

**Name of Registrant / Nom du membre**

Christine Plasaj (referred May 16, 2016 / Renvoyée le 16 mai 2016)

Date of Hearing / Date de l'audience

August 23, 2016 / le 23 août 2016

Summary of Hearing / Résumé de l'audience

On August 23, 2016, the Discipline Committee found that Ms. Christine Plasaj had engaged in professional misconduct by failing to: (1) comply with a direction of a College Committee; and (2) cooperate with a College investigation. The Discipline Committee ordered that Ms. Plasaj's certificate of registration be revoked effective immediately. The Committee also ordered \$9,500 costs payable to the College within 30 days of the hearing, on or before September 23, 2016.

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

Le 23 août 2016, le comité de discipline a conclu que Madame Christine Plasaj avait commis une faute professionnelle en omettant de : (1) se conformer à une directive d'un comité de l'Ordre et (2) de coopérer lors d'une enquête menée par l'Ordre. Le comité de discipline a ordonné de révoquer immédiatement le certificat d'inscription de Madame Christine Plasaj. Le comité lui a également imposé de payer à l'Ordre des coûts de 9 500 \$ dans un délai de 30 jours suivant l'audience ou au plus tard le 23 septembre 2016.

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



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

BETWEEN:

THE COLLEGE OF DENTAL HYGIENISTS OF ONTARIO

and

CHRISTINE LYNN PLASAJ

PANEL MEMBERS:

**JENNIFER TURNER, Chair, Professional Member of Council
CINDY MACKINNON, Professional Member of Council
BETTY LE, Non-Council Member
TOTE QUIZAN, Public Member of Council
YVONNE WINKLE, Public Member of Council**

COUNSEL FOR THE COLLEGE:

ERICA RICHLER

COUNSEL FOR CHRISTINE LYNN PLASAJ:

NONE

INDEPENDENT COUNSEL FOR THE DISCIPLINE COMMITTEE:

ELYSE SUNSHINE

HEARD: AUGUST 23, 2016

DECISION AND REASONS FOR DECISION

The Discipline Committee of the College of Dental Hygienists of Ontario heard this matter at Toronto on August 23, 2016. At the conclusion of the hearing, the Panel delivered its findings and penalty order orally and in writing, with written reasons to follow.

THE ALLEGATIONS

It was alleged in the Notice of Hearing that Christine Lynn Plasaj committed acts of professional misconduct pursuant to the following paragraphs of section 15 of Ontario Regulation 218/94, as amended to Ontario Regulation 382/08, under the *Dental Hygiene Act, 1991*, S.O. 1991, c.22:

paragraph 45 (failure to comply with an order or direction of a Committee of the College); and/or paragraph 47 (contravening by act or omission the *Dental Hygiene Act, 1991*, the RHPA or a regulation thereunder); and/or paragraph 50 (failing to co-operate with an investigator of the College); and/or paragraph 52 (disgraceful, dishonourable or unprofessional conduct); and/or paragraph 53 (conduct unbecoming a dental hygienist).

The allegations against the registrant are specified in a Statement of Allegations set out in the Notice of Hearing as follows:

1. At the material times, Ms. Christine Lynn Plasaj ("Ms. Plasaj") was a duly registered dental hygienist in Ontario.

Failure to Comply with ICRC Decision

2. Ms. Plasaj was required to submit a completed Professional Portfolio by January 31, 2014 as part of the Quality Assurance program of the College of Dental Hygienists of Ontario (the "College"). Ms. Plasaj failed to submit her Professional Portfolio as required and the matter was referred to the College's Inquiries, Complaints and Reports Committee (the "ICRC") for an investigation.
3. On July 17, 2015, a panel of the ICRC directed Ms. Plasaj to complete a specified continuing education or remediation program at her own expense. In particular, Ms. Plasaj was required to complete the following courses:
 - a. an approved portfolio development course;
 - b. an approved ethics course; and
 - c. the College's online Jurisprudence Education Module.

4. The panel of the ICRC specified that Ms. Plasaj was required to provide proof to the Deputy Registrar that she had commenced the above courses within three months of the date of its decision (i.e., by October 19, 2015) and to provide proof to the Deputy Registrar that she had successfully completed the courses within six months of the date of its decision (i.e., by January 18, 2016).
5. On or about July 22, 2015, Ms. Plasaj was provided with a copy of the ICRC's decision, as well as information on how to complete the courses.
6. To date, Ms. Plasaj has failed to complete the courses as directed by the ICRC in its July 22, 2015 decision.
7. It is alleged that the above conduct constitutes professional misconduct pursuant to the following paragraphs of section 15 of Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991*: paragraph 45 (failing to comply with an order or direction of a Committee or a panel of a Committee of the College); and/or paragraph 52 (disgraceful, dishonourable or unprofessional conduct); and/or paragraph 53 (conduct unbecoming a dental hygienist).

Failure to Cooperate with Investigation

8. On or about February 1, 2016, the College-appointed investigator attempted to telephone Ms. Plasaj to arrange an interview. The investigator left a voice-mail message and asked Ms. Plasaj to return the call. Ms. Plasaj failed to return the investigator's call.
9. On or about February 4, 2016, the investigator wrote a letter to Ms. Plasaj to request an interview. Ms. Plasaj failed to respond to this letter.
10. On or about February 16, 2016, the investigator sent an email to Ms. Plasaj to request an interview. Ms. Plasaj failed to respond to this email.
11. It is alleged that the above conduct constitutes professional misconduct pursuant to the following paragraphs of section 15 of Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991*: paragraph 47 (contravening, by act or omission, the Act, the *Regulated Health Professions Act, 1991* or the regulations under either of those Acts, in particular by failing to co-operate fully with an investigator pursuant to subsection 76(3.1) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991*); and/or paragraph 50 (failing to co-operate with an investigator of the College); and/or paragraph 52 (disgraceful, dishonourable or unprofessional conduct); and/or paragraph 53 (conduct unbecoming a dental hygienist).

NON-ATTENDANCE OF THE REGISTRANT AT THE HEARING

The registrant, Ms. Plasaj, did not attend the hearing despite the fact that she was duly served with the Notice of Hearing. Three affidavits of service were filed showing that Ms. Plasaj was served with the Notice of Hearing and other correspondence duly informing her of the date, time and place of the hearing. After an appropriate waiting period, the Panel proceeded with the hearing in her absence. When a registrant refuses or fails to appear at a discipline hearing, when duly served, the Discipline Panel has the jurisdiction to proceed with the hearing in the absence of the registrant. A registrant cannot avoid the discipline process by a failure to respond to the Notice of Hearing.

RESPONSE TO THE ALLEGATIONS

Given Ms. Plasaj's failure to attend the hearing, the Panel entered a plea on her behalf of "not guilty" to the allegations of professional misconduct in the Notice of Hearing.

THE FACTS

The College called Ms. Eva Rosenstock, who is the Manager, Complaints and Investigations of the College since January 1, 2016. Ms. Rosenstock was previously the Investigations Coordinator at the College beginning in 2012. She was familiar with Ms. Plasaj's file.

Ms. Rosenstock testified that Ms. Plasaj had been directed by the Quality Assurance Committee to submit her Professional Portfolio in January 2014. When she failed to do so, the matter was referred to the Inquiries, Complaints and Reports Committee (ICRC). Ms. Rosenstock testified that the ICRC considered the matter and ordered a caution plus a Specified Continuing Education or Remediation Program (SCERP) which was to complete three remediation courses:

- a) An approved portfolio development course
- b) An approved ethics course, and
- c) The College's online Jurisprudence Education Module.

Ms. Rosenstock also specified that the ICRC panel required Ms. Plasaj to provide proof to the Deputy Registrar that she had commenced the above courses within three months of the date of its decision (i.e. by October 19, 2015) and to provide proof to the Deputy Registrar that she had successfully completed the courses within the six months of the date of its decision (i.e. by January 18, 2016).

Ms. Rosenstock testified that the College did not receive the requested confirmation from Ms. Plasaj and so a letter was sent to her dated December 11, 2015 advising of this and informing her that if she required an extension, she should contact the College.

There was no response. Accordingly, an investigator was appointed pursuant to section 75 of the Health Professions Procedural Code. Notice of the investigation was sent to Ms. Plasaj on January 26, 2016. Ms. Rosenstock detailed that the investigator had tried to contact Ms. Plasaj and had had no response. On February 18, 2016, Ms. Rosenstock sent a copy of the Investigation report to Ms. Plasaj and requesting a response. No response was received.

Also with the report it was stated that Ms. Plasaj's certificate of registration was suspended for non-payment of fees on February 20, 2015. Ms. Rosenstock detailed that non-payment of fees does not constitute a resignation and that the ICRC still would have jurisdiction over any registrant.

Ms. Rosenstock testified that the College never received any proof that Ms. Plasaj started or completed the courses that she was required to take.

The panel also received as an exhibit the Certificate of the Register dated August 10, 2016. The Certificate provided the complete registration history of Ms. Plasaj (Registration #: 011316), beginning July 16, 2007 up to February 20, 2015.

FINDING

After hearing evidence and deliberating, the Panel of the Discipline Committee found that the allegations as set out in the Notice of Hearing have been established based on a balance of probabilities and found that Ms. Plasaj committed acts of professional misconduct as defined in the following paragraphs of Section 15 pursuant to Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991*.

paragraph 45 (failure to comply with an order or direction of a Committee of the College); and/or paragraph 47 (contravening by act or omission the *Dental Hygiene Act, 1991*, the RHPA or a regulation thereunder); and/or paragraph 50 (failing to co-operate with an investigator of the College); and/or paragraph 52 (disgraceful, dishonourable or unprofessional conduct); and/or paragraph 53 (conduct unbecoming a dental hygienist).

REASONS FOR FINDING

The Panel finds it regrettable that the Registrant chose not to attend or participate in the governance process of the College numerous times and that the Registrant did not attend the Hearing.

Allegation 1 – Failure to Comply with ICRC Decision and QA Requirements

The Panel unanimously found through the compelling and uncontroverted evidence presented by the College that the Registrant failed to comply with an ICRC decision and direction; as well as a direction of Quality Assurance Committee. It is uncontroverted that Ms. Plasaj was requested to hand in her professional portfolio and then when she did not, was ordered to complete a SCERP. To date, the College has received no documentation that Ms. Plasaj commenced or completed the SCERP. The failure to complete the requirements of the Quality Assurance Committee and then of the ICRC is an act of professional misconduct as defined in the following paragraphs of Section 15 pursuant to Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991* paragraph 45 (failure to comply with an order or direction of a Committee of the College); and/or paragraph 52 (disgraceful, dishonourable or unprofessional conduct); and/or paragraph 53 (conduct unbecoming a dental hygienist).

Allegation 2 – Failure to Cooperate with an Investigation

Based on the comprehensive and conclusive testimony of Ms. Rosenstock, the Panel found that the Registrant failed to cooperate with the investigation. The Panel accepted the evidence that the College had tried to contact the Registrant numerous times. A failure to respond to or communicate with one's regulatory body constitutes professional misconduct pursuant to the following paragraphs of section 15 of Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991*: paragraph 47 (contravening, by act or omission, the Act, the *Regulated Health Professions Act, 1991* or the regulations under either of those Acts, in particular by failing to co-operate fully with an investigator pursuant to subsection 76(3.1) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991*); and/or paragraph 50 (failing to co-operate with an investigator of the College); and/or paragraph 52 (disgraceful, dishonourable or unprofessional conduct); and/or paragraph 53 (conduct unbecoming a dental hygienist).

PENALTY SUBMISSIONS

The College sought revocation of the Member's certificate of registration and costs in the amount of \$9,500 payable within 30 days.

The College submitted that revocation was appropriate because Ms. Plasaj, through her conduct, demonstrated that she was not willing to be governed. She ignored the directions of two different College Committees. The College submitted that the registrant had demonstrated a total disregard for the authority of the College and her conduct itself was an aggravating factor.

With respect to the costs being sought, the College submitted that the costs were based on only a portion of the College costs which included the investigation costs, the College's legal costs and the estimated cost of the hearing.

The College submitted that the request for costs was fair and reasonable as a member found guilty of professional misconduct should be required to pay a portion of the costs of the hearing which are otherwise borne by the profession as a whole.

The member did not make any submissions on penalty.

ORDER ON PENALTY AND COSTS

The panel deliberated and unanimously accepted the recommendation of the College and ordered as follows:

1. The Registrar is directed to revoke Ms. Plasaj's Certificate of Registration effective immediately.
2. Ms. Plasaj shall pay the College the amount of \$9,500.00, payable within 30 days after this Order becomes final.

REASONS FOR THE ORDER ON PENALTY AND COSTS

The Panel is of the opinion that the penalty imposed appropriately addresses the principles governing penalty which include public protection, general deterrence and specific deterrence.

The Panel found that Ms. Plasaj demonstrated that she was ungovernable. She failed to comply with the direction of the QAC and the requirements to complete remediation courses. She also ignored the process and failed to communicate with the College. The compliance with Orders from the QAC is an obligation of a self-regulated dental hygienist. As well, Ms. Plasaj's certificate of registration was suspended for non-payment of fees. As a result, Ms. Plasaj's disregard of governance makes the College's mandate of governing its members very difficult.

By way of a general deterrent, the revocation order for the misconduct in this case is appropriate. It demonstrates to registrants and the public that the unprofessional behaviour of failing to comply with orders of the College or its Committee are a serious breach of the regulations governing dental hygiene and will not be tolerated.

The seriousness of the penalty acts as a specific deterrent, as it relays to the registrant that the College will punish professional misconduct that shows a fundamental disregard for the public protection mandate of the College.

The Panel considered the following aggravating factors in determining the appropriate penalty order in this case:

- Ms. Plasaj failed to comply with two Statutory Committee decisions.
- Ms. Plasaj failed to respond to numerous messages from the College.
- Ms. Plasaj had a clear disregard for the authority of the College.
- Ms. Plasaj failed to respond to the Notice of Hearing.
- Ms. Plasaj engaged in conduct that clearly showed she was ungovernable.

The Panel, along with the aggravating factors, took into consideration similar cases submitted by counsel, (Karen Allen, November 27, 2014, Dikran Derderian, November 27, 2014 and Wendel Washington McFarlane, March 18, 2013) and agreed the seriousness of the Penalty was appropriate with the conduct of this registrant.

With respect to costs, the Panel heard evidence as to the actual costs of the investigation and Discipline Hearing borne by the College. It is fair and reasonable that a member found guilty of professional misconduct pay a portion of these costs, which are otherwise borne by the profession as a whole.

I, Jennifer Turner, RDH, sign this decision and reasons for the decision as Chair of the Discipline panel and on behalf of the Discipline panel as listed below.

Dated in Toronto this 19th of December, 2016.


Jennifer Turner, Chair, Professional Member of Council

Discipline Panel Members:

Cindy MacKinnon, Professional Member of Council
Betty Le, Non-Council Member
Tote Quizan, Public Member of Council
Yvonne Winkle, Public Member of Council