

DISCIPLINE COMMITTEE
OF THE COLLEGE OF DENTAL TECHNOLOGISTS OF ONTARIO

PANEL: Terence Price, Chairperson, Public Member
George Paraskevopoulos, Member
Vincent Chan, Member

BETWEEN:

COLLEGE OF DENTAL TECHNOLOGISTS)	Jordan Glick for College
OF ONTARIO)	of Dental Technologists of Ontario
)	
- and -)	
)	
Richard Charlebois)	R. Paul Marshall and Porter Heffernan
)	for Richard Charlebois
)	
)	
)	Johanna Braden,
)	Independent Legal Counsel
)	
)	Heard: July 21, 2016

DECISION AND REASONS

This matter came on for hearing before a panel of the Discipline Committee (the “Panel”) of the College of Dental Technologists of Ontario (“the College”) on July 21, 2016, at Toronto.

The Allegations

The allegations against Richard Charlebois (the “Member”) as stated in the Notice of Hearing dated February 29, 2016 are as follows.

1. You committed an act or acts of professional misconduct as provided by subsection 51(1)(c) of the *Health Professions Procedural Code of the Dental Technology Act, 1991*, as amended, and subsection 1(2) of *Ontario Regulation 798/93*, as amended, in that, while engaged in the practice of dental technology as the president, principal owner and sole supervising Registered Dental Technologist (“RDT”) at Classic Dental Laboratories Ltd. (the “Lab”) in Ottawa, Ontario, you failed to maintain a standard of practice of the profession when you:

- (a) were absent from the Lab for more than 30 days during the 2014 calendar year without hiring a replacement RDT;

- (b) were absent from the Lab for more than 2 calendar weeks in a 6 week period beginning September 21, 2014 without hiring a replacement RDT;
- (c) were absent from the Lab for more than two calendar weeks for the four month periods beginning May 1, 2014 and September 1, 2014 without hiring a replacement RDT;
- (d) failed to supervise, oversee and/or review the design, construction, repair and/or alteration of each dental prosthetic, restorative or orthodontic device that was processed in the laboratory including, but not limited to, crown/bridge cases and denture and orthodontic cases;
- (e) failed to supervise, oversee and/or review colour matching as well as to stamp and initial the prescription, invoice and/or work order relating to the colour stamp for the periods when you were away from the office during the 2014 calendar year; and,
- (f) failed to stamp the invoice or other document authorizing the release of cases processed at the Lab during the 2012-2014 calendar years.

2. You committed an act or acts of professional misconduct as provided by subsection 51(1)(c) of the *Health Professions Procedural Code* of the *Dental Technology Act, 1991*, as amended, and subsections 1(6) and/or 1(34) of *Ontario Regulation 798/93*, as amended, in that, while engaged in the practice of dental technology as the president, principal owner and sole supervising RDT at the Lab in Ottawa, Ontario, you knowingly subcontracted dental technological services and/or engaged in conduct or performed an act or acts relevant to the practice of dental technology that, having regard to all the circumstances, would reasonably be regarded by members of the profession as disgraceful, dishonourable or unprofessional when you, during or about the 2012-2014 calendar years:

- (a) directed and/or permitted the design, construction, repair or alteration of a dental prosthetics or orthodontic device at the Lab where the technical aspects of the design, construction, repair or alteration were not supervised by an RDT;
- (b) directed and/or permitted individuals who were not RDT's to supervise the technical aspects of the design, construction, repair or alteration of a dental prosthetic, restorative or orthodontic device.

3. You committed an act or acts of professional misconduct as provided by subsection 51(1)(c) of the *Health Professions Procedural Code of the Dental Technology Act, 1991*, as amended, and subsections 1(24) and/or 1(34) of *Ontario Regulation 798/93*, as amended, in that, while engaged in the practice of dental technology as the president, principal owner and sole supervising RDT at the Lab in Ottawa, Ontario, you signed and/or issued, in your professional capacity, a document that you knew contained a false and/or misleading statement and/or engaged in conduct or performed an act or acts relevant to the practice of dental technology that, having regard to all the circumstances, would reasonably be regarded by members of the profession as disgraceful, dishonourable or unprofessional when you issued invoices that contained your RDT number for cases that you did not supervise during the 2012-2014 calendar years.

Member's Plea

The Member admitted the allegations set out in paragraphs 1, 2 and 3 in the Statement of Allegations appended to the Notice of Hearing. The Panel conducted an oral plea inquiry and was satisfied that the Member's admissions were voluntary, informed and unequivocal.

Agreed Statement of Facts

Counsel for the College and the member advised the Panel that agreement had been reached on the facts and introduced an Agreed Statement of Facts, which reads as follows.

The parties agree that the Discipline Committee of the College of Dental Technologists of Ontario (the "**College**") may accept the following facts as true:

EVIDENCE REGARDING THE MEMBER

4. Now, and at all times relevant to the allegations and to the admissions below, Mr. Richard Charlebois ("**Mr. Charlebois**" or the "**Member**") was a Registered Dental Technologist with the College. At all times relevant, Mr. Charlebois was the President, principal owner and sole Supervising Registered Dental Technologist at Classic Dental Laboratories Ltd. (the "**Lab**") in Ottawa, Ontario.
5. The Lab is among the largest Ontario with about 60 employees, the majority of whom are technical employees. The lab produces a variety of dental devices including crowns, bridges, orthodontics and dentures.

EVIDENCE REGARDING SUPERVISION

6. The Member:
 - (a) was absent from the Lab for more than 30 days during the 2014 calendar year without hiring a replacement RDT;

- (b) was absent from the Lab for more than 2 calendar weeks in a 6 week period beginning September 21, 2014 without hiring a replacement RDT;
- (c) was absent from the Lab for more than two calendar weeks for the four month periods beginning May 1, 2014 and September 1, 2014 without hiring a replacement RDT;
- (d) failed to supervise, oversee and review the design, construction, repair and alteration of dental prosthetic, restorative and orthodontic devices that were processed in the laboratory including crown/bridge cases and denture and orthodontic cases;
- (e) failed to supervise, oversee and review colour matching as well as to stamp and initial the prescription, invoice and work order relating to the colour matching for the periods when he was away from the office during the 2014 calendar year; and,
- (f) failed to stamp the invoice or other document authorizing the release of cases processed at the Lab during the 2012-2014 calendar years.
- (g) directed the design, construction, repair or alteration of dental prosthetics and orthodontic devices at the Lab where the technical aspects of the design, construction, repair or alteration were not supervised by an RDT during the 2012-2014 calendar years.
- (h) directed individuals who were not RDT's to supervise the technical aspects of the design, construction, repair and alteration of dental prosthetics, restorative and orthodontic device.
- (i) issued invoices that contained his RDT number for cases that he did not supervise during the 2012-2014 calendar years.

ADMISSIONS

4. By virtue of the above conduct as more particularized below, the Member admits to having committed professional misconduct as provided by subsection 51(1)(c) of the *Health Profession Procedural Code* by contravening the following sections of *Ontario Regulation 798/93* of the *Dental Technology Act, 1991*:

- (A) Section 1(2) (Failing to meet or contravening a standard of practice of the profession) by virtue of the conduct admitted to in paragraphs 1(a)-(h) above;
- (B) Section 1(6) (knowingly subcontracting dental technological services) by virtue of the conduct admitted to in paragraph 1(g) and (h);
- (C) Section 1(24) (signing and/or issuing, in a professional capacity, a document that he knew contained false and misleading statements) by virtue of the conduct admitted to in paragraphs 1(i); and,

Section 1(34) (engaging in conduct or performing an act or acts relevant to the practice of dental technology that, having regard to all the circumstances, would reasonably be regarded as disgraceful, dishonourable or unprofessional) by virtue of the conduct admitted to in paragraphs 1(a)-(i) above.

Decision

The Panel finds that the Member committed acts of professional misconduct as alleged in paragraphs 1, 2 and 3 of the Notice of Hearing. As to allegation 2, the Panel finds that the Member engaged in conduct that would reasonably be considered by members to be unprofessional. As to allegation 3, the Panel finds that the Member engaged in conduct that would reasonably be regarded as unprofessional and dishonourable.

Reasons for Decision

The Panel considered the Agreed Statement of Facts and the Member's plea and finds that this evidence supports findings of professional misconduct as alleged in the Notice of Hearing.

Allegation #1 in the Notice of Hearing is supported by paragraphs 4, 5, and 6 (a-f) in the Agreed Statement of Facts.

Allegation #2 in the Notice of Hearing is supported by paragraphs 4, 5, and 6 (g-h) in the Agreed Statement of Facts. With regard to Allegation #2 the Panel finds that the Member's conduct is unprofessional because he failed to maintain the standard of practice of the profession as required under Ontario Regulation 798/91 (subsection 1(1)), and specifically disregarded his obligations as required by the Laboratory Supervision Standards of the College. Such a disregard for the Member's professional obligations would reasonably be regarded by members of the profession as unprofessional.

Allegation #3 in the Notice of Hearing is supported by paragraphs 4, 5, and 6 (i) in the Agreed Statement of Facts. With regard to Allegation #3 the Panel finds that the Member's conduct is

unprofessional and dishonourable because he disregarded his obligations as required by the Laboratory Supervision Standards of the College of Dental Technologists of Ontario by continuing to issue invoices that contained his RDT number for cases not supervised by him over a three year period from 2012-2014. The Member ought to have known that his behaviour falls well below the standards of an RDT and such total disregard for the Member's professional obligations would reasonably be regarded by Members of the profession as both unprofessional and dishonourable. An element of deceit is involved in this conduct.

Penalty

Counsel for the College and the Member advised the Panel that a Joint Submission on Order had been agreed upon. The Joint Submission requests that this Panel make an order as follows.

1. Directing the Registrar to suspend the Member's certificate of registration for a period of six months, one month of which shall be remitted in the event that the Member complies with paragraph 2(a) of this Order and an additional one month of which shall be remitted in the event that the Member complies with paragraph 2(b) of this Order.¹ The first four months of the suspension shall begin on a day to be chosen by the Member but shall not begin later than September 1st, 2016.
2. Directing the Registrar to impose a term, condition and limitation on the Member's certificate of registration:
 - a) requiring the Member to receive supervision of his practice for a period of eighteen (18) months following completion of the suspension referred to in paragraph (1) on the following terms:
 - i. the supervisor shall be appointed by the Registrar and shall be a professional member of the College;
 - ii. the supervisor shall visit with the member at least every six (6) months at the Member's site(s) of practice for a total of three (3) supervisory visits. The site visits shall be unannounced;
 - iii. the supervisor shall determine the length of each visit;
 - iv. in conducting site visits, the supervisor shall review the Member's documentation relating to supervision including, but not limited to, supervisory logs and invoices to ensure compliance with the College's supervision standard. The

¹ In the event that either paragraph 2(a) or 2(b) is not complied with within the timeframe provided, any further period of suspension which is not remitted shall be served beginning eighteen (18) months after the conclusion of the compulsory four month suspension.

supervisor may also engage the Member and his employees relating to supervision at the Member's lab and measures that have been taken in order to ensure that regulations and standards are being adhered to;

v. the supervisor shall prepare a report to the Registrar for every site visit that will be provided directly to the Registrar;

vi. the Member shall pay the costs of the supervision and report (to a maximum of \$500 per site visit and report) and shall fully reimburse the College for these costs within twenty (20) days of receiving an invoice from the College for the supervision; and,

(b) requiring the Member to draft an essay of no less than 1000 words explaining the importance of supervision as reflected in the College's Supervision Standard as well as applicable legislation and regulations, summarizing the Member's professional misconduct and identifying the steps that the Member has taken and will continue to take to ensure compliance on a go-forward basis. The essay must be provided to the Registrar before the completion of the compulsory four (4) month term of suspension.

3. Directing the Member to appear before the panel to be reprimanded and the fact of the reprimand to be recorded on the Public Register of the College.

4. Directing the Member to pay a fine in the amount of \$15,000.

5. Directing the Member to pay the College's costs fixed in the amount of \$15,000 to be paid by certified cheque according to the following schedule and provided that this Joint Submission as to Penalty is accepted in its entirety:

(i) \$10,000 to be paid within 7 days of the hearing; and,

(ii) \$5,000 to be paid within 120 days thereafter.

In the event that the Member does not pay \$10,000 within 7 days of the hearing, the payment of the entire \$15,000 becomes immediately due and enforceable.

6. The Member acknowledges that pursuant to section 56 of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991*, the decision and reasons, or a summary thereof, will be published in the College's annual report and may be published in any other publication of the College with the Member's name.

7. The Member acknowledges that this Joint Submission as to Penalty is not binding upon the Discipline Committee.

8. The Member acknowledges that he has had the chance to receive independent legal advice and did so before agreeing to this Joint Submission.

Penalty Submissions

Submissions regarding the goals of the proposed penalty were made by College Counsel and the Member's Counsel.

Specific deterrence would be provided by:

- the proposed suspension of the Member's certificate of registration,
- the requirement that the Registrar appoint a supervisor who will conduct three unannounced site visits to document the Member's supervision,
- the requirement that the Member submit to the College an essay explaining the importance of supervision as reflected in the College's Laboratory Supervision Standards, and
- the reprimand delivered by the Panel.

General deterrence serves as a reminder to the profession that members must not breach their professional obligations to the College and the public, and would be provided by:

- the proposed suspension of the Member's certificate of registration as this is a significant penalty,
- the proposed fine, and
- the proposed requirement that the Member pay the College's costs related to the investigation, the hearing and the cost of the supervisor.

Remediation, that is the correction of the Member's conduct, would be achieved by the Member submitting the essay and the requirement that the Member be supervised as outlined in the proposed penalty.

Counsel submitted cases to the Panel to demonstrate that the proposed penalty fell within the range of similar cases. There are no useful precedents from this Discipline Committee, however, College Counsel submitted cases from other tribunals in order to demonstrate to the Panel that the proposed penalty fell within the range of similar cases. These included a discipline case summary from the College of Physiotherapists (*College of Physiotherapists v. Bidaye*, Discipline Committee, Hearing Summary, 2004) and a discipline decision from the College of Physiotherapists (*College of Physiotherapists v. Bulsara*, 2015 ONCPD 4 (CanLII)). In both cases there were agreed statements of fact related to professional misconduct of members of the physiotherapy profession which included failure to supervise, improper delegation, and the issuance of false or misleading records. In both cases the penalty imposed required a suspension of the member's certificate of registration, a fine, the payment of costs to the college, a reprimand and remedial and supervisory terms, conditions and limitations on the member's certificate.

Penalty Decision

The Panel accepts the Joint Submission as to Order and accordingly orders:

1. The Registrar is directed to suspend the Member's certificate of registration for a period of six months, one month of which shall be remitted in the event that the Member complies with paragraph 2(a) of this Order and an additional one month of which shall be remitted in the event that the Member complies with paragraph 2(b) of this Order.ⁱⁱ The first four months of the suspension shall begin on a day to be chosen by the Member but shall not begin later than September 1st, 2016.
2. Directing the Registrar to impose a term, condition and limitation on the Member's certificate of registration:
 - a) requiring the Member to receive supervision of his practice for a period of eighteen (18) months following completion of the suspension referred to in paragraph (1) on the following terms:
 - i. the supervisor shall be appointed by the Registrar and shall be a professional member of the College;
 - ii. the supervisor shall visit with the member at least every six (6) months at the Member's site(s) of practice for a total of three (3) supervisory visits. The site visits shall be unannounced;
 - iii. the supervisor shall determine the length of each visit;
 - iv. in conducting site visits, the supervisor shall review the Member's documentation relating to supervision including, but not limited to, supervisory logs and invoices to ensure compliance with the College's supervision standard. The supervisor may also engage the Member and his employees relating to supervision at the Member's lab and measures that have been taken in order to ensure that regulations and standards are being adhered to;
 - v. the supervisor shall prepare a report to the Registrar for every site visit that will be provided directly to the Registrar;
 - vi. the Member shall pay the costs of the supervision and report (to a maximum of \$500 per site visit and report) and shall fully reimburse the College for these costs within twenty (20) days of receiving an invoice from the College for the supervision; and,

ⁱⁱ In the event that either paragraph 2(a) or 2(b) is not complied with within the timeframe provided, any further period of suspension which is not remitted shall be served beginning eighteen (18) months after the conclusion of the compulsory four month suspension.

- (b) requiring the Member to draft an essay of no less than 1000 words explaining the importance of supervision as reflected in the College's Supervision Standard as well as applicable legislation and regulations, summarizing the Member's professional misconduct and identifying the steps that the Member has taken and will continue to take to ensure compliance on a go-forward basis. The essay must be provided to the Registrar before the completion of the compulsory four (4) month term of suspension.
3. The Member shall appear before the Panel to be reprimanded and the fact of the reprimand will be recorded on the Public Register of the College.
4. The Member shall pay a fine in the amount of \$15,000.
5. The Member shall pay the College's costs fixed in the amount of \$15,000 to be paid by certified cheque according to the following schedule and provided that this Joint Submission as to Penalty is accepted in its entirety:
 - (i) \$10,000 to be paid within 7 days of the hearing; and,
 - (ii) \$5,000 to be paid within 120 days thereafter.

In the event that the Member does not pay \$10,000 within 7 days of the hearing, the payment of the entire \$15,000 becomes immediately due and enforceable.

Reasons for Penalty Decision

The Panel understands that the penalty ordered should protect the public and enhance public confidence in the ability of the College to regulate dental technologists. This is achieved through a penalty that addresses specific deterrence, general deterrence and, where appropriate, rehabilitation and remediation. The Panel also considered the penalty in light of the principle that joint submissions should not be interfered with lightly.

The Panel concluded that the penalty is reasonable and in the public interest. The Member has co-operated with the College and, by admitting to the allegations, agreeing to the facts and a proposed penalty, has accepted responsibility. The Panel finds that the penalty satisfies the principles of specific and general deterrence, rehabilitation and remediation, and public protection.


The penalty will serve as a general deterrent to the profession as it sends a clear message regarding the consequences of unprofessional and dishonorable behaviour of Registered Dental Technologists in Ontario. The Panel is also of the opinion that the rehabilitation and remediation of the Member is sufficiently addressed through the oral reprimand and the supervision of the Member's practice.

The Panel agrees that the penalty related to the fine and the order for costs is appropriate in this case.

I, Terence Price, sign this decision and reasons for the decision as Chairperson of this Discipline Panel and on behalf of the members of the Discipline Panel as listed below:



Terence Price, Chairperson



Date

Names of Panel members:

George Paraskevopoulos
Vincent Chan