

DISCIPLINE COMMITTEE
OF THE COLLEGE OF DENTAL TECHNOLOGISTS OF ONTARIO

PANEL: Terence Price, Chairperson. Public Member
Poonam Singh, Public Member
Sarah Cheah, Professional Member

BETWEEN:

COLLEGE OF DENTAL TECHNOLOGISTS)	Jordan Glick for College
OF ONTARIO)	of Dental Technologists of Ontario
)	
- and -)	
)	
JEFFREY VAN HOOYDONK)	Jeffrey Van Hooydonk, self-represented
)	
)	
)	
)	Andrea Gonsalves
)	Independent Legal Counsel
)	
)	Heard: November 4, 2020

DECISION AND REASONS

[1] 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 November 4, 2020, by video conference.

[2] At the outset of the hearing, the parties confirmed to the Panel their consent to proceeding with an electronic hearing and that they waived all procedural requirements in connection with the electronic hearing, including the requirement for a notice of electronic hearing.

The Allegations

[3] The allegations against Jeffrey Van Hooydonk (the “**Member**”) as set out in the Specified Allegations appended to the Notice of Hearing dated April 1, 2020, are as follows.

1. You committed an act or acts of professional misconduct as provided by subsection 51(1)(b.0.1) (failing to cooperate with the Quality Assurance Committee) of the *Health Professions Procedural Code* (the “**Code**”) of the *Dental Technology Act, 1991*, as amended (the “**Act**”) when you:

- (i) did not complete the requisite 90 continuing quality improvement credits for the 2015-2018 cycle;
 - (ii) failed to submit a Summary of Professional Development Profile (“**SPDP**”) and/or a record of the continuing education and professional development activities for the 3-year period ending on or about August 31, 2018 by the deadline and/or when requested;
 - (iii) failed to respond to follow-up correspondence regarding the failure to submit the SPDP by the August 31, 2018 deadline; and/or,
 - (iv) submitted your SPDP late and/or incomplete.
2. You committed an act or acts of professional misconduct as provided by subsection 51(1)(c) of the Code of the Act and subsections 1(31) of Ontario Regulation 798/93, as amended by contravening the Act, the RHPA or the regulations under the Act and specifically, when you failed to comply with Ontario Regulation 604/98 and sections 5(1) (obtaining 90 credits in a three year period), 5(5) (submitting the record) and 7(1) (submitting a declaration) when you:
- (i) did not complete the requisite 90 continuing quality improvement credits for the 2015-2018 cycle;
 - (ii) failed to submit the SPDP and/or a record of the continuing education and professional development activities for the 3-year period ending on or about August 31, 2018 by the deadline and/or when requested; and/or,
 - (iii) failed to submit a declaration attesting to the completion of 90 continuing quality improvement credits for the 2015-2018 years by August 31, 2018.
3. You committed an act or acts of professional misconduct as provided by subsection 51(1)(c) of the Code of the Act and subsections 1(34) of Ontario Regulation 798/93, as amended by 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 by members of the profession as disgraceful, dishonourable or unprofessional when you:
- (i) did not complete the requisite 90 continuing quality improvement credits for the 2015-2018 cycle;
 - (ii) failed to submit a SPDP and/or a record of the continuing education and professional development activities for the 3-year period ending on or about August 31, 2018 by the deadline and/or when requested;

- (iii) failed to respond to follow-up correspondence regarding the failure to submit the SPDP by the August 31, 2018 deadline; and/or,
- (iv) submitted your SPDP late and/or incomplete.

Member's Plea

[4] The Member then admitted to each of the allegations specified in 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

[5] Counsel for the College advised the Panel that the parties had reached an agreement on the facts. An Agreed Statement of Facts was presented to the Panel which provided as follows.

1. Now, and at all times relevant to the allegations and to the admissions below, Mr. Jeffrey Van Hooydonk (the "**Member**") was a registered dental technologist with the College.
2. In 1996, the College implemented a Quality Assurance Program ("**QAP**") under the *Dental Technology Act, 1991* and its regulations. The QAP prescribes that a Member must obtain at least 90 continuing quality improvement credits ("**Credits**") in every three-year period (a "**Cycle**"). The Credits reflect professional development activities and are required to be submitted by way of a "Summary of Professional Development Profile" ("**SPDP**") to the College before the end of each Cycle.
3. The Member was required to submit a SPDP for Credits received during the 2015-2018 Cycle by August 31st, 2018.
4. The Member did not submit his SPDP by August 31, 2018, nor did he complete the requisite 90 continuing quality improvement credits.
5. He was subsequently sent several reminders to complete the Credits and complete and submit the SPDP as soon as possible.
6. The Member did not respond to the reminders, nor did he submit his SPDP in response to the letters during the 2018 calendar year.
7. When the Member did not submit his SPDP and did not respond to correspondence, the Quality Assurance Committee referred the Member to the Inquiries, Complaints and Reports Committee ("**ICRC**"). The ICRC requested that the Registrar appoint an investigator to investigate the Member's conduct. On August 1, 2019, the Registrar appointed an investigator to investigate the Member's conduct.

8. On August 23, 2019, the Member submitted his SPDP for the 2015-2018 cycle. While the Member indicated that he completed a variety of activities, most of the activities undertaken were in 2019 and therefore outside the Cycle period. Even if all 2019 activities were included for the purpose of completion of the 2015-2018 cycle, the submission was still incomplete.
9. Between the years 2015-2019, the Member and his dental technology laboratory were experiencing significant financial hardship. In 2019 the Member sold his business to a member in good standing with the College.

ADMISSIONS

10. By virtue of the conduct admitted to above, the Member admits to having committed professional misconduct as alleged in paragraphs 1-3 of the Specified Allegations to the Notice of Hearing.
11. In particular, the Member admits that:
 - (a) He failed to cooperate with the Quality Assurance Committee as alleged in paragraph 1 of the Specified Allegations to the Notice of Hearing;
 - (b) He contravened the *Dental Technology Act* (the “Act”), the RHPA or regulations under the Act and specifically, failed to comply with Ontario Regulation 604/98 and sections 5(1) (obtaining 90 credits in a three year period), 5(5) (submitting the record) and 7(1) (submitting a declaration) as alleged in paragraph 2 of the Specified Allegations to the Notice of Hearing; and,
 - (c) He 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 as alleged in paragraph 3 of the Specified Allegations to the Notice of Hearing.

Decision

[6] The Panel found that the Member committed the acts of professional misconduct alleged in the Notice of Hearing. With respect to allegation 3, the Panel found that the Member engaged in conduct that would reasonably be regarded by members as unprofessional.

Reasons for Decision

[7] The Panel considered the Agreed Statement of Facts and the Member's admissions and finds that the evidence proves on a balance of probabilities the allegations of professional misconduct set out in the Notice of Hearing.

[8] Allegations 1 and 2 in the Notice of Hearing are supported by paragraphs 1 and 3 through 8 of the Agreed Statement of Facts. On the basis of that evidence, the Panel found on a balance of probabilities that the Member did not complete the required professional development activities for the 2015-2018 cycle. Further, the Member did not submit by August 31, 2018, the SPDP or other record that he had completed the necessary professional development credits, as he was required to do. Despite reminders from College staff, the member did not submit the SPDP profile or respond to the College, prompting the College's Registrar to appoint an investigator on August 1, 2019. The Member finally submitted his SPDP in August 2019, only after the investigator had been appointed to investigate his conduct. The SPDP that the Member ultimately submitted in 2019 was still incomplete.

[9] Ontario Regulation 604/98 under the *Dental Technology Act* imposes on Member's specific requirements relating to continuing professional development activities. Specifically:

- a. Subsection 5(1) requires each member to obtain at least 90 continuing quality improvement credits in every three-year period;
- b. Subsection 5(5) requires that upon receiving a request from the Quality Assurance Committee, a member shall submit his or her record to the Committee for review; and
- c. Subsection 7(1) requires each member to provide to the Committee, by August 31 of the third year of the three-year period mentioned in subsection 5(1), a declaration signed by the member attesting to the fact that the member has complied with the requirements of subsection 5(1).

[10] As a result of the conduct described in paragraph 8 above, the Member failed to cooperate with the College's Quality Assurance Committee. He also failed to comply with the requirements of subsections 5(1), 5(5) and 7(1) of the Ontario Regulation 604/98 and therefore committed professional misconduct under s. 51(1)(b0.1) and 51(1)(c) of the Code and s. 1(31) and 1(34) of Ontario Regulation 798/93.

[11] With regard to Allegation 3, the Panel finds that the Member's conduct would reasonably be regarded by members of the College as unprofessional because of his serious disregard for his professional responsibilities as set out in Regulation 604/98. The requirements that members of the College complete continuous professional development and cooperate with the College's Quality Assurance Committee are intended to ensure the public is protected. The Member ought to have known that his behaviour falls well below the standards of a Registered Dental Technologist and that such total disregard for the Member's professional obligations would reasonably be regarded by Members of the profession as unprofessional.

Penalty Submissions

[12] Counsel for the College advised the Panel that the parties had arrived at a Joint Submission on Order. The Joint Submission was presented to the Panel and requested that the Panel make an order as follows:

1. Directing the Registrar to suspend the Member's certificate of registration for a period of nine (9) months;
2. Directing the Member to appear, in-person or electronically, before a Panel of the Discipline Committee to be reprimanded immediately following the hearing and the facts of the reprimand to be recorded on the Public Register of the College.
3. Directing the Registrar to impose a term, condition and limitation on the Member's certificate of registration:
 - a) Requiring the Member to participate in up to three (3) practice assessments conducted by a College-appointed assessor following the conclusion of the suspension period. The cost of the practice assessments will be at the Member's expense to be paid on receipt of an invoice from the College;
 - b) Requiring the Member to provide to the Manager of Professional Conduct a completed self-assessment as prescribed in the Professional Development Profile as well as a list of completed continuing education courses, and a further list of anticipated courses that he will be taking to satisfy the requirements of the Quality Assurance Program with respect to continuing quality improvement credits for the 2019-2021 cycle. The Member must additionally provide proof of the completion of anticipated courses at the time of completion and/or revise the list of anticipated courses in the event of change. The Member must additionally reply to any inquiries from the Manger Professional Conduct regarding completion of coursework within the time prescribed in the inquiry.
4. Directing the Member to pay the College's costs fixed in the amount of \$2,500 immediately following the oral hearing of this matter.

[13] The Joint Submission also reflected the Member's understanding that pursuant to section 56 of the Health Professions Procedural Code, the Panel's 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.

[14] The College's counsel made submissions in support of the jointly proposed penalty and argued that it meets the goals of penalty. The Member supported the terms of the penalty by

signing the Joint Submission of Penalty on September 8, 2020 and his agreement was confirmed at the hearing on November 4, 2020.

[15] College counsel submitted that the Joint Submission serves the goal of specific deterrence by way of the reprimand, the lengthy nine-month suspension of the Member's certification of registration, and the term, condition and limitation on the Member's certificate of registration requiring him to provide to the Manager of Professional Conduct a completed self-assessment as prescribed in the Professional Development Profile as well as a list of completed continuing education courses, and a further list of anticipated courses that he will be taking to satisfy the requirements of the Quality Assurance Program with respect to continuing quality improvement credits for the 2019-2021 cycle.

[16] With respect to general deterrence, College counsel relied primary on the lengthy period of suspension, which will send a message to the profession generally that the College takes seriously members' obligations—and members' breaches of their obligations—to complete continuing education.

[17] The Joint Submission also provides for remediation and rehabilitation of the Member through the requirement that, upon completion of his suspension, the Member must provide to the Manager of Professional Conduct a completed self-assessment as prescribed in the Professional Development Profile as well as a list of completed continuing education courses, and a further list of anticipated courses that he will be taking to satisfy the requirements of the Quality Assurance Program with respect to continuing quality improvement credits for the 2019-2021 cycle. This requirement will ensure that the Member meets his obligations with respect to his 2019-21 Quality Assurance Program Cycle.

[18] College counsel submitted that although an order that the Member pay costs to the College is not part of the penalty and is not meant to be punitive, it helps defray the cost of these proceedings which are otherwise borne by the broader membership.

[19] College counsel submitted that generally a member who was found guilty of professional misconduct for not completing a Quality Assurance Program for a given cycle would be required to complete it as part of the Joint Submission of Order. In this case, however, College counsel indicated that due to the Members financial and professional situation it would be difficult for the Member to complete the quality assurance credits for the 2015-2018 cycle. Accordingly, the parties were not seeking it as a term of the Panel's Order.

[20] College counsel relied on the decision of the Discipline Committee of the College in *College of Dental Technologists of Ontario v Huszar* (2008) and *College of Dental Technologists of Ontario v Chan* (2017) to demonstrate that the proposed penalty falls within the range of penalties ordered in similar cases. In each of those cases, a panel of this Discipline Committee found that the member committed professional misconduct for reasons that related to the unsatisfactory completion of required professional development activities. In each case the Discipline Committee ordered a suspension of the member's certificate of registration; a term, condition and limitation requiring the member to complete the required professional

development activities to the satisfaction of the Coordinator, Quality Assurance of the College; and a reprimand. Each member was also ordered to pay a portion of the College's costs.

Penalty Decision

[21] The Panel accepted the Joint Submission and made the following order:

1. The Registrar is directed to suspend the Member's certificate of registration for a period of nine (9) months.
2. The Member shall appear, in-person or electronically, before a Panel of the Discipline Committee to be reprimanded immediately following the hearing and the fact of the reprimand shall be recorded on the Public Register of the College.
3. The Registrar is directed to impose a term, condition and limitation on the Member's certificate of registration:
 - a) Requiring the Member to participate in up to 3 practice assessments conducted by a College-appointed assessor following the conclusion of the suspension period. The cost of the practice assessments will be at the Member's expense to be paid on receipt of an invoice from the College;
 - b) Requiring the Member to provide to the Manager of Professional Conduct a completed self-assessment as prescribed in the Professional Development Profile as well as a list of completed continuing education courses, and a further list of anticipated courses that he will be taking to satisfy the requirements of the Quality Assurance Program with respect to continuing quality improvement credits for the 2019-2021 cycle. The Member must additionally provide proof of the completion of anticipated courses at the time of completion and/or revise the list of anticipated courses in the event of change. The Member must additionally reply to any inquiries from the Manager of Professional Conduct regarding completion of coursework within the time prescribed in the inquiry.
4. The Member shall pay the College's costs fixed in the amount of \$2,500 immediately following the oral hearing of this matter.

Reasons for Penalty Decision

[22] 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 be respected unless they fall so far outside the range of an appropriate sanction that they would bring the administration of justice at the College into disrepute, or are otherwise contrary to the public interest.

[23] The Panel concluded that the proposed penalty is reasonable and in the public interest. The Member has co-operated with the College in this discipline proceeding and, by 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.

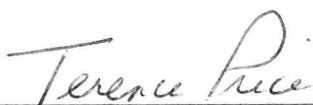
[24] The penalty will serve as a general deterrent to the profession as it sends a clear message to members of the College regarding the likely consequences they will face if they engage in similar unprofessional behaviour by failing to cooperate with the Quality Assurance Committee and fail to satisfy the continuing education requirements. The penalty, and in particular the lengthy suspension and reprimand, also serves the objective of specific deterrence to the Member. The Panel also finds that rehabilitation and remediation of the Member are sufficiently addressed through the requirement that the Member work with the College to ensure his 2019-2021 Quality Assurance Program is completed.

[25] The penalty protects the public by requiring the Member to provide to the Manager of Professional Conduct a completed self-assessment as prescribed in the Professional Development Profile as well as a list of completed continuing education courses, and a further list of anticipated courses that he will be taking to satisfy the requirements of the Quality Assurance Program with respect to continuing quality improvement credits for the 2019-2021 cycle. These terms will ensure that the Member meets his obligations with respect to his 2019-21 Quality Assurance Program cycle. The Panel accepted that although the order does not require the Member to complete the 2015-2018 cycle of the Quality Assurance Program, this is not contrary to the public interest in the circumstances of this case, having regard to (a) the Member's financial and professional situation, and (b) the fact that under the terms of the order his current cycle will be closely monitored by the College to ensure he meets the obligations required of all members.

Reprimand

[26] At the conclusion of the hearing, the Member indicated that he was prepared to receive the reprimand ordered by the Panel. The Member confirmed orally, on the record, that he waived his right of appeal. Accordingly, the Panel delivered the reprimand electronically, by video conference.

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
Poonam Singh
Sarah Cheah



Date