

**Name of Registrant / Nom du membre**

Norah Thon (referred June 24, 2016/ renvoyée le 24 juin 2016)

Date of Hearing / Date de l'audience

November 29, 2016 / le 29 novembre 2016

Summary of Hearing / Résumé de l'audience

Ms. Norah Thon, a registrant of the College of Dental Hygienists of Ontario (the College), failed to comply with the requirements of the College's Quality Assurance Program. When Ms. Thon did not submit a completed Professional Portfolio by January 31, 2014 and failed to respond to the College, this matter was referred to the Inquiries, Complaints, and Reports Committee (ICRC), which directed Ms. Thon to complete a Specified Continuing Education or Remediation Program (SCERP). Ms. Thon did not complete the educational courses mandated by the SCERP. In addition, on or about February 20, 2015, Ms. Thon's certificate of registration with the College was suspended for non-payment of fees. The ICRC referred Ms. Thon to the Discipline Committee.

On November 29, 2016, a panel of the Discipline Committee found that Ms. Thon had engaged in professional misconduct by (1) failing to comply with an order or direction of a Committee or a panel of a Committee of the College, (2) engaging in disgraceful, dishonourable or unprofessional conduct, and/or (3) engaging in conduct unbecoming a dental hygienist. The Discipline Panel also found that Ms. Thon was ungovernable and directed the Registrar to immediately revoke her certificate of registration. Ms. Thon was ordered to pay costs of \$10,000.00 to the College. For more information, please read the full decision of the Discipline Committee regarding Ms. Thon.

A full text copy of the Decision and Reasons follows in English only.

Madame Norah Thon, une membre autorisée de l'Ordre des hygiénistes dentaires de l'Ontario (l'Ordre) ne s'est pas conformée aux exigences du programme d'assurance de la qualité de l'Ordre. Lorsque Madame Thon n'a pas remis son portfolio professionnel le 31 janvier 2014, et qu'elle n'a pas répondu à l'Ordre, son cas a été renvoyé au comité des enquêtes, des plaintes et des rapports (ICRC). Ce dernier lui a demandé de suivre une formation continue ou un programme de remédiation (SCERP). Madame Thon n'a pas complété les cours de formation stipulés dans le SCERP. De plus, vers ou le 20 février 2015, le certificat d'inscription de Madame Thon a été suspendu en raison du non-paiement des droits. Le cas de Madame Thon a été renvoyé au comité de discipline.

Le 29 novembre 2016, le comité de discipline a conclu que Madame Thon avait commis une faute professionnelle (1) en enfreignant la directive ou l'ordre d'un comité ou d'un sous-comité de l'Ordre (2) en se conduisant de façon honteuse, déshonorante ou non professionnelle ou (3) en se comportant de façon indigne pour une hygiéniste dentaire. Le sous-comité de discipline a également conclu que Madame Thon est ingouvernable et a recommandé à la registraire de révoquer immédiatement son certificat d'inscription. Madame Thon doit payer à l'Ordre des frais de 10 000 \$. Pour de plus amples renseignements, veuillez lire la décision intégrale du comité de discipline concernant Madame Thon.

Vous trouverez plus bas en anglais seulement une copie du texte intégral de la décision et des raisons.



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

BETWEEN:

THE COLLEGE OF DENTAL HYGIENISTS OF ONTARIO

and

NORAH THON

PANEL MEMBERS:

**MICHAEL CONNOR, Chair, Public Member of Council
HEATHER BLONDIN, Professional Member of Council
VINAY JAIN, Public Member of Council
EVIE JESIN, Professional Member of Council
JENNIFER TURNER, Professional Member of Council**

COUNSEL FOR THE COLLEGE:

ERICA RICHLER

COUNSEL FOR NORAH THON:

NONE

INDEPENDENT COUNSEL FOR THE DISCIPLINE COMMITTEE:

AARON DANTOWITZ

HEARD: NOVEMBER 29, 2016

DECISION AND REASONS

This matter was heard by a panel of the Discipline Committee of the College of Dental Hygienists of Ontario on November 29, 2016 at Toronto.

As Ms. Norah Thon was not present, the hearing recessed for thirty (30) minutes to allow time for her to appear. Upon reconvening, the panel noted that Ms. Thon was not in attendance and was not represented.

Counsel for the College provided the panel with evidence that Ms. Thon had been sent the Notice of Hearing on June 28, 2016. The panel was satisfied that Ms. Thon had received adequate notice of the time, date, place and purpose of the hearing, and therefore proceeded with the hearing in her absence. Ms. Thon's only response to the College was on November 28th, 2016 at 11:38 p.m. to state that she was not attending the hearing.

THE ALLEGATIONS

The allegations against Norah Thon as stated in the Notice of Hearing dated June 28, 2016 are as follows:

1. Ms. Norah Thon ("Ms. Thon") obtained a certificate of registration from the College of Dental Hygienists of Ontario (the "College") on or about March 23, 2011.
2. On or about February 20th, 2015, Ms. Thon's certificate of registration with the College was suspended for non-payment of fees.
3. Ms. Thon was required to submit a completed Professional Portfolio by January 31, 2014 as part of the College's Quality Assurance program. Ms. Thon failed to submit her Professional Portfolio as required and the matter was referred to the College's Inquiries, Complaints, and Reports Committee (the "ICRC") for an investigation.
4. On July 31, 2015, a panel of the ICRC directed Ms. Thon to complete a specified continuing education or remediation program at her own expense. In particular Ms. Thon was required to complete the following courses:
 - a. an approved portfolio development course;
 - b. an approved ethics course; and
 - c. the College's online Jurisprudence Education Module
5. The panel of the ICRC specified that Ms. Thon was required to provide proof to the Deputy Registrar that she had commenced the above courses within three months of

the date of its decision (i.e. by November 2, 2015) and to provide proof to the Deputy Registrar that she had successfully completed the courses within six months of the date of its decision (i.e. by February 1, 2016).

6. On or about August 5, 2015, the College sent Ms. Thon a copy of the ICRC's decision as well as information on how to complete the courses.

7. To date Ms. Thon has failed to complete the courses as directed by the ICRC in its July 31, 2015 decision.

8. It is alleged 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 45 (failing to comply with an order or direction of a Committee or a panel of a Committee of the College); and /or paragraph 52 (disgraceful, dishonourable or unprofessional conduct); and /or paragraph 53 (conduct, unbecoming a dental hygienist).

MEMBER'S PLEA

Given Ms. Thon's failure to attend the hearing, the Panel entered a plea on her behalf of "not guilty" to the allegations of professional misconduct in the Notice of Hearing. The hearing proceeded on the basis that the College bore the onus of proving the allegations in the Notice of Hearing against Ms. Thon.

OVERVIEW

1. Ms. Thon obtained a certificate of registration from the College of Dental Hygienists of Ontario (the "College") on or about March 23, 2011.

2. Pursuant to the *Health Professions Procedural Code (the "Code")*, being Schedule 2 to the *Regulated Health Professions Act 1991 (the "RHPA")* and the Quality Assurance regulation under the *Dental Hygiene Act, 1991*, members of the College of Dental Hygienists of Ontario (the "College") are required to comply with the requirements of the College's Quality Assurance program. Those requirements include the following:

- a. participating every year in self-assessment, continuing education activities and professional development activities;
- b. accurately and completely documenting those activities in the member's professional portfolio;
- c. cooperating with peer and practice assessments; and

d complying with specified continuing education or remediation programs ordered by the Quality Assurance Committee.

3. Those requirements are set out in sections 17 through 20 of Ontario Regulation 218/94, as amended and sections 80.2 through 82 of the *Code*.

THE EVIDENCE

The relevant evidence before the panel included Exhibit 4 – document brief:

- Tab A - correspondence to North Thon from Eva Rosenstock, Investigations Coordinator of the College on August 5th, 2015 consisting of regular mail and email correspondence and confirmation of email delivery
- Tab B – decision of the ICRC on July 31, 2015
- Tab C – Correspondence to Norah Thon from Eva Rosenstock re; proof of commencement of remediation programs on December 22, 2015 by regular mail and email correspondence and confirmation of email delivery
- Tab D – Notice of appointment of investigator on February 24th, 2016
- Tab E – correspondence to Norah Thon from Eva Rosenstock re: Notice of Investigation on February 26th, 2016 by regular mail and email correspondence and confirmation of email delivery
- Tab F- correspondence to Norah Thon from Eva Rosenstock re; Investigation report includes confirmation of email delivery and express mail delivery on March 23, 2016
- Tab G- correspondence to Norah Thon from Eva Rosenstock re: matter to be reviewed by ICRC includes confirmation of email delivery of June 9th, 2016

The College called Ms. Eva Rosenstock who is the current manager, Complaints and Investigations of the College since January 1, 2016. Ms. Rosenstock was previously the Investigations Coordinator at the College beginning in 2012. She was familiar with Ms. Thon's file.

Ms. Rosenstock testified that Ms. Thon had been directed by the Quality Assurance Committee to submit her Professional Portfolio by January 31, 2014. When she failed to do so, the matter was referred to the ICRC. Ms. Rosenstock testified that the ICRC considered the matter and ordered a specified continuing education or remediation

program (SCERP). Ms. Rosenstock also specified that the ICRC panel required Ms. Thon to provide proof to the Deputy Registrar that she had commenced the remedial courses within three months of the date of its decision (i.e., by November 2, 2015) and to provide proof to the Deputy Registrar that she had successfully completed the courses within six months of the date of its decision (i.e., February 2, 2016).

Ms. Rosenstock testified that the College did not receive the required confirmation from Ms. Thon. There was no response. Accordingly, an investigator was appointed pursuant to section 75 of the Health Professions Procedural Code. Notice of the investigation was sent to Ms. Thon on February 26, 2016. Ms. Rosenstock advised Ms. Thon that her certificate of registration was suspended for non-payment of fees on February 20th, 2015. Ms. Rosenstock detailed that non-payment of fees does not constitute a resignation and that the ICRC still would have jurisdiction over any registrant. Ms. Rosenstock testified that the College never received any proof that Ms. Thon started or completed the remedial courses that she was required to take.

The panel also received as Exhibit 3 the Certificate of the Register providing the complete registration history of Ms. Thon (registration # 014841) beginning March 23, 2011 up to February 20, 2015.

The panel also heard evidence from Amy Shillington, the appointed investigator, who testified as to her interviews with Ms. Thon and certain admissions that Ms. Thon made, including that the College had the correct mailing and e-mail address for her, but that she sometimes did not review letters until many months after they were sent.

FINDING

Having considered the evidence and the onus and standard of proof, the panel finds that Norah Thon committed acts of professional misconduct as alleged in the Notice of Hearing. In particular, Ms. Thon committed acts of professional misconduct under Section 15 of Ontario Regulation 218/94, under the *Dental Hygiene Act, 1991*:

paragraph 45 failing to comply with an order or direction of a Committee or a panel of a Committee of the College); and /or paragraph 52 (disgraceful, dishonourable or unprofessional conduct): and /or paragraph 53 (conduct, unbecoming a dental hygienist).

REASONS FOR DECISION

The panel finds it regrettable that Ms. Thon chose not to attend or participate in the governance process of the College numerous times and that Ms. Thon did not attend the Hearing.

The panel found that Ms. Thon committed acts of professional misconduct as stated in allegations # 2-8 of the Notice of Hearing. The Panel unanimously found through the compelling and uncontroverted evidence presented by the College that the Registrant failed to comply with an ICRC decision and direction as well as a direction of the Quality Assurance Committee. It is uncontroverted that Ms. Thon was requested to hand in her professional portfolio and then when she did not, was ordered to complete a SCERP. To date, the College has received no documentation that Ms. Thon commenced or completed the SCERP. The failure to complete the requirements of the Quality Assurance Committee and that of the ICRC is an act of professional misconduct as defined in the following paragraphs of section 15 pursuant to Ontario Regulation 218/94 under the ***Dental Hygiene Act 1991*** paragraph 45 (failure to comply with an order or direction of a Committee of the College), and/or paragraph 52 (disgraceful, dishonourable or unprofessional conduct), and /or paragraph 53 (conduct unbecoming a dental hygienist).

PENALTY SUBMISSIONS

The College sought revocation of Ms. Thon's certificate of registration.

The College submitted that revocation was appropriate because Ms. Thon through her conduct demonstrated that she was not willing to be governed. She ignored the directions of two different College Committees. The College submitted that the registrant had a total disregard for the authority of the College.

PENALTY DECISION

The panel orders that the Registrar is directed to revoke Ms. Thon's certificate of registration effective immediately.

REASONS FOR PENALTY DECISION

The Panel is of the opinion that the penalty imposed appropriately addresses the principles of penalty which include public protection, general deterrence and specific deterrence.

The Panel found that Ms. Thon demonstrated that she was ungovernable. She failed to comply with the direction of the Quality Assurance Committee and the requirements to complete remediation courses. She also ignored the process and failed to communicate with the College. The compliance with Orders from the Quality Assurance Committee is an obligation of a self-regulated dental hygienist. As well, Ms. Thon's certificate of registration was suspended for non-payment of fees. As a result, Ms. Thon's disregard of governance makes the College's mandate of governing its members very difficult.

By way of a general deterrent, the revocation order for the misconduct in this case is appropriate. It demonstrates to registrants and the public that the unprofessional behavior of failing to comply with orders of the College or its Committees is a serious breach of the regulations governing the profession of dental hygiene and will not be tolerated.

The seriousness of the penalty acts as a specific deterrent, as it relays to the registrant that the College will punish professional misconduct that demonstrates a fundamental disregard for the public protection mandate of the College.

The Panel considered the following aggravating factors in this case:

- Ms. Thon failed to comply with two Statutory Committee decisions.
- Ms. Thon failed to respond to numerous messages from the College.
- Ms. Thon had a clear disregard for the authority of the College.
- Ms. Thon failed to respond to the Notice of Hearing until 11:38 p.m. the day before the hearing.
- Ms. Thon engaged in conduct that clearly demonstrated that she was ungovernable.

Along with the above aggravating factors, the panel took into consideration similar cases submitted by counsel (Nicole Barnett September 8, 2016, Christine Plasaj August 23, 2016, Karen Allen November 2014,) and agreed that the seriousness of the Penalty was appropriate with the conduct of this registrant.

COSTS SUBMISSIONS

The College sought costs in the amount of \$10,000 payable within 30 days.

With respect to the costs being sought, the College submitted that the costs were based on only a portion of the College's costs which included the investigation costs, the College's legal costs and the estimated cost of the hearing. Exhibit 8 was the Affidavit

of Gillian Slaughter, Director Professional Conduct at the College of Dental Hygienists of Ontario outlined the total costs and expenses incurred by the College. The College submitted that the request for costs was fair and reasonable for a member found guilty of professional misconduct. The member should be required to pay a portion of the costs of the hearing which are otherwise borne by the profession as a whole. The member did not make any submission on penalty.

COSTS DECISION

The panel orders that Ms. Thon shall pay the College the amount of \$10,000.00 payable within 30 days after the Order becomes final.

REASONS FOR COSTS DECISION

With respect to costs, the Panel heard evidence as to the actual costs of the Investigation and Discipline hearing borne by the College. It is fair and reasonable that a member found guilty of professional misconduct pay a portion of these costs which are otherwise borne by the profession as a whole.

I, Michael Connor, sign this decision and reasons for the decision as Chair of the Discipline panel and on behalf of the Discipline panel as listed below.

Dated in Toronto this 10TH of March, 2017.



Michael Connor, Chair, Public Member of Council

Discipline Panel Members:

Heather Blondin, Professional Member of Council
Vinay Jain, Public Member
Evie Jesin, Professional Member of Council
Jennifer Turner, Professional Member of Council