

Decision 5

Dr. Y. Kenneth Goldberg
NO CURRENT PRACTICE ADDRESS
Thornhill, Ontario

**ALLEGATIONS OF
 PROFESSIONAL MISCONDUCT**

Notice of Hearing #1:

- ◆ Disgraceful, dishonourable, unprofessional or unethical conduct (para. 59)

Notice of Hearing #2:

- ◆ Disgraceful, dishonourable, unprofessional or unethical conduct (para. 59)

BRIEF SYNOPSIS OF FACTS

Notice of Hearing #1:

- ◆ In June 2011, Dr. Goldberg touched a patient in a sexual manner, including but not limited to rubbing her breasts and/or hugging her during dental treatment.

Notice of Hearing #2:

- ◆ In August 2011, Dr. Goldberg entered into a settlement agreement with this patient after she had corresponded with the College. In exchange for financial compensation in the amount of \$27,000.00, the patient agreed in a release “not to provide any assistance whatsoever to the RCDSO concerning any issue with respect to the Releases except as required by law”.
- ◆ In or about July and/or August 2011, Dr. Goldberg attempted to circumvent the College’s regulatory process and tampered with a witness, namely the patient involved in this matter.
- ◆ The agreement included a confidentiality clause, which was intended to prevent the patient from disclosing the existence and the content of the agreement.

DECISION

Finding

- ◆ The member pleaded guilty and was found guilty with respect to the above allegations of professional misconduct

Penalty

- ◆ Revocation of certificate of registration

Publication

- ◆ Pursuant to the legislation, publication of this matter includes the member’s name and address

PANEL’S REASONING

- ◆ The penalty was a joint submission which was reached following a pre-hearing conference.
- ◆ The revocation of a member’s certificate of registration is the most severe penalty that can be imposed by a discipline panel. This decision will therefore ensure that no other member of the public is put at risk by Dr. Goldberg. It also demonstrates to the public that the College puts the protection of the public at the forefront of professional responsibility.
- ◆ This penalty also serves to remind the entire profession that inappropriate touching of a sexual nature and attempts to silence witnesses and subvert the investigation and discipline processes of the College are considered the most serious of offences that will not be condoned, and that members found guilty of such actions will receive severe penalties.

- ◆ The panel noted that the member ultimately accepted responsibility for his actions through the guilty plea and his participation in the joint submission on penalty. These were recognized as mitigating factors, therefore the panel agreed with the joint submission that there be no order as to costs.
- ◆ However, the panel considered it an aggravating factor that, in a prior discipline hearing in the year 2000, the member agreed in a penalty order not to conduct any physical examinations of his patients below the defined area of “the neck.”
- ◆ Another aggravating fact was his attempts to subvert the investigative and disciplinary actions of the College.
- ◆ Taken together with the balance of the facts, the member’s actions were sufficiently serious and egregious to justify the revocation of the member’s certificate of registration in order to protect the public interest.