
Decision Two

Dr. Maurice Bygrave
Westside Mall Plaza, Lower Level
2380 Eglinton Avenue W., Unit 6B
Toronto, Ontario

ALLEGATIONS OF PROFESSIONAL MISCONDUCT

Notice of Hearing #1

- Contravened a standard of practice or failed to maintain the standards of practice of the profession (para. 1).
- Treated or attempted to treat a disease, disorder or dysfunction of the oral-facial complex that he ought to have known was beyond his expertise or competence (para. 5).
- Treated a patient for a therapeutic, preventative, palliative, diagnostic, cosmetic or other health-related purpose in a situation in which consent was required by law, without such consent (para. 7).
- Failed to keep records as required by the Regulations (para. 25).
- 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 (para. 59).

Notice of Hearing #2

- Contravened a standard of practice or failed to maintain the standards of practice of the profession (para. 1).
- Failed to keep records as required by the Regulations (para. 25).

BRIEF SYNOPSIS OF FACTS

Notice of Hearing #1

- Referral to the Discipline Committee arose from a patient complaint with respect to orthodontic treatment provided to this adult patient.
- There were no records of any orthodontic case diagnosis nor a comprehensive treatment plan along with treatment options, and no indications as to what was discussed with the patient during consultations.

- Member failed to inform patient of possible risks associated with treatment.
- Member failed to diagnose and inform patient of decay present around orthodontic molar bands.
- No daily treatment record with respect to tooth movement, wire changes and progress notes, nor were appropriate records taken or obtained which were necessary for comprehensive orthodontic diagnosis or treatment planning.
- Member failed to control the space closure that was necessary as a result of extractions performed.
- Member attempted to provide treatment which was beyond his expertise in that the patient had a skeletal disharmony. The treatment required more expertise than a general practitioner would likely receive in an orthodontic short course designed for general practitioners.
- Member failed to obtain necessary informed consent from patient prior to treatment.
- Member's records lacked appropriate detail in numerous areas.
- Member failed to obtain or take the appropriate pre-treatment current records, namely a cephalometric radiograph, periapical radiographs and good quality study models. Member did not take appropriate records at the end of the first stage of treatment prior to the decision to proceed with extractions.
- Member placed instruments on the patient's chest, which would reasonably be regarded by members as disgraceful, dishonourable, unprofessional and unethical.

Notice of Hearing #2

- For six patients, member made orthodontic diagnoses, provided treatment plans, commenced treatments and provided ongoing treatments without the appropriate records. There was no indications in the records that, prior to treatments, patients were made aware of the options, risks, benefits and anticipated length of treatments.
- For the same six patients, member's records lacked the appropriate detail related to complete clinical examination, orthodontic case diagnosis information with respect to case objectives and

SUMMARIES OF RECENT DISCIPLINE COMMITTEE HEARINGS

planning, the presentation of treatment options along with the associated risks and benefits, information related to the expected range of active treatment time, and lacked detail related to ongoing treatment and records.

- For these patients, member failed to obtain or take the appropriate pre-treatment current records, namely a cephalometric radiograph, periapical radiographs, photographs and good quality study models.

DECISION

1. Finding

- The member pleaded not guilty but was found guilty of professional misconduct as alleged in the two Notices of Hearing.

2. Penalty

- Reprimand.
- Suspension of member's certificate of registration for three consecutive months [March 22, 2007 – June 21, 2007].
- Course in informed consent.
- Course in dental ethics.
- Member restricted from performing orthodontics until completion of comprehensive course in orthodontics.
- Monitoring, at the member's expense, for 24 months following completion of courses.

3. Costs/Publication

- Costs to the College in the amount of \$10,000.
- Monitoring costs of \$600 per visit, not to exceed \$2,400.
- Pursuant to the legislation, publication of this matter includes the member's name and address.

4. Panel's Reasoning

- College called four witnesses: the patient, two dentists who examined and/or treated the patient after the member, and an expert witness qualified in the area of orthodontics who gave opinion evidence both in respect of the member's care and treatment of the patient and in respect of the recordkeeping allegations relating to the six other patients.

- Counsel for the member called two witnesses: the mother of one of his patients who was named in the second notice of hearing and the member testified on his own behalf.
- The panel weighed all of the evidence, including the oral testimony of witnesses, including the clear and credible evidence of the expert qualified in the area of orthodontics, and found that the allegations of professional misconduct were established on the evidence.
- With respect to penalty, panel had regard to the important objectives of public protection, general deterrence, specific deterrence, the rehabilitation or remediation of the member and the need to uphold the reputation of the profession and the public interest.
- Panel considered the impact the member's actions have had on the patient.
- Panel felt that a moderate but meaningful suspension was required having regard to the circumstances of the case.
- A primary objective of the penalty order must be to provide for the rehabilitation of the member through skills training, informative professional courses and, ultimately, practice monitoring.
- With respect to costs, the panel accepted the submission of the College that partial reimbursement of costs in the amount of \$10,000 payable within 12 months was appropriate.

The member appealed the decision of the Discipline Committee to the Ontario Superior Court of Justice, Divisional Court, which dismissed the appeal in its entirety on October 16, 2006. The member then sought leave to appeal to the Ontario Court of Appeal, which motion was dismissed with costs of \$1,000 payable by the member to the College on February 22, 2007.