

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

IN THE MATTER of the *Regulated Health Professions Act, 1991*, S.O. 1991, c.18, as amended, and the regulations thereunder, as amended;

AND IN THE MATTER of the *Dental Hygiene Act, 1991*, S.O. 1991, c.22, as amended, and the regulations thereunder, as amended;

AND IN THE MATTER of allegations of professional misconduct/incompetence referred to the Discipline Committee of the College of Dental Hygienists of Ontario by the Inquiries, Complaints and Reports Committee;

BETWEEN:)	
)	
THE COLLEGE OF DENTAL)	Erica Richler
HYGIENISTS OF ONTARIO)	for the College of Dental Hygienists
)	of Ontario
-and-)	
)	
CHIRAG SARAIYA)	Valerie Wise and Rozmin Mediratta
)	for Chirag Saraiya
)	
)	
)	Lonny Rosen
)	Independent Legal Counsel
)	
)	
)	Heard: March 16, 2021

Panel Members:

Erin Betts, Chair, Public Member of Council
Margaret Wade, Public Member of Council
Vanessa Pereira, Professional Member of Council

THE COLLEGE OF DENTAL HYGIENISTS OF ONTARIO

and

CHIRAG SARAIYA

DECISION AND REASONS FOR DECISION

A panel of the Discipline Committee of the College of Dental Hygienists of Ontario ("the Panel") heard this matter virtually by Zoom videoconference on March 16, 2021.

The hearing was uncontested. It proceeded by way of an Agreed Statement of Facts ("ASF") and a Joint Submission on Penalty and Costs, which were jointly proposed by counsel for the College of Dental Hygienists of Ontario ("the College") and counsel for the Registrant, Chirag Saraiya (the "Registrant").

At the conclusion of the hearing, the Panel delivered its finding and penalty order orally, with written reasons to follow.

THE ALLEGATIONS

The allegations of professional misconduct against the Registrant were listed in the Notice of Hearing, dated December 15, 2020, which was filed as Exhibit #1, and read as follows:

1. Chirag Saraiya (the "Registrant") was at the material times a duly registered dental hygienist in Ontario, holding a certificate of registration in the General class from the College of Dental Hygienists of Ontario (the "College"). The Registrant obtained his certificate of registration on or about March 5, 2018.
2. At the material times, the Registrant practised dental hygiene in Burlington, Ontario and Mississauga, Ontario.

Advertising and Use of Title

3. The Registrant operated or permitted the operation of a website "askmedental.ca" (the "Website").
4. The Website offered a service for the Registrant to provide advice about dental issues in exchange for a fee.
5. The Website referred to the Registrant as both a registered dental hygienist and a dentist.
6. The Registrant previously practised dentistry outside of Canada. At the material times, the Registrant was not authorized to practise dentistry in Ontario.

7. The Website included the following information, among other things:
 - a. “If you are not sure whether to visit a dentist OR you want to know more about your dental problems then just write to Dr. Chirag Saraiya about your dental issues. He will provide you with the best solution to your dental problem.”
 - b. “If you require a referral to a reliable dentist anywhere in the Greater Toronto Area (GTA) Dr. Saraiya will be happy to give one.”
 - c. “Dr. Chirag Saraiya (B.D.S) (R.D.H)”
 - d. “Dr. Chirag Saraiya is in the dental field since 1992. He has an array of experience in various dental pathologies...”
 - e. “Extraction or Root Canal Treatment (RCT)? Based on the remaining strength of the tooth structure and the patient’s periodontal condition some degree of decision could be made. Dr. Saraiya will need more information on your dentition to give you a final advice on the matter.”
8. The Website included testimonials. One or more of the testimonials on the Website indicated that they were from clients in Ontario.
9. It is alleged that the information on the Website, including but not limited to the use of the abbreviation of the title “doctor”, was false or misleading, contrary to section 6 of Ontario Regulation 218/94.
10. It is further alleged that the Website contained testimonials, contrary to section 6 of Ontario Regulation 218/94.
11. It is further alleged that the Registrant used the abbreviation of the title “doctor” in the course of practising dental hygiene in Ontario by using the email address: “drchirags@[...].com”.

IPAC Standards and Policies

12. It is alleged that the Registrant failed to maintain the standards of practice of the profession by not ensuring that current scientifically accepted infection control practices are in place and practised as per the *CDHO Dental Hygiene Standards of Practice and the CDHO Infection Prevention and Control (IPAC) Guidelines*.
13. In particular, it is alleged that the Registrant failed to maintain the standards of practice of the profession relating to infection prevention and control, including but not limited to the following areas:

- a. Sharps;
 - b. Equipment maintenance;
 - c. Biohazard spills;
 - d. Reprocessing steps;
 - e. Suction lines;
 - f. Handpiece maintenance;
 - g. Personal protective equipment;
 - h. Sterilization monitoring;
 - i. Presence of glass bead sterilizer in clinic; and/or
 - j. Environmental cleanliness.
14. It is alleged that the Registrant failed to meet the standards of practice of the profession by not having appropriate written policies and protocols in place for infection prevention and control as per the *CDHO Dental Hygiene Standards of Practice and the CDHO Infection Prevention and Control (IPAC) Guidelines*.

Process of Care and Recordkeeping

15. It is alleged that the Registrant failed to meet the standards of practice of the profession relating to recordkeeping and/or failed to keep records as required by Part III.1 of Ontario Regulation 218/94, including but not limited to the following:
- a. The Registrant failed to document that the Registrant followed the process of care in his treatment of clients, including by failing to adequately document his assessment, dental hygiene diagnosis, planning, implementation, and/or evaluation;
 - b. The Registrant failed to maintain a daily schedule;
 - c. The Registrant failed to record medical and/or dental histories;
 - d. The Registrant failed to record vital signs;
 - e. The Registrant failed to record hard tissue charting;

- f. The Registrant failed to record periodontal assessment;
- g. The Registrant failed to record the particulars of referrals made;
- h. The Registrant failed to maintain legible records;
- i. The Registrant failed to document clinical re-assessment;
- j. The Registrant's records included one or more blank insurance forms signed by a client;
- k. The Registrant's client health records lacked detail;
- l. The Registrant documented issues outside the scope of practice of dental hygiene in his client records, such as areas of decay, and/or teeth that required extraction, and/or root canal, without describing the meaning of these notes, and/or the nature of any discussion with the clients about these issues, and/or that a referral to a dentist was made; and/or
- m. The Registrant failed to document individualized goals and treatment plans for clients.

False Information to Investigator

- 16. On or about July 18, 2019, a College-appointed investigator attended at the Registrant's clinic in Burlington, Ontario as part of the College's investigation into the Registrant's practice.
- 17. On or about July 29, 2019, the investigator asked the Registrant to provide copies of his invoices for clinical equipment and supplies.
- 18. On or about August 13, 2019, the Registrant submitted a document to the investigator which purported to be an invoice dated June 1, 2018 for U-test Biological Indicators and a U-test Incubator, among other things. It is alleged that the Registrant altered or falsified the invoice to make it appear to the investigator that he had this equipment at the time of the investigator's attendance at his clinic, which was not true.
- 19. It is further alleged that on or about September 12, 2019, the Registrant submitted photographs of indicator vials and of an incubator to the investigator to make it appear that he had this equipment at the time of the investigator's attendance at his clinic, which was not true.

Professional Misconduct Alleged

20. It is alleged that the above conduct constitutes professional misconduct pursuant to subsection 51(1)(c) of the Health Professions Procedural Code, being Schedule 2 to the *Regulated Health Professions Act, 1991* and as defined in one or more of the following paragraphs of section 15 of Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991*:
- a. Paragraph 2 (contravening or failing to maintain a standard of practice of the profession); and/or
 - b. Paragraph 18 (inappropriately using a term, title or designation in respect of the member's practice); and/or
 - c. Paragraph 22 (advertising or permitting advertising with respect to the member's practice in contravention of the regulations, in particular permitting advertising that was false or misleading and/or containing testimonials); and/or
 - d. Paragraph 27 (failing to keep records in accordance with generally accepted standards of practice or as required by any applicable regulations); and/or
 - e. Paragraph 28 (falsifying a record relating to the member's practice); and/or
 - f. Paragraph 42 (failing to take reasonable steps to ensure that information provided by or on behalf of the member to the College is accurate); and/or
 - g. Paragraph 52 (disgraceful, dishonourable or unprofessional conduct); and/or
 - h. Paragraph 53 (conduct unbecoming a dental hygienist).

AGREED STATEMENT OF FACTS

The parties advised the Panel that the evidence would be provided by way of an Agreed Statement of Facts, dated February 23, 2021 (the "ASF"), which was filed as Exhibit #2. The ASF provided as follows:

The Registrant

1. Chirag Saraiya (the "Registrant") was at the material times a duly registered dental hygienist in Ontario, holding a certificate of registration in the General class from the College of Dental Hygienists of Ontario (the "College"). The Registrant obtained his certificate of registration on or about March 5, 2018. The Registrant has no prior complaint or discipline history. Attached at Tab "A" is a copy of the Registrant's College Public Register Profile.

2. At the material times, the Registrant practised dental hygiene in Burlington, Ontario and Mississauga, Ontario.

Advertising and Use of Title

3. The Registrant previously practised dentistry outside of Canada. At the material times, the Registrant was not authorized to practise dentistry in Ontario.
4. Prior to moving to Canada and becoming registered with the College, and while he was a dentist in India, the Registrant provided advice about dental issues in exchange for a fee through a website called “askmedental” (the “Website”).
5. The Website’s uniform resource locator (“URL”) was changed from “.in” to “.ca” and remained accessible to the public after the Registrant became registered with the College. If the Registrant were to testify, he would state that he was not aware that the Website’s URL was changed from “.in” to “.ca” or that it was still live since the URL was changed, but he acknowledges that he failed to take reasonable steps to ensure that it was taken down.
6. The Website included the following information, among other things:
 - a. “If you are not sure whether to visit a dentist OR you want to know more about your dental problems then just write to Dr. Chirag Saraiya about your dental issues. He will provide you with the best solution to your dental problem.”
 - b. “If you require a referral to a reliable dentist anywhere in the Greater Toronto Area (GTA) Dr. Saraiya will be happy to give one.”
 - c. “Dr. Chirag Saraiya (B.D.S) (R.D.H)”
 - d. “Dr. Chirag Saraiya is in the dental field since 1992. He has an array of experience in various dental pathologies...”
 - e. “Extraction or Root Canal Treatment (RCT)? Based on the remaining strength of the tooth structure and the patient’s periodontal condition some degree of decision could be made. Dr. Saraiya will need more information on your dentition to give you a final advice on the matter.”

Attached at Tab “B” are screenshots of the Website.

7. The Website included testimonials. One or more of the testimonials on the Website indicated that they were from individuals in Ontario. If the Registrant were to testify, he would state that he had not been contacted by anyone through the Website since coming to Canada, and the Website’s contact form and

payment portal were non functional since at least 2016. See Tab “B” for screenshots of the Registrant’s website which included the testimonials.

8. It is agreed that the information on the Website, including but not limited to the use of the abbreviation of the title “doctor”, was false or misleading, contrary to section 6 of Ontario Regulation 218/94.
9. It is further agreed that the Website contained testimonials, contrary to section 6 of Ontario Regulation 218/94.
10. It is agreed that the Website is no longer accessible to the public.
11. It is further agreed that the Registrant used the abbreviation of the title “doctor” in the course of practising dental hygiene in Ontario by using the email address: “drchirags@[...].com”. Attached at Tab “C” is a copy of a referral letter dated June 24, 2019 which contains the email address: drchirags@[...].com in the letterhead but is signed by the Registrant using the title “RDH”.
12. It is agreed that the Registrant has stopped using the email address “drchirags@[...].com”.

IPAC Standards and Policies

13. The College retained an expert to review the Registrant’s practices and policies relating to infection prevention and control (IPAC). The expert’s opinion was that the Registrant did not meet the standards of practice for ensuring current scientifically accepted IPAC practices or policies.
14. It is agreed that the Registrant failed to maintain the standards of practice of the profession by not ensuring that current scientifically accepted IPAC practices are in place and practised as per the CDHO Dental Hygiene Standards of Practice and the CDHO Infection Prevention and Control (IPAC) Guidelines.
15. It is agreed that the Registrant failed to meet the standards of practice of the profession by not having appropriate written policies and protocols in place for IPAC as per the CDHO Dental Hygiene Standards of Practice and the CDHO Infection Prevention and Control (IPAC) Guidelines.
16. Upon receiving the expert’s opinion and prior to this matter being referred to the Discipline Committee, the Registrant voluntarily and proactively worked with an IPAC consultant and developed written IPAC policies and protocols, copies of which were provided to the College.

Process of Care and Recordkeeping

17. It is agreed that the Registrant failed to meet the standards of practice of the profession relating to recordkeeping and failed to keep records as required by Part III.1 of Ontario Regulation 218/94, including but not limited to the following:
- a. The Registrant failed to document that the Registrant followed the process of care in his treatment of clients, including by failing to adequately document his assessment, dental hygiene diagnosis, planning, implementation, and/or evaluation;
 - b. The Registrant failed to maintain a daily schedule;
 - c. The Registrant failed to record medical and/or dental histories;
 - d. The Registrant failed to record vital signs;
 - e. The Registrant failed to record hard tissue charting;
 - f. The Registrant failed to record periodontal assessment;
 - g. The Registrant failed to record the particulars of referrals made;
 - h. The Registrant failed to maintain legible records;
 - i. The Registrant failed to document clinical re-assessment;
 - j. The Registrant's records included one or more blank insurance forms signed by a client;
 - k. The Registrant's client health records lacked detail;
 - l. The Registrant documented issues outside the scope of practice of dental hygiene in his client records, such as areas of decay, and/or teeth that required extraction, and/or root canal, without describing the meaning of these notes, and/or the nature of any discussion with the clients about these issues, and/or that a referral to a dentist was made; and
 - m. The Registrant failed to document individualized goals and treatment plans for clients.

False Information to Investigator

18. On or about July 18, 2019, a College-appointed investigator attended at the Registrant's clinic in Burlington, Ontario as part of the College's investigation into the Registrant's practice.
19. On or about July 29, 2019, the investigator asked the Registrant to provide copies of his invoices for clinical equipment and supplies.
20. On or about August 13, 2019, the Registrant submitted a document to the investigator which purported to be an invoice dated June 1, 2018 for U-test Biological Indicators and a U-test Incubator, among other things. It is agreed that the Registrant altered or falsified the invoice to make it appear to the investigator that he had this equipment at the time of the investigator's attendance at his clinic, which was not true. The Registrant admitted what he had done prior to this matter being referred to the Discipline Committee. Attached at Tab "D" is a copy of the altered invoice.
21. It is further agreed that on or about September 12, 2019, the Registrant submitted photographs of indicator vials and of an incubator to the investigator to make it appear that he had this equipment at the time of the investigator's attendance at his clinic, which was not true. The Registrant admitted what he had done prior to this matter being referred to the Discipline Committee.

Admission of Professional Misconduct

22. By this document, the Registrant admits to the truth of the facts referred to in paragraphs 1 to 21 above (the "Agreed Facts").
23. The Registrant admits that the Agreed Facts constitute professional misconduct pursuant to subsection 51(1)(c) of the Health Professions Procedural Code, being Schedule 2 to the *Regulated Health Professions Act, 1991* and as defined in one or more of the following paragraphs of section 15 of Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991*:
 - a. Paragraph 2 (contravening or failing to maintain a standard of practice of the profession);
 - b. Paragraph 18 (inappropriately using a term, title or designation in respect of the member's practice);
 - c. Paragraph 22 (advertising or permitting advertising with respect to the member's practice in contravention of the regulations, in particular permitting advertising that was false or misleading and/or containing testimonials);

- d. Paragraph 27 (failing to keep records in accordance with generally accepted standards of practice or as required by any applicable regulations);
- e. Paragraph 28 (falsifying a record relating to the member's practice);
- f. Paragraph 42 (failing to take reasonable steps to ensure that information provided by or on behalf of the member to the College is accurate);
- g. Paragraph 52 (disgraceful, dishonourable or unprofessional conduct); and
- h. Paragraph 53 (conduct unbecoming a dental hygienist).

REGISTRANT'S PLEA

The Registrant admitted the acts of professional misconduct as set out in the ASF.

The Panel received a written plea inquiry that was signed by the Registrant. The Panel also conducted an oral plea inquiry and was satisfied that the Registrant's admissions were voluntary, informed, and unequivocal.

SUBMISSIONS OF THE PARTIES ON FINDING

Counsel for the College submitted that the facts and admissions contained in the ASF made out all of the acts of professional misconduct admitted to by the Registrant.

Ms. Wise, counsel for the Registrant, similarly submitted that the facts admitted in the ASF support a finding of professional misconduct as set out therein.

DECISION ON FINDING

The Panel considered the ASF and the Registrant's plea, and rendered an oral decision on March 16, 2021 finding that the facts supported a finding of professional misconduct as set out in the ASF.

REASONS FOR DECISION ON FINDING

In coming to this decision, the Panel considered the following: the Registrant's admission of professional misconduct, the Agreed Statement of Facts (including the documents appended as tabs to the Agreed Statement of Facts) and the parties' submissions.

The Panel is satisfied that the conduct described in the Agreed Statement of Facts constitutes professional misconduct as set out in the ASF and as admitted by the Registrant for the following reasons:

1. The Registrant contravened or failed to maintain a standard of practice of the profession, which is an act of professional misconduct pursuant to paragraph 2 of section 15 of Ontario Regulation 218/94 under the Dental Hygiene Act, 1991 (the “Misconduct Regulation”), in the following ways:
 - a. By not ensuring that current scientifically accepted IPAC practices were in place and practised as per the CDHO Dental Hygiene Standards of Practice and the CDHO Infection Prevention and Control (IPAC) Guidelines; and
 - b. By not having appropriate written policies and protocols in place for IPAC as per the CDHO Dental Hygiene Standards of Practice and the CDHO Infection Prevention and Control (IPAC) Guidelines.;
2. The Registrant inappropriately used a term, title or designation in respect of the Registrant’s practice by using the abbreviation of the title “doctor” on his website and in the course of practising dental hygiene in Ontario by using the email address: [drchirags@\[...\].com](mailto:drchirags@[...].com), contrary to Paragraph 18 of section 15 of the Misconduct Regulation;
3. He advertised or permitted advertising with respect to his practice in contravention of the regulations, in particular permitting advertising that was false or misleading and/or containing testimonials through the Registrant’s website called “askmedental”, which contained testimonials, contrary to Paragraph 22 of section 15 of the Misconduct Regulation;
4. The Registrant failed to keep records in accordance with generally accepted standards of practice or as required by any applicable regulations, contrary to Paragraph 27 of section 15 of the Misconduct Regulation, by the following:
 - a. Failing to document that the Registrant followed the process of care in his treatment of clients, including by failing to adequately document his assessment, dental hygiene diagnosis, planning, implementation, and/or evaluation;
 - b. Failing to maintain a daily schedule;
 - c. Failing to record medical and/or dental histories;
 - d. Failing to record vital signs;
 - e. Failing to record hard tissue charting;
 - f. Failing to record periodontal assessment;
 - g. Failing to record the particulars of referrals made;

- h. Failing to maintain legible records;
 - i. Failing to document clinical re-assessment;
 - j. The Registrant's records included one or more blank insurance forms signed by a client;
 - k. The Registrant's client health records lacked detail;
 - l. The Registrant documented issues outside the scope of practice of dental hygiene in his client records, such as areas of decay, and/or teeth that required extraction, and/or root canal, without describing the meaning of these notes, and/or the nature of any discussion with the clients about these issues, and/or that a referral to a dentist was made; and
 - m. The Registrant failed to document individualized goals and treatment plans for clients.
5. Contrary to Paragraph 28 of section 15 of the Misconduct Regulation, the Registrant falsified a record relating to his practice by altering or falsifying the invoice dated June 1, 2018 to make it appear to the investigator that he had certain equipment at the time of the investigator's attendance at his clinic, which was not true;
6. The Registrant failed to take reasonable steps to ensure that information provided by him or on his behalf to the College was accurate by submitting photographs of indicator vials and of an incubator to the investigator to make it appear that he had this equipment at the time of the investigator's attendance at his clinic, which was not true, in contravention of paragraph 42 of section 15 of the Misconduct Regulation;
7. He engaged in conduct that would reasonably be regarded by members of the profession as disgraceful, dishonourable or unprofessional conduct, contrary to paragraph 52 of the Misconduct Regulation; and
8. The Registrant engaged in conduct unbecoming a dental hygienist, which is an act of misconduct pursuant to paragraph 53 of the Misconduct Regulation, by:
- a. altering or falsifying the invoice dated June 1, 2018 for U-test Biological Indicators and a U-test Incubator, among other things, to make it appear to the investigator that he had this equipment at the time of the investigator's attendance at his clinic, which was not true; and
 - b. submitting photographs of indicator vials and of an incubator to the investigator to make it appear that he had this equipment at the time of the investigator's attendance at his clinic, which was not true.

PENALTY

Joint Submission on Penalty and Costs

The parties submitted a Joint Submission on Penalty and Costs ("JSPC") with respect to the appropriate order in this case, which was filed as Exhibit #3 and provides as follows:

1. The Registrant is required to appear, by electronic means, before a panel of the Discipline Committee immediately following the hearing of this matter to be reprimanded, with the fact of the reprimand and a summary of the reprimand to appear on the public register of the College.
2. The Registrar is directed to suspend the Registrant's certificate of registration for a period of three (3) months commencing on the date of the Discipline Committee's Order.
3. The Discipline Committee shall direct the Registrar to impose the following terms, conditions or limitations on the Registrant's certificate of registration:
 - a. Within six (6) months of the date of this Order, the Registrant is required to successfully complete, in the opinion of the Registrar, a record keeping course that is pre-approved by the Registrar;
 - b. Within six (6) months of the date of this Order, the Registrant is required to successfully complete, in the opinion of the Registrar, an individualized course in professional ethics designed to meet the concerns of the Discipline Committee with the Registrant's professional misconduct, subject to the following terms:
 - i. The course provider shall be pre-approved by the Registrar;
 - ii. The Registrant shall provide a copy of the Discipline Committee's decision and reasons to the course provider;
 - iii. The course shall be completed at the Registrant's expense; and
 - iv. Upon the completion of the course, the Registrant shall arrange for the course provider to provide a written report to the Registrar stating that the course has been successfully completed and reporting on the progress of the Registrant with respect to addressing the outlined goals of the course.

- c. Within six (6) months of returning to practice, the Registrant is required to complete a practice audit, subject to the following terms:
 - i. The Registrant shall notify the Registrar in writing one week before the date that he returns to practice;
 - ii. The auditor shall be pre-approved by the Registrar;
 - iii. The Registrant shall provide a copy of the Discipline Committee's decision and reasons and the expert reports obtained by the College in the course of the investigation to the auditor prior to the scheduled practice audit;
 - iv. The practice audit must include a review of at least 10 charts;
 - v. The practice audit must include a review of the Registrant's Infection Prevention and Control practices and policies;
 - vi. The practice audit shall be completed at the Registrant's expense; and
 - vii. Upon the completion of the audit, the Registrant shall arrange for the auditor to provide a written report to the Registrar stating that the audit has been successfully completed and reporting on the auditor's findings.
4. The Registrant is required to pay to the College costs in the amount of \$5,000.00 by December 31, 2021.

Submissions on Penalty and Costs

The College made submissions to the Panel with respect to why the JSPC was appropriate and should be accepted.

Counsel for the College submitted that the penalty will protect the public and serve as a deterrent for the Registrant and for other members of the College. She also submitted that the proposed order has an element of remediation, in terms of the course work required of the Registrant, and that it will protect the public.

Ms. Richler outlined some mitigating factors for the Panel to consider, including that:

1. The Registrant demonstrated a willingness to remediate himself when he voluntarily and proactively worked with an IPAC consultant and developed written IPAC policies and protocols, copies of which were provided to the College, prior to the matter being referred to the Discipline Committee;

2. The Registrant admitted the misconduct early on and by doing so he demonstrated insight and saved the College the time and cost of a contested hearing; and
3. The Registrant has no previous Discipline history.

Ms. Richler submitted that an aggravating factor for the Panel to consider is the extent of the misconduct. Specifically, the misconduct spanned several areas including advertising and use of title, process of care and recordkeeping, providing false information to an investigator, and IPAC standards and policies.

The College provided the Panel with a Brief of Authorities ("BOA") containing the following cases for the Panel's consideration:

1. *Ontario (College of Dental Hygienists of Ontario) v Asselin*, 2015 ONCDHO 3 (CanLII), <https://canlii.ca/t/hzhzm> ("Asselin")
2. *College of Naturopaths of Ontario v Yarish*, (2019, published on CONO's website) ("Yarish")
3. *Ontario (College of Physicians and Surgeons of Ontario) v. Billing*, 2017 ONCPSD 30 (CanLII), <https://canlii.ca/t/h4ffq> ("Billing")
4. *College Of Nurses Of Ontario v Zorn*, 2017 CanLII 49763 (ON CNO), <https://canlii.ca/t/h55fw> ("Zorn")

There was no identical case on point. Counsel for the College acknowledged in her submissions that there were some distinguishing features between the case before us and the cases in the BOA. However, she submitted that the cases can offer guidance to the Panel that the penalty sought in this case is appropriate in the circumstances.

Counsel for the Registrant submitted that unlike the case of *Asselin*, there were no instances of repeated conduct in the case at bar. She submitted that Mr. Saraiya cooperated with the College early on in the process and he admitted what he had done prior to the referral to Discipline.

The Panel received and accepted the advice of Independent Legal Counsel that it is under a legal obligation to accept a jointly proposed penalty order unless the Panel finds that it is contrary to the public interest and/or would bring the administration of justice into disrepute.

Penalty Decision

The Panel carefully considered the JSPC, the cases provided, and the oral submissions of the counsel for each of the parties.

The Panel considered the terms of the proposed order and concluded that the proposed order met the needs of this case and addressed the legal principles relevant to making an order.

Accordingly, in an oral decision rendered on March 16, 2021, the Panel accepted the joint submission and made the following order (the "Order"):

1. The Registrant is required to appear, by electronic means, before a panel of the Discipline Committee immediately following the hearing of this matter to be reprimanded, with the fact of the reprimand and a summary of the reprimand to appear on the public register of the College.
2. The Registrar is directed to suspend the Registrant's certificate of registration for a period of three (3) months commencing on the date of this Order.
3. The Discipline Committee shall direct the Registrar to impose the following terms, conditions or limitations on the Registrant's certificate of registration:
 - a. Within six (6) months of the date of this Order, the Registrant is required to successfully complete in the opinion of the Registrar, a record keeping course that is pre-approved by the Registrar;
 - b. Within six (6) months of the date of this Order, the Registrant is required to successfully complete in the opinion of the Registrar an individualized course in professional ethics designed to meet the concerns of the Discipline Committee with the Registrant's professional misconduct, subject to the following terms:
 - i. The course provider shall be pre-approved by the Registrar;
 - ii. The Registrant shall provide a copy of the Discipline Committee's decision and reasons to the course provider;
 - iii. The course shall be completed at the Registrant's expense; and
 - iv. Upon the completion of the course, the Registrant shall arrange for the course provider to provide a written report to the Registrar stating that the course has been successfully completed and reporting on the progress of the Registrant with respect to addressing the outlined goals of the course.
 - c. Within six (6) months of returning to practice, the Registrant is required to complete a practice audit, subject to the following terms:

- i. The Registrant shall notify the Registrar in writing one week before the date that he returns to practice;
 - ii. The auditor shall be pre-approved by the Registrar;
 - iii. The Registrant shall provide a copy of the Discipline Committee's decision and reasons and the expert reports obtained by the College in the course of the investigation to the auditor prior to the scheduled practice audit;
 - iv. The practice audit must include a review of at least 10 charts;
 - v. The practice audit must include a review of the Registrant's Infection Prevention and Control practices and policies;
 - vi. The practice audit shall be completed at the Registrant's expense; and
 - vii. Upon the completion of the audit, the Registrant shall arrange for the auditor to provide a written report to the Registrar stating that the audit has been successfully completed and reporting on the auditor's findings.
4. The Registrant is required to pay to the College costs in the amount of \$5,000.00 by December 31, 2021.

Reasons for Decision on Penalty

Although the Panel has discretion to accept or reject a joint submission on penalty, the Panel understands its obligation to accept a joint submission unless doing so would bring the administration of justice into disrepute and/or would otherwise be contrary to the public interest.

The Panel finds that the JSPC is reasonable in the circumstances of this case and the penalty imposed appropriately addresses the specific nature of the misconduct admitted in the ASF.

The principles relevant to the imposition of an appropriate order in disciplinary proceedings are well established. The protection of the public is the paramount consideration. Other factors include: maintenance of public confidence in the reputation and integrity of the profession and in the principle of effective self-governance; general deterrence as it applies to the membership as a whole; specific deterrence as it applies to the particular Registrant; and the potential for the Registrant's rehabilitation.

The Panel weighed these principles when deciding whether to accept the joint submission.

The Panel also considered aggravating and mitigating factors. The aggravating factor in this case is the fact that the conduct spanned several areas. The mitigating factors include the following:

1. the Registrant admitted the allegations against him, saving the College the time and money of a contested hearing;

2. the Registrant demonstrated a willingness to remediate himself when he voluntarily and proactively worked with an IPAC consultant and developed written IPAC policies and protocols, copies of which were provided to the College, prior to the matter being referred to the Discipline Committee; and
3. the Registrant does not have a prior record of professional misconduct.

The Panel is of the opinion that the Order sought appropriately addresses the principles of public protection, maintenance of public confidence in the reputation and integrity of the profession and in the principle of effective self-governance; general deterrence and specific deterrence, and rehabilitation.

The principle of specific deterrence is served in this case by the three-month suspension, reprimand, practice audit, and the terms, conditions or limitations on the Registrant's certificate of registration including the individualized course in professional ethics and recordkeeping course. These are intended to ensure that the Registrant's conduct will not be repeated, which, in turn, serves to protect the public and instil public confidence.

The principle of general deterrence is also achieved in this case by the JSPC. The significance of the Order, and specifically the three-month suspension, communicates to the profession that such misconduct will not be tolerated and that the Discipline Committee will seek to deter members from engaging in conduct that disregards the College's public protection mandate. The Panel also finds that because this decision will be published on the College's website, other registrants will be aware of the consequences of this type of professional misconduct, which also serves the principle of general deterrence.

The principle of rehabilitation will be realized by the Registrant successfully completing an individualized course in professional ethics and a recordkeeping course, as well as completion of the practice audit.

The Panel also considered the important element of proportionality into its analysis.

The Panel recognizes that "[i]t is well settled that consistency in sentencing is as important in professional bodies as in the criminal courts, and that consideration should be given to disciplinary penalties imposed in similar cases": *College of Physicians and Surgeons of Ontario v. Peirovy*, 2018 ONCA 420 at para. 80. To that end, the Panel considered the cases provided by College Counsel.

In particular, the case of *Asselin* also dealt with falsifying a record related to the member's practice. Mr. Asselin was found to have falsified a copy of a certificate of registration to his employer and he provided false or misleading information to the College. In *Asselin*, the Panel made an order directing the Registrar to suspend Mr. Asselin's certificate of registration for five months. It should be noted, however, that an aggravating factor in *Asselin* that is not present here is that Mr. Asselin's conduct occurred over the period of several years. The mitigating factors in *Asselin*

included an admission of misconduct and a lack of previous Discipline history, which is similar to the present case.

The case of *Billing* involved failure to maintain the standard of practice of the profession in two broad categories: his record keeping, including in relation to individualized patient treatment plans; and, his sterile technique. In *Billing*, the Committee found that Dr. Billing's failures to maintain the standard of practice in his treatment of his patients were matters of serious concern. And, although that Committee heard no evidence to suggest that patients were actually harmed, the Committee found that there was no doubt that patients were exposed to the risk of harm.

This Panel accepts that similar cases should generally be dealt with similarly. However, the facts and circumstances of each case are unique. After considering all of the cases submitted, the Panel is satisfied that the penalty proposed by the parties is within a reasonable range. Furthermore, the Panel is satisfied that the JSPC is proportionate to the misconduct committed by the Registrant and is reasonable given the particular facts of this case.

At the conclusion of the hearing, the Registrant waived his right of appeal and the reprimand was administered orally by the Chair of the Panel.

I, **Erin Betts**, sign this decision and reasons for the decision as Chair of this Discipline panel and on behalf of the members of the Discipline panel as listed below.



Erin Betts, Chair
Chair, Discipline Panel

April 12, 2021
Date

Discipline Panel Members:

Vanessa Pereira, Professional Member of Council
Margaret Wade, Public Member of Council

Oral Reprimand for Chirag Saraiya

March 16, 2021

Mr. Saraiya, as part of its penalty order, this Disciplinary panel will administer an oral reprimand today.

The fact that you have received this reprimand will be noted on the College's public register as will a summary of the reprimand. As such, part of your record with the College.

Although you will be given an opportunity to make a statement at the end of the reprimand this is **not** an opportunity for you to review the decision by the Discipline panel, **nor** a time for you to debate the merits of our decision.

The panel has found that you have engaged in professional misconduct in eight different ways. They are as follows:

1. you failed to maintain a standard of practice of the profession;
2. you inappropriately used a term, title or designation in respect of your practice;
3. you advertised or permitted advertising with respect to your practice in contravention of the regulations, in particular permitting advertising that was false or misleading and/or containing testimonials;
4. you failed keep records in accordance with generally accepted standards of practice or as required by any applicable regulations;
5. you falsified a record relating to your practice;
6. you failed to take reasonable steps to ensure that information provided by you or on your behalf to the College was accurate;
7. you engaged in disgraceful, dishonourable or unprofessional conduct; and
8. you engaged in conduct unbecoming a dental hygienist.

It is a matter of profound concern to this panel that you have engaged in these forms of professional misconduct. By doing so, you have brought discredit to the profession and to yourself. Public confidence in this profession has been put in jeopardy. Moreover, the result of your misconduct is that you have let down your clients, the public, the profession of dental hygiene and yourself.

We need to make it clear to you that your conduct is unacceptable.

Consequently, it is necessary for us to take steps to impress upon you the seriousness of the misconduct in which you have engaged.

We also want to make it clear to you that while the penalty this panel has imposed upon you is a fair penalty, a more significant penalty will be imposed by another Discipline panel in the event that you are ever found to have engaged in professional misconduct again.

As I have already stated, this is not an opportunity for you to review the decision or debate the correctness of the decision.

However, do you have any questions or do you wish to make any comments?

Thank you for attending today.