

**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:)
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)
THE COLLEGE OF DENTAL) **Anastasia Hountalas and Valreen Sealie**
HYGIENISTS OF ONTARIO) for the College of Dental Hygienists of Ontario
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)
-and-)
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)
KRISTIN DIANE CHANT, RDH) **Kristin Diane Chant**
) In attendance and self-represented
)
)
) **Elyse Sunshine**
) Independent Legal Counsel
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) Heard:
) **May 21, 2021**
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Panel Members:

Amit Vig, Chair, Public Member of Council

Loree Beniuk, Public Member of Council

Michelle Atkinson, Professional Member of Council

Paula Malcomson, Non-Council Committee Member

Mary Yeomans, Non-Council Committee Member

DECISION AND REASONS FOR DECISION

[1] A panel of the Discipline Committee of the College of Dental Hygienists of Ontario ("the Panel") heard this matter virtually by Zoom videoconference on May 21, 2021.

[2] 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 Kristin Diane Chant (the "Registrant").

[3] At the conclusion of the hearing, the Panel delivered its findings and penalty order orally, with written reasons to follow.

THE ALLEGATIONS

[4] The allegations of professional misconduct against Ms. Chant as stated in the Notice of Hearing, dated December 10, 2020 were filed as Exhibit 1 and read as follows:

1. Ms. Kristin Diane Chant ("Ms. Chant") is a duly registered member of the College of Dental Hygienists of Ontario (the "College").

Failure to Comply with Quality Assurance Program

2. All registrants of 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 and professional development activities;
 - b. keeping accurate and complete records of the registrant's participation in self- assessment, continuing education and professional development activities and submitting those records to the Quality Assurance Committee if requested; and
 - c. cooperating with peer and practice assessments when selected to do so.

3. The requirements of the Quality Assurance program are set out in sections 16 through 20 of Ontario Regulation 218/94, under the *Dental Hygiene Act, 1991*, and sections 80 through 82 of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991*.
4. Registrants are required to complete a Self-Assessment document by January 31 each year.

2019 Quality Assurance Obligations

5. Ms. Chant failed to complete her 2019 Self-Assessment by January 31, 2019.
6. On or about March 6, 2019, the College notified Ms. Chant by letter that because she had not completed the mandatory 2019 Self-Assessment by the required due date, she had been selected for a Quality Assurance Records audit by the Quality Assurance Committee (“QAC”).
7. Ms. Chant was required to submit her Quality Assurance Records to the QAC by January 31, 2020.
8. Ms. Chant failed to submit her Quality Assurance Records to the Quality Assurance Committee on or before January 31, 2020.
9. On or about February 12, 2020, the College notified Ms. Chant by email that her Quality Assurance Records submission had not been received by January 31, 2020 as required. Ms. Chant was given an extension to February 20, 2020 to submit her Quality Assurance Records, and was advised that if she did not submit them by the new deadline, she would be placed in Path 3 of the Quality Assurance Peer Assessment and would be required to complete the Quality Assurance Test and to participate in an on-site practice review.
10. Ms. Chant did not submit her Quality Assurance Records by the extended deadline of February 20, 2020 as required.
11. On or about February 25, 2020, the College notified Ms. Chant by letter that because she did not submit her Quality Assurance Records as requested, the Quality Assurance Committee had placed her in Path 3 of the Quality Assurance Peer Assessment. Ms. Chant was directed to successfully complete the Quality Assurance Test by April 15, 2020, and to contact the College by April 15, 2020, in order to arrange for an on-site practice assessment.
12. Ms. Chant failed to submit her Quality Assurance Records, failed to complete the Quality Assurance Test, and failed to contact the College to arrange for an onsite

practice review by April 15, 2020 as required.

13. To date, Ms. Chant has not submitted her Quality Assurance Records, has not completed the Quality Assurance Test and has not contacted the College to arrange for an onsite practice review, as required by the Quality Assurance Committee.

2020 Quality Assurance Obligations

14. Ms. Chant also failed to complete the mandatory 2020 Self-Assessment by the required due date of January 31, 2020.
15. The College sent a second email to Ms. Chant on or about February 12, 2020, to notify her that her 2020 Self-Assessment had not been completed. Ms. Chant was given an extension to February 20, 2020 to complete her 2020 Self-Assessment, and was advised that if she did not complete the 2020 Self-Assessment by the February 20, 2020 deadline, she would be required to participate in an audit of her quality assurance records and may also be referred to the Inquiries, Complaints and Reports Committee for her failure to meet the requirements of the Quality Assurance Program.
16. Ms. Chant did not complete her 2020 Self-Assessment by the extended deadline of February 20, 2020 as required.
17. On or about March 10, 2020, the College notified Ms. Chant by letter that if she did not complete the mandatory 2020 Self-Assessment by the new deadline of April 15, 2020, the Quality Assurance Committee intended to refer her to the Inquiries, Complaints and Reports Committee.
18. Ms. Chant failed to complete the mandatory 2020 Self-Assessment by April 15, 2020 as required. She completed the 2020 Self-Assessment on April 19, 2020.

Misconduct Alleged

19. It is alleged that the above conduct constitutes professional misconduct pursuant to:
 - a. subsection 51(b.0.1) of the Health Professions Procedural Code, being Schedule 2 to the *Regulated Health Professions Act, 1991* (failing to cooperate with the Quality Assurance Committee); and/or
 - b. paragraph 43 of section 15 of Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991* (failing to reply appropriately and responsively within the time specified by the request or, if no time is specified, within 30 days to a written inquiry made by the College that requests a response); and/or

- c. paragraph 45 of section 15 of Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991* (failing to comply with an order or direction of a Committee or a panel of a Committee of the College); and/or
- d. paragraph 52 of section 15 of Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991* (disgraceful, dishonourable or unprofessional conduct).

AGREED STATEMENT OF FACTS

[5] An ASF was provided by both parties and submitted into evidence as Exhibit 2. The ASF reads as follows:

1. Kristin Diane Chant (the “Registrant”) was, at the material times, a duly registered dental hygienist in Ontario. The Registrant obtained a certificate of registration in the General class from the College of Dental Hygienists of Ontario (the “College”) in October 2016.

Failure to Comply with Quality Assurance

2. All registrants of 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 and professional development activities;
 - b. keeping accurate and complete records of the registrant’s participation in self-assessment, continuing education and professional development activities and submitting those records to the Quality Assurance Committee if requested; and
 - c. cooperating with peer and practice assessments when selected to do so.
3. The requirements of the Quality Assurance program are set out in sections 16 through 20 of Ontario Regulation 218/94, under the *Dental Hygiene Act, 1991*, and sections 80 through 82 of the Health Professions Procedural Code, being Schedule 2 to the *Regulated Health Professions Act, 1991*.
4. Registrants are required to complete a Self-Assessment document by January 31 each year.

2019 Quality Assurance Obligations

5. Ms. Chant failed to complete her 2019 Self-Assessment by January 31, 2019.
6. On or about March 6, 2019, the College notified Ms. Chant by letter that because she had not completed the mandatory 2019 Self-Assessment by the required due date, she had been selected for a Quality Assurance Records audit by the Quality Assurance

Committee (“QAC”).

7. Ms. Chant was required to submit her Quality Assurance Records to the QAC by January 31, 2020.
8. Ms. Chant failed to submit her Quality Assurance Records to the Quality Assurance Committee on or before January 31, 2020.
9. On or about February 12, 2020, the College notified Ms. Chant by email that her Quality Assurance Records submission had not been received by January 31, 2020 as required. Ms. Chant was given an extension to February 20, 2020 to submit her Quality Assurance Records, and was advised that if she did not submit them by the new deadline, she would be placed in Path 3 of the Quality Assurance Peer Assessment and would be required to complete the Quality Assurance Test and to participate in an on-site practice review
10. Ms. Chant did not submit her Quality Assurance Records by the extended deadline of February 20, 2020 as required.
11. On or about February 25, 2020, the College notified Ms. Chant by letter that because she did not submit her Quality Assurance Records as requested, the Quality Assurance Committee had placed her in Path 3 of the Quality Assurance Peer Assessment. Ms. Chant was directed to successfully complete the Quality Assurance Test by April 15, 2020, and to contact the College by April 15, 2020, in order to arrange for an on-site practice assessment review.
12. Ms. Chant failed to submit her Quality Assurance Records, failed to complete the Quality Assurance Test, and failed to contact the College to arrange for an onsite practice review by April 15, 2020 as required.
13. To date, Ms. Chant has not submitted her Quality Assurance Records, has not completed the Quality Assurance Test and has not arranged for her practice review, as required by the Quality Assurance Committee.

2020 Quality Assurance Obligations

14. Ms. Chant also failed to complete the mandatory 2020 Self-Assessment by the required due date of January 31, 2020.
15. The College sent a second email to Ms. Chant on or about February 12, 2020, to notify her that her 2020 Self-Assessment had not been completed. Ms. Chant was given an extension to February 20, 2020 to complete her 2020 Self-Assessment, and was advised that if she did not complete the 2020 Self-Assessment by the February 20, 2020 deadline, she would be required to participate in an audit of her quality

assurance records and may also be referred to the Inquiries, Complaints and Reports Committee for her failure to meet the requirements of the Quality Assurance Program.

16. Ms. Chant did not complete her 2020 Self-Assessment by the extended deadline of February 20, 2020 as required.
17. On or about March 10, 2020, the College notified Ms. Chant by letter that if she did not complete the mandatory 2020 Self-Assessment by the new deadline of April 15, 2020, the Quality Assurance Committee intended to refer her to the Inquiries, Complaints and Reports Committee.
18. Ms. Chant failed to complete the mandatory 2020 Self-Assessment by April 15, 2020 as required. She completed the 2020 Self-Assessment on April 19, 2020, and completed the 2021 Self-s
19. The Registrant admits that the Agreed Facts constitute professional misconduct pursuant to:
 - d. subsection 51(b.0.1) of the *Health Professions Procedural Code*, being Schedule 2 to the Regulated Health Professions Act, 1991 (failing to co-operate with the Quality Assurance Committee);
 - e. paragraph 43 of section 15 of Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991* (failing to reply appropriately and responsively within the time specified by the request or, if no time is specified, within 30 days to a written inquiry made by the College that requests a response); and/or
 - f. paragraph 45 of section 15 of Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991* (failing to comply with an order or direction of a Committee or a panel of a Committee of the College); and/or
 - g. paragraph 52 of section 15 of Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991* (disgraceful, dishonourable or unprofessional conduct).

Plea Inquiry

20. By this document, the Registrant 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 admitting 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 the decision of the Committee and a summary of its reasons, including reference to her name, will 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 document voluntarily, unequivocally, free of duress, and free of inducement or bribe; and
- h. she has been advised of her right to seek legal advice.

21. In light of the Agreed Facts and the admission of professional misconduct, the College of Dental Hygienists of Ontario and Kristin Diane Chant submit that the Discipline Committee should find that the Registrant has committed professional misconduct.

REGISTRANT'S PLEA

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

[7] 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 LIABILITY

[8] The College submitted that the ASF contained clear evidence that the acts of professional misconduct, as alleged, had been made out.

[9] The Registrant admitted that all registrants are required to comply with the College's Quality Assurance program including participating in an annual self-assessment. The facts established that the Registrant failed to complete her self-assessment in 2019 and 2020. She then failed to submit Quality Assurance Records as requested or confirm an on-site practice review.

[10] The College submitted that this provided sufficient evidence to support a finding that the Registrant failed to cooperate with the QAC and failed to comply with order or direction of the QAC.

[11] The ASF established that the Registrant received correspondence from the College regarding her Quality Assurance obligations and failed to respond, thus constituting an act of misconduct.

[12] The College submitted that the facts established that the Registrant engaged in conduct that would be viewed as disgraceful, dishonourable or unprofessional. The College noted that it is a fundamental part of the College's public protection mandate to ensure that members have the knowledge, skill and judgment to be able to practice the profession. Therefore, it is disgraceful, dishonourable to unprofessional to blatantly disregard a direction from one's regulatory body and neglect one's professional obligations.

[13] The Registrant made no submissions on liability.

DECISION ON FINDING

[14] The Panel considered the Agreed Statement of Facts along with the Registrant's plea and finds that the facts support a finding of professional misconduct and, in particular, finds that the Registrant committed an act of professional misconduct as alleged and pursuant to:

- a. subsection 51(b.0.1) of the Health Professions Procedural Code, being Schedule 2 to the *Regulated Health Professions Act, 1991* (failing to co-operate with the Quality Assurance Committee); and/or
- b. paragraph 43 of section 15 of Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991* (failing to reply appropriately and responsively within the time specified by the request or, if no time is specified, within 30 days to a written inquiry made by the College that requests a response); and/or
- c. paragraph 45 of section 15 of Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991* (failing to comply with an order or direction of a Committee or a panel of a Committee of the College); and/or
- d. paragraph 52 of section 15 of Ontario Regulation 218/94 under the *Dental Hygiene Act, 1991* (disgraceful, dishonourable or unprofessional conduct).

REASONS FOR DECISION ON FINDING

[15] In coming to this decision, the Panel considered the Registrant's admission of professional misconduct, the ASF and the parties' submissions.

[16] It is a requirement of the College's QAC that registrants complete a mandatory self-assessment form each year.

[17] The evidence demonstrated that after being notified that because she had failed to complete her 2019 Self-Assessment form by the required date, the Registrant was selected for a Quality Assurance Records audit by the QAC. The evidence further demonstrated that the Registrant failed to submit her records as requested on more than one occasion. This establishes that the Registrant failed to co-operate with or respond to a College committee. It further establishes that the Registrant failed to comply with a direction of the committees.

[18] The evidence also demonstrates that after not receiving the requested records, the Registrant was directed to successfully complete the Quality Assurance Test by April 15, 2020, and to contact the College in order to arrange for an on-site practice assessment. To date, none of this was done and this constitutes misconduct in that the Registrant failed to co-operate with a committee, failed to comply with a committee order or direction and failed to properly respond to the College.

[19] It is uncontested that in 2020, the Registrant once again did not complete her mandatory 2020 Self-Assessment by the required deadline. This further constitutes misconduct for failing to comply with an order or direction of a committee. The Registrant did ultimately complete the 2020 Self-Assessment form.

[20] The self-regulatory system relies on the co-operation of members of the profession with their regulator. The Registrant's failure to co-operate with a regulatory committee, a failure to respond to a direction or order and a failure to communicate all constitute conduct that would be regarded by members of the profession as disgraceful, dishonourable or unprofessional.

PENALTY

[21] Counsel provided the Panel a Joint Submission on Penalty and Costs (JSPC) as agreed upon by the parties. The JSPC read 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 six (6) weeks 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 months of the date of this Order or such longer period as determined by the Quality Assurance Committee, the Registrant is required to successfully complete all outstanding Quality Assurance requirements including the requirements under Path 3 of the Quality Assurance Program, at the direction of the Quality Assurance Committee;
 - (b) Within six months of the date of this Order, the Registrant is required to successfully complete, at her own expense, the College's online Jurisprudence Education Module, and shall provide proof acceptable to the Registrar in writing that she has completed and passed the course;
 - (c) The Registrant must respond to all College communications within fifteen (15) days, unless an earlier response date is requested; and
4. The Registrant is required to pay to the College costs in the amount of \$3,000.00 within 10 months of the date of this Order.

SUBMISSIONS OF THE PARTIES ON PENALTY AND COSTS

[22] The College submitted that the primary principles to consider when building a penalty include specific deterrence, general deterrence, public confidence, and remediation and that the JSPC took all of these into account.

[23] The College noted that the mitigating factors in this matter were the Registrant's admission, which avoided a contested hearing and the fact that this was the Registrant's first appearance before the Discipline Committee. The College pointed out that the fact that this was a pattern of conduct and more than one single instance was an aggravating factor.

[24] The College also provided the Panel with cases, for the purpose of satisfying the Panel that the proposed penalty falls within a reasonable range. These cases included:

- a. College of Dental Hygienists of Ontario v Vincent (25 April 2017), Toronto (Discipline Committee)
- b. College of Massage Therapists of Ontario v Miller (25 February 2020), Toronto (Discipline Committee).

[25] The College submitted that with respect to costs, they are not part of the penalty because they are not meant to be punitive. The agreed upon amount reflected the Registrant's cooperation and her financial situation.

PENALTY DECISION

[26] The Panel carefully considered the JSPC, the oral submissions and cases provided and agreed the order was appropriate.

[27] The Panel 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 six (6) weeks 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 months of the date of this Order or such longer period as determined by the Quality Assurance Committee, the Registrant is required to successfully complete all outstanding Quality Assurance requirements including the requirements under Path 3 of the Quality Assurance Program, at the direction of the Quality Assurance Committee;
 - (b) Within six months of the date of this Order, the Registrant is required to successfully complete, at her own expense, the College's online Jurisprudence Education Module, and shall provide proof acceptable to the Registrar in writing that she has completed and passed the course;
 - (c) The Registrant must respond to all College communications within fifteen (15) days, unless an earlier response date is requested; and
4. The Registrant is required to pay to the College costs in the amount of \$3,000.00 within 10 months of the date of this Order.

REASONS FOR DECISION ON PENALTY

- [28] The Panel understands the importance of a joint submission by both parties with respect to penalty and costs. It further understands that it should not interfere with a joint submission unless doing so would put the administration of justice into disrepute. The Panel does not find this to be the need in the present case.
- [29] The Panel found the proposed penalty was appropriate in the circumstances. The reprimand will achieve general deterrence because it is public. It is also an opportunity for the Panel to express their disapproval of the conduct to the Registrant.
- [30] The suspension will achieve specific and general deterrence. A significant suspension of this nature will deter this Registrant from engaging in such conduct again and send a message to other members of the profession that this kind of conduct will not be tolerated. This will also facilitate public confidence by showing the public that the College takes these issues very seriously.
- [31] The terms, conditions and limitations, including the requirement to complete the Quality Assurance requirements and the online Jurisprudence Education Module will remediate the Registrant and ensure going forward, she avoid similar issues. This will also enhance public confidence by ensuring she will be ready to return to safe, ethical practice.
- [32] In considering the penalty, the Panel accepted there were mitigating factors, including that the Registrant had no prior discipline history with the College. However, the Panel was greatly concerned by this conduct and the fact that it was not an isolated incident but a pattern of behaviour.
- [33] With respect to costs, the Panel accepted that it has the authority to award costs under section 53.1 of the Code to ensure that the entire financial burden of investigating and prosecuting registrants who are found to have engaged in professional misconduct does not rest on the general membership of this profession (through their membership fees).
- [34] Having been the product of negotiation between the parties, the amount was reflective of the cooperation by the Registrant in the case (with her entering joint submissions on liability, penalty and costs) which contributed to more efficient proceedings, and the Registrant's ability to pay. The Panel found \$3,000 to be a reasonable amount in the circumstances.
- [35] At the conclusion of this hearing, the Registrant waived her right to an appeal and the Panel concluded by delivering its reprimand orally to the Registrant.

I, Amit Vig, 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:

Dated this 6th day of August, 2021



Amit Vig, Chair, Public Member of Council

Discipline Panel Members:

Paula Malcolmson, Non-Council Committee Member

Mary Yeomans, Non-Council Committee Member

Loree Beniuk, Public Member of Council

Michelle Atkinson, Professional Member of Council