



Name of Registrant: - Mary Claire Brennan-Galoni

Date of Hearing: - April 20, 2012

Decision

In a hearing held on April 20, 2012, a Panel of the Discipline Committee found Ms. Mary Claire Brennan-Galoni guilty of professional misconduct in that she contravened or failed to maintain a standard of practice; failed to refer to a qualified medical or dental practitioner; provided treatment, a remedy or a procedure that was not indicated, had ceased to be effective or was unnecessary; failed to obtain informed consent; practised the profession while in a conflict of interest; failed to keep records in accordance with the standards of practice or as required by the regulations; falsified a record relating to her practice; signed or issued a document that she knew or ought to have known contained a false or misleading statement; submitted an account or charge for services that she knew or ought to have known was false or misleading; charged or accepted a fee or amount that was excessive or unreasonable in relation to the services performed; received or conferred a benefit to a person for the referral of a client or for any professional services respecting a client; acted disgracefully, dishonourably or unprofessionally, and engaged in conduct that was unbecoming a dental hygienist.

An Agreed Statement of Facts was filed with the Panel which included the facts that Ms. Brennan-Galoni failed to maintain the standards of practice of the profession in relation to one or more clients in that, prior to the mouthguards being fabricated, Ms. Brennan-Galoni failed to establish an appropriate practitioner/client relationship, failed to perform an assessment of the client, failed to undertake a needs assessment of the client, failed to obtain baseline personal, clinical data, history and medical status of the client, failed to obtain informed consent and further, that she failed to monitor or supervise the taking of impressions for mouthguards; failed to ensure that appropriate referrals to a dental practitioner were made; failed to ensure that every mouthguard was in fact delivered to the client; and failed to monitor or supervise infection control procedures relating to the taking of impressions in clients' homes or on a bus.

It was further agreed that, with respect to mouthguards, Ms. Brennan-Galoni, provided unnecessary treatment, remedies or procedures to clients, or in the alternative, failed to document evidence that demonstrated the need for the treatment, remedy or procedure provided to one or more clients, billed inappropriately under her name when she had not been involved in the process of assessing, fitting or delivering of the mouthguards, charged excessive fees and signed misleading documents in that she submitted insurance claim forms that were signed by clients in advance of the mouthguards having been received by the clients. In addition, Ms. Brennan-Galoni acted unprofessionally by actively soliciting clients using the name “Ontario Dental Works” which was similar to the name of a government funding program, in communities where many families had dental coverage with government programs, by providing mouthguards only to children whose families received government-funded dental care, by offering and providing gift cards to low-income families as an incentive to them to obtain mouthguards, by failing to put appropriate safeguards in place to protect the personal information of her clients and that she practised the profession while she was in a conflict of interest in that she failed to inform clients or payors that the laboratory that she was using to make mouthguards was owned by her husband.

The parties filed a joint submission with respect to an appropriate penalty and costs order to be made in this case. The Panel carefully considered the Agreed Statement of Facts, the Joint Submission on Penalty and Costs, the case law cited, and the oral submissions made and concluded that the proposed Order met the needs of this case and the principles appropriate to setting the penalty. Accordingly, the Panel accepted the joint submission and made the following Order:

1. That Ms. Brennan-Galoni shall receive a reprimand, the fact of which shall be recorded on the public register of the College.
2. That the Registrar suspend Ms. Brennan-Galoni’s certificate of registration for a period of twenty-four (24) weeks, to begin immediately.
3. That the Registrar suspend six (6) weeks of the suspension ordered in paragraph 2 herein if Ms. Brennan-Galoni paid the fine referred to in paragraph 4 herein within thirty (30) days of the date of the Discipline Committee’s Order. Ms. Brennan-Galoni would

be required to serve the remaining six (6) weeks of suspension only if she failed to pay the fine referred to in paragraph 4 herein within thirty (30) days of the date of this Order.

4. That Ms. Brennan-Galoni pay a fine to the Minister of Finance in the amount of \$750.00 to be paid within six (6) months from the date of this Order.
5. That the Registrar impose a specified term, condition and limitation on Ms. Brennan-Galoni's certificate of registration requiring her to successfully complete, in the opinion of the Registrar, the professional/problem-based ethics course "The ProBE Program", at her cost, within 7 (seven) months of the date of the Discipline Committee Order.
6. That Ms. Brennan-Galoni pay costs to the College in the amount of \$3,500.00 at the rate of \$194.44 per month by way of post-dated cheques for seventeen (17) months plus a final payment of \$194.52 on the eighteenth month, starting on the 15th day of October 2012. No interest will accrue on the outstanding amounts so long as they are paid on time. At all times, Ms. Brennan-Galoni shall be at liberty to increase the amount of her monthly payment, solely at her discretion.

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

Ms. Brennan-Galoni committed extensive acts of professional misconduct by not adhering to numerous standards of practice and engaging in unethical and dishonest behaviour. There were ninety-nine clients affected by the misconduct of Ms. Brennan-Galoni in this case. The Panel was extremely concerned by these facts and wanted her practice monitored for a period of one year to ensure public protection. However, Ms. Brennan-Galoni signed an undertaking with the College in which she agreed to never again participate in a mouthguard fabrication project of any sort. She understood that a breach of this undertaking would constitute professional misconduct for which the College could prosecute her. This satisfied the Panel in respect to the public's protection. Additionally, the Registrar was directed to impose a specified term, condition and limitation on Ms. Brennan-Galoni's certificate of registration requiring her to successfully complete a professional/problem-based ethics course "The ProBE Program", at her cost, within seven (7) months of the date of this Order. The Panel was

impressed with a description of the program which is an intervention program addressing ethical and boundary violations. A follow-up component is in place to determine the effectiveness of individual measures taken to enhance a registrant's practice. It is the Panel's opinion that the ProBE Program will serve to rehabilitate Ms. Brennan-Galoni.

Ms. Brennan-Galoni was ordered to pay \$3,500.00 toward the College's costs of the investigation and hearing process. As well she must pay a fine of \$750.00 to the Ministry of Finance within six months of this Order. Ms. Brennan-Galoni's certificate of registration was suspended for a period of twenty-four (24) weeks. Six (6) weeks of this suspension will be lifted should Ms. Brennan-Galoni pay the Ministry of Finance fine within thirty (30) days of this Order. The lengthy suspension reflects the numerous and serious acts of professional misconduct committed by Ms. Brennan-Galoni. She will have no potential for income from a dental hygiene practice during the period of suspension in addition to paying the fine and costs. Registrants will have the opportunity to read this Order and reasons (in print and on the CDHO website) and will note that the College will not tolerate acts of professional misconduct. It is the Panel's belief that the penalty in its totality will act as both a general and specific deterrent.

The Panel considered the following mitigating factors in this case:

- Ms. Brennan-Galoni had no prior record of professional misconduct
- There was an admission of professional misconduct by Ms. Brennan-Galoni
- She was cooperative with the College
- Her guilty plea spared witnesses the necessity of testifying over many days of a hearing

The Panel reviewed penalties given in nine other cases with aspects similar to those of Ms. Brennan-Galoni's case and was satisfied that the penalty was within the range of what was reasonable and appropriate.

At the conclusion of the Hearing, Ms. Brennan-Galoni waived her right of appeal and the reprimand, as part of the penalty, was administered by the Panel.