



Name of Registrant: - Dikran Derderian
(referred March 28, 2014)

Date of Hearing: November 27, 2014

Decision and Reasons

The Discipline Committee of the College of Dental Hygienists of Ontario (“the Panel”) heard this matter at Toronto on November 27, 2014. 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 Mr. Derderian committed acts of professional misconduct under:

paragraph 51(1) (b.0.1) of the *Code*; and/or paragraph 43 (failing to reply appropriately to the College); and/or paragraph 45 (failure to comply with an order or direction of a Committee of the College); and/or paragraph 47 (contravening by act or omission the *Dental Hygiene Act, 1991*, the RHPA or a regulation thereunder); and/or paragraph 50 (failing to co-operate with an investigator of the College); and/or paragraph 52 (disgraceful, dishonourable or unprofessional conduct); and/or paragraph 53 (conduct unbecoming a dental hygienist), of section 15 of Ontario Regulation 218/94, as amended to Ontario Regulation 382/08, under the *Dental Hygiene Act, 1991*, S.O. 1991, c.22.

NON-ATTENDANCE OF THE REGISTRANT AT THE HEARING

The registrant Mr. Derderian did not attend the hearing. The Affidavit of Service filed demonstrated he was duly served with the Notice of Hearing. After an appropriate waiting period, the Panel proceeded with the hearing in his absence. When a registrant refuses or fails to appear at a discipline hearing, when duly served, the Discipline Panel 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.

RESPONSE TO THE ALLEGATIONS

Given Mr. Derderian’s failure to attend the hearing, the Panel entered a plea on his behalf of “not guilty” to the allegations of professional misconduct in the Notice of Hearing.

FINDING

After hearing the testimony of witnesses called by the College and after considering the documents filed as exhibits, the Panel of the Discipline Committee found that Mr. Derderian is guilty of professional misconduct pursuant to paragraph 51(1) (b.0.1) of the Code; paragraph 43 (failing to reply appropriately to the College); paragraph 45 (failure to comply with an order or direction of a Committee of the College); paragraph 47 (contravening by act or omission the *Dental Hygiene Act, 1991*, the RHPA or a regulation thereunder); paragraph 50 (failing to cooperate with an investigator of the College); paragraph 52 (disgraceful, dishonourable or unprofessional conduct); and paragraph 53 (conduct unbecoming a dental hygienist), of Section 15 of Ontario Regulation 218/94, as amended to Ontario Regulation 36/12, under the *Dental Hygiene Act, 1991*.

REASONS FOR FINDING

The Panel found that the allegations set out in the Statement of Allegations in the Notice of Hearing had been proved by the College through the testimony of the witnesses called and documents filed at the hearing.

In particular, the allegations in the Notice of Hearing were substantiated by the following facts that were found by the Panel to be true, which are set out with the applicable legislative provisions:

1. Dikran Derderian ("Mr. Derderian") is and, at all material times, was a duly registered dental hygienist in Ontario.
2. Pursuant to the *Health Professions Procedural Code* (the "Code"), being Schedule 2 to the *Regulated Health Professions Act, 1991*, 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 ("QAC") 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.
4. In 2011 Mr. Derderian was selected for the 2012 Peer Assessment. Mr. Derderian requested an extension of the deadline for submission of the material requested and by letter dated December 6, 2011, the QAC Administrator of the College notified

Mr. Derderian that he had until February 29, 2012 to submit his 2009, 2010 and 2011 professional portfolio.

5. By letter dated March 28, 2012 the QAC Administrator notified Mr. Derderian that there were deficiencies in his professional portfolio and as a result, the assessor's report was being sent to the Quality Assurance Committee ("QAC") for its consideration.
6. By letter dated June 18, 2012, Mr. Derderian was notified that his portfolio did not meet the assessment guidelines. As a result, Mr. Derderian was required by the QAC to successfully complete:
 - a. the Canadian Dental Hygienist Association course entitled Self-Initiation for Dental Hygienist by January 15, 2013;
 - b. the College's Online Jurisprudence Module by January 31, 2013, and;
 - c. a Professional Portfolio Development Workshop by December 18, 2012.
7. All certificates of completion for the above-noted courses and workshop, and Forms 6, 7, and 8 from Mr. Derderian's 2012 portfolio, were to be submitted to the QAC by January 31, 2013.
8. Mr. Derderian did not comply with the QAC's order.
9. By letter dated March 6, 2013, Mr. Derderian was reminded of his obligation to submit his certificates of completion of the courses and workshop, and Forms from his 2012 professional portfolio. The QAC provided Mr. Derderian with an extension until March 29, 2013 to do so. Mr. Derderian did not fulfill this obligation.
10. On May 22, 2013, the QAC referred Mr. Derderian to the Inquiries, Complaints and Reports Committee ("ICRC") for failing to comply with the QAC's direction.
11. By letter dated June 14, 2013, Mr. Derderian was asked to provide an explanation to the ICRC, by July 5, 2013, regarding his failure to comply with the QAC's direction. Mr. Derderian did not respond to this letter.
12. Numerous attempts during the month of August 2013 were made to contact Mr. Derderian, culminating in a conversation between him and the investigator on August 22, 2013, at which time a tentative agreement was made to conduct a telephone interview on September 27, 2013.
13. On August 27, 2013, a reminder email was sent by the investigator to Mr. Derderian confirming the September 27, 2013 phone interview. At no time did Mr. Derderian cancel that scheduled interview.
14. Mr. Derderian did not participate in the September 27, 2013, telephone interview as scheduled. On September 27, 2013, the College sent an email to Mr. Derderian requesting to re-schedule the interview.
15. On October 2, 2013, Mr. Derderian contacted the College regarding the missed interview. By email correspondence over the next few weeks the College attempted to

reschedule the interview with Mr. Derderian but ultimately Mr. Derderian never participated in an interview.

16. Mr. Derderian was invited on or about November 13, 2013, December 20, 2013, and January 27, 2014, to make submissions to the ICRC about his alleged failure to comply with QAC but he has not done so.

17. As of March 2014, and as at the hearing date, Mr. Derderian remained non-compliant with the QAC order.

ORDER ON PENALTY AND COSTS

After deliberation the Panel ordered as follows, in a written order released to the parties:

1. The Registrar is directed to revoke Mr. Derderian's certificate or registration effective immediately.
2. Mr. Derderian shall pay to the College the amount of \$10,000.00 in costs by December 27, 2014.

REASONS FOR THE ORDER ON PENALTY AND COSTS

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

The Panel found the registrant Mr. Derderian to be ungovernable. He failed to comply with the requirements of the QAC that he successfully complete a course, the College's online jurisprudence module, and a professional development workshop. He also failed to respond or respond appropriately to communications from the College. Compliance with the Quality Assurance program and orders of the Quality Assurance Committee is a fundamental obligation of the profession. It is a means by which the College carries out its mandate of public protection.

By way of a general deterrent, the revocation order for the misconduct in this case is appropriate. It demonstrate to registrants and the public that the unprofessional behaviour of failing to comply with orders of the College or its Committee are a serious breach of the regulations governing 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 shows a fundamental disregard for the public protection mandate of the College.

The Panel considered the following aggravating factors in this case:

- The registrant did not comply with the order of the Quality Assurance Committee, an order that was issued 2.5 years ago
- The registrant was given 6 extensions over an extended period of time, but he still failed to comply
- The registrant failed to co-operate with the College which made 14 attempts to schedule an interview with him, through phone calls, emails and letters
- The registrant has shown disrespect for the legislative mandate of the College to protect the public
- The registrant engaged in acts of professional misconduct which indicated that he was ungovernable

With respect to costs, the Panel heard evidence as to the actual costs of the investigation and discipline hearing in this matter. It is reasonable and fair that a member found guilty of professional misconduct pay a portion of these costs, which are otherwise borne by the profession as a whole. The Panel ordered that the registrant contribute to the costs incurred by paying to the College the amount of \$10,000.00 by December 27, 2014.