

**Name of Registrant / Nom du membre**

Melissa Kapralos (referred Mar. 14, 2017 / renvoyée le 14 mars 2017)

Date of Hearing / Date de l'audience

June 20, 2017 / le 20 juin 2017

Summary of Hearing / Résumé de l'audience

In or about November 2015, March 2016 and August 2016, Ms. Melissa Kapralos, who had been a registrant of the College of Dental Hygienists of Ontario since 2008, treated a client with whom she was engaged in a sexual relationship.

On June 20, 2017, the Discipline Committee of the College found that Ms. Kapralos had committed acts of misconduct, in that she treated the client while engaged in a sexual relationship with that client.

The Discipline Committee delivered a reprimand to Ms. Kapralos and directed the Registrar to revoke Ms. Kapralos' certificate of registration immediately. After a period of five (5) years, Ms. Kapralos may apply to the College to reinstate her certificate of registration. Ms. Kapralos was ordered to pay \$1000 in costs to the College. Ms. Kapralos must reimburse the College for any funding for therapy and counselling provided by the College to the client under s. 85.7 of the *Health Professions Procedural Code*. For more information, please read the full decision of the Discipline Committee regarding Ms. Kapralos.

A full text copy of the Decision and Reasons follows in English only.

The last page of this document contains the text of the [public reprimand](#) issued by the Discipline Committee to Ms. Melissa Kapralos.

Au cours des mois de novembre 2015, de mars 2016 et d'août 2016 ou aux environs de ces mois, Madame Kapralos, qui était une membre autorisée de l'Ordre des hygiénistes dentaires de l'Ontario depuis 2008, a prodigué des soins à un client avec qui elle entretenait une relation sexuelle.

Le 20 juin 2017, le comité de discipline de l'Ordre a conclu que Madame Kapralos avait commis des fautes professionnelles en prodiguant des soins à un client avec qui elle entretenait une relation sexuelle.

Le comité de discipline a adressé une réprimande à Madame Kapralos et a prescrit à la registraire de révoquer immédiatement son certificat d'inscription. Au terme d'une période de cinq ans, Madame Kapralos pourra faire une demande auprès de l'Ordre pour rétablir son

certificat d'inscription. Madame Kapralos doit payer à l'Ordre des coûts de 1 000 \$. Madame Kapralos doit rembourser à l'Ordre tout financement pour la thérapie et les consultations que fournit l'Ordre à ce client en vertu de l'article 85.7 du *Code des professions de la santé*. Pour en apprendre davantage, veuillez lire la décision intégrale du comité de discipline concernant Madame Kapralos

Vous trouverez plus bas en anglais seulement la copie du texte intégral de la décision et des motifs.

La dernière page du présent document contient le texte de la [réprimande publique](#) prononcée par le comité de discipline à l'endroit de Madame Melissa Kapralos.



**THE DISCIPLINE COMMITTEE OF THE COLLEGE
 OF DENTAL HYGIENISTS OF ONTARIO**

IN THE MATTER of the *Regulated Health Professions Act*, 1991, S.O. 1991, c.18, as amended, and the regulations thereunder, as amended;

AND IN THE MATTER of the *Dental Hygiene Act*, 1991, 8.O. 1991, 0.22, as amended, and the regulations thereunder, as amended;

AND IN THE MATTER of allegations of professional misconduct referred to the Discipline Committee of the College of Dental Hygienists of Ontario by the Inquiries, Complaints and Reports Committee;

BETWEEN:

THE COLLEGE OF DENTAL
 HYGIENISTS OF ONTARIO

- and -

MELISSA KAPRALOS

)
)
) Robin McKechney
) for the College of Dental Hygienists
) of Ontario

)
) Lisa Hamilton
) for the Registrant, Melissa Kapralos
)
)

)
) Robert Cosman
) Independent Legal Counsel
)
)

) Heard: June 20, 2017

Panel Members:

Evie Jesin, Chair, Professional Member of Council
 Mike Connor, Public Member of Council
 Vinay Jain, Public Member of Council
 Heather Blondin, Professional Member of Council
 Marlene Heics, Professional Member of Council

DECISION AND REASONS FOR DECISION

A Panel of the Discipline Committee of the College of Dental Hygienists of Ontario (“the College”) heard this matter at Toronto on June 20, 2017. At the conclusion of the hearing, the Panel delivered its finding and penalty order orally and in writing, with written reasons to follow.

The hearing was uncontested. It proceeded by way of an Agreed Statement of Facts and a Joint Submission on Penalty and Costs, which were jointly proposed by the Counsel for the College and Counsel for the Registrant.

THE ALLEGATIONS

The following allegations of professional misconduct were set out in the Notice of Hearing and referred to the Discipline Committee.

The Registrant

1. At the material times Melissa Kapralos (the “Registrant”) was a duly registered member of the College of Dental Hygienists of Ontario, practising at Dawson Dental Centre in Guelph, Ontario.

The Client

2. Client #1 was a client of the Registrant’s and attended for dental hygiene treatment with the Registrant at Dawson Dental Centre on or about November 20, 2015, March 19, 2016 and August 12, 2016.

The Relationship between the Registrant and Client #1

3. The Registrant and Client #1 were married in or about February 2016. The Registrant and Client #1 lived together in a common law relationship for approximately one year prior to getting married.
4. The Registrant commenced her employment at Dawson Dental Centre in or about July 2015.
5. The Registrant says that after she commenced her employment at Dawson Dental Centre she was informed by colleagues at Dawson Dental Centre that dental hygienists were permitted to treat their spouses.
6. The Registrant did not attempt to confirm that she was permitted to treat her spouse.
7. While they were engaged in a sexual relationship, the Registrant provided dental hygiene treatment to Client #1 at Dawson Dental Centre on or about November 20, 2015, March 19, 2016 and August 12, 2016.

PROFESSIONAL MISCONDUCT ALLEGED

8. It is alleged that the above conduct constitutes professional misconduct pursuant to:
- (a) Clause 51(1)(b.1) of the *Health Professions Procedural Code*: sexual abuse of a patient; and/or
 - (b) Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991*, s.15, para 2: contravening a standard of the profession; and/or
 - (c) Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991*, s.15, para. 47: contravening by act or omission, the Act, the RHPA or the regulations under either of those Acts; and/or
 - (d) Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991*, s.15, para 52: engaging in conduct or performing an act, relevant to the practice of the profession, that having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional; and/or
 - (e) Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991*, s.15, para 53: conduct unbecoming a dental hygienist.

RESPONSE TO THE ALLEGATIONS

The Registrant admitted to the allegations of professional misconduct set out in the Notice of Hearing.

THE FACTS

An Agreed Statement of Facts and Admission, which was entered as Exhibit #2, provides as follows:

The Registrant

1. At the material times Melissa Kapralos (the “Registrant”) was a duly registered member of the College of Dental Hygienists of Ontario, practising at Dawson Dental Centre in Guelph, Ontario.
2. The Registrant commenced her employment at Dawson Dental Centre in or about July 2015.

The Client

3. Client #1 was a client of the Registrant and attended for dental hygiene treatment with the Registrant at Dawson Dental Centre on or about November 20, 2016, March 19, 2016 and August 12, 2016.

The Relationship between the Registrant and Client #1

4. The Registrant and Client #1 were married in or about February 2016. The Registrant and Client #1 lived together in a common law relationship for approximately one year prior to getting married. The Registrant and Client #1 had a sexual relationship that included sexual intercourse.
5. The Registrant would testify that after she commenced her employment at Dawson Dental Centre, she was informed by her office manager and colleagues at Dawson Dental Centre that dental hygienists were permitted to treat their spouses. Prior to this time, the Registrant understood that she was not permitted to treat anyone with whom she was engaged in a sexual relationship.
6. The Registrant did not attempt to confirm that she was permitted to treat her spouse.
7. While they were engaged in a sexual relationship, the Registrant provided dental hygiene treatment to Client #1 at Dawson Dental Centre on or about November 20, 2015, March 19, 2016 and August 12, 2016.

Professional Misconduct Alleged

8. The above conduct constitutes professional misconduct pursuant to:
 - (a) Clause 51(1)(b.1) of the Health Professions Procedural Code: sexual abuse of a patient; and
 - (b) Ontario Regulation 218/94 under the Dental Hygiene Act, 1991, s.15, para 2; contravening a standard of the profession; and
 - (c) Ontario Regulation 218/94 under the Dental Hygiene Act, 1991, s.15, para.47: contravening by act or omission, the Act, the RHPA or the regulations under either of those Acts; and
 - (d) Ontario Regulation 218/94 under the Dental Hygiene Act, 1991, s. 5, para 52; engaging in conduct or performing an act, relevant to the practice of the profession, that having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional; and/or
 - (e) Ontario Regulation 218/94 under the Dental Hygiene Act, 1991, s.15, para 53; conduct unbecoming a dental hygienist.
9. By this document, the Registrant states that :
 - (a) she understands fully the nature of the allegations against her;
 - (b) she understands that by admitting the allegations, she is waiving her right to require the College to prove the case against her and the right to have a hearing:

- (c) she understands that any agreement between her and the College with respect to penalty does not bind the Discipline Committee;
- (d) she understands that the decision of the Committee and a summary of the reasons including reference to her name will be published in the College's annual report and may be reported in the College's publication *Milestones* and the website of the College; and
- (e) she is executing this document voluntarily and after receiving legal advice.

In light of the agreed facts and admission of professional misconduct, it was submitted that the Registrant was in a sexual relationship with her patient concurrent with a dental hygiene treatment relationship, which constitutes sexual abuse of a patient and other professional misconduct as alleged under the Code.

FINDING

The Panel accepted as true the facts set out in the Agreed Statement of Facts and Admissions and found that the Registrant committed professional misconduct pursuant to:

- (a) Clause 51(1)(b.1) of the *Health Professions Procedural Code* (the "Code"): sexual abuse of a patient; and
- (b) Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991*, (the "Act") s.15, para 2: contravening a standard of practice of the profession; and
- (c) Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991* s.15, para.47: contravening by act or omission, the Act, the RHPA or the regulations under either of those Acts; and
- (d) Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991*, s.15, para 52: engaging in conduct or performing an act, relevant to the practice of the profession, that having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional; and
- (e) Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991*, s.15, para 53: conduct unbecoming a dental hygienist.

JOINT SUBMISSION ON ORDER and COSTS

The parties filed a Joint Submission on Penalty and Costs (JSPC) with respect to the appropriate Order in this case, which was admitted as Exhibit 3, and which provides as follows:

1. Ms. Kapralos is required to appear before a panel of the Discipline Committee immediately following the hearing of this matter to be reprimanded, with the fact of the reprimand and a summary of the reprimand to appear on the public register of the College.
2. The Discipline Committee shall direct the Registrar to revoke Ms. Kapralos' Certificate of Registration effective immediately.

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3. Ms. Kapraolos shall reimburse the College for funding provided to Client #1 under the program required under section 85.7 of the Health Professions Procedural Code.
4. Ms. Kapralos is required to pay to the College costs in the amount of \$1000.00 within six months of the date of the Discipline Committee's order.

SUBMISSIONS OF THE PARTIES

The College and the Registrant made submissions to the Panel with respect to why the JSPC was appropriate and should be accepted.

Counsel for the College submitted that the proposed penalty and costs were appropriate under the circumstances and with regard to relevant legal principles. Specifically,

- i. the proposed penalty is mandatory under s.51(5) of the Code.
- ii. the penalty is meaningful and sends a strong message to the Registrant and the profession; and
- iii. the penalty will maintain confidence by the public in the regulation of Dental Hygienists by the College.

Counsel for the Registrant agreed that the proposed penalty and costs order should be accepted.

- iv. Ms. Kapralos is attending the hearing in person today.
- v. Ms. Kapraolos admits the allegations.

Counsel for the College also provided the Panel with copies of the following discipline cases: *Leering v. College of Chiropractors of Ontario* (2010), *Mussani v. College of Physicians and Surgeons of Ontario* (2004) and *Hanif v. Her Majesty the Queen In Right of Ontario and Ontario College of Pharmacists* (2014). In these cases, challenges to the mandatory revocation provision of the Code were dismissed by the Courts.

THE PANEL'S ORDER

After carefully considering the JSPC, the mandatory revocation provision in the Code, the legal precedents cited, the oral submissions made by Counsel for the College and Counsel for the Registrant, the Panel accepted the joint submission and made the following Order:

1. Ms. Kapralos is required to appear before a panel of the Discipline Committee to be reprimanded, with the fact of the reprimand and a summary of the reprimand to appear on the public register of the College.
2. The Registrar is directed to revoke Ms. Kapralos' Certificate of Registration effective immediately.
3. Ms. Kapralos shall reimburse the College for funding provided to Client #1 under the program required under section 85.7 of the Code.

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4. Ms. Kapralos is required to pay to the College costs in the amount of \$1000.00 within six months of the date of the Discipline Committee's order.

REASONS FOR DECISION ON ORDER

The Panel understands its legal obligation to accept a joint submission unless doing so would bring the administration of justice into dispute or is otherwise contrary to the public interest.

The Panel considered the terms of the proposed order and concluded that they meet the requirements of the Code and the needs of this case, and address the legal principles relevant to setting an Order. The Panel recognized that the law requires the imposition of the penalty of a mandatory revocation and reprimand.

The Registrant has co-operated with the College and, by agreeing to the facts and the proposed penalty, has accepted responsibility for her actions and has avoided unnecessary expense to the College of a contested hearing.

The Panel considered its statutory obligation, taking into account the specific facts and circumstances of this case, and accepted the joint submission. The Panel also considered the aggravating and mitigating factors referred to in the JSPC by the parties.

The Panel noted that Client #1 does not view himself as a victim of "sexual abuse" on account of having his teeth professionally cleaned by his wife, Melissa Kapralos, at Dawson Dental Centre on or about November 20, 2015, March 19, 2016 and August 12, 2016. In his statement filed as Exhibit 4 with the Committee, he said he has no need for treatment for "sexual abuse" and will not make a claim for funding for any such treatment.


The Panel considered the Registrant's statement where she stated that she should have attempted to confirm with the College, whom she was able to treat. She said that the consequences of not doing so has already had, and will continue to have, a significant effect on her personal and professional life.

Ultimately, the Panel was of the opinion that the Order appropriately addresses the principles of public protection, general deterrence and specific deterrence. The Panel heard Ms. Kapralos' statement that from the time she was young, she did her best to comply with the rules. However, the penalty is serious as her conduct is unacceptable under the law. One of the rules that the Ontario Legislature has enacted for health professionals is that they cannot have a concurrent sexual relationship with a patient/client they are treating. This policy of zero tolerance is backed up by mandatory revocation of the certificate of registration of the health professional. It is not discretionary. In Ms. Kapralos' circumstances, where she ultimately married her patient/client, it appears a harsh penalty. In the societal interest of preventing sexual abuse, this penalty can be avoided by dental hygienists, like other health professionals, by ensuring that they comply with the rule of not engaging in a sexual relationship with a patient/client. The Panel is sympathetic to Ms. Kapralos' personal situation; however, the Panel's hands are tied by a strong legal rule designed to protect patients/clients. The Panel concluded that the jointly submitted penalty is appropriate and in the public interest.

At the conclusion of the hearing, the Registrant waived her right of appeal and the reprimand was administered by the Panel.

I, Evie F. Jesin, sign this Decision and Reasons for Decision as Chair and on behalf of the Panel members listed below.

Dated at Toronto, this 31st of July, 2017.



Evie F. Jesin, Chair, Professional Member of Council

Discipline Panel Members:

Mike Connor, Public Member of Council

Vinay Jain, Public Member of Council

Heather Blondin, Professional Member of Council

Marlene Heics, Professional Member of Council

**Name of Registrant / Nom du membre**

Melissa Kapralos (referred Mar. 14, 2017 / renvoyée le 14 mars 2017)

Date of Hearing / Date de l'audience

June 20, 2017 / le 20 juin 2017

**Reprimand Issued by the Discipline Committee /
Réprimande prononcée par le comité de discipline**

At the hearing on June 20, 2017, the Discipline Panel administered an oral reprimand to Ms. Kapralos. A summary of the reprimand follows:

The Panel noted that it recognized that the penalty for the conduct was serious but that the conduct was unacceptable under the law. The Ontario legislature enacted legislation that bars health professional from having a concurrent sexual relationship with a patient they are treating. The policy of zero tolerance requires mandatory revocation of the certificate of registration of the health professional. It is not discretionary.

As Ms. Kapralos married her client, the penalty may seem harsh, but in the societal interest of preventing sexual abuse, health professionals must comply with the rule to not engage in a sexual relationship with a client/patient. The Discipline panel was sympathetic to Ms. Kapralos' situation, but the legislation is in place to protect patients and she "broke the rules".

Au cours de l'audience tenue le 20 juin 2017, le sous-comité de discipline a adressé une réprimande verbale à Madame Kapralos. Voici un résumé de cette réprimande :

Le sous-comité a mentionné qu'il reconnaît que la peine pour la conduite est sévère, mais la conduite est inacceptable en vertu de la loi. L'Assemblée législative de l'Ontario a promulgué une loi qui interdit à un professionnel de la santé d'entretenir une relation sexuelle avec un client en même temps qu'il lui prodigue des soins. La politique de tolérance zéro exige la révocation obligatoire du certificat d'inscription du professionnel de la santé. Ceci n'est pas discrétionnaire.

Puisque Madame Kapralos a épousé son client, la peine peut paraître sévère, mais dans l'intérêt de la société de prévenir l'abus sexuel, les professionnels de la santé doivent se conformer à la règle, qui les interdit de s'engager dans une relation sexuelle avec un client ou un patient. Le sous-comité de discipline sympathisait avec la situation de Madame Kapralos, mais la loi est en place pour protéger les patients, et elle en a enfreint les règles.