



Name of Registrant: - Laila Osobleh
(referred September 24, 2015)

Date of Hearing: January 15, 2016

Decision and Reasons

The Discipline Committee of the College of Dental Hygienists of Ontario (the "Panel") heard this matter at Toronto on Friday January 15, 2016. At the conclusion of the hearing, the Panel delivered its finding and penalty order orally and in writing, with written reasons to follows:

THE ALLEGATIONS

It was alleged in the Notice of Hearing that Ms. Laila Osobleh committed acts of professional misconduct under Section 15 of Ontario Regulation 218/94, as amended, under the *Dental Hygiene Act, 1991*, and in particular, paragraph 1 (contravening a condition imposed on a member's certificate of registration); and/or paragraph 28 (falsifying a record); and/or paragraph 30 (signing or issuing a document that the member knows or ought to know contains a false or misleading statement); and/or paragraph 31 (submitting an account or charge that the member knows or ought to know is false or misleading); and/or paragraph 47 (contravening a regulation under the *Dental Hygiene Act, 1991*, namely section 35 of Ontario Regulation 218/94; and/or paragraph 50 (failing to cooperate with an investigator for the College); and/or paragraph 52 (disgraceful, dishonorable or unprofessional conduct); and/or paragraph 53 (conduct unbecoming a dental hygienist).

RESPONSE TO ALLEGATIONS

The Registrant admitted that she committed acts of professional misconduct under the following paragraphs of Section 15 of Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991*: paragraphs 1, 28, 30, 50 and 52.

The College withdrew the allegations under paragraphs 31, 47 and 53 of Section 15 of Regulation 218/94.

THE FACTS

An Agreed Statement of Facts and Guilty Plea was signed by the parties and filed with the Panel. It provides as follows:

Agreed Statements of Facts

1. At the material times, Ms. Laila Osobleh ("Ms. Osobleh") was a duly registered dental hygienist in Ontario, holding a certificate of registration in the Inactive class.
2. Pursuant to subsection 35(2) of Ontario Regulation 218/94 under *the Dental Hygiene Act, 1991*, it is a condition of the Inactive class that a member holding such a certificate is not permitted to practise as a dental hygienist in Ontario.
3. Ms. Osobleh first became registered with the College of Dental Hygienists of Ontario (the "College") on April 28, 2011 and initially held a certificate of registration in the General class.
4. Ms. Osobleh moved to the Inactive class on January 1, 2014.
5. It is agreed that Ms. Osobleh provided dental hygiene services at a dental clinic in Vaughan, Ontario, to the following clients, on the following dates, while holding a certificate of registration in the Inactive class:
 - a. Client B.M., on December 13, 2014;
 - b. Client G.L., on December 13, 2014;
 - c. Client R.P., on December 13, 2014;
 - d. Client K.A., on December 13, 2014;
 - e. Client N.G., on December 13, 2014;
 - f. Client W.K., on December 13, 2014;
 - g. Client D.B., on December 19, 2014;
 - h. Client S.H., on December 22, 2014.
6. It is further agreed that Ms. Osobleh signed an insurance claim form with respect to the dental hygiene services she provided to client B.M.
7. If Ms. Osobleh were to testify she would say that she had been experiencing serious financial difficulties at this time.
8. It is further agreed that on February 11, 2015, Ms. Osobleh made untrue statements to the Investigations Coordinator of the College with respect to one or more of the following:
 - a. Whether she was practising dental hygiene on December 13, 2014;
 - b. Whether she wrote on the insurance claim form relating to client B.M.

9. It is further agreed that on June 8, 2015, Ms. Osobleh made untrue statements to the investigator for the College with respect to one or more of the following:
 - a. The days she worked at the dental clinic;
 - b. The services she provided to clients at the dental clinic;
 - c. Whether she documented any notes in client files.

10. It is agreed 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 1 (contravening a condition imposed on a member's certificate of registration); and paragraph 28 (falsifying a record); and paragraph 30 (signing or issuing a document that the member knows or ought to know contains a false or misleading statement); and paragraph 50 (failing to cooperate with an investigator for the College); and paragraph 52 (disgraceful, dishonourable or unprofessional conduct).

Guilty Plea

1. By this document, the Member admits to the truth of the facts referred to in paragraphs 1-10 above (the "Agreed Facts").

2. The Member hereby acknowledges that the Agreed Facts constitute conduct which is professional misconduct and pleads guilty to professional misconduct pursuant to Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991*, section 15, paragraphs 1, 28, 30, 50 and 52.

3. By this document the Member states that:
 - (a) She understands fully the nature of the allegations against her;
 - (b) She has no questions with respect to the allegations against her;
 - (c) She understands that by signing this document she is consenting to the evidence as set out in the Agreed Facts being presented to the Discipline Committee;
 - (d) She understands that by pleading guilty to the allegations, she is waiving her right to require the College to prove the case against her and the right to have a hearing;
 - (e) She understands that depending on the penalty ordered by the Discipline Committee, the decision of the Committee and a summary of its reasons, including reference to her name, may be published in the College's annual report and any other publication or website of the College;
 - (f) She understands that any agreement between her and the College with respect to the penalty proposed does not bind the Discipline Committee;

(g) She understands and acknowledges that she is executing this Agreement voluntarily, unequivocally, free of duress, free of inducement or bribe, and that she has been advised of her right to seek legal advice.

4. In light of the Agreed Facts and the plea of guilt, the College of Dental Hygienists of Ontario and the Member submit that the Discipline Committee should find the Member guilty of professional misconduct.

FINDING

The Panel accepts as true the facts set out in the Agreed Statement of Facts and accepts the guilty plea of the Registrant.

The Panel finds that Ms. Osobleh is guilty of professional misconduct pursuant to the following paragraphs of Section 15 of Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991*: paragraph 1 (contravening a condition imposed on a member's certificate of registration); and paragraph 28 (falsifying a record); and paragraph 30 (signing or issuing a document that the member knows or ought to know contains a false or misleading statement); and paragraph 50 (failing to cooperate with an investigator for the College); and paragraph 52 (disgraceful, dishonourable or unprofessional conduct).

PENALTY SUBMISSIONS

The College and the Registrant made a joint submission on what was an appropriate penalty and costs order.

The Panel accepted the advice of independent legal counsel that it is under a legal obligation to accept a jointly proposed penalty order unless it is contrary to the public interest and would bring the administration of justice into disrepute.

ORDER

The Panel accepted the joint submission as an appropriate order on penalty and costs, and it delivered its written order on January 15, 2016, with reasons to follow. The order provided:

1. Ms. Osobleh is required to appear before a panel of the Discipline Committee to be reprimanded;
2. The Registrar is directed to suspend Ms. Osobleh's certificate of registration for a period of one (1) month, to commence on the date of this Order;
3. The Registrar is directed to impose the following terms, conditions or limitations on Ms. Osobleh's certificate of registration:

- a. Ms. Osobleh must, at her own expense, successfully complete, in the opinion of the Registrar, an individualized course in professional ethics, approved by the Registrar, within one (1) year of the date of this Order;
 - b. Ms. Osobleh must, at her own expense, successfully complete, in the opinion of the Registrar, the COHO jurisprudence module, within three (3) months of the date of this Order;
4. Ms. Osobleh is required to pay to the Minister of finance a fine of \$500.00, payable within twelve (12) months of the end of the suspension; and
5. Ms. Osobleh is required to pay to the College costs in the amount of \$1,800.00, payable over two (2) years in equal monthly payments (in the form of post-dated cheques) of \$75.00, starting the 15th day of the second month after her suspension ends and continuing every month until paid in full.

REASONS FOR THE ORDER ON PENALTY AND COSTS

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, and rehabilitation. It also serves the important principle of maintaining public confidence that the College governs the profession effectively in the public interest.

The Panel wishes to send a strong message that compliance with the regulations governing registration and renewal of registration are obligatory requirements for the practice of dental hygiene. The obligation to maintain a current certificate of registration is one of the many regulations in place to ensure that the public receives safe and effective dental hygiene care. Ms. Osobleh's practice as a dental hygienist after failure to renew her certificate of registration, demonstrated a serious disregard for the laws that regulate the practice of dental hygienists.

The order delivers a serious sanction for the Registrant's acts of misconduct and at the same time seeks to rehabilitate the Registrant through the ethics and jurisprudence courses it requires as terms, conditions and limitations on her certificate of registration. The fine imposed is a recognition of the financial component of the misconduct in practicing while not being registered, and the \$1,800.00 costs award against the member is appropriate. Members of the profession should not have to bear the full costs of the Registrant's misconduct.

The fact that the Registrant had been experiencing serious financial difficulties at the time of her misconduct is not accepted by the Committee as an excuse for such misconduct. Dental hygienists like all health professionals must maintain their professional obligations even in times of difficult personal pressures, and will face discipline if they do not.

The Panel considered as mitigating factors in this case that Ms. Osobleh expressed remorse and pled guilty which saved the College the time and expense of a contested hearing. Importantly, it spared witnesses from having to testify. Further, Ms. Osobleh had no prior record of professional misconduct. This was her first time before the Discipline Committee.

The penalty order delivered was consistent within the penalties ordered in similar cases that the College brought to the attention of the Panel.

At the conclusion of the hearing, Ms. Osobleh waived her right to appeal and an oral reprimand was delivered by the Panel.