



**Name of Registrant / Nom du membre**

Judy Villanueva (referred August 18, 2017 / renvoyée le 18 août 2017)

**Date of Hearing / Date de l'audience**

January 26, 2018 / le 26 janvier 2018

**Summary of Hearing / Résumé de l'audience**

Ms. Judy Villanueva, a registrant of the College of Dental Hygienists of Ontario (the College), was alleged to have contravened a term, condition or limitation on her certificate of registration imposed by the Registrar as directed by the Quality Assurance Committee. The term, condition or limitation prohibited Ms. Villanueva from practising dental hygiene until she successfully completed a directed Remediation Program which included Process of Care, Record-keeping and Professional Portfolio Development. Ms. Villanueva was also required to successfully complete the Online Jurisprudence Education Module. It was alleged that Ms. Villanueva practised dental hygiene when prohibited from doing so. Ms. Villanueva was referred to the Inquiries, Complaints and Reports Committee (ICRC). The ICRC referred specified allegations to the Discipline Committee.

On January 26, 2018, a panel of the Discipline Committee of the College of Dental Hygienists (the "panel") held a public hearing and found that Ms. Judy Villanueva had engaged in professional misconduct including failing to co-operate with the Quality Assurance Committee, contravening a term, condition or limitation period imposed on her certificate of registration, failing to respond appropriately and responsively to a written inquiry made by the College, Committee or Panel, failing to cooperate with an investigator, and unprofessional conduct and conduct unbecoming of a dental hygienist. The panel directed the Registrar to immediately revoke Ms. Villanueva's certificate of registration and Ms. Villanueva was ordered to pay costs of \$8,500 to the College. For more information, please read the full decision of the Discipline Committee regarding Ms. Villanueva.

A full text copy of the Decision and Reasons follows in English only.

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Madame Judy Villanueva, une membre autorisée de l'Ordre des hygiénistes dentaires de l'Ontario (l'Ordre), faisait l'objet d'allégations de violation des modalités, conditions ou restrictions imposées sur son certificat d'inscription par la registraire, à la recommandation du comité d'assurance de la qualité. Ces modalités, conditions ou restrictions interdisaient à Madame Villanueva d'exercer l'hygiène dentaire avant d'avoir réussi un programme de remédiation, qui comprenait le processus des soins, la tenue des dossiers et le développement d'un portfolio professionnel. Madame Villanueva devait également compléter avec succès le module d'éducation sur la jurisprudence en

ligne. Il avait été présumé que Madame Villanueva avait exercé l'hygiène dentaire lorsque cela lui avait été interdit. Madame Villanueva a été renvoyée au comité des enquêtes, des plaintes et des rapports (ICRC). Ce comité a renvoyé des allégations particulières au comité de discipline.

Le 26 janvier 2018, un sous-comité de discipline de l'Ordre des hygiénistes dentaires (« le sous-comité ») a tenu une audience publique et a constaté que Madame Judy Villanueva avait commis une faute professionnelle en omettant de coopérer avec le comité d'assurance de la qualité, en enfreignant une modalité, une condition ou une période de restriction imposée sur son certificat d'inscription, en omettant de répondre de façon adéquate et sensible à une demande écrite de l'Ordre, d'un comité ou d'un sous-comité, en omettant de coopérer avec un enquêteur, en adoptant un comportement non professionnel et inconvenant pour une hygiéniste dentaire. Le sous-comité a prescrit à la registraire de révoquer immédiatement le certificat d'inscription de Madame Villanueva, et cette dernière devait payer à l'Ordre des coûts de 8 500 \$. Pour en apprendre davantage, veuillez lire la décision intégrale du comité de discipline concernant Madame Villanueva.

Vous trouverez plus bas la copie du texte intégral de la décision et des motifs en anglais seulement.



## **DECISION AND REASONS FOR DECISION**

This matter was heard by a Panel of the Discipline Committee of the College of Dental Hygienists of Ontario on January 26, 2018.

As Ms. Judy Villanueva was not present, the hearing recessed for fifteen (15) minutes to allow time for her to appear. Upon reconvening, the Panel noted that Ms. Judy Villanueva was not in attendance and was not represented by counsel.

Council for the College provided the Panel with evidence that Ms. Judy Villanueva had been sent the Notice of Hearing on October 20, 2017. The Panel was satisfied that Ms. Judy Villanueva had received adequate notice of the time, date, place and purpose of the hearing and therefore proceeded with the hearing in her absence.

## **THE ALLEGATIONS**

The allegations against Ms. Judy Villanueva as stated in the Notice of Hearing dated September 5, 2017 are as follows:

1. Ms. Judy Villanueva (the “Registrant”) is a duly registered member of the College of Dental Hygienists of Ontario (the “College”).
2. At the material times, the Registrant practised dental hygiene on a part-time basis in Oakville, Ontario.
3. On or about August 22, 2016, the Registrar of the College, directed by the Quality Assurance Committee, imposed a term, condition and limitation on the Registrant’s certificate of registration prohibiting her from practicing dental hygiene until she successfully completed a directed Remediation Program which included Process of Care, Record Keeping and Professional Portfolio Development, as well as successful completion of the Online Jurisprudence Module.
4. The Registrant has not yet provided the Quality Assurance Committee proof of having completed the directed Remediation Program or proof of having completed the Online Jurisprudence Module.
5. It is alleged that in contravention of the term, condition and limitation on her certificate of registration, the Registrant practiced dental hygiene on or about the following dates and treated the associated number of patients each day:
  - a. On or about August 23, 2016 – five clients;
  - b. On or about September 7, 2016 – eight clients;
  - c. On or about September 19, 2016 – seven clients
  - d. On or about October 4, 2016 – eight clients; and
  - e. On or about November 21, 2016 – six clients.

6. It is further alleged that the Registrant failed to cooperate with the College's investigation, including failing to respond to the investigator's attempts to contact her and failing to provide a written response to the Inquiries, Complaints and Reports Committee with respect to the results of the investigation.
7. It is alleged that the above conduct constitutes professional misconduct pursuant to:
  - a. Clause 51(b.0.1) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991* (the "Code") (failing to co-operate with the Quality Assurance Committee); 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 under the *Dental Hygiene Act, 1991*:
    - i. paragraph 1 (contravening a term, condition or limitation period imposed on the member's certificate of registration); and/or
    - ii. paragraph 43 (failing to respond appropriately and responsively to a written inquiry made by the College); and/or
    - iii. paragraph 45 (failing to comply with an order or direction of a Committee or a Panel of a Committee of the College); and/or
    - iv. paragraph 50 (failing to cooperate with an investigator); and/or
    - v. paragraph 52 (disgraceful, dishonourable or unprofessional conduct); and  
or
    - vi. paragraph 53 (conduct unbecoming of a dental hygienist).

#### **REGISTRANT'S PLEA:**

Given Ms. Judy Villanueva was not present at the hearing, nor represented by counsel, she was deemed to have denied the allegations in the Notice of Hearing. The hearing proceeded on the basis that the College bears the onus of proving the allegations in the Notice of Hearing against Ms. Judy Villanueva on a balance of probabilities.

## **THE EVIDENCE:**

The Panel relied on a Certificate from Lisa Taylor, Registrar, College of Dental Hygienists of Ontario dated November 28, 2017, stating that Ms. Judy Villanueva became registered with the College of Dental Hygienists of Ontario on July 10, 2009 and was suspended between February 2015 and March 2015 for non-payment of fees. In August 2016, she was required to cease practicing dental hygiene until the successful completion of a remediation program and the completion of an Online Jurisprudence Module. At the time of the hearing this has not been completed. Ms. Villanueva's certificate of registration was suspended on February 23, 2017 for non-payment of fees and remains suspended as of the date of this Certificate.

The Panel relied on the testimony of Robert Farinaccia, Manager, Quality Assurance, College of Dental Hygienists of Ontario who testified that the Quality Assurance Committee intended to impose terms, conditions and limitations on Ms. Villanueva. He advised Ms. Villanueva that she needed to cease to practice dental hygiene until she has completed a Remediation Program.

The College submitted, based on Mr. Farinaccia's testimony, that the Registrant either knew or ought to have known about the suspension of her Certificate of Registration and that she has to date, failed to satisfy the requirements of the Terms, Conditions and Limitations. Furthermore, at the time of the hearing there have been no updates to Ms. Villanueva's current status.

The Panel relied on the testimony of Stephanie Blacker, an independent, third party investigator with Benard and Associates appointed by the College of Dental Hygienists of Ontario. Ms. Blacker is a licensed investigator for regulatory and other bodies. The records Ms. Blacker obtained include email correspondence, correspondence via courier, day sheets and patient charts showing the patients treated by the Registrant on the days she was at the clinic. Furthermore, Ms. Blacker testified that the Registrant failed to cooperate with the College's investigation, including failing to respond to the investigators attempts to contact her.

The Panel relied on the testimony of Eva Rosenstock, Manager, Complaints and Investigations, College of Dental Hygienists of Ontario who testified that the Registrant failed to cooperate with the College's investigation, including failing to provide a written response to the Inquiries, Complaints and Reports Committee with respect to the results of the investigation.

### **Onus of Proof**

The hearing proceeded on the basis that the College bears the onus of proving the allegations in the Notice of Hearing against Ms. Judy Villanueva on a balance of probabilities.

### **Finding of Fact:**

The Panel found that the allegations set out in the Statement of Allegations had been proved by the College through the testimony of witnesses called and documentary evidence at the hearing.

The Committee made the following findings of fact that substantiated the allegations in the Notice of Hearing. The facts and relevant provisions of the legislation are set out in the allegations noted above.

### **Non-attendance of the Registrant at the Hearing:**

The Registrant failed to appear at the Discipline Hearing when duly served. The Discipline Panel had the jurisdiction to proceed with the hearing in the absence of the Registrant.

### **Facts:**

Given Ms. Judy Villanueva was not present, nor represented by counsel, she is deemed to have denied the allegations in the Notice of Hearing. However, the Panel noted that there was no evidence presented on behalf of the registrant and nothing to refute the evidence presented by the College.

### **Finding:**

Having considered the evidence and the onus and standard of proof, the Panel finds that Ms. Judy Villanueva committed acts of professional misconduct as alleged in the Notice of Hearing. Ms. Villanueva committed acts of professional misconduct including: failing to co-operate with the Quality Assurance Committee, contravening a term, condition or limitation period imposed on the member's certificate of registration, failing to respond appropriately and responsively to a written inquiry made by the College, Committee or Panel, failing to cooperate with an investigator, and unprofessional conduct and conduct unbecoming of a dental hygienist.

### **Reasons for Decision:**

The Panel finds it regrettable that Ms. Villanueva chose not to attend or participate in the governance process of the College numerous times and that Ms. Villanueva did not attend the Hearing.

The Panel found that Ms. Villanueva committed acts of professional misconduct as stated in allegations #1-7 of the Notice of Hearing. The Panel unanimously found through the compelling and uncontroverted evidence presented by the College that the Registrant failed to comply with an ICRC decision and direction as well as a direction of the Quality Assurance committee. The failure to complete the requirements of the Quality Assurance Committee and the ICRC is an act of professional misconduct as defined in the following paragraphs of section 15 pursuant to Ontario Regulation 218/94 under the *Dental Hygiene Act 1991* paragraph 45(failure to comply with an order or direction of a Committee of the College), and/or paragraph 52 (disgraceful, dishonourable or unprofessional conduct), and/or paragraph 53 (conduct unbecoming a dental hygienist).

### **Order on Penalty and Costs**

#### **Penalty Submissions:**

The College sought revocation of Ms. Villanueva's certificate of registration.

The College submitted that revocation was appropriate because Ms. Villanueva through her conduct demonstrated that she was not willing to be governed. She ignored the directions of two different College Committees. The College submitted that the registrant had a total disregard for the authority of the College.

**Penalty Decision:**

The Panel orders the revocation of the Registrant's Certificate of Registration effective immediately.

**Reasons for the Penalty Decision:**

The Panel has determined that the penalty imposed appropriately addresses the principles of penalty which include public protection, general deterrence and specific deterrence.

The panel found that Ms. Villanueva demonstrated that she was ungovernable by way of her failure to comply with the direction and requirements of both the ICRC and the Quality Assurance Committee.

The Registrant ignored the process, failed to communicate with the College, and comply with Orders from the Quality Assurance Committee. The panel also noted that Ms. Villanueva's certificate of registration was suspended for non-payment of fees.

The Panel agrees the revocation order for the misconduct in this case is appropriate. It demonstrates to registrants and the public that the unprofessional behaviour is a serious breach of the regulations governing the profession of dental hygiene.

The seriousness of the penalty acts as a specific deterrent, as it relays to the Registrant that the college will punish professional misconduct that demonstrates a fundamental disregard for public protection. The Panel considered the following aggravating factors in this case: failure to comply with two Statutory Committee decisions, respond to messages from the college, disregard of the college and failure to respond to the Notice of Hearing. Furthermore, the Registrant was not in attendance and not represented. The Panel feels the registrant clearly demonstrated that she was ungovernable.

The Panel took into consideration similar cases submitted by counsel (*College of Dental Hygienists of Ontario v. Thon* (2016), *College of Dental Hygienists of Ontario v. Allen* (2014), *College of Nurses of Ontario v. Nahwegahbow*, (2005), *Law Society of Upper Canada v. Woodley*, (1995,)) and agreed that the seriousness of the Penalty was appropriate with the conduct of this registrant.

**Cost Submissions:**

The College sought costs in the amount of \$8,500.00 payable within 30 days.

With respect to the costs being sought, the College submitted that the costs were based on only a portion of the College's costs which included the investigation costs, the College's legal costs and the estimated cost of the hearing. The Panel relied on the evidence set out in the Affidavit of Andrea Lowes, Director Professional Conduct, College of Dental Hygienists of Ontario dated January 17, 2018, which outlined the total costs and expenses incurred by the College. The College submitted that the request for costs was fair and reasonable for a member found guilty of professional misconduct. The member should be required to pay a portion of the costs of the hearing which are otherwise borne by the profession. As the member nor counsel were present, the member did not make any submission on costs.

**Cost Decisions:**

The panel orders that Ms. Villanueva shall pay the amount of \$8,500.00 payable within 30 days after the Order becomes final.

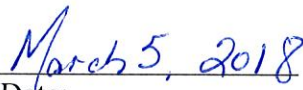
**Reasons for Costs Decision:**

With respect to costs, the Panel heard evidence as to the actual costs of the Investigation and Discipline hearing borne by the College. It is fair and reasonable that a member found guilty of professional misconduct pay a portion of these costs which are otherwise borne by the profession.

I, Caroline Lotz, sign this decision and reasons for the decision as Chair of the Discipline panel and on behalf of the Discipline panel as listed below

Dated in Toronto this 5<sup>th</sup> day of March 2018.

  
\_\_\_\_\_  
Caroline Lotz, Chair, Discipline Panel

  
\_\_\_\_\_  
Date:

**Discipline Panel Members:**

Betty Le, Professional Member  
Helen Lightstone, Public Member