



# DECISION 2

## Dr. Zbigniew Studzienny

70 Meredith St  
Gore Bay, 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)

#### Notice of Hearing #3

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

#### Notice of Hearing #4

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

### BRIEF SYNOPSIS OF FACTS

Based on his political beliefs, Dr. Studzienny refused to treat people who supported industrial wind turbines on Manitoulin Island, many of whom were from First Nations communities. This case consisted of four separate Notices of Hearing, all of which have similar facts. One Notice of Hearing was the result of a Registrar's investigation and three Notices of Hearing were the result of patient complaints. Dr. Studzienny dismissed patients who supported the wind turbines either personally or by publishing a letter in the local newspaper asking members of two town councils not to come to his practice. The complainants alleged that the dismissal from his practice and refusal to treat them was discriminatory based on their aboriginal heritage and/or political or economic beliefs. One complainant alleged that when dismissing him from his practice, Dr. Studzienny used offensive language which was a racial "slur."

### DECISION

#### Finding

The member pleaded guilty and was

found guilty with respect to the above allegations of professional misconduct.

#### Penalty

- Reprimand
- Publish letters of apology to the community and to the profession
- Develop, implement and consistently follow a policy/protocol for dismissing patients from the member's dental practice, that is approved by the College
- Course in Human Rights 101
- One-on-one human rights sensitivity training focussing on interactions with the aboriginal community

#### Costs/Publication

- Costs awarded to the College in the amount of \$4,000
- Member to pay for course and sensitivity training
- Pursuant to the legislation, publication of this matter includes the member's name and address

#### PANEL'S REASONING

- The penalty was a joint submission reached as a result of a pre-hearing conference.
- The panel accepted that the joint submission was within the appropriate range for misconduct of this nature, which the panel recognized was unique.
- The penalty was found to be fair and to balance specific and general deterrence, rehabilitation of the member and public protection.
- The panel considered aggravating factors such as the upset caused in the community by the member's conduct, including perception of racial discrimination, and the fact that the member published one of his letters after being contacted by the College

about the patients' complaints.

- The panel considered the member's guilty plea as a mitigating factor, since it saved time and expense and prevented witnesses from participating in a hearing they may have found very difficult. It also noted that the member had no prior conduct history, cooperated with the College and showed remorse.
- A professional's views and opinions must not lead to the abrogation of a member's professional responsibilities to patients.
- The Human Rights 101 course and especially the one-on-one human rights and sensitivity training focusing on interactions with the aboriginal community address the member's apparent lack of cultural sensitivity and will protect the public by helping to ensure this behaviour is not repeated.
- Undergoing the disciplinary process, including writing letters of apology and developing College-approved protocols for dismissing patients will aid the member's rehabilitation and will deter the member and profession from engaging in this type of conduct, thus further ensuring public protection.
- The cost order is substantial but not punitive and will provide both specific deterrence to this member and general deterrence because it is a significant financial penalty.
- The panel's reprimand of the member will serve as a specific deterrent, as it is humiliating to be reprimanded by one's peers.
- Publication of the penalty order and inclusion of information on the College's register will be embarrassing to the member and will also serve the goal of general deterrence. Publication of these results also ensures protection of the public.