



Name of Registrant: - Michel Asselin
(referred May 20, 2015)

Date of Hearing: August 17, 2015

Decision and Reasons

The Discipline Committee of the College of Dental Hygienists of Ontario heard this matter at Toronto on Monday August, 17, 2015. 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

It was alleged in the Notice of Hearing that the registrant committed acts of professional misconduct pursuant to the following paragraphs of Section 15 of the Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991*: paragraph 28 (falsifying a record relating to the member's practice); and/or 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 paragraph 38 (obtaining a benefit from dental hygiene employment while suspended without prior approval of the Executive Committee); and/or paragraph 41 (failing to pay money owing to the College); and/or paragraph 42 (failing to take reasonable steps to ensure that information provided by the member to the College is accurate); and/or paragraph 47 (contravening, by act or omission, the Act, the *Regulated Health Professions Act, 1991* or the regulations under either of those Acts, more particularly, section 9 [no one other than a member shall use the title "dental hygienist" or hold themselves out as a dental hygienist] of the *Dental Hygiene Act, 1991* in conjunction with subsection 13(2) [a suspended member is not a member] of the Health Professions Procedural Code, being Schedule 2 to the *Regulated Health Professions Act, 1991*); and/or paragraph 52 (disgraceful, dishonourable or unprofessional conduct); and/or paragraph 53 (conduct unbecoming).

RESPONSE TO ALLEGATIONS

The Registrant admitted to the allegations of professional conduct above, except with respect to paragraphs 30 under paragraph 14 in the Statement of Allegations, and paragraph 42 under paragraph 12, in the Statement of Allegations in the Notice of Hearing, which were withdrawn by the College.

THE FACTS

A Statement of Agreed Facts was filed with the Committee, which included the following facts and admissions:

1. At all material times, Michel Asselin (Mr. Asselin) was employed as a dental hygienist at Bayview Hill Dental Centre and Hillcrest Orthodontics, both in Richmond Hill, Ontario.
2. Mr. Asselin was first registered with the College of Dental Hygienists of Ontario (the College) in July, 1996.

Bayview Hill Dental Centre

3. Mr. Asselin worked as a dental hygienist at Bayview Hill Dental Centre from approximately 1997 to 2014, without any substantial break in employment during that time.
4. From on or about January 1, 2010 to on or about February 28, 2010, Mr. Asselin worked Fridays and Saturdays at Bayview Hill Dental Centre. After approximately March 1, 2010, Mr. Asselin worked only Fridays at Bayview Hill Dental Centre.

Hillcrest Orthodontics

5. From in or about 1999 to in or about May 2014, Mr. Asselin worked as a dental hygienist at Hillcrest Orthodontics without any substantial break in employment during that time.
6. Mr. Asselin initially worked as a dental hygienist three days a week at Hillcrest Orthodontics but that increased to four days a week in or about 2014.

Failing to Pay Fees and Practicing while Suspended

7. Mr. Asselin's certificate of registration was suspended by the College for non-payment of fees during the following periods:
 - a. From on or about February 16, 2010 to January 23, 2012;
 - b. From on or about February 19, 2013 to February 28, 2013; and
 - c. From on or about February 20, 2014 to May 11, 2014.
8. It is agreed that, during the periods described in paragraphs 7 above, Mr. Asselin practiced dental hygiene at both Bayview Hill Central Centre and Hillcrest Orthodontics despite his certificate of registration being suspended.
9. It is agreed that the above conduct constitutes professional misconduct pursuant to the following paragraphs of section 15 of Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991*: paragraph 38 (obtaining a benefit from dental hygiene employment while suspended with the prior approval of the Executive Committee); and paragraph 41 (failing to pay money owing to the College); and paragraph 47 (contravening, by act or omission, the Act, the *Regulated*

Health Professions Act, 1991 or the regulations under either of those Acts, more particularly, section 9 [no one other than a member shall use the title dental hygienist or hold themselves out as a dental hygienist] of the *Dental Hygiene Act, 1991* in conjunction with subsection 13(2) [a suspended member is not a member] of the Health Professions Procedural Code, being Schedule 2 to the *Regulated Health Professions Act, 1991*); and paragraph 52 (disgraceful, dishonourable or unprofessional conduct); and paragraphs 53 (conduct unbecoming).

Providing False or Misleading Information to College

10. It is agreed that when Mr. Asselin submitted reinstatement application forms to the College in 2011, 2012, 2013 and 2014, he confirmed that he had not practiced dental hygiene while suspended, despite having so practiced.
11. It is further agreed that when Mr. Asselin submitted reinstatement application forms to the College in 2011, 2012, 2013 and 2014 he failed to list any place(s) of dental hygiene practice, despite still working at Bayview Hill Dental Centre and Hillcrest Orthodontics.
12. It is agreed that the above conduct constitutes professional misconduct pursuant to the following paragraphs of section 15 of the Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991*: paragraph 28 (falsifying a record relating to the member's practice); and 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 paragraph 52 (disgraceful, dishonourable or unprofessional conduct); and paragraph 53 (conduct unbecoming).

Falsifying Certificate of Registration

13. It is agreed that in or about February 2014, Mr. Asselin falsified a copy of a certificate of registration to make it appear that it was a 2014 certificate of registration and he submitted that falsified certificate to his employer at Bayview Hill Dental Centre.
14. It is agreed that the above conduct constitutes professional misconduct pursuant to the following paragraphs of section 15 of Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991*: paragraph 28 (falsifying a record relating to the member's practice); and paragraph 52 (disgraceful, dishonourable or unprofessional conduct); and paragraph 53 (conduct unbecoming).
15. It is agreed that in or about May 2014, Mr. Asselin provided false or misleading information to his employer at Bayview Hill Dental Centre when he said that his inclusion on a College list of suspended dental hygienists was due to a technicality, when in reality it was due to his failure to pay his College fees.

16. It is agreed that the above conduct constitutes professional misconduct pursuant to the following paragraphs of section 15 of the Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991*: paragraph 52 (disgraceful, dishonourable or unprofessional conduct); and paragraph 53 (conduct unbecoming).

FINDING

The Committee accepted as true all of the facts in the Agreed Statement of Facts, and found Mr. Asselin guilty of professional misconduct pursuant to the following paragraphs of section 15 of Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991*, S.O. 1991, c. 22: paragraph 28 (falsifying a record relating to the member's practice); and 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 paragraph 38 (obtaining a benefit from dental hygiene employment while suspended without prior approval of the Executive committee); and paragraph 41 (failing to pay money owing to the College) and paragraph 47 (contravening, by act or omission, the Act, the *Regulated Health Professions Act, 1991* or the regulations under either of those Acts, more particularly, section 9 [no one other than a member shall use the title "dental hygienist" or hold themselves out as a dental hygienist] of the *Dental Hygiene Act, 1991* in conjunction with subsection 13(2) [a suspended member is not a member] of the *Regulated Health Professions Act, 1991*); and paragraph 52 (disgraceful, dishonourable or unprofessional conduct); and paragraph 53 (conduct unbecoming).

PENALTY AND COSTS ORDER

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 Statement of Agreed Facts, the Joint Submission on Penalty and Costs, the penalty brief 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. Therefore, the Panel accepted the joint submission and made the following Order:

1. Mr. Asselin is required to appear before a panel of the Discipline Committee to be reprimanded, with the fact of the reprimand to appear on the public register of the College.
2. The registrar is directed to suspend Mr. Asselin's certificate of registration for five (5) months, to commence on the date of this Order. The Registrar will suspend one (1) month of that suspension (i.e., so that the Member would serve four (4) months suspension) if the Member successfully completes the requirements set out in paragraph 3 of this Order by February 15, 2016, failing which he will be required to serve the remaining one (1) month of suspension beginning immediately on February 16, 2016.

3. The Registrar is directed to impose the following terms, conditions or limitations on Mr. Asselin's certificate of registration:
 - a. He must, at his own expense, successfully complete (i.e., obtain an unconditional pass) the Professional Problem Based Ethics Course ("ProBe") offered by The Center for Personalized Education for Physicians no later than August 17, 2016; and
 - b. He must, within 30 days of completing the ProBe course, provide proof acceptable to the Registrar that he has successfully completed and received an unconditional pass in the course.
4. Mr. Asselin is required to pay a fine in the amount of \$500.00 to the Minister of Finance within six (6) months of the date of this Order.
5. Mr. Asselin is required to pay to the College costs in the amount of \$2,400.00, payable by way of equal monthly installments of \$200.00 (by way of post-dated cheques) beginning February 1, 2016, and running consecutively for 12 months thereafter until paid in full.

REASONS FOR THE ORDER ON PENALTY AND COSTS

The Panel is of the opinion that the penalty appropriately addresses the principles of penalty that the Courts have stated must be considered in arriving at a penalty decision.

The significant suspension ordered addresses the principle of public protection by removing Mr. Asselin from practice for a period of time, which is an appropriate sanction and allows the registrant time to reflect on his actions.

The order to successfully complete at his own expense the Professional Problem Based Ethics Course ("ProBe") addresses the principle of public protection as well as general and specific deterrence. This course is an intense course with a substantial cost to be borne by the registrant. It also has a rehabilitation component.

The fine ordered and the strict terms, conditions, and limitation imposed on the registrant's certificate of registration send a strong message to the profession at large that such misconduct will not be tolerated.

The Panel determined that the penalty imposed appropriately addresses public protection, specific deterrence to the member in a sufficient manner such that he will not repeat his misconduct, general deterrence to other members of the profession, upholding the ability of the profession to regulate itself and rehabilitation of the registrant.

The Panel took into account a number of aggravating factors in this case. The seriousness of Mr. Asselin's misconduct was an aggravating factor. He continued to work while suspended, once for about 2 years, once for about 2 weeks, and on another occasion for about 3 months. Mr. Asselin submitted a falsified certificate of registration to his employer and further lied to his employer about the reason for his registration being suspended. Mr. Asselin also provided false or misleading information to the College by confirming that he had not practiced dental hygiene while suspended, despite having practiced. Mr. Asselin was well aware of his suspension and took steps to hide it. Dishonest behaviour by a professional is not acceptable and is deserving of a serious sanction.

The Panel took into consideration a number of mitigating factors. There was no discipline record and this was Mr. Asselin's first disciplinary finding. He cooperated from the outset and pleaded guilty. This spared witnesses from having to testify and saved the College the additional expenses it would have had to bear in pursuing this matter in a fully contested hearing. By his early admission of his misconduct and his co-operation with the College he showed insight as well as remorse.

The Panel believes that the penalty and costs order imposed will help to restore in the eyes of the public the reputation of the profession, which is damaged when a registrant engages in acts of professional misconduct.

At the conclusion of the hearing, Mr. Asselin waived his right of appeal and the reprimand was administered by the Panel.