

**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*, S.O. 1991, c.22, as amended, and the regulations thereunder, as amended;

AND IN THE MATTER of allegations of professional misconduct/incompetence 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-

Tara Jeffery, RDH

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) **Anastasia-Maria Hountalas**
) for the College of Dental Hygienists of Ontario
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) **Andrew McKenna**
) for the Registrant
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) **Josh Koziembrocki**
) Independent Legal Counsel
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) Heard:
) **April 19, 2022**
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Panel Members:

Michelle Atkinson, Chair, Professional Member of Council

Margaret Wade, Public Member of Council

Anne-Marie Conaghan, Professional Member of Council

Jennifer Cooper, Professional Member of Council

DECISION AND REASONS FOR DECISION

- [1] A panel of the Discipline Committee of the College of Dental Hygienists of Ontario (“the College”) heard this matter virtually via zoom videoconference on April 19, 2022.
- [2] 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.
- [3] At the conclusion of the hearing, the panel delivered its finding and penalty order orally and in writing, with written reasons to follow.

THE ALLEGATIONS

- [4] The allegations of professional misconduct against Tara Jeffery (Ms. Jeffery) were stated in the Notice of Hearing, dated June 20th, 2019, and are as follows:

The Registrant

- 1. At the material times, Tara Jeffery (“Ms. Jeffery”) and Jessie Kalvaitis (“Ms. Kalvaitis”) were duly registered members of the College of Dental Hygienists of Ontario (the “College”).

Quality Assurance Examination

- 2. On or about October 27, 2017 Ms. Jeffery and Ms. Kalvaitis each completed the College's online Quality Assurance test (the “QA Test”).
- 3. Prior to commencing the QA test, Ms. Jeffery and Ms. Kalvaitis acknowledged as part of the “Registrant Statement of Understanding” that the QA Test must be taken individually and without help from any other person.
- 4. Notwithstanding this acknowledgement, Ms. Jeffery and Ms. Kalvaitis received assistance from and/or assisted each other, in completing the QA Test.

[5] Specifically, the allegations against the Registrant were set out in the Notice of Hearing, which was filed as an exhibit and provides as follows:

It is alleged that the above conduct constitutes professional misconduct pursuant to:

(a) Clause 51-(1) (b.0.1) of the Health Professions Procedural Code, being Schedule 2 to the Regulated Health Professions Act, 7997 (the "Code") (failing to cooperate with the Quality Assurance Committee or any assessor appointed by the committee); and/or

(b) Clause 51(1)(c) of the Code and as defined in one or more of the following paragraphs of section 1-5 of Ontario Regulation 218/94 under the Dental Hygiene Act, 1991:

- i. paragraph 2: contravening by act or omission, a standard of practice of the profession or failing to maintain the standard of practice of the profession; and/or
- ii. paragraph 30: signing or issuing, in the member's professional capacity, a document that the member knows or ought to know contains a false or misleading statement; and/or
- iii. paragraph 42: failing to take reasonable steps to ensure that information provided by or on behalf of the member to the College is accurate
- iv. paragraph 52: engaging in conduct or performing an act, relevant to the practise of the profession, that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

[6] The College advised the panel that it was not proceeding with respect to the allegation that Ms. Jeffrey contravened by act or omission, a standard of practice of the profession or failed to maintain the standard of practice of the profession pursuant to section 51(1)(c) of the Code (paragraph 2 of section 15 of Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991*) as alleged in the Notice of Hearing. The College withdrew this allegation at the outset of the hearing.

RESPONSE TO THE ALLEGATIONS

[7] The Registrant admitted to the allegations of professional misconduct as set out in the Agreed Statement of Facts.

[8] The panel conducted a plea inquiry and was satisfied that the Registrant's admissions were voluntary and informed.

THE AGREED STATEMENT OF FACTS

[9] The Agreed Statement of Facts, which was filed as an exhibit, provides as follows:

The parties hereby agree that the following facts may be accepted as true by the Discipline Committee of the College of Dental Hygienists of Ontario (the “Discipline Committee”):

The Registrants

1. At the material times, Tara Jeffery (“Ms. Jeffery”) and Jessie Kalvaitis (“Ms. Kalvaitis”) (collectively “the Registrants”) were duly registered members of the College of Dental Hygienists of Ontario (the “College”).

Quality Assurance Audit

2. In 2017, Ms. Jeffery was selected for the Quality Assurance audit. In order to complete the audit Ms. Jeffery had the choice to complete her professional portfolio or complete an online Quality Assurance Test (the “QA Test”). Ms. Jeffery chose to complete the QA Test.
3. In 2017, Ms. Kalvaitis was also selected for the Quality Assurance audit. In order to complete the audit Ms. Kalvaitis had the choice to complete her professional portfolio or complete the QA Test. Ms. Kalvaitis also chose to complete the QA Test.

The QA Test

4. Up until 2018, the National Dental Hygiene Certification Board (“NDHCB”) administered a QA Test on behalf of the College. The QA Test was offered as part of the College’s Quality Assurance process.
5. The QA Test required that each registrant register with the NDHCB prior to writing. Once approved, a link was subsequently emailed to the registrant with information about the test, study materials including the ability to purchase practice tests, and a link to access the electronic QA Test when ready.
6. In order to commence the QA Test, registrants must agree to the “Registrant Statement of Understanding”. The Statement of Understanding requires a registrant to agree to two (2) key concepts:
 - a. Registrants must complete the QA Test individually and without help from any other person; and
 - b. Registrants are strictly forbidden from copying, sharing, reproducing or saving any item or content of the QA Test. Registrants agree that they will maintain the confidentiality of the QA Test questions, even after taking the QA Test (including discussing the content with others).
7. At the completion of the QA Test, a diagnostic report is generated. The report informs the registrant of his or her score. It also allows the registrant to review

any questions that were answered incorrectly. The report provides the correct answer and an explanation for it. The report can be viewed for thirty (30) minutes after the completion of the QA Test, after which time, the report is no longer accessible to the registrant.

8. In 2017, there were eight (8) versions of the QA Test, which are referred to as "Forms". The QA Test consisted of 75 multiple choice questions. The questions were generated from a pool of 110 questions, resulting in a 60% commonality between the various Forms.

The Registrants' QA Tests

9. On or about October 27, 2017, Ms. Jeffery and Ms. Kalvaitis each completed their respective QA Test.
10. It is agreed that, prior to commencing the QA Test, Ms. Jeffery and Ms. Kalvaitis acknowledged the Registrant Statement of Understanding set out in paragraph 6 above.
11. With respect to Ms. Jeffery's QA Test, the following is agreed:
 - a. Ms. Jeffery completed Form 6 of the QA Exam.
 - b. In 2017, 44 registrants completed Form 6 of the QA Exam. The average time to complete Form 6 was 1 hour 45 minutes and 10 seconds. The shortest completion time for Form 6 was 29 minutes and 44 seconds and the longest time was 2 hours and 47 minutes. The average score for Form 6 was 86.63%. The highest score was 100% and the lowest score was 57.33%.
 - c. Ms. Jeffery wrote her QA Exam from 6:19 PM until 8:09 PM, completing it in 1 hour and 49 minutes.
 - d. Ms. Jeffery received a score of 90.67%, answering 68 out of 75 questions correctly. Ms. Jeffery and two other registrants received the same score, tying for 16th place overall in score for Form 6.
12. With respect to Ms. Kalvaitis' QA Test, the following is agreed:
 - a. Ms. Kalvaitis completed Form 5 of the QA Exam.
 - b. In 2017, 38 registrants completed Form 5 of the QA Exam. The average time to complete Form 5 was 1 hour and 46 minutes. The shortest completion time for Form 5 was 36 minutes and 44 seconds and the longest time was 2 hours and 30 minutes. The average score for Form 5

was 90.66%. The highest score was 100% and the lowest score was 74.67%.

- c. Ms. Kalvaitis wrote her QA Exam from 8:15 PM until 8:52 PM, completing it in 36 minutes and 44 seconds. As noted above, this was the fastest completion time for Form 5.
 - d. Ms. Kalvaitis received a score of 96%, answering 72 out of 75 questions correctly. Ms. Kalvaitis and four other registrants received the same score, tying for 5th place overall in score for Form 5.
13. Ms. Kalvaitis' QA Exam shared 50 of the same questions as Ms. Jeffery's QA Exam. Five of the questions that Ms. Jeffery answered incorrectly appeared on Ms. Kalvaitis' QA Exam. Ms. Kalvaitis correctly answered three of those questions.
14. It is agreed that notwithstanding the acknowledgement set out in paragraph 6 above, Ms. Jeffery and Ms. Kalvaitis received assistance from and assisted each other in completing the QA Test.

Professional Misconduct Alleged

15. It is agreed that the conduct set out at paragraphs 1-14 above (the "Agreed Facts") constitutes professional misconduct pursuant to:
- a. Clause 51(1)(b.0.1) of the Health Professions Procedural Code, being Schedule 2 to the Regulated Health Professions Act, 1991 (the "Code") (failing to cooperate with the Quality Assurance Committee or any assessor appointed by the committee); and
 - b. Clause 51(1)(c) of the Code and as defined in one or more of the following paragraphs of section 15 of Ontario Regulation 218/94 under the Dental Hygiene Act, 1991:
 - i. paragraph 30: signing or issuing, in the member's professional capacity, a document that the member knows or ought to know contains a false or misleading statement; and
 - ii. paragraph 42: failing to take reasonable steps to ensure that information provided by or on behalf of the member to the College is accurate; and
 - iii. paragraph 52: engaging in conduct or performing an act, relevant to the practise of the profession, that, having regard to all the

circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

FINDING

[10] The panel accepted as true the facts set out in the Agreed Statement of Facts and finds that the Registrant committed professional misconduct pursuant to:

- a. Clause 51(1)(b.0.1) of the Health Professions Procedural Code, being Schedule 2 to the Regulated Health Professions Act, 1991 and
- b. Clause 51(1)(c) of the Code and as defined in one or more of the following paragraphs of section 15 of Ontario Regulation 218/94

JOINT SUBMISSION ON ORDER AND COSTS

[11] The parties filed a Joint Submission on Penalty and Costs with respect to the appropriate Order in this case, which was filed as an exhibit, and which provides as follows:

1. The Registrant is required to appear, by electronic means, before a panel of the Discipline Committee immediately following the hearing of this matter to be reprimanded, with the fact of the reprimand and the text of the reprimand to appear on the public register of the College;
2. The Registrar is directed to suspend the Registrant's certificate of registration for a period of two (2) months, commencing on June 25, 2022;
3. The Registrant is required to successfully complete an individualized ethics course, preapproved by the Registrar and at the Registrant's expense, within six (6) months of the date of the Discipline Committee's order; and
4. The Registrant is required to pay the College's costs in the amount of \$3,000.00, in twelve (12) equal monthly installments of \$250.00, with the first installment due within thirty (30) days of the date of the Discipline Committee's order.

SUBMISSIONS OF THE PARTIES

[12] The College and the Registrant made submissions to the panel with respect to why the joint submission was appropriate and should be accepted.

[13] Counsel for the College submitted that the proposed penalty and costs were appropriate under the circumstances and with regard to the legal principles relevant to setting an order. Specifically, the proposed order included elements of remediation and deterrence while also considering mitigating and aggravating factors. Mitigating factors include: the

Registrant has no previous Discipline history, the Registrant cooperated with the investigative process, and the Registrant reached an agreement with the College on the proposed order. The nature of the Registrant's misconduct was an aggravating factor. Counsel submitted that the proposed order on penalty also maintained public confidence in the profession and was proportional to the severity of the misconduct. Case law was provided to reassure the panel that the proposed order was reasonable. These cases included:

- a. *Ontario (College of Dental Hygienists of Ontario) v O'Donnell*, 2019 ONCDHO 3.
- b. *Ontario (College of Dental Hygienists of Ontario) v Marino*, 2019 ONCDHO 2.
- c. *Ontario (College of Dental Hygienists of Ontario) v Bernardi*, 2019 ONCDHO 11.
- d. *Ontario (College of Dental Hygienists of Ontario) v Rooney*, 2019 ONCDHO 12.
- e. *Ontario (College of Dental Hygienists of Ontario) v Blundon*, 2021 ONCDHO 6; *Ontario (College of Dental Hygienists of Ontario) v Blundon*, 2022 ONCDHO 1.
- f. *Ontario (College of Dental Hygienists of Ontario) v Sinnott*, 2021 ONCDHO 5; *Ontario (College of Dental Hygienists of Ontario) v Sinnott*, 2022 ONCDHO 2.
- g. *Ontario (College of Dental Hygienists of Ontario) v Lewis*, 2021 ONCDHO 4; *Ontario (College of Dental Hygienists of Ontario) v Lewis*, 2022 ONCDHO 3.
- h. *Timothy Edward Bradley v Ontario College of Teachers*, 2021 ONSC 2303

[14] Counsel stated that the costs are not meant to be punitive but are instead meant to recover part of the costs incurred by the College in pursuing this matter so that the entire financial burden is not left to members of the College. Costs also reflect the financial situation of the Registrant and the fact that she agreed to the JSPC.

[15] Counsel stated that the JSPC should be accepted by the panel unless the sentence would bring the administration of justice into disrepute and/or is contrary to the public interest. The case of *Timothy Edward Bradley v Ontario College of Teachers*, 2021 ONSC 2303 was reviewed to demonstrate the test for rejecting a joint submission on penalty.

THE PANEL'S ORDER

[16] After carefully considering the joint submission, the legal precedents cited, and the oral submissions made by counsel for the College and counsel for the Registrant, the panel accepted the joint submission and makes the following order:

- a. The Registrant is required to appear, by electronic means, before a panel of the Discipline Committee immediately following the hearing of this matter to be reprimanded, with the fact of the reprimand and the text of the reprimand to appear on the public register of the College.
- b. The Registrar is directed to suspend the Registrant's certificate of registration for a period of two (2) months, commencing on June 25, 2022;

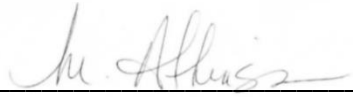
- c. The Registrant is required to successfully complete an individualized ethics course, preapproved by the Registrar and at the Registrant's expense, within six (6) months of the date of the Discipline Committee's order; and
- d. The Registrant is required to pay the College's costs in the amount of \$3,000.00, in twelve (12) equal monthly installments of \$250.00, with the first installment due within thirty (30) days of the date of the Discipline Committee's order.

REASONS FOR DECISION ON ORDER

- [17] The panel understands its legal obligation to accept a joint submission unless doing so would be contrary to the public interest or bring the administration of the disciplinary process into dispute.
- [18] The panel considered the terms of the proposed order and concluded that, together, they meet the needs of this case and address the legal principles relevant to setting an order.
- [19] Ultimately, the panel was of the opinion that the order appropriately addresses the principles of public protection, general deterrence and specific deterrence. The principle of specific deterrence is served in this case by the two-month suspension, reprimand, and the terms, conditions or limitations on the Registrant's certificate of registration. These aim to ensure that this conduct will not be repeated, but also serve to protect the public and instill public confidence in the profession. Moreover, these same elements serve as general deterrence because it communicates to the profession that such misconduct will not be tolerated, and the Discipline committee will seek to deter members from engaging in conduct that disregards the College's public protection mandate. Also, because this decision will be published on the College's website, other registrants will be aware of the consequences of this type of professional misconduct. The principle of rehabilitation will be realized by the Registrant's successful completion of the individualized ethics course, which serves to remediate the Registrant so that she has the requisite knowledge to practice safely and ethically.
- [20] At the conclusion of the hearing, the Registrant waived her right of appeal, and the reprimand was administered by the panel.

I, **Michelle Atkinson**, sign this Decision and Reasons for Decision as Chair and on behalf of the panel members listed below.

Dated this 2 of May 2022.



Michelle Atkinson, Chair, Professional Member of Council

Discipline Panel Members:

Margaret Wade, Public Member of Council

Anne-Marie Conaghan, Professional Member of Council

Jennifer Cooper, Professional Member of Council



Summary of Reprimand Issued by Discipline Committee to Tara Jeffery & Jessie Kalvaitis on April 19th, 2022

The Discipline panel has found that you Ms. Jeffery and Ms. Kalvaitis have engaged in professional misconduct in 4 different ways.

They are as follows:

1. Failing to cooperate with the Quality Assurance Committee or any assessor appointed by the committee
2. Signing or issuing, in the member's professional capacity, a document that the member knows or ought to know contains a false or misleading statement
3. Failing to take reasonable steps to ensure that information provided by or on behalf of the member to the College is accurate
4. engaging in conduct or performing an act, relevant to the practise of the profession, that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional

It is a matter of profound concern to this panel that you have engaged in these forms of professional misconduct. By doing so, you have brought discredit to the profession and to yourself. Public confidence in this profession has been put in jeopardy. Moreover, the result of your misconduct is that you have let down your clients, the public, the profession of dental hygiene and yourself.

We need to make it clear to you that your conduct is unacceptable.

Consequently, it is necessary for us to take steps to impress upon you the seriousness of the misconduct in which you have engaged.

We also want to make it clear to you that while the penalty this panel has imposed upon is a fair penalty, a more significant penalty will be imposed by another Discipline panel in the event that you are ever found to have engaged in professional misconduct again.

Thank you for attending today.