



Name of Registrant: - Patricia Pepper

Date of Hearing: - February 26, 2008

Decision

In a hearing held on February 26, 2008, a Panel of the Discipline Committee of the College of Dental Hygienists of Ontario found Ms. Patricia Pepper guilty of professional misconduct in that she failed to reply to the College, contravened the legislation and engaged in conduct that would be reasonably considered disgraceful, dishonourable or unprofessional.

The Notice of Hearing contained the following allegations:

1. Ms. Patricia Pepper was a duly registered dental hygienist in Ontario.
2. Under the Quality Assurance regulations, registrants of the College were required to comply with the requirements of the College's Quality Assurance Program. Those requirements include the following:
 - (a) developing and maintaining a professional portfolio,.
 - (b) during every year participating in continuing quality improvement activities sufficient to indicate that the registrant continues to have and to apply in her/his dental hygiene practice the knowledge, skills, judgment and attitudes required to practise dental hygiene in compliance with the College's standards of practice and ethics,
 - (c) accurately and completely documenting those activities in the registrant's professional portfolio, and
 - (d) cooperating with an assessment of her/his professional portfolio, quality improvement activities and practice to evaluate the registrant's knowledge, skills, judgment and attitudes.

3. Ms. Pepper has consistently failed to cooperate with the Quality Assurance Committee and with the College. Particulars include the following:
 - (a) On or about March 16, 2007, Ms. Pepper declared on her 2007 annual renewal form that she had maintained her professional portfolio and participated in continuing quality improvement activities for the year 2006.
 - (b) On or about April 5, 2007, the College sent Ms. Pepper a letter requesting that she submit her 2006 professional portfolio to the College by May 6, 2007. Ms. Pepper did not respond.
 - (c) On or about May 28, 2007, the College sent Ms. Pepper a follow up letter requesting her 2006 professional portfolio by June 12, 2007. Ms. Pepper did not respond.
 - (d) On or about June 25, 2007, the College sent Ms. Pepper another letter advising of the consequences of failing to respond. The College requested a reply by July 16, 2007. Ms. Pepper did not pick up that letter which had been sent by registered mail.
 - (e) On or about July 23, 2007, a College representative left a telephone message for Ms. Pepper. Ms. Pepper did not respond.
 - (f) On or about August 13, 2007, a College representative left a further telephone message for Ms. Pepper. Ms. Pepper did not respond.
 - (g) On or about August 15, 2007, the College sent Ms. Pepper another letter advising that the Executive Committee met to consider her conduct and requested a reply by September 14, 2007. Ms. Pepper did not respond.
 - (h) On or about September 24, 2007, the Registrar of the College telephoned Ms. Pepper's residence and left a message with the person who answered the telephone, stressing the importance of Ms. Pepper returning the call. Ms. Pepper did not respond.
4. Ms. Pepper did not respond to any of the communications particularized above and did not comply with the requests of the Quality Assurance Committee.

5. It was alleged that Ms. Pepper was ungovernable.
6. The conduct alleged above constitutes professional misconduct as defined in paragraphs 30 (failing to reply to the College), 42 (contravening the legislation) and 47 (disgraceful, dishonourable or unprofessional conduct) of section 15 of Ontario Regulation 218/94, as amended, under the *Dental Hygiene Act, 1991*.

An affidavit of service was filed showing that Ms. Pepper was duly informed of the date, time and place of the hearing, pursuant to Part IV of the *Dental Hygiene Act, 1991*. After an appropriate interval, the hearing commenced without her presence and/or that of her legal counsel. A plea of “not guilty” was entered, given Ms. Pepper’s failure to attend upon the hearing. When a registrant refuses or fails to appear at a discipline hearing, when duly served, the Discipline Committee has the jurisdiction to proceed with the hearing in the absence of the registrant. A registrant cannot avoid the discipline process by a failure to respond to the Notice of Hearing.

The College filed a Book of Documents and called several witnesses to support the allegations in the Notice of Hearing. The Panel considered the documentary evidence and oral testimony and found that the allegations of fact set out in the Notice of Hearing were supported by the information contained in the Book of Documents and further supported by the testimony of the witnesses. The Committee found specifically that Ms. Pepper failed to co-operate with the College as required under the Regulations. She did not respond to any of the written or telephone communications from the College and did not comply with the requests of the Quality Assurance Committee.

The Panel made the following order on penalty and costs:

1. Ms. Pepper’s certificate of registration shall be revoked.
2. Ms. Pepper shall pay to the College the amount of \$5000.00 in costs within 30 days of the Discipline Panel’s Order becoming final.

The Panel wanted to send a strong message that compliance with the regulations governing the Quality Assurance program was a fundamental obligation of each registrant. The Quality

Assurance Program is one of the means by which the College ensures public protection, by requiring dental hygienists to:

- Reflect upon his/her own performance in the provision of client/patient care
- Identify areas of performance that require modification or improvement
- Develop appropriate Continuing Quality Improvement (CQI) activities

These requirements are intended to ensure that the registrant maintains and improves her/his competence through the continuous acquisition of knowledge, skills and judgment. As the Panel stated in another case, the Quality Assurance Program is very important and strongly connected to safe and effective client/patient care.

Ms. Pepper's failure to respond to the College and her non compliance with the requests of the Quality Assurance Committee demonstrated a clear disregard for the College's mandate to govern its registrants. Consequently, the Panel found Ms. Pepper to be ungovernable. The findings of the Committee are serious, involving deliberate misconduct on the part of Ms. Pepper.

It was the intent of the Panel that the penalty of revocation served as a specific deterrent to the registrant and other registrants in general. Unprofessional behaviour such as failing to submit the professional portfolio as requested and failing to respond to the College's communications are a serious breach of the regulations governing dental hygiene and will not be tolerated.

The Panel considered the following aggravating factors in this case:

- Continued failure to respond to the numerous communications from the College over a period of several months.
- Disrespect for the legislative mandate of the College.
- Conduct that clearly indicated that Ms. pepper was ungovernable.
- The attempt to thwart the efforts of the Process Server to serve legal documents.
- Absence from the hearing and failure to respond to the Notice of Hearing.

The only mitigating factor in this case is that this was Ms. Pepper's first time before the Discipline Committee.

The Panel concluded that Ms. Pepper by the proved misconduct was ungovernable and has forfeited her claim to a certificate of registration as a dental hygienist in Ontario. Revocation was the appropriate remedy in such circumstances.