

NOTICE OF PUBLICATION BAN

This is notice that the Discipline Committee ordered that no person shall publish, broadcast, or disclose the name of the client and/or any information that would disclose the personal health information of the Registrant or the identity of the client referred to during the hearing or in documents filed at the hearing, held on February 3, 2020.

The order was made pursuant to subsection 45(3) of the Health Professions Procedural Code (the "Code"), which is Schedule 2 to the *Regulated Health Professions Act, 1991*, S.O. 1991, c. 18, as amended.

Subsection 93(1) of the Code, which is concerned with failure to comply with these orders, reads: Every person who contravenes an order made under section 45 or 47 is guilty of an offence and on conviction is liable,

- a) in the case of an individual to a fine of not more than \$25,000 for a first offence and not more than \$50,000 for a second or subsequent offence; or
- b) in the case of a corporation to a fine of not more than \$50,000 for a first offence and not more than \$200,000 for a second or subsequent offence.

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

PANEL :

- Jillian Eles, Chair, Professional Member of Council**
- Yvonne Winkle, Public Member**
- Christine Ranson, Professional Member of Council**
- Margaret Wade, Public Member**
- Paula Malcomson, Professional Non-Council Member**

BETWEEN:

College of Dental Hygienists of Ontario) Natasha Danson, for the
) College of Dental Hygienists of
) Ontario
)
- and -)
)
)
Christine Quinton (Registration No. 005245)) Todd Burke, for the Member
)
)
) Elyse Sunshine, Independent
) Legal Counsel
)
)
) Heard: February 3, 2020

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 in Toronto on February 3, 2020.
- [2] The hearing was uncontested. It proceeded by way of an Agreed Statement of Facts and a Joint Submission on Penalty and Costs, which were jointly proposed by the counsel for the College of Dental Hygienists of Ontario ("the College") and the Registrant, Christine Quinton (the "Registrant").
- [3] At the conclusion of the hearing, the Panel delivered its findings and penalty order orally, with written reasons to follow.

ALLEGATIONS

- [4] The Notice of Hearing, dated November 6, 2019, was filed as Exhibit 1 and set out the following:
 - 1. 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 practising in Chatham, Ontario.

The Client

- 2. It is alleged that in or about September 2009, a male client (the "Client") began attending the dental clinic where the Registrant was employed (the "Clinic").
- 3. It is alleged that in or about May 2013, the Registrant first provided dental hygiene treatment to the Client at the Clinic. The Registrant continued to provide dental hygiene treatment to the Client at the Clinic until in or about November 2018.
- 4. It is alleged that from in or about 2015 to in or about 2018, the Registrant and the Client entered into a sexual relationship, which included sexual intercourse and other sexual touching, including oral to genital touching.

Professional Misconduct Alleged

- 5. It is alleged that the above conduct constitutes professional misconduct pursuant to one or more of the following:

- a. clause 51(1)(b.1) of the Health Professions Procedural Code, being Schedule 2 to the *Regulated Health Professions Act, 1991* (the "Code") (sexual abuse of a patient, more specifically, sexual intercourse or other forms of physical sexual relations between the member and the patient and/or behaviour or remarks of a sexual nature by the member towards the patient); and/or
- b. clause 51(1)(c) of the Code and as defined in one or more of the following paragraphs of section 15 of Ontario Regulation 218/94 made under the *Dental Hygiene Act, 1991*:
 - i. paragraph 2 (contravening a standard of practice of the profession or failing to maintain the standard of practice of the profession); and/or
 - ii. paragraph 52 (disgraceful, dishonourable or unprofessional conduct); and/or
 - iii. paragraph 53 (conduct unbecoming a dental hygienist)

AGREED STATEMENT OF FACTS

[5] The parties advised the Panel that the evidence would be provided by way of an Agreed Statement of Facts, which was filed as Exhibit 2. The Agreed Statement of Facts provided as follows:

1. 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 practising in Chatham, Ontario.

The Client

2. In September 2009, the Client began attending the Clinic where Ms. Quinton was employed.
3. In May 2013, Ms. Quinton first provided dental hygiene treatment to the Client at the Clinic. Ms. Quinton continued to provide dental hygiene treatment to the Client at the Clinic until November 2018.
4. From 2016 to 2018, Ms. Quinton and the Client entered into a sexual relationship, which included sexual intercourse and other sexual touching, including oral to genital touching.

Professional Misconduct Admitted

5. It is agreed that the above conduct constitutes professional misconduct pursuant to:
 - a. clause 51(1)(b.1) of the Code (sexual abuse of a patient, more specifically, sexual intercourse or other forms of physical sexual relations between the member and the patient and/or behaviour or remarks of a sexual nature by the member towards the patient); and
 - b. clause 51(1)(c) of the Code and as defined in the following paragraphs of section 15 of Ontario Regulation 218/94 made under the Dental Hygiene Act, 1991:
 - i. paragraph 2 (contravening a standard of practice of the profession or failing to maintain the standard of practice of the profession);
 - ii. paragraph 52 (disgraceful, dishonourable or unprofessional conduct); and
 - iii. paragraph 53 (conduct unbecoming a dental hygienist).
6. By this document, the Registrant states that:
 - a. she understands fully the nature of the allegations against her;
 - b. 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;
 - c. she understands that any agreement between her and the College with respect to penalty does not bind the Discipline Committee;
 - d. 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 may be reported in the College's publication Milestones and the website of the College; and
 - e. she is executing this document voluntarily and after receiving, or having had the opportunity to receive, legal advice.

REGISTRANT'S PLEA

- [6] The Registrant admitted the acts of professional misconduct as set out in the Agreed Statement of Facts.
- [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 parties jointly submitted that the facts contained in the Agreed Statement of Facts and the admission of the Registrant supported the findings of misconduct as alleged.
- [9] The College submitted that the Registrant admitted to having a concurrent sexual and treating relationship and as a result, the acts of misconduct had been made out.

DECISION AND REASONS ON LIABILITY

- [10] The Panel carefully considered the Agreed Statement of Facts and the Registrant's plea, and finds that the facts fully support the finding of professional misconducts set out in the Notice of Hearing and Agreed Statement of Facts.
- [11] By having a sexual relationship with a patient, which included among other things, sexual intercourse, the Registrant had engaged in sexual abuse of a patient pursuant to section. 51(1)(b.1) of the Code. This conduct constitutes a failure to maintain the standards of practice of the profession, for which no expert evidence is required, contrary to paragraph 2 of clause 51(1)(c) of the Code.
- [12] A concurrent sexual and patient relationship is also conduct that would be viewed by members of the profession as disgraceful, dishonourable or unprofessional contrary and is further conduct unbecoming a dental hygienist.

POSITION OF THE PARTIES ON PENALTY AND COSTS

- [13] 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 which provided as follows:

1. Ms. Quinton is required to appear before a panel of the Discipline Committee immediately following the hearing of this matter to be reprimanded, with the fact of the reprimand and the text of the reprimand to appear on the public register of the College.
2. The Registrar is directed to revoke Ms. Quinton's certificate of registration effective immediately.
3. Ms. Quinton is required to reimburse the College for funding provided to the Client under the program required under section 85.7 of the Code.
4. Ms. Quinton is required to pay to the College costs in the amount of \$2,000 within six (6) months of the date of this Order, payable in monthly installments of \$350 commencing on the date of this Order, with the exception of the sixth and last payment, which will be in the amount of \$250.

SUBMISSIONS OF THE PARTIES ON PENALTY AND COSTS

College Submissions

- [14] Counsel for the College submitted that many of the aspects of the JSPC were mandatory and there was little discretion, specifically, revocation and the reprimand.
- [15] With respect to the portion of the proposed penalty which would require the Registrant to post reimburse the College for funding for therapy provided to the Client under the program required under section 85.7 of the Code, this would achieve general deterrence. Although the Client has not yet made a claim for funding, it is possible he may do so at some point in the future.
- [16] Regarding the proposed costs order, the College indicated that costs are not part of the penalty but are ordered to ensure that the membership of this College does not bear the entire financial burden of the hearing expenses in cases where registrants are found to have engaged in professional misconduct. The College submitted that the cost award can also reflect the degree of the Registrant's cooperation with the College, which reduces hearing costs.
- [17] Finally, the College submitted that the JSPC should be accepted unless to do so would be so unreasonable in the circumstances that it would bring the proceedings of this Discipline Committee into disrepute. The College submitted that this high threshold for rejecting a joint submission has not been met in this case.

Registrant Submissions

- [18] The Registrant agreed that the Panel did not have discretion when it came to revocation and the reprimand. The Registrant put forward, as mitigating factors, her personal circumstances.

DECISION AND REASONS ON PENALTY AND COSTS


- [19] The Panel carefully considered the JSPC, the applicable legislation and the oral submissions.
- [20] The Panel understands its legal obligation to accept a joint submission unless doing so would bring the administration of justice into dispute or is otherwise contrary to the public interest. The JSPC does not do this.
- [21] The Panel considered the terms of the JSPC and concluded that they meet the requirements of the Code and the needs of this case and address the legal principles relevant to setting an appropriate Order. The Panel recognized that the law requires the imposition of the penalty of a mandatory revocation and oral reprimand.
- [22] The Registrant has co-operated with the College and, by agreeing to the facts and the proposed penalty, has accepted responsibility for her actions and has avoided the unnecessary expense to the College of a contested hearing. The Panel considered its statutory obligation, taking into account the specific facts and circumstances of this case. The Panel also considered the aggravating and mitigating factors referred to by the parties.
- [23] The Panel considered the Registrant's statement that since she graduated in 1993, she was an exemplary dental hygienist and loved her position as a dental hygienist. The Panel heard that the Registrant is regretful of her actions. However despite these submissions, her conduct is unacceptable and is contrary to the Code.
- [24] Ultimately, the Panel was of the opinion that the Order appropriately addresses the principles of public protection, general deterrence and specific deterrence. The Registrant admitted to the facts in the Agreed Statement of Facts which indicated that between the years of 2016-2018, the Registrant engaged in a concurrent sexual and patient relationship while being a registered dental hygienist with the College. Under the Code, these actions constitute professional misconduct and as such binds this Panel to instruct the Registrar to revoke the Registrant's certificate of registration. The law preventing a concurrent sexual and treatment relationship is well known among regulated health professionals and it is the individual dental hygienist's responsibility to ensure the rule of law is upheld in the interest of public safety.

- [25] Given all of the facts and circumstance surrounding this case, the Panel agreed that there could be no other penalty other than that set out in the JSPC.
- [26] On the issue of costs, the Panel agreed that this was an appropriate case for costs to be awarded to ensure that the general membership of the College does not bear the entire financial burden of prosecuting registrants who are found to have engaged in acts of professional misconduct. The Panel accepted that the proposed amount was reasonable.

ORDER

- [27] The Panel stated its findings in its written order of February 3, 2020 (the "Order"), in which it directed the following on the matter of penalty and costs:
1. Ms. Quinton is required to appear before a panel of the Discipline Committee immediately following the hearing of this matter to be reprimanded, with the fact of the reprimand and the text of the reprimand to appear on the public register of the College.
 2. The Registrar is directed to revoke Ms. Quinton's certificate of registration effective immediately.
 3. Ms. Quinton is required to reimburse the College for funding provided to the Client under the program required under section 85.7 of the Code.
 4. Ms. Quinton is required to pay to the College costs in the amount of \$2,000 within six (6) months of the date of this Order, payable in monthly installments of \$350 commencing on the date of this Order, with the exception of the sixth and last payment, which will be in the amount of \$250.
- [28] At the conclusion of the hearing, the Registrant waived her right of appeal and the reprimand was administered by the Panel.

I, **Jillian Eles**, sign this decision and reasons for the decision as Chair of this Discipline Panel and on behalf of the members of the Discipline Panel



Jillian Eles, Chair, Discipline Panel

3-March-2020

Date