



**Name of Registrant:** - Andrea C Cyr  
(referred November 5 2013)

**Dates of Hearing:** September 25, 2014

**Decision and Reasons**

The Discipline Committee of the College of Dental Hygienists of Ontario heard this matter at Toronto on September 25, 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 Ms. Cyr 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 of a Committee of the College); and/or paragraph 47 (contravening by act or omission the *Dental Hygiene Act, 1991* or a regulation thereunder); 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.

The registrant who now resides in Nova Scotia participated in the hearing by teleconference, on the consent of the parties and with the agreement of the Panel.

## RESPONSE TO THE ALLEGATIONS

Ms. Cyr admitted to the allegations of professional misconduct pursuant to paragraph 51(1) (b.0.1) of the *Code*, and paragraphs 43, 52 and 53 of Ontario Regulation 218/94 under the *Dental Hygienists Act 1991*.

The College did not proceed with the allegations under paragraphs 45 and 47 of the Regulation.

## THE FACTS

The facts and admission were set out in the Statement of Agreed Facts, as follows:

1. Andrea Cyr ("Ms. Cyr") is and, at all material times, was a duly registered dental hygienist authorized to practise 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 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. It is agreed that, on or about January 19, 2012, the Quality Assurance Committee ("QAC") of the College directed Ms. Cyr to submit her professional portfolio. Ms. Cyr was directed to include in her portfolio, among other things, her 2010 and 2011 learning goals and activities. The QAC provided Ms. Cyr until January 31, 2013 to do so. Ms. Cyr did not submit her professional portfolio.

5. It is agreed that, on or about February 13, 2013, the QAC wrote to Ms. Cyr reminding her of her obligation to submit her professional portfolio. The QAC provided Ms. Cyr until February 22, 2013 to do so. Ms. Cyr did not submit her professional portfolio.

6. It is agreed that, on or about March 5, 2013, the QAC referred Ms. Cyr to the Inquiries, Complaints and Reports Committee ("ICRC") for failing to comply with the QAC's direction.

7. It is agreed that, on or about March 25, 2013, the College wrote to Ms. Cyr requesting that she provide an explanation to the ICRC regarding her failure to comply with the QAC's direction, and asked her to respond by April 15, 2013. Ms. Cyr did not respond to that letter and did not submit her professional portfolio.

8. It is agreed that, on or about April 30, 2013, the College contacted Ms. Cyr and was told by her that she did not receive the March 25, 2013 letter. The College re-sent the letter and provided her with a second opportunity to respond by May 7, 2013. Ms. Cyr did not respond to the letter and did not submit her professional portfolio.

9. It is agreed that, on or about May 17, 2013, the College wrote to Ms. Cyr providing her with a third opportunity to respond by May 24, 2013.

10. It is agreed that, on or about May 27, 2013, Ms. Cyr contacted the College indicating her intention to resign from the College.

11. It is agreed that, on or about May 28, 2013, the College wrote to Ms. Cyr enclosing an Acknowledgement and Undertaking to resign her certificate of registration, and requesting its completed return by June 4, 2013. Ms. Cyr did not respond to that letter, further correspondence or phone calls from the College, or submit her professional portfolio.

12. Ms. Cyr eventually responded to the College after the matter was referred to discipline.

13. It is agreed that while Ms. Cyr does not intend to practise dental hygiene in Ontario in the foreseeable future, she wishes to maintain her right to return to practice in Ontario if her personal circumstances change.

14. It is agreed that the conduct described above constitutes professional misconduct pursuant to paragraph 51 (1) (b.0.1) of the *Code* (failing to comply with the Quality Assurance Committee); and paragraph 43 (failing to reply appropriately to the College); and paragraph 52 (disgraceful, dishonourable or unprofessional conduct); and paragraph 53 (conduct unbecoming a dental hygienist), of section 15 of Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991, S.O. 1991, c. 22*.

## **FINDING**

The Panel accepted as true the facts set out in the Statement of Agreed Facts and found that Ms. Cyr committed acts of professional misconduct pursuant to paragraph 51(1) (b.0.1) of the *Code* (failing to comply with the Quality Assurance Committee); and paragraph 43 (failing to reply appropriately to 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 under the *Dental Hygiene Act, 1991, S.O. 1991, c. 22*.

## **PENALTY SUBMISSIONS**

The parties presented a joint submission on penalty and costs that included a reprimand, four weeks suspension, the imposition of terms, conditions and limitations on Ms. Cyr's certificate of registration and payment to the College of costs in the amount of \$1,200.00.

## **ORDER ON PENALTY AND COSTS**

The Committee accepted the joint submission and ordered:

1. Ms. Cyr is required to appear before a panel of the Discipline Committee to be reprimanded;

2. The Registrar is directed to suspend Ms. Cyr's certificate of registration for a period of four (4) weeks, to commence on the date of the Discipline Panel's Order;
3. The Registrar is directed to impose the following terms, conditions or limitations on Ms. Cyr's certificate of registration:
  - a. Prior to returning to active practice in Ontario Ms. Cyr must satisfy all of her outstanding Quality Assurance obligations to the satisfaction of the Quality Assurance Committee;
  - b. Within eight (8) months of returning to active practice in Ontario, Ms. Cyr must, at her own expense, successfully complete to the Registrar's satisfaction, the Professional Problem Based Ethics Course ("ProBE") offered by The Center for Personalized Education for Physicians;
  - c. Ms. Cyr must, within 30 days of completing the ProBE course, provide proof acceptable to the Registrar that she has completed and passed the course; and
  - d. For a period of two (2) years after the date of the Panel's order Ms. Cyr must respond to any College request or inquiry within the deadline given by the College or if no deadline is given, within 30 days of such request or inquiry.
4. Ms. Cyr is required to pay to the College costs in the amount of \$1 ,200.00, payable by way of equal monthly instalments of \$100 beginning on the 15<sup>th</sup> day of the first month after the Panel issues its penalty Order and continuing every 30 days thereafter until paid in full. Ms. Cyr is required to provide twelve postdated cheques to the College by October 1, 2014.

## **REASONS FOR THE ORDER ON PENALTY AND COSTS**

The Panel accepted as reasonable and appropriate the jointly proposed penalty and costs order.

Firstly, compliance with the requirements of the Quality Assurance Program of the College is necessary in the public interest. These requirements are essential to ensure that every dental hygienist maintains and improves her/his level of competence through continuous acquisition of knowledge, skills, judgment and attitudes, by:

- Reflecting upon her/his own performance in the provision of client care,
- Identifying areas of performance that require modification or improvement, and
- Developing appropriate Continuing Improvement (CQI) activities.

Secondly, responding to the communication of the College is critical if the College is to fulfill its obligation to protect the public.

The penalty imposed for non-compliance and failure to respond to communications of the College must send a clear message to registrants that the Discipline Committee of the College will not tolerate breaches of these obligations. Both are important obligations of a registrant.

An aggravating factor in this case was the repeated failure to cooperate with the Quality Assurance Committee, after numerous opportunities to comply were extended by the College to the registrant.

There were a number of mitigating circumstances taken into account by the Panel in this case. There is no prior disciplinary record. The registrant demonstrated remorse by her plea and co-operation with the College. She apologized for her conduct.

Meeting the requirements of the Quality Assurance Program of the College is not a mere matter of technical compliance. The public expects the College to ensure that quality assurance requirements are satisfied. By its decision the Discipline Panel must send a strong message to deter registrants from failing to comply. Dental hygienists, like other health professionals, must abide by their obligations if they wish to continue to practice.

Counsel for the College asked that the administration of the reprimand be deferred until Ms. Cyr returns to practice in Ontario.

Ms. Cyr is to notify the College if and when she decides to return to active practice in Ontario so that arrangements may be made before her return to practice, for the administration of the reprimand. The College should flag her file accordingly.