

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

PANEL: **Erin Betts, Chair, a public member of Council,
Yvonne Winkle, a public member of Council, and
Pauline Leroux, a professional member of Council.**

BETWEEN:

College of Dental Hygienists of Ontario

**) Erica Richler, for the
) College of Dental Hygienists of
) Ontario**

- and -

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)**

Larissa Costa (Registration No. 015440)

) Larissa Costa (unrepresented)

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**) Elyse Sunshine, Independent
) Legal Counsel**

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) Heard: May 8, 2019

DECISION AND REASONS FOR DECISION

1. A panel of the Discipline Committee of the College of Dental Hygienists of Ontario ("the Panel") heard this matter in Toronto on May 8, 2019.
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 of Dental Hygienists of Ontario ("the College") and the Registrant, Larissa Costa (the "Registrant").
3. At the conclusion of the hearing, the Panel delivered its finding and penalty order orally, with written reasons to follow. These are those reasons.

Jurisdiction

4. At the time of the hearing, the Registrant's registration with the College was suspended for non-payment of fees. The Panel is satisfied that the Registrant continues to be subject to the jurisdiction of the College pursuant to s.14(2) of the *Health Professions Procedural Code*, which section reads as follows:

14(2) A person whose certificate of registration is suspended continues to be subject to the jurisdiction of the College for incapacity and for professional misconduct or incompetence referable to the time when the person was a member or to the period of the suspension and may be investigated under section 75. 1991, c. 18, Sched. 2, s. 14 (2); 2007, c. 10, Sched. M, s. 23 (2).

The Allegations

5. It was alleged in the Notice of Hearing, dated February 8, 2019 (the "Notice of Hearing"), that the Registrant engaged in professional misconduct pursuant to the following paragraphs of section 15 of Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991* ("Dental Hygiene Act"):

- (a) paragraph 45 (failing to comply with an order or direction of a Committee or a panel of a Committee of the College); and/or
 - (b) paragraph 52 (disgraceful, dishonourable or unprofessional conduct); and/or
 - (c) paragraph 53 (conduct unbecoming a dental hygienist).
6. At the outset of the hearing, counsel for the College advised the Panel that the College sought to withdraw the allegation of conduct unbecoming a dental hygienist (paragraph 53 of section 15 of Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991*). The Registrant advised the Panel that she consented to the College's request to withdraw this particular allegation.
7. The Panel made an order at the hearing, orally, that the allegation with respect to paragraph 53 (conduct unbecoming a dental hygienist) be withdrawn.
8. The Notice of Hearing was filed as Exhibit #1.

Registrant's Plea

9. The Registrant admitted the allegations that she engaged in professional misconduct pursuant to the following paragraphs of section 15 of Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991*:
- (a) paragraph 45 (failing to comply with an order or direction of a Committee or a panel of a Committee of the College); and
 - (b) paragraph 52 (disgraceful, dishonourable or unprofessional conduct).
10. The Panel conducted a plea inquiry and was satisfied that the Registrant's admission was voluntary, informed and unequivocal.

Agreed Statement of Facts

11. Counsel for the College advised the Panel that agreement had been reached on the facts and introduced the following:

- (a) a Certificate of the Registrar, dated April 11, 2019, which contained certain registration history details with respect to the Registrant and which was filed as Exhibit #2; and
- (b) an Agreed Statement of Facts, dated, May 7, 2019, which was filed as Exhibit #3 ("Agreed Statement of Facts"). Specifically, the Agreed Statement of Facts provides as follows:

1. Larissa Anne Costa (the "Registrant") first became registered as a dental hygienist in Ontario in 2011 and held a certificate of registration in the General class from the College of Dental Hygienists of Ontario (the "College").

2. As of November 17, 2017, the Registrant's certificate of registration has been suspended for non-payment of fees.

3. The Registrant was investigated by the College for practising dental hygiene between August 2015 and March 2016 when her certificate of registration had previously been suspended for non-payment of fees.

4. On December 28, 2017, a panel of the Inquiries, Complaints and Reports Committee ("ICRC") directed that the Registrant appear before the panel to be cautioned and that she successfully complete a Specified Continuing Education or Remediation Program ("SCERP"). Specifically, the Registrant was required to complete a Registrar-approved ethics course and the online Jurisprudence Education Module ("JEM").

5. The Registrant attended before the panel of the ICRC and received a caution.

6. The Registrant was required to provide proof to the Registrar that she had commenced the ethics course and the JEM by February 5, 2018, and she was required to actually complete both elements of the SCERP by April 3, 2018.

7. The Registrant did not advise the College by February 5, 2018, that she had commenced the ethics course, however, an approved ethics course provider confirmed by letter dated March 1, 2018, that the Registrant had commenced the ethics course.

8. *The Registrant did not provide to the College proof of having commenced the JEM by February 5, 2018. She was then given an extension to provide proof of having commenced the JEM by March 13, 2018, but the Registrant failed to meet that new deadline.*

9. *The deadline for completing both the ethics course and the JEM was April 3, 2018. It is agreed that the Registrant failed to meet that deadline with respect to both requirements.*

Admission of Professional Misconduct

10. *By this document, the Registrant admits to the truth of the facts referred to in paragraphs 1 to 9 above (the "Agreed Facts").*

11. *The Registrant admits that the Agreed Facts constitute professional misconduct pursuant to the following paragraphs of section 15 of Ontario Regulation 218/94 under the Dental Hygiene Act, 1991:*

a. paragraph 45 (failing to comply with an order or direction of a Committee or a panel of a Committee of the College); and

b. paragraph 52 (disgraceful, dishonourable or unprofessional conduct).

Plea Inquiry

12. *By this document, the Registrant states that:*

a. she understands fully the nature of the allegations against her;

b. she has no questions with respect to the allegations against her;

c. she understands that by signing this document she is consenting to the evidence as set out in the Agreed Facts being presented to the Discipline Committee;

d. 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;

e. 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 any other publication or website of the College;

f. she understands that any agreement between her and the College with respect to the penalty proposed does not bind the Discipline Committee;

g. she understands and acknowledges that she is executing this document voluntarily, unequivocally, free of duress, and free of inducement or bribe; and

h. she has been advised of her right to seek legal advice.

13. In light of the Agreed Facts and the admission of professional misconduct, the College of Dental Hygienists of Ontario and Larissa Costa submit that the Discipline Committee should find that the Registrant has committed professional misconduct.

Decision on Finding

12. The Panel carefully considered the Agreed Statement of Facts and the Registrant's plea, and finds that the facts fully support a finding of professional misconduct and, in particular, finds that the Registrant committed the following acts of professional misconduct:

- (a) failed to comply with an order or direction of a Committee or a panel of a Committee of the College (paragraph 45 of section 15 Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991*); and
- (b) engaged in conduct or performed 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 (paragraph 52 of section 15 of Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991*).

Penalty

Joint Submission On Penalty and Costs

13. The parties submitted a Joint Submission on Penalty and Costs ("JSPC") with respect to the appropriate order in this case, which was filed as Exhibit #4, and which provides as follows:

1. *The Registrant 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 Registrar is directed to suspend the Registrant's certificate of registration for a period of three (3) months commencing on the date the Registrant's certificate of registration is reinstated following the payment of her outstanding fees, and which suspension shall continue until the Registrant successfully completes the courses set out in paragraph 3(a) below.*

3. *The Discipline Committee shall direct the Registrar to impose the following terms, conditions or limitations on the Registrant's certificate of registration:*

(a) The Registrant is required to successfully complete in the opinion of the Registrar the following courses as directed by the Inquiries, Complaints and Reports Committee in its decision dated December 28, 2017:

(i) an individualized ethics course approved by the Registrar; and

(ii) the College's online Jurisprudence Education Module.

(b) The Registrant is required to successfully complete in the opinion of the Registrar (i.e., obtain an unconditional pass) the Professional Problem-Based Ethics Program ("PROBE") offered by the Center for Personalized Education for Professionals within six months after returning to practise following the suspension referred to in paragraph 2 above.

4. *The Registrant is required to pay to the College costs in the amount of \$2,400.00, payable over 12 months starting June 8, 2019, and continuing every month until paid.*

Submissions on Penalty

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

15. Counsel for the College submitted that the proposed penalty and costs were appropriate under the circumstances and with respect to the relevant legal principles. Specifically, counsel for the College submitted that the penalty will protect the public and serve as a deterrent for the Registrant and for other members of the College.
16. The College also provided the Panel with copies of the following unreported discipline cases:

College of Dental Hygienists of Ontario and Aarons, 2018;

College of Dental Hygienists of Ontario and Barnett, 2016; and

College of Dental Hygienists of Ontario and Thon, 2016.

17. The Panel received and accepted the advice of Independent Legal Counsel that it is under a legal obligation to accept a jointly proposed penalty order unless it is contrary to the public interest and/or would bring the administration of justice into disrepute.

Penalty Decision

18. The Panel carefully considered the Joint Submission on Penalty and Costs, the legal precedents cited, and the oral submissions.
19. The Panel considered the terms of the proposed order and concluded that the proposed order met the needs of this case and addressed the legal principles relevant to making an order.
20. Accordingly, the Panel accepted the joint submission and made the following order (the "Order"):

1. The Registrant 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 Registrar is directed to suspend the Registrant's certificate of registration for a period of three (3) months commencing on the date the Registrant's certificate of registration is reinstated following the

payment of her outstanding fees, and which suspension shall continue until the Registrant successfully completes the courses set out in paragraph 3(a) below.

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4. The Registrant is required to pay to the College costs in the amount of \$2,400.00, payable over 12 months starting June 8, 2019, and continuing every month until paid.

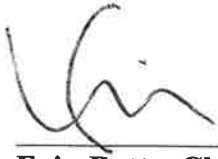
Reasons for Decision on Penalty

21. The Panel notes that the principles relevant to the imposition of an appropriate order in disciplinary proceedings are well established, and help ensure that such misconduct will not be repeated. The protection of the public is the paramount consideration. Other factors include: maintenance of public confidence in the reputation and integrity of the profession and in the principle of effective self-governance; general deterrence as it applies to the membership as a whole; specific deterrence as it applies to the particular Registrant; and the potential for the Registrant's rehabilitation.
22. The Panel weighed these principles, taking into account the specific facts and circumstances of this case, when deciding whether to accept the joint submission.
23. The Panel considered aggravating and mitigating factors. Specifically, the aggravating factor in this case being the conduct itself and the mitigating factors

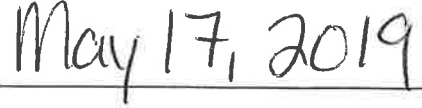
include the fact that the Registrant admitted the allegations against her, saving the College the time and money of a contested hearing and the Registrant does not have a prior record of professional misconduct.

24. Ultimately, the Panel was of the opinion that the Order appropriately addresses the principles of public protection, general deterrence and specific deterrence, and rehabilitation. Furthermore, the proposed order was in keeping with penalty decisions in other cases.
25. The suspension, reprimand, and the terms, conditions or limitations on the Registrant's certificate of registration along with the successful completion of the PROBE course are intended to ensure that the Registrant's conduct will not be repeated, which, in turn, serves to protect the public.
26. By way of specific and general deterrence, the significance of the Order communicates to the Registrant and the profession that such misconduct will not be tolerated and that the Discipline Committee will seek to deter members from engaging in conduct that disregards the College's public protection mandate.
27. By way of rehabilitation, the Registrant will only be able to resume the practice of dental hygiene after her three-month minimum suspension, which suspension shall continue until the Registrant has successfully completed (in the opinion of the Registrar) the following courses:
 - (a) an individualized ethics course approved by the Registrar; and
 - (b) the College's online Jurisprudence Education Module.
28. At the conclusion of the hearing, the Registrant waived her right of appeal and the reprimand was administered by the Panel.

I, **Erin Betts**, 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:



Erin Betts, Chair
Chair, Discipline Panel



Date

**Yvonne Winkle, a public member of Council, and
Pauline Leroux, a professional member of Council.**