

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

Citation: Royal College of Dental Surgeons of Ontario v. Kwong, 2025 ONRCDSO 1

Date: 2025-02-11

File No.: 23-0933

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. ANDREW WAI-MING KWONG**, of the City of Scarborough, 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.

BETWEEN:

Royal College of Dental Surgeons of Ontario

-and-

Dr. Andrew Wai-Ming Kwong

FINDING AND PENALTY REASONS

RESTRICTION ON PUBLICATION

In the matter of the Royal College of Dental Surgeons of Ontario and Andrew Kwong the Discipline Panel ordered, under ss. 45(3) of the *Health Professions Procedural Code*, that no person shall publish or broadcast the identity of any patients of the Registrant, 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.

PANEL MEMBERS:

Ms. Judith Welikovitsh, Public Member (Chair)
 Dr. Peter Delean, Professional Member
 Dr. Nancy Di Santo, Professional Member

APPEARANCES:

Mr. Ahmad Mozaffari, for the College
 Mr. Symon Zucker, for Dr. Kwong
 Mr. Paul Le Vay, Independent Legal Counsel

Heard: February 11, 2025, by videoconference

Decision Date: February 11, 2025

Release of Written Reasons: March 31, 2025

REASONS FOR DECISION

[1] 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 February 11, 2025. This matter was heard electronically.

The Allegations

[2] The College’s allegations of professional misconduct against the Registrant are set out in a notice of hearing dated December 15, 2023, as follows:

1. You committed an act or acts of professional misconduct as provided by s.51(1)(c) of the *Code* in that, during the year(s) 2020 and/or 2021, you falsified a record(s) relating to your practice in relation to one or more patients, contrary to paragraph 26 of Section 2 of Ontario Regulation 853/93 under the *Dentistry Act, 1991*, as amended (“*Professional Misconduct Regulation*”).

Particulars:

- o You and/or staff for whom you were responsible documented false service dates for:
 - o V.F.:
 - The clinical records show that on January 6, 2021 this patient had fluoride, polishing, scaling, an examination and two bitewing radiographs. This treatment was backdated to December 21, 2020 on financial records, including financial ledgers and/or walkout statements and/or insurance claims.
 - The clinical records show that on January 13, 2021 this patient had restorations on teeth 27 (upper left 2nd molar) and 37 (lower left 2nd molar). This treatment was backdated to December 23, 2020 on financial records, including financial

ledgers and/or walkout statements and/or insurance claims.

- R.H.:
 - The clinical records show that on January 13, 2021 this patient had fluoride, polishing, scaling and an examination. This treatment was backdated to December 21, 2020 on financial records, including financial ledgers and/or walkout statements and/or insurance claims.
 - V.R.:
 - The clinical records show that on January 13, 2021 this patient had fluoride, polishing, scaling, an examination and two bitewing radiographs. This treatment was backdated to December 19, 2020 on financial records, including financial ledgers and/or walkout statements and/or insurance claims.
 - The clinical records show that on January 20, 2021 this patient had restorations on teeth 25 (upper left 2nd bicuspid), 16 (upper right 1st molar) and 46 (lower right 1st molar). This treatment was backdated to December 19, 2020 on financial records, including financial ledgers and/or walkout statements and/or insurance claims.
 - S.U.:
 - The clinical records show that on January 18, 2021 this patient had fluoride, polishing, scaling, an examination and two bitewing radiographs. This treatment was backdated to December 19, 2020 on financial records, including financial ledgers and/or walkout statements and/or insurance claims.
 - U.M.:
 - The clinical records show that on January 6, 2021 this patient had restorations on teeth 16 (upper right 1st molar), 35 (lower left 2nd bicuspid) and 45 (lower right 2nd bicuspid). This treatment was backdated to December 23, 2020 on financial records, including financial ledgers and/or walkout statements and/or insurance claims.
2. You committed an act or acts of professional misconduct as provided by s.51(1)(c) of the *Code* in that, during the year(s) 2020 and/or 2021, 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 in relation to one or more patients, contrary to paragraph 28 of Section 2 of the *Professional Misconduct Regulation*.

Particulars:

- You and/or staff for whom you were responsible issued insurance claims with service dates that you knew or ought to have known were false, misleading or improper for:

- V.F.:
 - The clinical records show that on January 6, 2021 this patient had fluoride, polishing, scaling, an examination and two bitewing radiographs. This treatment was backdated to December 21, 2020 on insurance claims that were issued and submitted for payment.
 - The clinical records show that on January 13, 2021 this patient had restorations on teeth 27 (upper left 2nd molar) and 37 (lower left 2nd molar). This treatment was backdated to December 23, 2020 on insurance claims that were issued and submitted for payment.
 - R.H.:
 - The clinical records show that on January 13, 2021 this patient had fluoride, polishing, scaling and an examination. This treatment was backdated to December 21, 2020 on insurance claims that were issued and submitted for payment.
 - V.R.:
 - The clinical records show that on January 13, 2021 this patient had fluoride, polishing, scaling, an examination and two bitewing radiographs. This treatment was backdated to December 19, 2020 on insurance claims that were issued and submitted for payment.
 - The clinical records show that on January 20, 2021 this patient had restorations on teeth 25 (upper left 2nd bicuspid), 16 (upper right 1st molar) and 46 (lower right 1st molar). This treatment was backdated to December 19, 2020 on insurance claims that were issued and submitted for payment.
 - S.U.:
 - The clinical records show that on January 18, 2021 this patient had fluoride, polishing, scaling, an examination and two bitewing radiographs. This treatment was backdated to December 19, 2020 on insurance claims that were issued and submitted for payment.
 - U.M.:
 - The clinical records show that on January 6, 2021 this patient had restorations on teeth 16 (upper right 1st molar), 35 (lower left 2nd bicuspid) and 45 (lower right 2nd bicuspid). This treatment was backdated to December 23, 2020 on insurance claims that were issued and submitted for payment.
3. You committed an act or acts of professional misconduct as provided by s.51(1)(c) of the *Code* in that, during the year(s) 2020 and/or 2021, you submitted an account or charge for dental services that you knew or ought to have known was false or misleading in

relation to one or more patients, contrary to paragraph 33 of Section 2 of the *Professional Misconduct Regulation*.

Particulars:

- You and/or staff for whom you were responsible submitted charges and insurance claims with service dates that you knew or ought to have known were false or misleading for:
 - V.F.:
 - The clinical records show that on January 6, 2021, this patient had fluoride, polishing, scaling, an examination and two bitewing radiographs. You charged for these dental services on December 21, 2020 and submitted insurance claims with a December 21, 2020 service date even though these dental services had not been provided.
 - The clinical records show that on January 13, 2021 this patient had restorations on teeth 27 (upper left 2nd molar) and 37 (lower left 2nd molar). You charged for these dental services on December 23, 2020 and submitted insurance claims with a December 23, 2020 service date even though these dental services had not been provided.
 - R.H.:
 - The clinical records show that on January 13, 2021 this patient had fluoride, polishing, scaling and an examination. You charged for these dental services on December 21, 2020 and submitted insurance claims with a December 21, 2020 service date even though these dental services had not been provided.
 - V.R.:
 - The clinical records show that on January 13, 2021 this patient had fluoride, polishing, scaling, an examination and two bitewing radiographs. You charged for these dental services on December 19, 2020 and submitted insurance claims with a December 19, 2020 service date even though these dental services had not been provided.
 - The clinical records show that on January 20, 2021 this patient had restorations on teeth 25 (upper left 2nd bicuspid), 16 (upper right 1st molar) and 46 (lower right 1st molar). You charged for these dental services on December 19, 2020 and submitted insurance claims with a December 19, 2020 service date even though these dental services had not been provided.
 - S.U.:
 - The clinical records show that on January 18, 2021 this patient had fluoride,

polishing, scaling, an examination and two bitewing radiographs. You charged for these dental services on December 19, 2020 and submitted insurance claims with a December 19, 2020 service date even though these dental services had not been provided.

- U.M.:
 - The clinical records show that on January 6, 2021 this patient had restorations on teeth 16 (upper right 1st molar), 35 (lower left 2nd bicuspid) and 45 (lower right 2nd bicuspid). You charged for these dental services on December 23, 2020 and submitted insurance claims with a December 23, 2020 service date even though these dental services had not been provided.
- 4. You committed an act or acts of professional misconduct as provided by s.51(1)(c) of the *Code* in that, during the year(s) 2020 and/or 2021, you engaged in conduct or performed an act that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable, unprofessional or unethical in relation to one or more patients, contrary to paragraph 59 of Section 2 of the *Professional Misconduct Regulation*.

Particulars:

You and/or staff for whom you were responsible falsified records to backdate dental treatment for the purpose of maximizing insurance benefits only available until the end of the calendar year. In so doing, you submitted claims for treatment that had not been provided, and misled insurers.

At the outset of the hearing, and further to a request from the College that was agreed to by the Registrant, the panel made an order pursuant to s. 45(3) of the *Code* prohibiting the publication of the names of patients or of any information which may identify any of them.

The Registrant's Plea

[3] The Registrant admitted the allegations of professional misconduct contained in the Notice of Hearing. The parties filed a written Plea Inquiry signed by the Registrant as Exhibit 2. The Chair conducted an oral plea inquiry on the record at the hearing. Based on the Registrant's responses and Exhibit 2, the Panel was satisfied that his admissions were voluntary, informed and unequivocal.

The Evidence

[4] On consent of the parties, the College introduced into evidence an Agreed Statement of Facts (“**ASF**”) which was entered as Exhibit 3. The ASF provides as follows (with attached documents omitted):

Background

1. At the material times, Dr. Andrew Wai-Ming Kwong (the “**Registrant**”), was a duly registered member of the Royal College of Dental Surgeons of Ontario (the “**College**”) practising at Silver Star Dental Care in Scarborough, Ontario (the “**Clinic**”).
2. The Registrant employed his wife in the Clinic in an administrative capacity, including providing assistance with submitting claims to insurance providers.

False Insurance Submissions

3. On or about June 5, 2021, the College received a complaint alleging that the Registrant and his office were involved in forging insurance claims. The complaint alleged that the conduct involved submitting claims for treatment before the underlying treatments were performed, in order to have the claims processed within a specific year.
4. The College later received additional information regarding the allegations, namely that the Registrant and his wife were involved in changing dates on insurance submissions. The College was also provided with the relevant patient names and dates, which ranged from December 2020 to January 2021.
5. The College initiated an investigation into the Registrant’s conduct. The Registrant was provided notice of the complaint and was asked to provide records for the relevant patients.
6. The records provided by the Registrant showed that for two clients, claims had been submitted to insurance providers for treatments before the date that the services were rendered.
7. For one patient (“Patient 1”), the Registrant submitted claims for fluoride, polishing and scaling on December 21, 2020. However, Patient 1’s records show that they received these treatments on January 6, 2021. Moreover, records show that the Registrant charged for radiographs and a limited exam of Patient 1 on December 21, 2020, however there were no records of a radiograph or a limited exam for Patient 1 on December 21, 2020, and no record of Patient 1 attending an appointment on December 21, 2020.

8. The Registrant also submitted claims for restorations on teeth 27 and 37 on December 23, 2020 in relation to Patient 1. However, Patient 1's records showed that they received these treatments on January 13, 2021. There are no records of an appointment for Patient 1 on December 23, 2020.
9. For a second patient ("Patient 2"), the Registrant submitted claims for fluoride, polishing, scaling and a limited exam on December 21, 2020. However, Patient 2's records show that they received these treatments and service on January 13, 2021.
10. The Registrant was provided with the results of the College's investigation on or about March 27, 2023 and was later notified of the intention to refer allegations of professional misconduct to the Discipline Committee of the College. The Registrant was invited to provide a response.
11. The Registrant admitted that the insurance submissions had been falsified and that claims for treatment were submitted for Patient 1 and Patient 2 for services that were provided on dates that were different from those listed in the insurance submissions. The Registrant stated that his wife, whom was his office administrator at the Clinic, was involved in creating the false submissions.
12. The Registrant further disclosed to the College that there were three other patients for whom records had been altered. The Registrant provided the underlying patient records to the College.
13. For one patient ("Patient 3"), the Registrant submitted claims for fluoride, polishing, scaling, an examination and two bitewing radiographs on December 19, 2020. However, clinical records show that Patient 3 received these treatments and service on January 13, 2021. The records further showed that the Registrant submitted claims for restorations on teeth 25 and 46 on December 19, 2020. However, records show that Patient 3 received these restorations on January 20, 2021.
14. For another patient ("Patient 4"), the Registrant submitted claims for fluoride, polishing, scaling an examination and two bitewing radiographs on December 19, 2020. However, clinical records show that Patient 4 received these services on January 18, 2021.
15. For a fifth patient ("Patient 5"), the Registrant submitted claims for restorations on teeth 16, 35 and 45 on December 23, 2020. However, clinical records show that Patient 5 received these restorations on January 6, 2021.

16. As outlined above, the Registrant and his wife were responsible for falsifying records in relation to Patients 1 to 5 to backdate dental treatment for the purposes of maximizing insurance benefits only available until the end of the calendar year.
17. As of October 2024, the Registrant's wife is no longer employed in the Clinic and does not play any role in the Registrant's dental practice.

Professional Misconduct Admitted

18. It is admitted that during the years 2020 and 2021, the Registrant falsified records relating to his practice in relation to multiple patients, as outlined above.
19. It is admitted that during the years 2020 and 2021, the Registrant signed or issued a certificate, report or similar document he knew or ought to have known contained a false, misleading or improper statement in relation to multiple patients, as outlined above.
20. It is admitted that during the years 2020 and 2021, the Registrant submitted an account or charge for dental services he knew or ought to have known was false or misleading in relation to multiple patients, as outlined above.
21. It is admitted that during the years 2020 and 2021, the Registrant engaged in conduct or performed an act that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable, unprofessional or unethical in relation to multiple patients.
22. The Registrant admits and acknowledges that his conduct described above constitutes professional misconduct pursuant to Section 51(1)(c) of the *Code* and as defined in the following paragraphs of section 2 of Ontario Regulation 853/93:
 - a. Paragraph 26: Falsifying a record relating to the member's practice;
 - b. Paragraph 28: Signing or issuing a certificate, report or similar document that the member knows or ought to know contains a false, misleading or improper statement;
 - c. Paragraph 33: Submitting an account or charge for dental services that the member knows or ought to know is false or misleading; and
 - d. Paragraph 59: Engaging in conduct or performing an act that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable, unprofessional or unethical.

Decision

[5] Having considered the evidence and submissions of the parties, the Panel finds, on a balance of probabilities, that the Registrant committed the acts of professional misconduct as alleged in the Notice of Hearing (“**NOH**”, Exhibit 1).

Reasons for Decision

[6] The Notice of Hearing sets out four allegations against the Registrant

[7] Before accepting Dr. Kwong’s plea, the Panel conducted an oral plea inquiry and received into evidence a written plea inquiry (“**PI**”, Exhibit 2). The Panel finds that Dr. Kwong’s plea was unequivocal, voluntary, and informed. Dr. Kwong admitted allegations one (1) through (4) set out in the NOH, and he admitted that he understood the consequences of his admissions in the PI.

[8] The allegations to which the Registrant admitted, and which are substantiated in the ASF, are as follows:

Allegation #1: Falsifying Records relating to patients

[9] It was alleged in the Notice of Hearing that Dr. Kwong falsified records relating to five (5) patients.

[10] Specifically, it was alleged that, with respect to each of these five (5) patients, Dr. Kwong performed dental work in January of 2021 but that he, and/or staff for whom he was responsible, backdated his financial records and the patients’ insurance claim forms in each case to mid-December of 2020 in order to maximize benefits available in 2020 for each of these patients.

[11] In the ASF, Dr. Kwong admitted to having performed these acts. At paragraph 11 of the ASF, Dr. Kwong also stated that his wife, for whom he was responsible, was involved in creating the false submissions.

[12] At paragraph 22(a) of the ASF, Dr. Kwong also acknowledged that these acts, as admitted, were contrary to paragraph 26 of Section 2 of Ontario Regulation 853/93 under the *Dentistry Act, 1991*, as amended (the “Professional Misconduct Regulation”) and that they constituted professional misconduct pursuant to Section 51(1)(c) of the *Code*.

[13] As stated above, the Panel found that the Registrant’s admissions and acknowledgements as set out in the ASF and the PI to be credible and reliable evidence of his professional misconduct.

[14] The Panel therefore found, on a balance of probabilities standard, that Dr. Kwong was guilty of the professional misconduct as described in this allegation.

Allegation #2: Signing / Issuing a Certificate, Report or similar document which you knew or ought to have known contained a false, misleading or improper statement in relation to patients

[15] It was alleged in the Notice of Hearing that Dr. Kwong signed or issued certificates, reports, or similar documents that he knew or ought to have known contained false, misleading or improper statements in relation to the five (5) patients enumerated in the NOH.

[16] More specifically, it was alleged that, with respect to these five patients, Dr. Kwong performed treatment in early January 2021 and that he, and or staff for whom he was responsible, backdated these patients' insurance claim forms, issued them and submitted them to the insurer for payment with treatment dates stated to have been in December 2020. The purpose of doing so was to permit each of these five patients to maximize insurance benefits available to them in 2020. This was admitted by Dr. Kwong at paragraph 3 and 16 of the ASF.

[17] In the ASF, Dr. Kwong admitted to having performed these acts. As noted, at paragraph 11 of the ASF, Dr. Kwong stated that his wife, for whom he was responsible, was also involved in creating the false submissions.

[18] At paragraph 22(b) of the ASF, Dr. Kwong also acknowledged that these acts, as admitted, were contrary to paragraph 28 of Section 2 of Ontario Regulation 853/93 under the *Dentistry Act*, 1991, as amended and that they constituted professional misconduct pursuant to Section 51(1)(c) of the Code.

[19] The Panel considered the Registrant's admissions and acknowledgements as set out in the ASF to be true, credible and reliable evidence of his misconduct.

[20] The Panel therefore found, on a balance of probabilities standard, that Dr. Kwong was guilty of professional misconduct as described in this allegation.

Allegation #3: Submitting an account or charge for dental services that you knew or ought to have known was false or misleading in relation to patients

[21] It was alleged in the Notice of Hearing that Dr. Kwong submitted accounts or charges for dental services in relation to five (5) patients in circumstances where he knew or ought to have known that they were false or misleading.

[22] More specifically, it was alleged that Dr. Kwong, and/or staff for whom he was responsible, submitted charges and insurance claims with service dates that he knew or ought to have known were false or misleading. The clinical records for these five (5) patients showed that Dr. Kwong provided dental services to them in January 2021 but that he charged for and submitted insurance claims for these dental services with service dates stated to have been in mid- to late-December 2020. The purpose of doing so was to permit each of these five patients to maximize insurance benefits available to them in 2020¹.

[23] Dr. Kwong admitted in the ASF to having performed these acts. As noted, at paragraph 11 of the ASF, Dr. Kwong stated that his wife, for whom he was responsible, was also involved in creating the false submissions.

[24] At paragraph 22(c) of the ASF, Dr. Kwong also acknowledged that these acts, as admitted, were contrary to paragraph 33 of Section 2 of Ontario Regulation 853/93 under the *Dentistry Act*, 1991, as amended and that they constituted professional misconduct pursuant to Section 51(1)(c) of the Code.

[25] The Panel considered the Registrant's admissions and acknowledgements in the ASF to be true, credible and reliable evidence of his misconduct.

[26] The Panel therefore found, on a balance of probabilities standard, that Dr. Kwong was guilty of professional misconduct as described.

Allegation #4: Disgraceful, Dishonourable, Unprofessional or Unethical Conduct

[27] It was alleged in the Notice of Hearing that, in view of the misconduct described in the paragraphs above in relation to five (5) patients, Dr. Kwong had engaged in conduct or had performed acts that, having regard to all the circumstances, would reasonably be regarded by members of the profession as disgraceful, dishonourable, unprofessional or unethical.

[28] At paragraphs 21 and 22(d) of the ASF, Dr. Kwong also acknowledged that these acts, as admitted, were contrary to paragraph 59 of Section 2 of Ontario Regulation 853/93 under the *Dentistry Act*, 1991, as amended, and that they constituted professional misconduct pursuant to Section 51(1)(c) of the Code.

[29] The Panel considered the Registrant's admissions and acknowledgements in the ASF to be true, credible and reliable evidence of his professional misconduct. The Registrant admitted

¹ ASF, paragraphs 3 and 16

that he falsified treatment records for five patients and that he, and/or staff for whom he was responsible, submitted falsified insurance claims for these patients. This conduct fell well below the standard of professionalism.

[30] The Panel therefore found, on a balance of probabilities standard, that Dr. Kwong was guilty of misconduct that, having regard to all the circumstances, would reasonably be regarded by members of the profession as disgraceful, dishonourable, unprofessional and unethical.

Penalty and Costs Submissions

[31] The parties presented the Panel with a Joint Submission with respect to Penalty and Costs (“**JSPC**”), which was entered as Exhibit 4. It reads as follows:

“The Royal College of Dental Surgeons of Ontario (the “**College**”) and Dr. Andrew Wai-Ming Kwong (the “**Registrant**”) jointly submit that this panel of the Discipline Committee impose the following penalty on the Registrant in view of the panel's finding that the Registrant is guilty of professional misconduct, namely, that it make an order:

- (a) requiring the Registrant to appear before the panel of the Discipline Committee to be reprimanded within ninety (90) days of this Order becoming final or on a date fixed by the Registrar;
- (b) directing the Registrar to suspend the Registrant's certificate of registration for a period of five (5) months, commencing on February 12, 2025 at 12:01 am. The suspension shall run without interruption;
- (c) that the Registrar impose the following terms, conditions and limitations on the Registrant's certificate of registration (the “**Suspension Conditions**”), which conditions shall continue until the suspension of the Registrant's certificate of registration as referred to in paragraph 1(b) above has been fully served:
 - (i) while the Registrant's certificate of registration is under suspension, the Registrant shall immediately inform the following people about the suspension:
 - staff in the offices or practices in which the Registrant works, including other regulated professionals and administrative staff;
 - dentists with whom the Registrant works, whether the Registrant is a principal in the practice or otherwise associated with the practice;
 - dentists or other individuals who routinely refer patients to the Registrant;

- faculty members at Faculties of Dentistry, if the Registrant is affiliated with the Faculty in an academic or professional capacity;
 - owners of a practice or office in which the Registrant works;
 - patients who ask to book an appointment during the suspension, or whose previously booked appointment has been rescheduled due to the suspension. The Registrant may assign administrative staff to inform patients about the suspension. All communications with patients must be truthful and honest;
- (ii) while suspended, the Registrant must not engage in the practice of dentistry, including but not limited to:
- acting in any manner that suggests the Registrant is entitled to practice dentistry. This includes communicating diagnoses or offering clinical advice in social settings. The Registrant must ensure that administrative or office staff do not suggest to patients in any way that the Registrant is entitled to engage in the practice of dentistry;
 - giving orders or standing orders to dental hygienists;
 - supervising work performed by others;
 - working in the capacity of a dental assistant or performing laboratory work;
 - acting as a clinical instructor;
- (iii) while suspended, the Registrant must not be present in offices or practices where the Registrant works when patients are present, except for emergencies that do not involve patients. The Registrant must immediately advise the Registrar in writing about any such emergencies;
- (iv) while suspended, the Registrant must not benefit or profit, directly or indirectly from the practice of dentistry and
- the Registrant 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 Registrant may be reimbursed for actual out-of-pocket expenses incurred in respect of the practice during the suspension period;
 - the Registrant is permitted to sign and/or submit insurance claims for work that was completed prior to the suspension;

- the Registrant must not sign insurance claims for work that has been completed by others during the suspension period;
- (v) the Registrant shall cooperate with any office monitoring which the Registrar thinks is needed to ensure that the Registrant has complied with the Suspension Conditions. The Registrant must provide the College with access to any records associated with the practice that the College may require to verify that the Registrant has not engaged in the practice of dentistry or profited during the suspension; and
- (vi) the Suspension Conditions imposed by virtue of subparagraphs 1(c)(i)-(v) above shall be removed at the end of the period that the Registrant's certificate of registration is suspended.
- (d) directing that the Registrar also impose the following additional terms, conditions and limitations on the Registrant's Certificate of Registration, namely:
- (i) The Registrant shall successfully complete, at his own expense, the following courses approved by the Registrar within six (6) months of this Order becoming final or such further time as may be permitted by the Registrar:
1. A course on recordkeeping, pre-approved by the College, with written proof of same provided to the Registrar;
 2. A course on billing, pre-approved by the College, with written proof of same provided to the Registrar;
 3. The PROBE Program for Professional/Problem-Based Ethics (must obtain an "unconditional pass" grade); and
- (ii) The Registrant shall retain a practice monitor acceptable to the College (the "Practice Monitor") who shall meet with the Registrant during the twenty-four (24) months immediately following the date the Registrant returns to practice after serving the suspension referred to in paragraph 1(b) above. The Practice Monitoring shall focus on the Registrant's recordkeeping and billing practices. The Practice Monitor will review the appropriateness of the Registrant's recordkeeping and billing practices and will conduct a chart review of at least six (6) patient charts at each Practice Monitoring visit. The Practice Monitor shall submit a report to the College after each visit detailing the Registrant's progress, summarizing the six patient charts reviewed since the previous Practice Monitoring visit, listing any recommendations made to the Registrant and whether the Registrant implemented such recommendations.

- (iii) For the first twelve (12) months, the Registrant shall meet with the Practice Monitor at least quarterly. For the final twelve (12) months, the Registrant shall meet with the Practice Monitor semi-annually.
- (iv) At the conclusion of 24 months of Practice Monitoring, if the Practice Monitor reports to the College in writing that the Registrant is progressing well and recommends that the Practice Monitoring cease, and if approved by the College, this term, condition and limitation will be removed from the Registrant's certificate of registration.
- (v) The Registrant shall pay to the College in respect of the cost of Practice Monitoring, the amount of \$1000.00 per inspection/office visit and chart review, such amount to be paid immediately after completion of each inspection/review.
- (e) that the Registrant be prohibited from employing his wife in any capacity in his dental practise; and
- (f) that the Registrant pay costs to the College in the amount of \$10,000.00 in respect of this discipline hearing within three (3) months of the date this Order becomes final.

The College and the Registrant 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 practice address of the Registrant included

Penalty and Costs Decision

[32] The Panel accepts the Joint Submission with respect to Penalty and Costs, and makes the following order (the "**Order**"):

1. That the Registrant appear before the panel of the Discipline Committee to be reprimanded within ninety (90) days of this Order becoming final or on a date fixed by the Registrar.
2. That the Registrar suspend the Registrant's certificate of registration for a period of five (5) months, commencing on February 12, 2025 at 12:01 am. The suspension shall run without interruption.
3. That the Registrar impose the following terms, conditions and limitations on the Registrant's certificate of registration (the "Suspension Conditions"), which conditions shall continue until the suspension of the Registrant's certificate of registration as referred

to in paragraph 2 above has been fully served:

- a. while the Registrant's certificate of registration is under suspension, the Registrant shall immediately inform the following people about the suspension:
 - staff in the offices or practices in which the Registrant works, including other regulated professionals and administrative staff;
 - dentists with whom the Registrant works, whether the Registrant is a principal in the practice or otherwise associated with the practice;
 - faculty members at Faculties of Dentistry, if the Registrant is affiliated with the Faculty in an academic or professional capacity;
 - owners of a practice or office in which the Registrant works;
 - patients who ask to book an appointment during the suspension, or whose previously booked appointment has been rescheduled due to the suspension. The Registrant may assign administrative staff to inform patients about the suspension. All communications with patients must be truthful and honest
- b. while suspended, the Registrant must not engage in the practice of dentistry, including but not limited to:
 - acting in any manner that suggests the Registrant is entitled to practice dentistry. This includes communicating diagnoses or offering clinical advice in social settings. The Registrant must ensure that administrative or office staff do not suggest to patients in any way that the Registrant is entitled to engage in the practice of dentistry;
 - giving orders or standing orders to dental hygienists;
 - supervising work performed by others;
 - working in the capacity of a dental assistant or performing laboratory work;
 - acting as a clinical instructor;
- c. while suspended, the Registrant must not be present in offices or practices where the Registrant works when patients are present, except for emergencies that do not involve patients. The Registrant must immediately advise the Registrar in writing about any such emergencies;
- d. while suspended, the Registrant must not benefit or profit, directly or indirectly from the practice of dentistry and

- the Registrant 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 Registrant may be reimbursed for actual out-of-pocket expenses incurred in respect of the practice during the suspension period;
 - the Registrant is permitted to sign and/or submit insurance claims for work that was completed prior to the suspension;
 - the Registrant must not sign insurance claims for work that has been completed by others during the suspension period;
- e. the Registrant shall cooperate with any office monitoring which the Registrar thinks is needed to ensure that the Registrant has complied with the Suspension Conditions. The Registrant must provide the College with access to any records associated with the practice that the College may require to verify that the Registrant has not engaged in the practice of dentistry or profited during the suspension; and
- f. the Suspension Conditions imposed by virtue of subparagraphs 3(a)-(e) above shall be removed at the end of the period that the Registrant's certificate of registration is suspended
4. That the Registrar also impose the following additional terms, conditions and limitations on the Registrant's Certificate of Registration, namely:
- g. The Registrant shall successfully complete, at his own expense, the following courses approved by the Registrar within six (6) months of this Order becoming final or such further time as may be permitted by the Registrar:
1. A course on recordkeeping, pre-approved by the College, with written proof of same provided to the Registrar;
 2. A course on billing, pre-approved by the College, with written proof of same provided to the Registrar;
 3. The PROBE Program for Professional/Problem-Based Ethics (must obtain an "unconditional pass" grade); and
- h. The Registrant shall retain a practice monitor acceptable to the College (the "Practice Monitor") who shall meet with the Registrant during the twenty-four (24) months immediately following the date the Registrant returns to practice after serving the suspension referred to in paragraph 2 above. The Practice Monitoring shall focus on the Registrant's recordkeeping and billing practices. The Practice Monitor will review

- the appropriateness of the Registrant's recordkeeping and billing practices and will conduct a chart review of at least six (6) patient charts at each Practice Monitoring visit. The Practice Monitor shall submit a report to the College after each visit detailing the Registrant's progress, summarizing the six patient charts reviewed since the previous Practice Monitoring visit, listing any recommendations made to the Registrant and whether the Registrant implemented such recommendations.
- i. For the first twelve (12) months, the Registrant shall meet with the Practice Monitor at least quarterly. For the final twelve (12) months, the Registrant shall meet with the Practice Monitor semi-annually.
 - j. At the conclusion of 24 months of Practice Monitoring, if the Practice Monitor reports to the College in writing that the Registrant is progressing well and recommends that the Practice Monitoring cease, and if approved by the College, this term, condition and limitation will be removed from the Registrant's certificate of registration.
 - k. The Registrant shall pay to the College in respect of the cost of Practice Monitoring, the amount of \$1000.00 per inspection/office visit and chart review, such amount to be paid immediately after completion of each inspection/review.
5. That the Registrant is prohibited from employing his wife in any capacity in his dental practice.
 6. The panel orders that the Registrant pay costs to the College in the amount of \$10,000, such costs to be paid within three (3) months of this Order becoming final.

Pursuant to the *Code*, the College's publication of this matter will include the Registrant's name and address

Reasons for Penalty and Costs Decision

[33] It is settled law that a decision-maker should not lightly depart from an agreement that has been reached by the parties with respect to an appropriate penalty. The test is not one of "fitness of sentence" but rather, the more stringent test of whether the jointly proposed penalty would bring the administration of justice into disrepute or would otherwise be contrary to the public interest."²

² *R v Anthony Cook*, [2016 SCC 43](#), applied in the professional discipline context in *Ontario College of Teachers v Merolle*, 2023 ONSC 3453 at para 32

[34] In reaching its decision, the Panel considered the goals and principles of penalty, the submissions of the parties and the advice of its independent legal counsel. It also considered the mitigating and aggravating factors present in this case, and the circumstances of the case as a whole.

[35] The Discipline Committee's goal in imposing penalties is not to punish the Registrant. The goal of a penalty is, rather, to protect the public from dentists who have committed professional misconduct and to maintain public confidence in the profession and in its ability to self-regulate.

[36] A penalty must also serve as a measure of general deterrence, in that it sends a message to all registrants of the dental profession that this type of conduct will not and cannot be tolerated. Further, it must serve as a measure of specific deterrence with respect to the dentist concerned.

[37] An appropriate penalty should also provide for remediation or rehabilitation of the dentist concerned, where possible and appropriate.

[38] We find that the penalty set out in the JSPC meets those objectives.

[39] In reaching its conclusion that the penalty set out in the JSPC is appropriate, the Panel also considered many of the factors brought to its attention by the parties, including that (a) Dr. Kwong is a senior dentist who lives with his wife and two daughters; (b) Dr. Kwong cooperated with the investigation into the records relating to two of his patients, and that he brought the records of an additional three (3) patients to the attention of the College investigator; and (c) Dr. Kwong has admitted his misconduct with respect to all four (4) allegations and he engaged in a process of resolution that led to the Joint Submission that the parties proposed. This significantly reduced the costs to the College of prosecuting the case against Dr. Kwong. In addition, by admitting to professional misconduct, Dr. Kwong has shown an element of insight into his behaviour and an understanding that it was unprofessional and unethical

[40] The Panel also considered aggravating factors including that this is not Dr. Kwong's first appearance before a panel of the Discipline Committee. In 2008, Dr. Kwong pled to five (5) allegations of misconduct, including that his record-keeping practices were inadequate³, and that he created false chart entries indicating that services were provided to a patient on dates

³ *RCDSO v Dr. Kwong*, decision of the Discipline Committee, October 20, 2008, at p. 7

that were admittedly false.⁴ This type of misconduct is also present in the case before this Panel.

[41] In its Decision dated October 20, 2008, the Panel of the Discipline Committee imposed significant penalties, including a two (2)-month suspension from practice, completion of a College-approved course in professional ethics, and practice-monitoring for a period of twenty-four (24) months.

[42] Counsel for the Registrant submitted that the conduct at issue was simply an “error in judgment”, that he was only trying to help his patients, and that Dr. Kwong’s actions were “not intended to make money.”

[43] With respect, the Panel disagrees with this submission. As noted, Dr. Kwong has previously pled guilty to allegations of inadequate record-keeping practices and creating false chart entries for a patient. He was previously required to take a College-approved course in ethics and to have his practice monitored for two (2) years. In the circumstances, it is appropriate that the penalty imposed upon Dr. Kwong be more severe than was the penalty he received in 2008.

[44] In all the circumstances of this case, the Panel agrees that the penalty jointly proposed by the parties is reasonable and appropriate.

[45] The combined elements of the penalty – which include a five (5)-month suspension from practice, the requirements to take a PROBE Program for Professional/Problem-Based Ethics, a College-approved course on billing, a course on record-keeping, and practice monitoring for a period of twenty-four (24) months, as well as other terms and conditions related to the suspension – will serve to protect the public and to maintain its confidence in the profession’s ability to regulate itself.

[46] The penalty imposed, and the reprimand issued, will also send a clear message to Dr. Kwong, to the profession and to the public that the College has taken this matter seriously and that this type of misconduct will not be tolerated. In this way, the combined elements of the penalty will have both specific and general deterrent impact.

⁴ Ibid.

[47] The requirements to take courses on ethics, billing and record-keeping, and to have his practice monitored for a second period of twenty-four (24) months, is intended to provide remediation for Dr. Kwong and to have a rehabilitative impact.

[48] With respect to the issue of costs, the Panel found that the amount of \$10,000 with three (3) months to pay, as agreed between the parties in the JSPC, is reasonable in the circumstances. There is no reason to depart from that agreement. This amount is within the range of costs awarded to the College in similar cases.

[49] For these reasons, the Panel accepts the JSPC and orders that its terms and conditions be imposed.

The Reprimand

[50] At the conclusion of the discipline hearing, the Panel administered the reprimand to the Registrant. A copy of the reprimand is attached as Appendix "A" to these Reasons.

I, Judith Welikovitch, sign these Reasons for Decision as Chairperson of this Discipline Panel.



March 31, 2025

Date

Appendix “A”

RCDSO v. Dr. Andrew Kwong

Dr. Andrew Kwong, as you know, this Discipline panel has ordered 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 falsifying records related to your practice, signing false reports in relation to multiple patients and submitting an account or charge for dental services that you knew or ought to have known was false or misleading. These acts of professional misconduct occurred in relation to multiple patients in 2020 – 2021. The cumulative effect of your conduct would reasonably be regarded by Registrants as dishonourable, unprofessional and unethical.

Your professional misconduct is a matter of profound concern to the Panel. 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 acts that are unethical and that it is not the first time you have appeared before this Committee for similar conduct. In 2008, you were found to have committed professional misconduct by signing a certificate, report or similar document that contained a false, misleading or improper statement and to have submitted a false or misleading account or charge.

The penalty we have imposed upon you today, which includes this reprimand, as well as a 5 month suspension from practice subject to specific conditions, as well as the imposition of certain additional terms, limitations and conditions on your Certificate of Registration reflects the seriousness of your misconduct and will serve as a message to your fellow dentists that this type of conduct will not be tolerated.

We sincerely hope and expect that you never appear before the Discipline Committee again. You should be aware, however, that should you be called upon to appear before a panel of the

Discipline Committee in future, that you will likely receive a significantly harsher sentence than the one imposed here today.

As I advised earlier, you will now be given an opportunity to make a comment if you wish to do so. This is **not** an opportunity for you to debate the merits or the correctness of the decisions we have made.

Do you have any questions, or do you wish to make any comments?

[The Registrant did not elect to make any comments.]

Thank you for attending today. We are adjourned.