

21-0672

IN THE MATTER OF a Hearing of a panel of the Discipline Committee of the Royal College of Dental Surgeons of Ontario held pursuant to the provisions of the Health Professions Procedural Code which is Schedule 2 to the *Regulated Health Professions Act, 1991*, Statutes of Ontario, 1991, Chapter 18 (“*Code*”) respecting one **DR. CHRISTY (KA YEE) CHAN**, of the City of Richmond Hill, in the Province of Ontario;

AND IN THE MATTER OF the *Dentistry Act* and Ontario Regulation 853, Regulations of Ontario, 1993, as amended (“*Dentistry Act Regulation*”);

AND IN THE MATTER OF the *Statutory Powers Procedure Act*, Revised Statutes of Ontario, 1990, Chapter S.22, as amended; 1993, Chapter 27; 1994, Chapter 27.

NOTICE OF PUBLICATION BAN

This is formal notice that on May 18, 2022, the panel of the Discipline Committee of the Royal College of Dental Surgeons of Ontario made an Order directing that no person shall publish or broadcast the identity of any patients of the Member, or any information that could disclose the identity of any patients who are named in the Notice of Hearing and/or the Agreed Statement of Facts in this matter.

This Order is made pursuant to subsection 45(3) of the *Code*.

Subsection 93(1) of the *Code* reads:

93(1) Every person who contravenes an order made under subsection 7(3) or Section 45 or 47, or who contravenes subsection 76(3), 82(2) or (3), 85.2(1), 85.5(1) or (2) or 85.14(2) or Section 92.1 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.



Dr. Richard Hunter, Chair
Discipline Panel

May 18, 2022

Date

**THE DISCIPLINE COMMITTEE OF THE
ROYAL COLLEGE OF DENTAL SURGEONS OF ONTARIO**

IN THE MATTER OF a Hearing of a panel of the Discipline Committee of the Royal College of Dental Surgeons of Ontario held pursuant to the provisions of the Health Professions Procedural Code which is Schedule 2 to the *Regulated Health Professions Act, 1991*, Statutes of Ontario, 1991, Chapter 18 (“Code”) respecting one **DR. CHRISTY (KA-YEE) CHAN**, of the City of Richmond Hill, in the Province of Ontario;

AND IN THE MATTER OF the *Dentistry Act* and Ontario Regulation 853, Regulations of Ontario, 1993, as amended (“Dentistry Act Regulation).

Members in Attendance: Dr. Richard Hunter, Chair
 Dr. Rajiv Butany
 Mr. Brian Smith

BETWEEN:

ROYAL COLLEGE OF DENTAL SURGEONS OF ONTARIO) Appearances:)) Andrea Gonsalves) Independent Counsel for the) Discipline Committee of the Royal) College of Dental Surgeons of Ontario
- and -)) Megan Shortreed) For the Royal College of Dental) Surgeons of Ontario)) Gary Srebrolow) For Dr. Christy (Ka-Yee) Chan
DR. CHRISTY (KA-YEE) CHAN	

Hearing held by way of videoconference on May 18, 2022

REASONS FOR DECISION

This matter came on for hearing before a panel of the Discipline Committee (the “Panel”) of the Royal College of Dental Surgeons of Ontario (the “College”) in Toronto on May 18, 2022. This matter was heard electronically.

At the outset of the hearing, the Member sought an order banning the publication of the names of patients, or any information that could be used to identify the patients, referred to in this matter, except the Member. The College did not object to the request. The Panel granted the order, which extends to the exhibits filed, as well as to these reasons for decision.

THE ALLEGATIONS

The allegations against the Member are set out in a notice of hearing, dated August 9, 2021, as follows:

1. You committed an act or acts of professional misconduct as provided by s.51(1)(c) of the Health Professions Procedural Code of the *Regulated Health Professions Act, 1991*, Statutes of Ontario, 1991, Chapter 18 in that you signed or issued a certificate, report or similar document that you knew or ought to have known contained a false, misleading or improper statement relative to the following four patients during the year(s) 2015, 2016, 2017 and/or 2018, contrary to paragraph 28 of Section 2 of Ontario Regulation 853, Regulations of Ontario, 1993, as amended.

Particulars:

- You submitted claims for services provided to yourself (Christy Yung/Ka Yee Chan) and patients (P Y, P.C Y/J Y 1 and J Y 2) that were not provided and/or were not recorded in the patient records as having been provided.

<u>Patient</u>	<u>Date(s) [on or about]</u>
Yung, Christy	Dec. 16/17; Dec. 23/17; Feb. 20/18; Feb. 23/18; Mar. 9/18;
Chan, Ka Yee	Jan. 14/15; Jan. 20/15; Apr. 01/15; Sept. 08/15;

	Dec. 16/15; Feb. 17/16; Feb. 24/16; Mar. 09/16; Sept. 21/16; Sept. 28/16; Dec. 28/16; Feb. 21/17; Mar. 08/17; Oct. 23/17; Jan. 02/18; Jan. 03/18;
Y, P	Jan. 15/15; Jan. 18/15; Jan. 22/15; Dec. 30/15; Feb. 05/16; Mar. 06/16; Jun. 03/16; Sept. 14/16; Sept. 16/16; Sept. 25/16; Dec. 31/16; May 20/17; Oct. 23/17; Nov. 11/17; Dec. 16/17; Dec. 23/17; Jan. 02/18; Jan. 03/18; Feb. 23/18; Feb. 24/18;
Y, P.C	Jan. 15/15; Jun. 03/16;
Y, J 1	Sept. 14/16; Sept. 16/16; Sept. 20/16; Sept. 25/16; Dec. 31/16; Feb. 21/17; Jul. 08/17; Oct. 23/17; Nov. 09/17; Dec. 16/17; Dec. 23/17; Dec. 27/17; Jan. 02/18; Jan. 03/18; Feb. 20/18; Feb. 23/18;
Y, J 2	Mar. 04/15; Apr. 09/16; May 09/16; Jun. 03/16; Jun. 04/16; Sept. 14/16; Oct. 07/16; Dec. 31/16; Feb. 21/17; Mar. 09/17; Oct. 23/17; Nov. 09/17; Dec. 16/17; Dec. 23/17; Dec. 27/17; Jan. 02/18; Jan. 03/18; Feb. 20/18; Feb. 23/18

- You submitted and/or arranged for the submission on your behalf of claims for services under the provider number and name of a provider (Dr. Maria Tuason) who did not provide the service, and at a location (10-2450 Sheppard Avenue East, North York) where the service was not provided.

<u>Patient</u>	<u>Date(s) [on or about]</u>
Chan, Ka Yee	Jan. 14/15; Jan. 20/15; Apr. 01/15; Sept. 08/15; Dec. 16/15; Feb. 17/16; Feb. 24/16; Mar. 09/16; Sept. 21/16; Sept. 28/16; Dec. 28/16; Mar. 08/17

- You submitted and/or arranged for the submission on your behalf of claims for services rendered to you (Christy Yung/Ka Yee Chan) and patients (P Y, P.C. Y, J Y 1 and J Y 2) that had previously been submitted under a different insurance policy.

<u>Patient</u>	<u>Year(s)</u>	<u>Certificate</u>
Yung, Christy	2017, 2018	31
Chan, Ka Yee	2016, 2017, 2018	1810004
Chan, Ka Yee	2015, 2016, 2017	1182
Y, P	2017, 2018	31
Y, P	2015, 2016	1182
Y, P	2016, 2017, 2018	1810004
Y, P.C	2015, 2016	1182
Y, J 1	2017, 2018	31
Y, J 1	2016, 2017, 2018	1810004
Y, J 2	2016, 2017, 2018	1810004
Y, J 2	2017, 2018	31
Y, J 2	2016	1182

- You committed an act or acts of professional misconduct as provided by s.51(1)(c) of the Health Professions Procedural Code of the *Regulated Health Professions Act, 1991*, Statutes of Ontario, 1991, Chapter 18 in that you submitted an account or charge for dental services that you knew or ought to have known was false or misleading relative to one or more of the following patients during the year(s) 2015, 2016, 2017 and/or 2018, contrary to paragraph 33 of Section 2 of Ontario Regulation 853, Regulations of Ontario, 1993, as amended.

Particulars:

- You submitted claims for services provided to yourself (Christy Yung/Ka Yee Chan) and patients (P Y, P.C Y/J Y 1 and J Y 2) that were not provided and/or were not recorded in the patient records as having been provided.

<u>Patient</u>	<u>Date(s) [on or about]</u>
Yung, Christy	Dec. 16/17; Dec. 23/17; Feb. 20/18; Feb. 23/18; Mar. 9/18;
Chan, Ka Yee	Jan. 14/15; Jan. 20/15; Apr. 01/15; Sept. 08/15; Dec. 16/15; Feb. 17/16; Feb. 24/16; Mar. 09/16; Sept. 21/16; Sept. 28/16; Dec. 28/16; Feb. 21/17; Mar. 08/17; Oct. 23/17; Jan. 02/18; Jan. 03/18;
Y, P	Jan. 15/15; Jan. 18/15; Jan. 22/15; Dec. 30/15; Feb. 05/16; Mar. 06/16; Jun. 03/16; Sept. 14/16; Sept. 16/16; Sept. 25/16; Dec. 31/16; May 20/17; Oct. 23/17; Nov. 11/17; Dec. 16/17; Dec. 23/17; Jan. 02/18; Jan. 03/18; Feb. 23/18; Feb. 24/18;
Y, P.C	Jan. 15/15; Jun. 03/16;
Y, J 1	Sept. 14/16; Sept. 16/16; Sept. 20/16; Sept. 25/16; Dec. 31/16; Feb. 21/17; Jul. 08/17; Oct. 23/17; Nov. 09/17; Dec. 16/17; Dec. 23/17; Dec. 27/17; Jan. 02/18; Jan. 03/18; Feb. 20/18; Feb. 23/18;
Y, J 2	Mar. 04/15; Apr. 09/16; May 09/16; Jun. 03/16; Jun. 04/16; Sept. 14/16; Oct. 07/16; Dec. 31/16; Feb. 21/17; Mar. 09/17; Oct. 23/17; Nov. 09/17; Dec. 16/17; Dec. 23/17; Dec. 27/17; Jan. 02/18; Jan. 03/18; Feb. 20/18; Feb. 23/18

- You submitted and/or arranged for the submission on your behalf of claims for services under the provider number and name of a provider (Dr. Maria Tuason) who did not provide the service, and at a location (10-2450 Sheppard Avenue East, North York) where the service was not provided.

<u>Patient</u>	<u>Date(s) [on or about]</u>
Chan, Ka Yee	Jan. 14/15; Jan. 20/15; Apr. 01/15; Sept. 08/15; Dec. 16/15; Feb. 17/16; Feb. 24/16; Mar. 09/16; Sept. 21/16; Sept. 28/16; Dec. 28/16; Mar. 08/17

- You submitted and/or arranged for the submission on your behalf of claims for services rendered to you (Christy Yung/Ka Yee Chan) and patients (P Y, P.C Y/J Y 1 and J Y 2) that had previously been submitted under a different insurance policy.

<u>Patient</u>	<u>Year(s)</u>	<u>Certificate</u>
Yung, Christy	2017, 2018	31
Chan, Ka Yee	2016, 2017, 2018	1810004
Chan, Ka Yee	2015, 2016, 2017	1182
Y, P	2017, 2018	31
Y, P	2015, 2016	1182
Y, P	2016, 2017, 2018	1810004
Y, P.C	2015, 2016	1182
Y, J 1	2017, 2018	31
Y, J 1	2016, 2017, 2018	1810004
Y, J 2	2016, 2017, 2018	1810004
Y, J 2	2017, 2018	31
Y, J 2	2016	1182

- You committed an act or acts of professional misconduct as provided by s.51(1)(c) of the Health Professions Procedural Code, being Schedule 2 of the *Regulated Health Professions Act, 1991*, Statutes of Ontario, 1991, Chapter 18 in that, in or around the years during the year(s) 2015, 2016, 2017 and/or 2018, you engaged in conduct or performed an act or acts that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable, unprofessional or unethical, contrary to paragraph 59 of Section 2 of Ontario Regulation 853, Regulations of Ontario, 1993, as amended.

Particulars:

- You billed for and/or provided treatment to yourself, which demonstrates very poor judgment and raises concerns regarding your professional ethics.
- You submitted and/or arranged for the submission on your behalf of claims for services rendered to you under two different names (Ka Yee Chan and Christy Yung), in order to mislead the insurance company that you were not both the patient and the provider.
- You submitted and/or arranged for the submission on your behalf of claims for services under the provider number and name of a provider (Dr. Maria Tuason) who did not provide the service, and at a location (10-2450 Sheppard Avenue East, North York) where the service was not provided.
- You submitted claims for services provided by you to patients (P Y, P.C Y/J Y 1 and J Y 2) that were not provided.
- Your conduct would reasonably be regarded by members as disgraceful, dishonourable, unprofessional or unethical.

THE MEMBER'S PLEA

The Member admitted the allegations of professional misconduct contained in the Notice of Hearing. The Member signed a written plea inquiry, which was entered into evidence at the hearing (Exhibit 2), and she confirmed at the hearing that she understood the contents of the document. The Panel was satisfied that Member's admissions were voluntary, informed and unequivocal.

THE EVIDENCE

On consent of the parties, the College introduced into evidence an Agreed Statement of Facts (Exhibit 3). The Agreed Statement of Facts provides as follows:

Background

1. Dr. Christy (Ka-Yee) Chan (the “Member”) has been registered with the Royal College of Dental Surgeons (the “College”) as a general dentist since 2003.
2. At all relevant times, the Member practiced at two different locations:
 - (a) 21-280 West Beaver Creek, Richmond Hill, ON (the “Primary Practice”), and
 - (b) 10-2450 Sheppard Avenue East, North York, ON (the “Tuason Practice”).
3. The Member has no discipline history with the College.

Notice of Hearing

4. The allegations of professional misconduct against the member are set out in the Notice of Hearing dated August 9, 2021 (attached at **Tab A** [*omitted from these Reasons*]).
5. The College and the Member have agreed to resolve the allegations on the basis of the facts and admissions set out below.

Facts and admissions

A. The Complaint and Investigation

6. The facts giving rise to the allegations in the Notice of Hearing came to the attention of the College through a complaint received July 24, 2018 from Ingrid Fortenbacher, an investigator at Sun Life Assurance of Canada (“Sun Life”). Ms. Fortenbacher’s complaint alleged that the Member had submitted false claims in relation to treatment that the Member had provided to P.Y., P.C.Y., J.Y. 1, J.Y. 2, under three different policies of insurance. Ms. Fortenbacher expressed concerns about the validity of the treatment provided given “the frequency of repeat restorations”. Sun Life also raised concerns about the validity and/or appropriateness of claims submitted in

relation to a patient identified as “Ka-Yee Chan” at the Tuason Practice where the Member practised as an associate, which had been submitted in the name of another dentist, Dr. Tuason.

7. On August 3 and 7, 2018, College investigators attended at the Member’s Primary Practice. Despite previously being informed that Dr. Chan kept office hours on those dates, the office was closed.
8. On August 7, 2018, College investigators attended at the Tuason Practice where the Member practices as an associate. During this attendance, the investigators attempted to contact the Member by telephone, but were unable to contact her.
9. The investigators spoke with Dr. Maria Tuason. Dr. Tuason told the investigators that she had provided treatment to the Member on one occasion, to prepare a crown, but she had not inserted the crown. Otherwise, she had provided no treatment to the Member.
10. The investigators obtained records for P.Y., J.Y.1 , and for “Ka Yee Chan” and “Christy Chan” (both names used by the Member), from the Tuason Practice.
11. On August 8, 2018, College investigators attended at the Member’s Primary Practice. The investigators obtained patient records for P.Y., J.Y.1, and P.C.Y. The investigators also obtained appointment schedules relating to dates of treatment set out in the complaint. Records for the Member and J.Y.2 could not be located during the attendance.
12. The Member confirmed to Ms. Waterhouse that she had provided dental treatment to herself. Dr. Chan said that she does her own hygiene treatments and she places Class V restorations with no local anesthetic in her own mouth.
13. On the evening of August 8, 2018, the Member emailed the College a submission which stated that certain insurance submissions may have been sent more than once in error.

14. On August 15, 2018, the Member sent the College patient records for herself and J.Y.2. The Member noted that these records were incomplete, as she did not maintain or make as complete records as she ought to have.
15. On August 28, 2018, Dr. Chan told a College investigator that her records were incomplete and as a result, she was creating and updating patient records “based on her memory”.
16. During the course of the investigation, the College received additional financial records, claims submissions, radiographs and transcripts of chart entries from the Member.
17. The College provided a copy of the Report of Investigation to the Member dated April 2, 2019 and sent her the complete Record of Investigation on December 24, 2020.
18. The Member provided submissions on August 8, 2018, May 28, 2019, January 20, 2021, and July 19, 2021.
19. The Inquiries, Reports and Complaints Committee issued its decision referring specified allegations of professional misconduct to the Discipline Committee, on August 3, 2021 (**Tab B** [omitted from these Reasons]).

B. Allegations 1 and 2: False and Misleading or Improper Statements and Accounts in Relation to Treatment Not Performed as Claimed

20. A summary of claims made to Sun Life by the Member in respect of herself and P.Y., P.C.Y., J.Y.1, J.Y.2, from her Primary Practice between 2015 and 2018 is attached at **Tab C** [omitted from these Reasons].
21. If the Member were to testify, she would maintain that she reimbursed Sun Life for all amounts requested by the insurer to be paid back.
22. At the time these claims, P.C.Y. was between ages 3 and 6, and J.Y.2 was between ages 1 and 3. Many of the claims are for multi-surface restorations, some on teeth that had been previously restored.

23. A summary of claims made to Sun Life by the Member in respect of herself, under the provider name “Dr. Maria Tuason”, from the Tuason Practice between 2015 and 2017 is attached at **Tab D** [omitted from these Reasons].
24. The College’s investigation identified several instances in which the Member billed and claimed for procedures for herself (under the names Christy Yung/Ka Yee Chan) and P.Y.; J.Y. 1, P.C.Y.; , J.Y. 2, but which do not appear to have been performed based on the chart and the radiographs.
25. Specifically, the Member admits that she made false, misleading or improper statements or filed false or misleading accounts with respect to the following claims submitted:
- (a) Claims for services provided to herself (Christy Yung/Ka Yee Chan) and P.Y., P.C.Y. , J.Y. 1 and J.Y. 2 that were not provided and/or were not recorded in the patient records as having been provided, as follows:

Patient	Date(s)
Yung, Christy (self)	Dec. 16/17 Dec. 23/17 Feb. 20/18 Feb. 23/18 Mar. 9/18
Chan, Ka Yee (self)	Jan. 14/15 Jan. 20/15 Apr. 01/15 Sept. 08/15 Dec. 16/15 Feb. 17/16 Feb. 24/16 Mar. 09/16 Sept. 21/16 Sept. 28/16 Dec. 28/16 Feb. 21/17 Mar. 08/17 Oct. 23/17 Jan. 02/18 Jan. 03 /18
Y., P.	Jan. 15/15

Patient	Date(s)
	Jan. 18/15 Jan. 22/15 Dec. 30/15 Feb. 05/16 Mar. 06/16 Jun. 03/16 Sept. 14/16 Sept.16/16 Sept. 25/16 Dec. 31/16 May 20/17 Oct. 23/17 Nov. 11/17 Dec. 16/17 Dec. 23/17 Jan. 02/18 Jan. 03/18 Feb. 23/18 Feb 24/18
Y., P.C.	Jan. 15/15 Jun. 03/16
Y., J. 1	Sept. 14/16 Sept. 16/16 Sept. 20/16 Sept. 25/16 Dec. 31/16 Feb. 21/17 Jul. 08/17 Oct. 23/17 Nov. 09/17 Dec. 16/17 Dec. 23/17 Dec. 27/17 Jan. 02/18 Jan. 03/18 Feb. 20/18 Feb. 23/18
Y., J. 2	Mar. 04/15 Apr. 09/16 May 09/16 Jun. 03/16 Jun. 04/16 Sept. 14/16 Oct. 07/16 Dec. 31/16 Feb. 21/17 Mar. 09/17

Patient	Date(s)
	Oct. 23/17 Nov. 09/17 Dec. 16/17 Dec. 23/17 Dec. 27/17 Jan. 02/18 Jan. 03/18 Feb. 20/18 Feb. 23/18

- (b) Claims for services provided to herself under the provider number and name of a provider (Dr. Tuason) who did not provide the service, and at a location (the Tuason Practice) where the service was not provided:

Patient	Date(s) [on or about]
Chan, Ka Yee (self)	Jan. 14/15 Jan. 20/15 Apr. 01/15 Sept. 08/15 Dec. 16/15 Feb.17/16 Feb. 24/16 Mar. 09/16 Sept. 21/16 Sept. 28/16 Dec. 28/16 Mar. 08/17

- (c) Claims for services rendered to herself (Christy Yung/Ka Yee Chan) and P.Y., P.C.Y., J.Y. 1 and J.Y. 2 that had previously been submitted under a different insurance policy:

Patient	Year(s)	Certificate
Yung, Christy	2017, 2018	31
Chan, Ka Yee	2016, 2017, 2018	1810004
Chan, Ka Yee	2015, 2016, 2017	1182

Y., P.	2017, 2018	31
Y., P.	2015, 2016	1182
Y., P.	2016, 2017, 2018	1810004
Y., P.C.	2015, 2016	1182
Y., J. 1	2017, 2018	31
Y., J. 1	2016, 2017, 2018	1810004
Y., J. 2	2016, 2017, 2018	1810004
Y., J. 2	2017, 2018	31
Y., J. 2	2016	1182

26. If the Member were to testify, she would maintain that a significant amount of the treatment was provided, including the treatment on herself, and that the false or misleading claims were as a result of poor recordkeeping. The evidence obtained by the College indicates that there were more than 160 claims on the above-noted dates without any supporting documentation justifying the multi-surface restorations or repeated work on the same surfaces within short time periods, including:

- i. 23 claims for herself
- ii. 44 claims for P.Y.
- iii. 59 claims for P.C.Y, many for restorations on the same teeth
- iv. approximately 40 claims for J.Y.2

27. Therefore, the Member admits that she:

- (a) signed or issued a certificate, report or similar document that she knew or ought to have known contained a false, misleading or improper statement, contrary to paragraph 28 of Section 2 of the Dentistry Act Regulation, as set out in Allegation 1 of the Notice of Hearing; and

- (b) submitted an account or charge for dental services that she knew or ought to have known was false or misleading, contrary to paragraph 33 of Section 2 of the Dentistry Act Regulation, as set out in Allegation 2 of the Notice of Hearing.

C. Allegation 3 – Disgraceful, Dishonourable, Unprofessional and Unethical Conduct

28. The Member admits that during the years 2015, 2016, 2017 and 2018, she engaged in conduct or performed an act or acts that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable, or unprofessional by reason that she:
- (a) Billed and/or provided treatment to herself;
 - (b) Submitted or arranged for the submission on her behalf of claims for services rendered to herself under two different names (Ka Yee Chan and Christy Yung), in order to mislead the insurance company that she was not both the patient and the provider;
 - (c) Submitted and/or arranged for the submission on her behalf of claims for services under the provider number and name of a provider (Dr. Maria Tuason) who did not provide the service, and at a location (the Tuason Practice) where the service was not provided; and
 - (d) Submitted claims for services provided by her to P.Y., P.C.Y., J.Y.1 and J.Y.2 that were not provided.
29. If the Member were to testify, she would maintain that she performed treatment on herself due to her own fear of dentistry and past dental experiences, but realizes in hindsight that it was inappropriate to do so.
30. Also, if the Member were to testify she would maintain that during the time of the investigation, from 2015-2018, she had a number of personal and family events in her life which led to poor judgment on her part, but she still acknowledges responsibility for what occurred.

31. Therefore, the Member admits that she engaged in conduct or performed an act or acts that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable, or unprofessional contrary to paragraph 59 of Section 2 of the Dentistry Act Regulation, as set out in Allegation 3 of the Notice of Hearing.

General

32. The Member admits that the acts described above constitute professional misconduct and she accepts responsibility for her actions and the resulting consequences.
33. The Member has voluntarily undertaken remedial steps on her own, soon after being notified of the investigation, including completing a ODA Dental Record Keeping Course in November 2018, a BC Dental Recordkeeping Course in October 2018, reviewing the RCDSO Dental Recordkeeping Guidelines in May 2019, and completing the RCDSO Jurisprudence and Ethics Course in January 2021.
34. The Member has had the opportunity to take independent legal advice with respect to her admissions.

DECISION

Having considered the evidence and submissions of the parties, the Panel found that the Member committed professional misconduct as alleged in the Notice of Hearing.

REASONS FOR DECISION

The Panel recognized that the College bears the onus of proving the allegations against the Member on the balance of probabilities, using clear, cogent and convincing evidence.

The Member admitted to three allegations as set out in the Notice of Hearing. Further, together with the College, she submitted facts contained in the Agreed Statement of Facts, which clearly demonstrated misconduct.

In particular, Dr. Chan admitted to

- Signing or issuing statements and claims that she knew or ought to have known contained false, misleading or improper statements;
- Submitting accounts and charges for dental services that she knew or ought to have known were false or misleading;
- Engaging in conduct that would reasonably be regarded by members as disgraceful, dishonourable, unprofessional and unethical.

The facts support findings on each of these admitted allegations. With respect to allegations 1 and 2, the Panel found that the Member knew she was issuing and submitting claims that were false or misleading. This is not a situation of inadvertence or where a member of the dentist's staff submitted inaccurate statements without the dentist's knowledge. It is not plausible that the Member was simply mistaken about performing restorations on herself or P.Y., P.C.Y., J.Y.1, J.Y.2, or about receiving treatment from Dr. Tuason. The Panel found that the Member knew what she was doing in submitting claims to the insurer that were false or misleading.

The Member's conduct is in clear violation of Ontario Regulation 853, the College's Professional Misconduct Regulation. Health professionals have an obligation to ensure that the records they generate accurately reflect the services they have provided for each patient. The Member failed to meet this obligation.

In the Agreed Statement of Facts, the Member indicated that if she were to have testified before this Panel, she would have stated that at the time of his misconduct she was experiencing a difficult time in her life. However, she fully acknowledged that the conduct amounted to misconduct for which she takes full responsibility.

PENALTY SUBMISSIONS

The parties presented the Panel with a Joint Submission with respect to Penalty and Costs (Exhibit 4), which reads as follows.

WHEREAS this panel of the Discipline Committee has found that Dr. Christy (Ka-Yee) Chan (the "Member") is guilty of professional misconduct;

NOW THEREFORE the Member and the Royal College of Dental Surgeons of Ontario (the "College") jointly submit that this panel of the Discipline Committee make the following order:

1. Requiring the Member to appear before the Panel of the Discipline Committee to be reprimanded, on the date of this Order becoming final.
2. Directing the Registrar to suspend the Member's certificate of registration for five (5) months. The suspension shall commence on the date of this Order becoming final and shall run without interruption.
3. Directing that the Registrar shall impose the following terms, conditions and limitations on the Member's certificate of registration (the "Suspension Conditions"), which conditions shall continue until the suspension of the Member's certificate of registration as referred to in paragraph 2 above has been fully served, namely:
 - a. while the Member's certificate of registration is under suspension, the Member shall immediately inform the following people about the suspension:
 - i. staff in the offices or practices in which the Member works, including other regulated professionals and administrative staff,
 - ii. dentists with whom the Member works, whether the Member is a principal in the practice or otherwise associated with the practice,
 - iii. dentists or other individuals who routinely refer patients to the Member,
 - iv. faculty members at Faculties of Dentistry, if the Member is affiliated with the Faculty in an academic or professional capacity,
 - v. owners of a practice or office in which the Member works,
 - vi. patients who ask to book an appointment during the suspension, or whose previously booked appointment has been rescheduled due to the suspension. The Member may assign administrative staff to inform patients about

the suspension. All communications with patients must be truthful and honest;

- b. while suspended, the Member must not engage in the practice of dentistry, including but not limited to:
 - i. acting in any manner that suggests the Member is entitled to practice dentistry. This includes communicating diagnoses or offering clinical advice in social settings. The Member must ensure that administrative or office staff do not suggest to patients in any way that the Member is entitled to engage in the practice of dentistry,
 - ii. giving orders or standing orders to dental hygienists,
 - iii. supervising work performed by others,
 - iv. working in the capacity of a dental assistant or performing laboratory work,
 - v. acting as a clinical instructor;
- c. while suspended, the Member must not be present in offices or practices where the Member works when patients are present, except for emergencies that do not involve patients. The Member must immediately advise the Registrar in writing about any such emergencies;
- d. while suspended, the Member must not benefit or profit, directly or indirectly from the practice of dentistry.
 - i. The Member may arrange for another dentist to take over their practice during the suspension period. If another dentist assumes the practice, all of the billings of the practice during the suspension period belong to that dentist. The Member may be reimbursed for actual out-of-pocket expenses incurred in respect of the practice during the suspension period,

- ii. The Member is permitted to sign and/or submit insurance claims for work that was completed before the suspension,
 - iii. The Member must not sign insurance claims for work that has been completed by others during the suspension period;
 - e. the Member shall cooperate with any office monitoring which the Registrar feels is needed to ensure that the Member has complied with the Suspension Conditions. The Member must provide the College with access to any records associated with the practice that the College may require to verify that the Member has not engaged in the practice of dentistry or profited during the suspension; and
 - f. the Suspension Conditions imposed by subparagraphs 3(a)-(e) above shall be removed at the end of the period that the Member's certificate of registration is suspended.
4. Directing that the Registrar also impose the following additional terms, conditions and limitations on the Member's certificate of registration (the "Practice Conditions"), namely:
- a. The Member shall be prohibited from providing dental treatment to herself or her immediate family members, except on an emergency basis and only for the duration of the emergency until dental treatment can be provided by another dentist or health practitioner. The Member shall not submit any insurance claims on account of such emergency treatment;
 - b. the Member shall successfully complete, at her own expense, the PROBE: Ethics & Boundaries Program - Canada, to be completed with a grade of "unconditional pass" before she may return to practice;
 - c. the Member's practice shall be monitored by the College by means of inspection(s) by a representative or representatives of the College for twenty-four (24) months following the date this Order becomes final. The inspections will be conducted quarterly during the first twelve (12) months and semi-

annually during the second twelve (12) months. The inspections will focus on the Member's recordkeeping and billing practices;

- d. the Member shall cooperate with the College during the inspections and, further, shall pay to the College in respect of the cost of monitoring the amount of \$1,000 per inspection, such amount to be paid immediately after completion of each inspection;
 - e. the representative or representatives of the College may report the results of the inspections to the Inquiries, Complaints and Reports Committee ("ICRC") of the College and the ICRC may, if deemed warranted, take such action as it considers appropriate;
 - f. the Practice Conditions imposed by clause (b) of paragraph 4 shall be removed from the Member's certificate of registration upon receipt by the College of confirmation in writing acceptable to the Registrar that the Member achieved a grade of "unconditional pass"; and
 - g. the Practice Conditions imposed by clauses (c)-(e) of paragraph 4 shall be removed from the Member's certificate of registration following receipt by the College of confirmation in writing acceptable to the Registrar that the requirements set out in clauses (c)-(e) above have been completed successfully, or upon receipt of written confirmation from the ICRC that the Member has successfully completed the monitoring program, whichever date is later.
5. The Member shall pay \$7,500 in costs to the College payable as follows:
- a. \$2,500 on the date that this Order becomes final;
 - b. \$2,500 within 6 months after the date that this Order becomes final; and
 - c. \$2,500 within 12 months after the date that this Order becomes final.

The College and the Member further submit that pursuant to the *Code*, as amended, the results of these proceedings must be recorded on the Register of the College and any publication of the Decision of the panel would therefore occur with the name and address of the Member included.

This joint submission on penalty and costs was reached as a result of a pre-hearing conference held concerning these matters and it received the endorsement of the pre-hearing conference presider.

Counsel urged the Panel to accept the Joint Submission with respect to Penalty. Dr. Chan admits that the acts described above constitute professional misconduct and she accepts responsibility for her actions and the resulting consequences. Dr. Chan has had the opportunity to obtain independent legal advice with respect to her admissions.

Counsel for the College stated that the Joint Submission satisfies all necessary considerations of a penalty flowing from the Panel's discipline findings. In particular, the Joint Submission with respect to Penalty meets the objectives of public protection, specific and general deterrence, maintaining public confidence in the profession and remediation of the Member. College counsel also argued that the Joint Submission with respect to Penalty reflects the aggravating and mitigating factors in this case and falls within a range of penalties ordered in cases involving similar misconduct.

PENALTY DECISION

The Panel accepted the Joint Submission on Penalty and made the following order (the "Order"):

1. The Member shall appear before the Panel of the Discipline Committee to be reprimanded, on the date of this Order becoming final.
2. The Registrar shall suspend the Member's certificate of registration for five (5) months. The suspension shall commence on the date of this Order becoming final and shall run without interruption.
3. The Registrar shall impose the following terms, conditions and limitations on the Member's certificate of registration (the "Suspension Conditions"), which conditions shall continue until the suspension of the Member's

certificate of registration as referred to in paragraph 2 above has been fully served, namely:

- a. while the Member's certificate of registration is under suspension, the Member shall immediately inform the following people about the suspension:
 - i. staff in the offices or practices in which the Member works, including other regulated professionals and administrative staff,
 - ii. dentists with whom the Member works, whether the Member is a principal in the practice or otherwise associated with the practice,
 - iii. dentists or other individuals who routinely refer patients to the Member,
 - iv. faculty members at Faculties of Dentistry, if the Member is affiliated with the Faculty in an academic or professional capacity,
 - v. owners of a practice or office in which the Member works,
 - vi. patients who ask to book an appointment during the suspension, or whose previously booked appointment has been rescheduled due to the suspension. The Member may assign administrative staff to inform patients about the suspension. All communications with patients must be truthful and honest;
- b. The Member must not engage in the practice of dentistry while suspended, including but not limited to:
 - i. acting in any manner that suggests the Member is entitled to practice dentistry. This includes communicating diagnoses or offering clinical advice in social settings. The Member must ensure that administrative or office staff do not suggest to patients in any way that the Member is entitled to engage in the practice of dentistry,
 - ii. giving orders or standing orders to dental hygienists,

- iii. supervising work performed by others,
 - iv. working in the capacity of a dental assistant or performing laboratory work,
 - v. acting as a clinical instructor;
- c. The Member must not be present in offices or practices where the Member works while suspended, when patients are present, except for emergencies that do not involve patients. The Member must immediately advise the Registrar in writing about any such emergencies;
- d. The Member must not benefit or profit, directly or indirectly, while suspended, from the practice of dentistry.
- i. The Member may arrange for another dentist to take over their practice during the suspension period. If another dentist assumes the practice, all of the billings of the practice during the suspension period belong to that dentist. The Member may be reimbursed for actual out-of-pocket expenses incurred in respect of the practice during the suspension period,
 - ii. The Member is permitted to sign and/or submit insurance claims for work that was completed before the suspension,
 - iii. The Member must not sign insurance claims for work that has been completed by others during the suspension period;
- e. The Member shall cooperate with any office monitoring which the Registrar feels is needed to ensure that the Member has complied with the Suspension Conditions. The Member must provide the College with access to any records associated with the practice that the College may require to verify that the Member has not engaged in the practice of dentistry or profited during the suspension; and
- f. The Suspension Conditions imposed by subparagraphs 3(a)-(e) above shall be removed at the end of the period that the Member's certificate of registration is suspended.

4. The Registrar will also impose the following additional terms, conditions and limitations on the Member's certificate of registration (the "Practice Conditions"), namely:
 - a. The Member shall be prohibited from providing dental treatment to herself or her immediate family members, except on an emergency basis and only for the duration of the emergency until dental treatment can be provided by another dentist or health practitioner. The Member shall not submit any insurance claims on account of such emergency treatment;
 - b. the Member shall successfully complete, at her own expense, the PROBE: Ethics & Boundaries Program - Canada, to be completed with a grade of "unconditional pass" before she may return to practice;
 - c. the Member's practice shall be monitored by the College by means of inspection(s) by a representative or representatives of the College for twenty-four (24) months following the date this Order becomes final. The inspections will be conducted quarterly during the first twelve (12) months and semi-annually during the second twelve (12) months. The inspections will focus on the Member's recordkeeping and billing practices;
 - d. the Member shall cooperate with the College during the inspections and, further, shall pay to the College in respect of the cost of monitoring the amount of \$1,000 per inspection, such amount to be paid immediately after completion of each inspection;
 - e. the representative or representatives of the College may report the results of the inspections to the Inquiries, Complaints and Reports Committee ("ICRC") of the College and the ICRC may, if deemed warranted, take such action as it considers appropriate;
 - f. the Practice Conditions imposed by clause (b) of paragraph 4 shall be removed from the Member's certificate of registration upon receipt by the College of confirmation in writing acceptable to the Registrar that the Member achieved a grade of "unconditional pass"; and
 - g. the Practice Conditions imposed by clauses (c)-(e) of paragraph 4 shall be removed from the Member's certificate of registration following receipt by the College of confirmation in writing acceptable to the Registrar that the requirements set out in clauses (c)-(e) above have

been completed successfully, or upon receipt of written confirmation from the ICRC that the Member has successfully completed the monitoring program, whichever date is later.

5. The Member shall pay \$7,500 in costs to the College payable as follows:
 - a. \$2,500 on the date that this Order becomes final;
 - b. \$2,500 within 6 months after the date that this Order becomes final;
and
 - c. \$2,500 within 12 months after the date that this Order becomes final.

REASONS FOR PENALTY DECISION

The Panel is aware 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.

During its deliberations, the Panel identified some significant concerns regarding the Joint Submission with respect to Penalty. As required by *R v Anthony-Cook*, 2016 SCC 43, the Panel raised those concerns with the parties and invited further submissions before making a final decision on penalty.

The Panel's concerns were as follows.

First, the Joint Submission did not appear to give sufficient weight to the fact that Dr Chan submitted fraudulent claims to an insurer using the unique ID of another member, Dr Tuason. The Panel considers this to be a serious aggravating factor in this case.

Second, the joint submission would allow Dr Chan a year to pay the full amount of the costs, \$7,500. In other recent cases of which the Panel is aware, the Members had considerably shorter periods in which to pay the costs. What circumstances, if any, would justify the longer payment schedule here?

Third, the Panel observed that in its experience there appear to be a substantial number of cases in recent years involving similar misconduct in the form of submitting false and misleading insurance claims. Although the suspension proposed in the Joint Submission appears to fall within the range of penalties in

similar cases, the Panel was and remains concerned that this range of penalties is inadequate in achieving the objective of general deterrence and needs to be adjusted. The Panel considered whether this might be a case where it may be appropriate to consider some movement in the range to send a stronger message of deterrence to the profession.

In response to the Panel's concerns, with the support of the Member's counsel, the College counsel emphasized that in the negotiation of the Joint Submission, including during the pre-hearing conference, considerable weight was placed on the fact that numerous false and misleading claims were submitted by Dr. Chan, including those relating to her use of Dr. Tuason's unique ID. With respect to the Panel's concerns on the costs payment schedule, counsel stated that costs are not to be considered as part of the penalty. The quantum and payment period are unique to each situation and are tailored at the pre-hearing conference. With respect to potentially adjusting the range for misconduct that involves submitting false claims to insurers, counsel submitted that fairness to the Member is an important consideration. Counsel reminded the Panel that the Joint Submission on Penalty was reached by experienced counsel and a prehearing conference presider, and Dr. Chan entered the hearing and admitted the allegations on the basis of the Joint Submission. It would be unfair to her to increase the penalty at the hearing stage because of broader concerns about general deterrence. Counsel reiterated that the proposed penalty falls within the acceptable range.

After further deliberation, the Panel concluded that, notwithstanding its concerns, accepting the jointly proposed penalty would not bring the administration of justice into disrepute or be contrary to the public interest. The high bar to reject a joint submission is not met in this case. It therefore accepted the Joint Submission with respect to Penalty and Costs and made an order in accordance with its terms. The Panel does express its reservations, however, with the existing range of penalties for misconduct of this nature, which might not be serving as a sufficient general deterrent to the profession.

The Panel's primary concern when considering the adequacy of a penalty decision is public protection. The Panel was satisfied that public protection is met through the terms of the Joint Submission on Penalty.

The Panel was satisfied that a five (5) month suspension, a reprimand and the recording of the results of these proceedings on the College register will act to deter the Member from behaving in this manner again and also sends a message

to the members of the profession that professional misconduct of this nature will not be tolerated by the College.

The terms, conditions and limitations further afford public protection and will also provide remediation. Dr. Chan is required to complete at her own expense, a PROBE/Ethics course. This course must be successfully completed within six (6) months of this Order becoming final. The Member's practice shall be periodically monitored by the College for a period of 24 months at her expense. The inspections will be conducted quarterly during the first twelve (12) months and semi-annually during the second twelve (12) months. The inspections will focus on the Member's recordkeeping and billing practices.

The Panel considered as aggravating factors the seriousness of the misconduct, the length of time over which the misconduct occurred, and the number of billing irregularities. The Panel was disturbed by the fact that Dr. Chan's misconduct related to submitting false insurance claims to third party insurers for services she did not provide. Additionally, she used another member's unique ID number and name when submitting some claims. The evidence before the Panel suggests that the Member's intention was to deceive the insurer for her own financial gain.

The Panel recognizes that the Member co-operated with the College and pled guilty. By admitting the misconduct, she prevented a potentially costly and time-consuming hearing. Dr. Chan has never appeared before a Discipline Panel before. She provided full restitution to the insurer. The Panel considered these mitigating factors as well.

The Panel was satisfied that the Penalty Order as a whole is proportional to the severity of the misconduct, the facts of the case and the circumstances of the Member.

The Panel determined that costs in the amount of \$7,500.00 was appropriate in this case and ordered it to be paid within 12 months of this Order becoming final.

THE REPRIMAND

At the conclusion of the discipline hearing, the panel delivered the reprimand to the Member. A copy of the reprimand is attached as Appendix "A" to these Reasons.

I, Dr. Richard Hunter, sign these Reasons for Decision as Chairperson of this Discipline Panel.



June 10, 2022

Dr. Richard Hunter

Date

Dr. Rajiv Butany

Mr. Brian Smith

Appendix "A"

RCDSO v. Dr. Christy Chan

Dr. Chan, as you know, this Discipline panel has ordered that you be given an oral reprimand as part of the sanction imposed upon you. The reprimand should impress upon you the seriousness of your misconduct.

The fact that you have received this reprimand will be part of the public portion of the Register and, as such, part of your record with the College.

You will be given an opportunity to make a statement at the end of the reprimand if you wish.

The panel has found that you have engaged in multiple acts of professional misconduct. The misconduct related to:

- Signing or issuing statements and claims that you knew contained false, misleading or improper statements; and
- Submitting accounts and charges for dental services that you knew were false or misleading.

The cumulative effect of your conduct would reasonably be regarded by members as disgraceful, dishonourable, unprofessional and unethical.

Your professional misconduct is a matter of profound concern. It is completely unacceptable to your fellow dentists and to the public. You have brought discredit to the entire profession and to yourself. Public confidence in this profession has been put in jeopardy.

Of special concern to us is the fact that the professional misconduct in which you engaged has involved submitting claims to the third party insurer for services you did not provide over a period of multiple years. The panel is concerned that you may have done so with an intention to deceive the insurer for your own financial gain. The panel is particularly concerned that you used another member's unique ID to submit claims. Drawing another member into your misconduct is totally unacceptable.

The panel trusts that this process, although trying, has been a learning experience for you and that you will not appear before a Discipline panel again in the future.