



Name of Registrant: - Sarah Clifford

Date of Hearing: - May 06, 2011

Decision

In a hearing held on May 06, 2011, a Panel of the Discipline Committee found Ms. Sarah Clifford guilty of professional misconduct in that she received a benefit from the practice of dental hygiene while suspended, failed to pay money owing to the College, failed to reply appropriately or within 30 days to an inquiry by the College, failed to comply with an order or direction of a Panel of a Committee of the College, contravened the *Dental Hygiene Act, 1991*, the *RHPA* or the regulations thereunder, acted disgracefully, dishonourably or unprofessionally, and engaged in conduct that was unbecoming a dental hygienist.

The Notice of Hearing contained the following specified allegations against Sarah Clifford:

1. Sarah Elizabeth Clifford was a duly registered dental hygienist.
2. Ms. Clifford first became registered with the College of Dental Hygienists of Ontario in or about 2003.
3. On or about August 21, 2009, Ms. Clifford was found guilty of professional misconduct by a Panel of the Discipline Committee of the College.
4. The conduct which formed the basis for the finding of professional misconduct against Ms. Clifford was practising while suspended and failing to respond appropriately and in a timely manner to the College.
5. The penalty that Ms. Clifford received included a reprimand, a suspension of three months, with one month suspended if she complied with the remainder of the Order. Terms, conditions and limitations were also imposed requiring Ms. Clifford to complete an Ethics and Jurisprudence course within six months of the date the Discipline Panel's order became final and to respond appropriately and within 30 days to written enquiries

of the College. Costs of \$2000 were ordered payable by Ms. Clifford to the College to be paid within 12 months after the completion of the initial two-month suspension.

6. It was alleged that Ms. Clifford had not complied with the Order of the Discipline Committee in that she did not complete an Ethics and Jurisprudence course within the time period set out in the Discipline Panel's Order, she did not respond within 30 days to written inquiries of the College on numerous occasions and she did not pay the costs owing to the College.
7. It was further alleged that Ms. Clifford's certificate of registration was suspended for non-payment of fees on or about February 16, 2010.
8. It was further alleged that Ms. Clifford practised dental hygiene in or about February 2010 and/or in or about April 2010, despite her certificate of registration being suspended.
9. It was alleged that Ms. Clifford was ungovernable.
10. It was alleged that the conduct described above constitutes professional misconduct pursuant to paragraph 38 (receiving a benefit from the practice of dental hygiene while suspended); and/or paragraph 41 (failing to pay money owing to the College); and/or paragraph 43 (failing to reply appropriately or within 30 days to an inquiry by the College); and/or paragraph 45 (failing to comply with an order or direction of a panel of a Committee of the College); and/or paragraph 47 (contravening the *Act*, the *RHPA* or the regulations thereunder, specifically practising while suspended, contrary to subsection 13(2) of the *Health Professions Procedural Code*, being Schedule 2 to the *RHPA* and section 9 of the *Dental Hygiene Act, 1991*); and/or paragraph 52 (disgraceful, dishonourable or unprofessional conduct); and/or paragraph 53 (conduct unbecoming a dental hygienist) of section 15 of Ontario Regulation 218/94, as amended to Ontario Regulation 382/08, under the *Dental Hygiene Act, 1991*.

Sarah Clifford did not attend the hearing. Two affidavits of service were filed showing that Ms. Clifford was served with the Notice of Hearing duly informing her of the date, time and place of the hearing. After an appropriate waiting period, the Panel proceeded with the hearing in her absence. When a registrant refuses or fails to appear at a discipline hearing, when duly served, the Discipline Panel has the jurisdiction to proceed with the hearing in the absence of

the registrant. A registrant cannot avoid the discipline process by a failure to respond to the Notice of Hearing. Given Ms. Clifford's failure to attend upon the hearing, the Panel entered a plea on her behalf of "not guilty" to the allegations of professional misconduct in the Notice of Hearing.

The College filed Ms. Clifford's 2010 reinstatement application form and a Book of Documents and called a witness to support the allegations in the Notice of Hearing. The Panel considered the documentary evidence and oral testimony and found that the allegations of fact set out in the Notice of Hearing were supported by the information contained in the Book of Documents and the testimony of the witness, which was accepted by the Panel. The Panel found that Ms. Clifford failed to co-operate with the College as required under the Regulations. She did not respond to written or telephone communications from the College and did not comply with the prior Order of the Discipline Committee.

The Panel made the following order on penalty and costs:

1. Ms. Clifford's certificate of registration shall be revoked immediately.
2. Ms. Clifford shall pay to the College the amount of \$5,000.00 in costs, payable in 12 equal monthly installments of \$416.66, commencing on the first day of each month, within 30 days of the Discipline Panel's order becoming final, or within such other period as may be agreed upon by Ms. Clifford and the College.

The Panel considered that the penalty it imposed appropriately addressed the principles to be taken into account in assessing penalty, which include public protection, general deterrence and specific deterrence.

The revocation Order was appropriate given the seriousness of the misconduct and the Committee's finding of ungovernability. The public must be protected against ungovernable registrants.

By way of general deterrence, the seriousness of the penalty communicates to the profession that such misconduct would not be tolerated. By way of specific deterrence, it told the registrant that the College would punish acts in disregard of the College's public protection mandate.

The Panel wanted to send a strong message that compliance with the regulatory body, the orders of discipline committees, and the regulatory requirements for dental hygienists, was fundamental to the practice of dental hygiene. The obligation to maintain a current certificate of registration and not to practise without one is one of many regulations that are in place to ensure that the public receives safe and effective dental hygiene care. Ms. Clifford's continued practice as a dental hygienist after suspension of her certificate of registration demonstrated a serious disregard for the laws that govern the practice of dental hygienists.

Ms. Clifford's failure to respond to the College in an appropriate and timely way and her non-compliance with a previous discipline committee order demonstrated a clear disregard by her for the College's mandate to govern its registrants in the public interest.

The Panel considered the following aggravating factors in this case:

- Failure to respond to numerous communications from the College over an extended period
- Disrespect for the legislative mandate of the College
- Conduct that clearly indicates that the registrant is ungovernable
- Failure to comply with a previous Discipline Committee's order to complete an Ethics and Jurisprudence course and fully pay the costs owing to the College
- Failure to respond to the Notice of Hearing and absence from the hearing

The Panel considered the fact that this was Ms. Clifford's second time before the Discipline Committee. The Panel was disappointed that the registrant had not learned from her first Discipline Committee decision. It did not appear that she has made any significant effort to improve her professional conduct and behaviour.

The Panel concluded by the proved misconduct that Ms. Clifford has forfeited her claim to a certificate of registration as a dental hygienist in Ontario. Revocation was the appropriate remedy in such circumstances.