

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

**PANEL:** Gillian Dunn, Chair, Professional Non-Council Member  
Margaret Wade, Public Member of Council  
Betty Le, Professional Non-Council Member  
Mary Yeomans, Professional Non-Council Member

**BETWEEN:**

College of Dental Hygienists of Ontario	) Anastasia-Maria Hountalas for
	) the College of Dental Hygienists
	) of Ontario
	)
- and -	)
	)
Amanda Bernardi (Registration No. 008093)	) Jasmine Ghosn for
	) Ms. Bernardi
	)
	)
	) Josh Koziebrocki, Independent
	) Legal Counsel
	)
	)
	) Heard: November 12, 2019

**DECISIONS AND REASONS**

This matter came on for hearing before a panel of the Discipline Committee on November 12, 2019, at the College of Dental Hygienists of Ontario at Toronto.

**THE ALLEGATIONS**

The allegations against Ms. Bernardi as stated in the Notice of Hearing dated June 20, 2019, are as follows:

It is alleged that:

1. At the material times, Amanda Bernardi ("Ms. Bernardi") and Stephanie Rooney ("Ms. Rooney") were duly registered members of the College of Dental Hygienists of Ontario (the "College").
2. On or about April 4, 2017 Ms. Bernardi and Ms. Rooney each completed the College's online Quality Assurance test (the "QA Test").

3. Prior to commencing their QA Test, Ms. Bernardi and Ms. Rooney 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. Bernardi and Ms. Rooney received assistance from and/or assisted each other in completing the QA Test.
5. 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, 1991* (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 15 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.

#### **REGISTRANT'S PLEA**

Ms. Bernardi admitted the allegations set out in paragraph 5 subsections (a) and (b) in the Notice of Hearing. The Panel conducted a plea inquiry and was satisfied that the Registrant's admission was voluntary, informed and unequivocal.

#### **AGREED STATEMENT OF FACTS**

Counsel for the College advised the Panel that agreement had been reached on the facts and introduced an Agreed Statement of Facts which provided as follows:

1. At the material times, Amanda Bernardi ("Ms. Bernardi") and Stephanie Rooney ("Ms. Rooney") were duly registered members of the College of Dental Hygienists of Ontario (the "College").

2. On or about April 4, 2017 Ms. Bernardi and Ms. Rooney each completed the College's online Quality Assurance test (the "QA Test").
3. Prior to commencing the QA Test, Ms. Bernardi and Ms. Rooney 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. Bernardi and Ms. Rooney received assistance from and/or assisted each other in completing the QA Test.
5. It is agreed 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, 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 the following paragraphs of section 15 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
    - 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; and
    - 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. By this document, Ms. Bernardi 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 its 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, or having had the opportunity to receive, legal advice.

## DECISION

The Panel considered the Agreed Statement of Facts and finds that the facts support a finding of 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/or
- (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 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.

### Penalty Submissions

Counsel provided the Panel a Joint Submission on Penalty and Costs agreed upon by both parties. Counsel submitted that the proposed order as to penalty and costs were appropriate as it addressed the principles of sentencing, considered the mitigating and aggravating factors, and were aligned with previous legal precedents that were also provided to the panel. After hearing submissions of counsel for both the College and the Member as well as advice from Independent legal counsel, the Panel agrees that it should accept the Joint Submission on Penalty and Cost order unless it is contrary to the public interest and would bring the administration of justice into disrepute.

### Penalty Decision

The Panel considered the terms of the Joint Submission of Penalty and Costs submitted by both parties and concluded that the proposed order was appropriate for this case and accepted it. The Panel accordingly ordered:

1. Ms. Bernardi 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 the text of the reprimand to appear on the public register of the College.
2. The Registrar is directed to suspend Ms. Bernardi's Certificate of Registration for a period of three (3) months, commencing November 22, 2019.
3. The Registrar is directed to impose the following terms, conditions, or limitations on Ms. Bernardi's Certificate of Registration:
  - a. Within three (3) months of the date of the Discipline Committee's order, Ms. Bernardi must successfully complete, at her own expense,
    - i. The PROBE ethics course and,
    - ii. An essay describing the importance of the College's QA program in ensuring that College registrants maintain an ethical and safe dental hygiene practice. The paper shall be at least 2,500 words in length and cite appropriate legislation and other authorities and shall be prepared to the satisfaction of the Registrar.
4. Ms. Bernardi is required to pay to the College costs in the amount of \$3,000.00 within six (6) months of the date of the Discipline Committee's order.

### Reasons for Penalty Decision

The Panel found that the Joint Submission of Penalty and Costs was reasonable as it maintained public confidence in the College and provided appropriate remediation to Ms. Bernardi. Additionally, the Panel also found that the proposed penalties acted as an appropriate deterrence, both specific to the registrant and general to other registrants, to ensure that such misconduct will not be repeated.

The Panel considered the aggravating and mitigating factors in their decision for penalty. Specifically, the aggravating factors in this case being the nature of the conduct itself and Ms. Bernardi's dishonesty in the profession and her undermining of the quality assurance process. The Panel considered the mitigating factors which included Ms. Bernardi's lack of history before the discipline committee and no prior record of professional misconduct. The Panel also acknowledged Ms. Bernardi's admission of guilt and cooperation with the College to avoid extra expenses and costs.

For these reasons, the Panel determined that the proposed penalty and costs appropriately addressed all the principles of sentencing and was fair in comparison to other penalty decisions in similar cases. The Panel does not believe accepting the Joint Submission on Penalty and Costs would bring the administration of justice into disrepute.

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

I, **Gillian Dunn**, sign this decision and reasons for the decision as Chair of this Discipline Panel and on behalf of the members of the Discipline Panel as listed below.

Dated in Toronto this 12<sup>th</sup> day of December, 2019

A handwritten signature in cursive script, appearing to read "Gillian Dunn", is written over a solid horizontal line.

Gillian Dunn, Chair, Professional Non-Council Member

**Discipline Panel**

Margaret Wade, Public Member of Council  
Betty Le, Professional Non-Council Member  
Mary Yeomans, Professional Non-Council Member