnell as contained in his expert Statement concerning "*Liztox Injection Clostridium Botulinum Toxin Type A*" dated 16 July 2024.
4. By reason of the uncontroverted evidence of Ms Margaret Hanlon, Chartered Physiotherapist as contained in her report (undated).

Allegation 2

1. *That the Respondent, being a Registered Physiotherapist, practicing at the Practice Premises, between in or around October 2023 and in or around November 2023 published one or more posts via Instagram accounts at iglcastro and/or at igorcastropainrelief promoting the fact that he was administering Botox to clients/patients when such administration fell outside the scope of practice of a registered physiotherapist.*

FINDINGS AS TO FACT

The Committee finds Allegation 2 proved as to fact beyond reasonable doubt.

REASONS

Allegation 2 was proved as to fact beyond reasonable doubt by reason of: -

1. The admission of the Respondent.
2. The uncontroverted evidence of Mr Ciaran Wright, Enforcement Officer, Health Products Regulatory Authority dated 16 April 2024 (including the uncontroverted evidence of Ms Joanne Kissane as contained in her Statements dated 19 April as contained in Appendices D and E).

3. The uncontroverted evidence Mr Kevin O'Donnell as contained in his expert Statement concerning "*Liztox Injection Clostridium Botulinum Toxin Type A*" dated 16 July 2024.

FINDINGS AS TO POOR PROFESSIONAL PERFORMANCE

The Committee finds Allegation 2, as proved, individually, constituted Poor Professional Performance beyond reasonable doubt.

REASONS

Allegation 2 was proved as to poor professional performance beyond reasonable doubt by reason of: -

1. The admission of the Respondent.
2. The uncontroverted evidence of Mr Ciaran Wright, Enforcement Officer, Health Products Regulatory Authority dated 16 April 2024 (including the uncontroverted evidence of Ms Joanne Kissane as contained in her Statements dated 19 April as contained in Appendices D and E).
3. The uncontroverted evidence Mr Kevin O'Donnell as contained in his expert Statement concerning "*Liztox Injection Clostridium Botulinum Toxin Type A*" dated 16 July 2024.
4. By reason of the uncontroverted evidence of Ms Margaret Hanlon, Chartered Physiotherapist as contained in her report (undated).

FINDINGS AS TO PROFESSIONAL MISCONDUCT

The Committee finds Allegation 2, as proved, individually, constituted Poor Professional Performance beyond reasonable doubt as being a breach of paragraphs 3.1(b), 4.2(a), 26(a) of the Code of Conduct.

REASONS

Allegation 2 was proved as to poor professional performance beyond reasonable doubt by reason of: -

1. The admission of the Respondent.
2. The uncontroverted evidence of Mr Ciaran Wright, Enforcement Officer, Health Products Regulatory Authority dated 16 April 2024 (including the uncontroverted evidence of Ms Joanne Kissane as contained in her Statements dated 19 April as contained in Appendices D and E).
3. The uncontroverted evidence Mr Kevin O'Donnell as contained in his expert Statement concerning "*Liztox Injection Clostridium Botulinum Toxin Type A*" dated 16 July 2024.
4. By reason of the uncontroverted evidence of Ms Margaret Hanlon, Chartered Physiotherapist as contained in her report (undated).

Other matters relating to the Respondent as the Committee considers is appropriate to specify:

The Committee recommends that the Council direct the imposition a sanction of suspension of the Respondent's registration for a period of three months (from the date that such sanction becomes effective) pursuant to s.66(1)(c) of the 2005 Act (the Recommended Sanction).

Rationale for Sanction:

1. The Committee has made findings in relation to Allegations 1 and 2, which include that from October 2023, the Respondent administered Liztox, a Korean of botulinum toxin at his Physiotherapy Practice to three clients when such administration fell outside the scope of practice of a Registered Physiotherapist and that between the dates of in or around October 2023 and in or around November 2023, the Respondent published one or more posts via his Instagram accounts promoting the fact that he was administering Botox to clients/patients when such administration fell outside of the scope of practice of a Registered Physiotherapist.
2. These findings are very serious and go to the issue of public safety. This is evident from the Expert Statement concerning Liztox injection clostridium botulinum toxin type A authored by Dr Kevin O'Donnell and dated 16 July 2024 and the Statement of Mr Ciaran Wright, Enforcement Officer, Health Products Regulatory Authority dated 16 April 2024 (including Appendices (a)-(e)).
3. The Committee also relies on the uncontroverted evidence contained in the Expert Report of Ms Margaret Hanlon, Chartered Physiotherapist, wherein she states that Allegation 1 constituted professional misconduct as being a breach of paragraph 7(a), 7(b), 9(a), 9(b), 9(f), 9(g) and 22.1(c) of the Code of Professional Code and Ethics and further that, considering the fact that patients were misled and potentially put at risk, the behaviour the subject of the finding at Allegation 1 was a serious breach of the Code of Conduct and therefore constituted a Professional Misconduct. Further, in relation to Allegation 1, Ms Hanlon was of the opinion that it constituted Poor Professional Performance as the use of Botox is not within the scope of practice of a physiotherapist and the lack of care for patient's safety that this behaviour demonstrated, and it is a serious demonstration of poor professional performance.
4. In relation to Allegation 2, Ms Hanlon felt this to be professional misconduct by reason that it was a breach of paragraphs 3.1(b), 4.2(a) and 26(a) of the Code of Conduct and was behaviour that was misleading and put service users at risk such that it was a serious breach of the Rules and Regulations that amounted to Professional Misconduct. In relation to Allegation 2, Ms Hanlon was of the view the allegation as found constituted Poor Professional Performance as the Respondent advertised on social media that he was offering a service that is not within the scope of the practice of physiotherapy, using unlicensed products which the Respondent was not legally qualified to administer, using potentially harmful substances and put patients at risk and demonstrated extremely poor judgment and brought the profession into disrepute. In the opinion of Ms Hanlon, it

demonstrated a serious breach of the accepted norms and competencies of the profession amount to poor professional performance.

5. For these reasons, the Committee considered that, except for the mitigating factors identified below, the appropriate sanction was cancellation of the Respondent's registration pursuant to s.66(1)(d) of the 2005 Act.
6. In light of the following mitigating circumstances identified below, the Committee recommends the Recommended Sanction (i.e., the three-month suspension): -
 - (a) In relation to Allegation 1 and 2, the Respondent co-operated with the Authorities, and particularly in the Health and Products Regulatory Authority from the very outset of its investigation and made complete admissions in relation to his conduct, which demonstrated acknowledgement and insight regarding his wrongdoing and this insight continued from that time until the conclusion of the Inquiry. In this respect, the Committee noted that the Respondent took an entirely constructive approach in relation to the investigations leading to the Inquiry and to the Inquiry itself making full admissions and allowing documents including statements and reports to be admitted without formal proof and as to the truth of their content. This demonstrated complete acceptance by the Respondent of the fact and seriousness of the conduct and saved considerable time and resources in relation to the Inquiry. The Committee is satisfied from this insight and the sworn evidence of the Respondent, in conjunction with the Statement of Regret, that there is little or no risk of him repeating the alleged conduct.
 - (b) The Committee considered the references of [REDACTED] dated 8 December 2023, [REDACTED] dated 10 December 2023, [REDACTED] dated 10 December 2023, [REDACTED] dated 7 December 2024, [REDACTED] dated 4 December 2024, [REDACTED] dated 5 December 2024, [REDACTED] dated 5 December 2024 and [REDACTED] dated 5 December 2024 which references vouch for the Respondent as a conscientious and good physiotherapist and wishes to continue working as a physiotherapist.
 - (c) In addition to this, the Committee was impressed with the fact that the Respondent is undertaking continual education as regards physiotherapy for the purpose of improving his skills and focussing on providing physiotherapy services.
7. The Committee recommends the Recommended Sanction for the following reasons:-
 - (a) The Sanction highlights to the Respondent the serious view taken of the extent and nature of the misconduct to deter him from being likely to be guilty of similar or like misconduct when he resumes practice.
 - (b) In particular, the Recommended Sanction points to the gravity of professional misconduct to other members of the profession thereby upholding the reputation of the profession in maintaining public confidence in the profession and the regulatory process and for the purpose of declaring and upholding professional standards.

- (c) The sanction is necessary to protect the public. The misconduct raises issues of public safety albeit the Committee accepts that there is little or no risk that the Respondent will repeat the conduct.
 - (d) The Sanction of a three-month suspension is proportionate and affords the Respondent as much leniency as is appropriate. In this respect, the Sanction of a three-month suspension is appropriate to the findings made and is aimed at correcting and deterring breaches of the Code of Conduct that serves the public. It weighs up the interests of the public and the interests of the Respondent. The Committee considered each of the lesser sanctions (individually and in combination) provided for at s.66 of the 2005 Act but did not consider that such sanctions were appropriate or sufficient, whether individually or in combination. The Committee considers that the period of three months regarding the suspension is proportionate as it balances the seriousness of the misconduct, the mitigating circumstances identified below and allows the Respondent to continue working in his chosen profession (following the period of suspension), which time period also gives him the opportunity to reflect and acquire further insight. The Committee did not consider admonishment, censure or the imposition of conditions as appropriate or proportionate, individually or together, in circumstances where the conduct the subject of the findings was so serious and went to public safety such that the more serious sanction of a three-month suspension was necessary to highlight to other members of the profession the seriousness of the conduct found.
8. The Committee has considered the *CORU Sanction Guidance Notes* including the factors to be considered when imposing and/or recommending sanction, including the sanction of suspension.

Signed: 
Chairperson

Dated 05.02.2025