

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

BETWEEN:

**MELISSA KAPRALOS**

-and-

**COLLEGE OF DENTAL HYGIENISTS OF ONTARIO**

**Panel Members:**

Jacqueline White, Professional Member, Panel Chair  
Maheen Cassim, Professional Member  
Gillian Dunn, Professional Member  
Meghan Leuprecht, Public Member  
Loree Beniuk, Public Member

**Counsel:**

|                 |   |
|-----------------|---|
| Lisa Hamilton   | for the Applicant                               |
| Ahmad Mozaffari | for the College of Dental Hygienists of Ontario |
| Elyse Sunshine  | Independent Legal Counsel                       |

Heard: **March 27, 2023**

**DECISION AND REASONS FOR DECISION ON REINSTATEMENT APPLICATION**

A panel of the Discipline Committee of the College of Dental Hygienists of Ontario (the “**Panel**”) heard this matter virtually by Zoom videoconference on March 27, 2023.

**INTRODUCTION**

The Applicant, Melissa Kapralos, applied for reinstatement of her certificate of registration in accordance with s. 72 of the *Health Professions Procedural Code* (the “**Code**”), Schedule 2 to the *Regulated Health Professions Act, 1991, SO 1991, c. 18* (“**RHPA**”). The Discipline Committee revoked the Applicant’s certificate of registration effective June 20, 2017, after it found that she had engaged in the sexual abuse of a patient.

The College did not oppose the Applicant’s application for reinstatement.

The Panel found that the Applicant’s certificate of registration should be reinstated subject to terms, conditions and limitations.

## FINDINGS OF PROFESSIONAL MISCONDUCT

The Client received dental hygiene treatment from the Applicant on or about November 20, 2015, March 19, 2016 and August 12, 2016. The Applicant and the Client were married in February 2016 and had lived in a common law relationship for approximately one year prior to getting married. The relationship included sexual intercourse. During that time period, there was no “spousal exemption” which would permit a hygienist to provide treatment to their spouse.

The Applicant admitted, and the Discipline Committee found, that such conduct constituted professional misconduct contrary to:

1. Clause 51(l)(b.l) of the Code: sexual abuse of a patient;
2. Paragraph 2 of section 15 of Ontario Regulation 218/94 (the “**Misconduct Regulation**”) under the *Dental Hygiene Act, 1991* (the “**Act**”): contravening a standard of the profession;
3. Paragraph 47 of the Misconduct Regulation: contravening by act or omission, the Act, the RHPA or the regulations under either of those Acts;
4. Paragraph 52 of the Misconduct Regulation: engaging in conduct or performing 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; and
5. Paragraph 53 of the Misconduct Regulation: conduct unbecoming a dental hygienist.

As is statutorily required following a finding of sexual abuse including sexual intercourse, the Discipline Committee directed that the Registrar revoke the Applicant’s certificate of registration, effective June 20, 2017.

## SUBMISSIONS OF THE APPLICANT

The Applicant submitted that as more than five years had lapsed since revocation was ordered by the Discipline Committee, she was permitted to seek reinstatement as per the applicable provisions of the Code. She noted that the conduct at issue had occurred in the context of a committed relationship and while she was under the honest, but mistaken belief that she was permitted to treat her spouse. This belief originated from the manager of her dental office informing all the hygienists at the practice that there was an exemption to the rule that deemed cleaning the teeth of a spouse to be sexual abuse. Once the Applicant learned that no such exemption was in place for hygienists during the relevant time period, she cooperated fully with the College and admitted to the acts of misconduct alleged.

The Applicant submitted that the conduct that was at issue is now subject to an exemption and as such, would not be considered to be misconduct today. However, at the time, the Applicant did not contest the allegations and fully admitted to the conduct.

The Applicant submitted that because the provisions of the Code did not permit her to reapply for five years, and because more than five years had elapsed since she last provided dental hygiene services, she would be required to complete some refresher training. The Applicant submitted that she had already commenced such training.

The Applicant also provided character references in support of her Application and submitted that she was a credit to the profession and urged the Panel to exercise their discretion and reinstate her.

### **SUBMISSIONS OF THE COLLEGE**

The College submitted that it did not take a position on the Application. The College noted that the Applicant had admitted to the conduct and commented that despite the facts of this particular case, revocation was still required at the time. The College outlined the test for reinstatement and the factors that could be considered by the Panel.

### **DECISION**

The Panel carefully considered the parties' submissions and the case law, and made the following order:

- a. The Registrar is directed to reinstate the Applicant's certificate of registration; and
- b. The Registrar is directed to impose a term, condition or limitation on the Applicant's certificate of registration that she not be permitted to return to practice until she provides proof of successful completion of a refresher course that is satisfactory to the Registrar. For greater clarity, the Applicant is permitted to complete any clinical components of the refresher course and this does not constitute returning to practice.

### **REASONS FOR DECISION**

Section 72 of the Code provides that a person whose certificate of registration has been revoked because of disciplinary proceedings may apply for reinstatement. If the reason for the revocation was because a finding of sexual abuse of a patient was made, the application cannot be made earlier than five years after the date on which the certificate of registration was revoked. This is applicable to the within case and more than five years has passed since the Applicant's certificate of registration was required to be revoked by the Discipline Committee.

The Applicant bears the burden of proof to establish suitability for reinstatement of her certificate of registration. The standard of proof is the balance of probabilities. In other words,

the Applicant was required to satisfy us that it is more likely than not that she is a suitable candidate for reinstatement.

The general requirements for a certificate of registration that are set out in O. Reg. 218/94 under the Act apply to an application for reinstatement. We considered the non-exemptible requirements, specifically:

1. whether there was anything in the Applicant's conduct that afforded reasonable grounds for the belief that she will not practice the profession safely and with decency, integrity and honesty, and in accordance with the law; and
2. whether the Applicant could meet the current standards of practice in Ontario.

In this regard, we considered whether the public would be adequately protected if the Applicant were readmitted to the profession. We considered the past conduct of the Applicant, and whether there was a risk of her reoffending. The risk of the Applicant reoffending was low. The conduct at issue is no longer considered to be misconduct because there exists an exemption. Since October 8, 2020, the spousal exception in subsection 1 (5) of the Code applies in respect of dental hygienists in Ontario. This means that currently, a dental hygienist can treat their spouse without such treatment constituting sexual abuse of a patient, subject to the sexual relationship being kept entirely out of the office setting. The definition of "spouse" for these purposes is limited to:

- (a) a person who is the dental hygienist's spouse as defined in section 1 of the *Family Law Act*; or
- (b) a person who has lived with the dental hygienist in a conjugal relationship outside of marriage continuously for at least three years.

We also accept that the Applicant made a mistake, took responsibility for her actions, has learned from this matter and will no longer rely on others to interpret her own professional and legal obligations.

We further considered whether there was current evidence of good character and rehabilitation. The Panel was provided with several letters from individuals attesting to the Applicant's character and commitment to the profession. While these letters were not dated, from the content of the letters, we were able to ascertain they appeared to reflect the Applicant's current character. We accepted these letters as evidence of the Applicant's good character.

We appreciate that another relevant factor that can be considered in determining whether an applicant is suitable for reinstatement is restitution, or lack of it, made by the practitioner to those who were harmed by their previous conduct. However, the involved individual in this matter was, and remains, the Applicant's spouse. There was evidence before the Panel by way of a letter from the Applicant's spouse from 2017 that he did not view himself as a victim of sexual abuse because his teeth had been cleaned by his spouse and he was not seeking funding for therapy (as per the College's program). As such, restitution was neither required nor warranted.

The Panel also considered the current competence and skills of the Applicant. Because the Applicant has not practiced for more than five years, it is necessary that the Panel ensure that the Applicant successfully complete a refresher / remediation program. There was evidence before the Panel that she has already commenced such a program which would include both didactic and hands-on components. The Panel finds that by requiring the Applicant to complete a remediation program acceptable to the Registrar, this would ensure that the Applicant meets the current standard of practice in Ontario.

I, **Jacqueline White**, 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:



\_\_\_\_\_  
Jacqueline White, Chair, Professional Member

\_\_\_\_\_  
April 27, 2023

Date

Jacqueline White, Professional Member, Panel Chair  
Maheen Cassim, Professional Member  
Gillian Dunn, Professional Member  
Meghan Leuprecht, Public Member  
Loree Beniuk, Public Member