

**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. HAREN JAGAN**, of the City of Brockville 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.

Members in Attendance: Dr. Richard Bohay (Chair)  
Dr. Flavio Turchet  
Dr. Harpaul Anand  
Dr. Edelgard Mahant  
Mr. Manohar Kanagamany

**BETWEEN:**

<b>ROYAL COLLEGE OF DENTAL SURGEONS</b>	)	Appearances:
<b>OF ONTARIO</b>	)	
	)	
	)	Ms. Dayna Simon
	)	For the Royal College of Dental
	)	Surgeons of Ontario
	)	
- and -	)	
	)	
	)	
<b>DR. HAREN JAGAN</b>	)	Mr. Matthew Wilton
	)	For Dr. Haren Jagan
	)	
	)	Ms. Julie Maciura
	)	Independent Counsel for the
	)	Discipline Committee of the
	)	Royal College of Dental
	)	Surgeons of Ontario

Hearing held on December 8, 2015.

**DECISION AND REASONS FOR DECISION**

**FINDING**

Dr. Haren Jagan (the “Member”) pled guilty and was found guilty with respect to the following specified allegations of professional misconduct as set out in the Notice of Hearing dated May 22, 2015:

1. You committed an act or acts of professional misconduct as provided by s.51(1)(c) of the *Code*, in that, you failed to keep records as required by the Regulations relative to one or more of the following patients during the year and/or one or more of the years specified opposite that patient’s name, contrary to paragraph 25 of Section 2 of the Dentistry Act Regulation.

<u>Patients</u>	<u>Year(s)</u>
A., S.	2011
B., R.	2011
B., B.	2009
B., J.	2012
B., P.	2012 <sup>1</sup>
D., S.	2012
D., L.	2012
D., J.	2010, 2011, 2012
D., D.	2011
D., S.	2010
D., G.	2010
F., G.	2012
G., B.	2009, 2012
G., C.	2011
G., S.	2010
G., S.	2012
H., J.	2012
H., E.	2012 <sup>2</sup>
H., R.	2012
H., T.	2011
H., M.	2011
H., E.	2010, 2011
I., S.	2012
J., R.	2008
K., M.	2009

K., M.	2012
K., K.	2011 <sup>3</sup>
K., S.	2011 <sup>4</sup>
L., G.	2008
L., Z.	2010
M., G.	2008, 2010, 2011
M., H.	2011
M., C.	2011
M., C.	2009
M., S.	2009, 2010
M., C.	2008
N., W.	2012
O., R.	2011
P., R.	2011, 2012 <sup>4</sup>
Q., C.	2011
Q., M.	2011 <sup>5</sup>
R., G.	2011
R., R.	2012
R., M.	2010
S., M.	2011
S., S.	2010
S., D.	2009
S., E.	2011
S., S.	2007, 2008, 2011
S., J.	2012
S., S.	2008
S., A.	2009, 2011
S., J.	2012
T., D.	2011
W., S.	2011
Z., S.	2011

2. You committed an act or acts of professional misconduct as provided by s.51(1)(c) of the *Code*, in that, you charged a fee that was excessive or unreasonable in relation to the service performed relative to one or more of the following patients during the year and/or one or more of the years specified opposite that patient's name, contrary to paragraph 31 of Section 2 of the Dentistry Act Regulation.

<u>Patients</u>	<u>Year(s)</u>
B., M.	2012
B., J.	2010
B., B.	2010
B., R.	2011
B., K.	2012

B., C.	2010, 2011
B., W.	2009, 2010
B., P.	2012 <sup>6</sup>
C., V.	2010, 2012
D., P.	2011, 2012
D., S.	2011
D., J.	2012
E., M.	2011
F., J.	2012
G., B.	2009, 2011
G., C.	2011
G., S.	2010, 2012
H., J.	2011, 2012
H., E.	2011 <sup>7</sup>
H., T.	2011
K., K.	2011 <sup>8</sup>
K., T.	2010, 2012
M., M.	2010
M., J.	2009, 2010, 2012
M., S.	2011, 2012
M., J.	2011 <sup>9</sup>
N., W.	2011, 2012
N., E.	2010, 2011
P., R.	2010, 2011 <sup>10</sup>
Q., M.	2011 <sup>11</sup>
R., J.	2011, 2012
R., I.	2008 <sup>12</sup>
S., T.	2010, 2011, 2012
S., F.	2010
S., C.	2011
S., S.	2011
T., F.	2012
T., A.	2010
T., D.	2010
T., C.	2011
V., J.	2011
W., H.	2010
Z., N.	2012

3. You committed an act or acts of professional misconduct as provided by s.51(1)(c) of the *Code*, 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 one or more of the following patients during the year and/or one or more of the years specified opposite that patient's name, contrary to

paragraph 28 of Section 2 of the Dentistry Act Regulation.

<u>Patients</u>	<u>Year(s)</u>
B., M.	2012
B., J.	2010
B., B.	2010
B., R.	2011
B., K.	2012
B., C.	2010, 2011
B., W.	2009, 2010
B., P.	2012 <sup>13</sup>
C., V.	2010, 2012
D., P.	2011, 2012
D., S.	2011
D., J.	2012
E., M.	2011
F., J.	2012
G., B.	2009, 2011
G., C.	2011
G., S.	2010, 2012
H., J.	2011, 2012
H., E.	2011 <sup>14</sup>
H., T.	2011
K., K.	2011 <sup>15</sup>
K., T.	2010, 2012
M., M.	2010
M., J.	2009, 2010, 2012
M., S.	2011, 2012
M., J.	2011 <sup>16</sup>
N., W.	2011, 2012
N., E.	2010, 2011
P., R.	2010, 2011 <sup>17</sup>
Q., M.	2011 <sup>18</sup>
R., J.	2011, 2012
R., I.	2008 <sup>19</sup>
S., T.	2010, 2011, 2012
S., F.	2010
S., C.	2011
S., S.	2011
T., F.	2012
T., A.	2010
T., D.	2010
T., C.	2011
V., J.	2011

W., H. 2010  
 Z., N. 2012

4. You committed an act or acts of professional misconduct as provided by s.51(1)(c) of the *Code*, 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 and/or one or more of the years specified opposite that patient's name, contrary to paragraph 33 of Section 2 of the Dentistry Act Regulation.

<u>Patients</u>	<u>Year(s)</u>
B., M.	2012
B., J.	2010
B., B.	2010
B., R.	2011
B., K.	2012
B., C.	2010, 2011
B., W.	2009, 2010
B., P.	2012 <sup>20</sup>
C., V.	2010, 2012
D., P.	2011, 2012
D., S.	2011
D., J.	2012
E., M.	2011
F., J.	2012
G., B.	2009, 2011
G., C.	2011
G., S.	2010, 2012
H., J.	2011, 2012
H., E.	2011 <sup>21</sup>
H., T.	2011
K., K.	2011 <sup>22</sup>
K., T.	2010, 2012
M., M.	2010
M., J.	2009, 2010, 2012
M., S.	2011, 2012
M., J.	2011 <sup>23</sup>
N., W.	2011, 2012
N., E.	2010, 2011
P., R.	2010, 2011 <sup>24</sup>
Q., M.	2011 <sup>25</sup>
R., J.	2011, 2012
R., I.	2008 <sup>26</sup>

S., T.	2010, 2011, 2012
S., F.	2010
S., C.	2011
S., S.	2011
T., F.	2012
T., A.	2010
T., D.	2010
T., C.	2011
V., J.	2011
W., H.	2010
Z., N.	2012

5. You committed an act or acts of professional misconduct as provided by s.51(1)(c) of the *Code*, in that, you recommended and/or provided an unnecessary dental service relative to one or more of the following patients during the year and/or one or more of the years specified opposite that patient's name, contrary to paragraph 6 of Section 2 of the Dentistry Act Regulation.

<u>Patients</u>	<u>Year(s)</u>
B., P.	2012 <sup>27</sup>
D., P.	2012
F., J.	2012
R., J.	2011

6. You committed an act or acts of professional misconduct as provided by s.51(1)(c) of the *Code*, in that, you accepted an amount in full payment of an account or charge, that was less than the full amount of the account or charge submitted by you to a third party payer, without making reasonable efforts to collect the balance from the patient or to obtain the written consent of the third party payer relative to one or more of the following patients during the year and/or one or more of the years specified opposite that patient's name, contrary to paragraph 34 of Section 2 of the Dentistry Act Regulation.

<u>Patients</u>	<u>Year(s)</u>
B., C.	2010
D., S.	2011, 2012
D., V.	2011
G., B.	2009, 2011
G., C.	2011
G., L.	2010, 2011
G., S.	2011
G., S.	2008 <sup>28</sup>
M., M.	2010
M., C.	2011

M., S.	2011
N., E.	2011
P., R.	2011 <sup>29</sup>
S., F.	2009
F., T.	2012
T., A.	2010
T., C.	2011

The following specified allegation of professional misconduct was withdrawn in its entirety:

7. You committed an act or acts of professional misconduct as provided by s.51(1)(c) of the *Code*, in that, 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 relative to one or more of the following patients during the year and/or one or more of the years specified opposite that patient's name, contrary to paragraph 59 of Section 2 of the Dentistry Act Regulation.

<u>Patients</u>	<u>Year(s)</u>
B., M.	2012
B., J.	2010
B., B.	2010
B., R.	2011
B., K.	2012
B., C.	2010, 2011
B., W.	2009, 2010
B., P.	2012
C., V.	2010, 2012
D., P.	2011, 2012
D., S.	2011, 2012
D., J.	2012
D., V.	2011
E., M.	2011
F., J.	2012
G., B.	2009, 2011
G., C.	2011
G., L.	2010, 2011
G., S.	2010, 2011, 2012
G., S.	2008
H., J.	2011, 2012
H., E.	2011
H., T.	2011



K., K.	2011
K., T.	2010, 2012
M., M.	2010
M., J.	2009, 2010, 2012
M., C.	2011
M., S.	2011, 2012
M., J.	2011
N., W.	2011, 2012
N., E.	2010, 2011
P., R.	2010, 2011
Q., M.	2011
R., J.	2011, 2012
R., I.	2008
S., T.	2010, 2011, 2012
S., F.	2009, 2010
S., C.	2011
S., S.	2011
T., F.	2012
T., A.	2010
T., D.	2010
T., C.	2011
V., J.	2011
W., H.	2010
Z., N.	2012

### **Reasons for Finding**

The evidence contained in the Agreed Statement of Facts clearly substantiates the allegations. The Member pled guilty. He did not dispute the allegations, particulars or facts presented in the Agreed Statement of Facts submitted by College Counsel.

### **PENALTY**

The panel of the Discipline Committee (the “Panel”) accepted a joint submission from the parties and imposed the following penalty upon the Member, namely:

1. That the Member appear before the Panel to be reprimanded within ninety (90) days of the Order becoming final or on a date fixed by the Registrar;
2. That the Registrar suspend the Member’s certificate of registration for a period of four (4) months, to run consecutively, such suspension to commence within three (3) months of this Order becoming final;

3. That the Registrar impose the following terms, conditions and limitations on the Member's certificate of registration (the "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 not be present in his dental office when patients are present, save and except for unforeseen non-patient related emergencies. Where the Member is required to attend for a non-patient related emergency, the Member shall immediately advise the Registrar of that fact including details of the nature of the emergency;
  - (b) upon commencement of the suspension, the Member shall advise all of the Member's staff as well as any other dentist in the office that the Member engages in practice with, whether that Member is a principal in the practice or otherwise associated with the practice, of the fact that the Member's certificate of registration is under suspension;
  - (c) during the suspension, the Member shall not do anything that would suggest to patients that the Member is entitled to engage in the practice of dentistry and shall ensure that the Member's staff is instructed not to do anything that would suggest to patients that the Member is entitled to engage in the practice of dentistry during the suspension;
  - (d) the Member shall permit and co-operate with any office monitoring which the Registrar feels is appropriate in order to ensure that the Member has complied with this Order, and in that connection, the Member shall provide access to any records associated with the practice in order that the College can verify that the Member has not engaged in the practice of dentistry during the suspension; and
  - (e) the Conditions imposed in subparagraphs (a) to (d) above shall be removed at the end of the period that the Member's certificate of registration is suspended.
4. That the Registrar impose the following terms, conditions and limitations on the Member's certificate of registration (the "Conditions"):
  - (a) the Member shall successfully complete, at his own expense, the ProBe Program for Professional/Problem based Ethics, and provide proof of successful completion and an unconditional pass in writing to the Registrar within in nine (9) months of this Order becoming final, or such further time as may be permitted by the Registrar;

- (b) the Member shall successfully complete, at his own expense, the College Course on Recordkeeping for Ontario Dentists within six (6) months of this Order becoming final, or such further time as may be permitted by the Registrar;
- (c) the Member shall successfully complete, at his own expense, a one on one course on financial recordkeeping within six (6) months of this Order becoming final, or such further time as may be permitted by the Registrar;
- (d) the Member's practice shall be monitored by the College by means of inspection(s) by a representative of the College at such time or times as the College may determine, with advance notice to the Member, during the period commencing upon completion of the Member's suspension and ending the later of twenty-four (24) months, or until a panel of the Inquiries, Complaints and Reports Committee (the "ICRC") is satisfied that monitoring is no longer necessary and has advised the Member of this in writing;
- (e) the Member shall cooperate with the College during the inspection(s) and further, shall pay the College in respect of the costs of monitoring, the amount of \$600.00 per monitoring inspection, such amount to be paid immediately after completion of each of the inspections, provided that the overall cost of monitoring paid by the Member shall not exceed \$2,400.00, regardless of the number of inspections performed;
- (f) the representative or representatives of the College shall report the results of those inspections to the ICRC of the College and the ICRC may, if deemed warranted, take such action as it considers appropriate; and
- (g) That the Member pay costs to the College in the amount of \$5,000.00 in respect of the discipline hearing, such costs to be paid in full within six (6) months of the Order becoming final.

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

### **Reasons for Penalty**

The Panel unanimously agreed that the proposed order presented in the Joint Submission on Penalty was reasonable and in the public interest.

The penalty meets the objectives of protecting the public, serving as specific deterrence for the Member and general deterrence for the profession, serving to rehabilitate the Member, and maintaining public confidence in the profession.

The length and terms of the suspension are significant. The suspension, along with the oral reprimand and the publication of this decision, including the name and address of the Member, directly addresses the principles of specific and general deterrence as they will serve to prevent this kind of conduct from being repeated, either by the Member himself or another member of the profession.

The requirement that the Member successfully complete the ProBe Program for Professional/Problem based Ethics Course and the prescribed examination, the College course on Recordkeeping for Ontario Dentists and a course on financial recordkeeping will serve to rehabilitate the Member. The College will also monitor the Member's practice for a period of 24 months following his suspension and this also will serve in the rehabilitation of the Member and the protection of the Public.

The Panel was satisfied that the penalty clearly demonstrates to the public that the profession has no tolerance for a dentist who is found to have committed serious acts of professional misconduct and who breached the trust that his employees and patients placed in him.

Finally, the Panel accepts the joint submission on costs and recognizes that this amount only partially reimburses the College for costs related to the investigation and hearing in relation to this matter.

It its deliberation on penalty the Panel considered as aggravating circumstances the fact that the conduct involved a breach of trust, the number of patient affected by the Members actions, and that the Member provided treatment that was deemed unnecessary for four of those patients.

The panel also considered the mitigating factors presented in this hearing which included: the Member's full cooperation with the College through all phases of the investigation and this hearing, his willingness to participate in a pre-hearing conference and the fact that the Member has taken responsibility for his actions by pleading guilty.

After delivering its decision on penalty and costs, the Panel delivered the reprimand to Dr. Jagan immediately following the hearing.

### **PUBLICATION BAN**

The Panel also made an Order that there shall be a ban on the publication or broadcasting of the identity of any patients, or any information that could disclose the identity of any patients that are named in the Notice of Hearing and/or any of the exhibits in this matter.

**I, DR. RICHARD BOHAY**, sign these reasons for Decision as Chairperson of this Discipline Panel.

  
Chairperson

9 FEB 2016  
Date

---

<sup>1-5</sup> The College did not proceed in relation to these patient particulars insofar as it alleged that the Member failed to keep records as required by the Regulations; consequently, the Member's plea of guilty and the Panel's finding of professional misconduct is limited to the remaining patient particulars.

<sup>6-12</sup> The College did not proceed in relation to these patient particulars insofar as it alleged that the Member charged a fee that was excessive or unreasonable in relation to the service performed; consequently, the Member's plea of guilty and the Panel's finding of professional misconduct is limited to the remaining patient particulars.

<sup>13-19</sup> The College did not proceed in relation to these patient particulars insofar as it alleged that the Member signed or issued a certificate, report or similar document that was known or ought to have been known to contain a false, misleading or improper statement; consequently, the Member's plea of guilty and the Panel's finding of professional misconduct is limited to the remaining patient particulars.

<sup>20-26</sup> The College did not proceed in relation to these patient particulars insofar as it alleged that the Member submitted an account or charge for dental services that was known or ought to have been known to be false or misleading; consequently, the Member's plea of guilty and the Panel's finding of professional misconduct is limited to the remaining patient particulars.

<sup>27</sup> The College did not proceed in relation to this patient particular insofar as it alleged that the Member recommended and/or provided an unnecessary dental service; consequently, the Member's plea of guilty and the Panel's finding of professional misconduct is limited to the remaining patient particulars.

<sup>28-29</sup> The College did not proceed in relation to these patient particulars insofar as it alleged that the Member accepted an amount in full payment that was less than the amount submitted to a third party payer without making reasonable efforts to collect the balance from the patient or obtain written consent from the third party payer; consequently, the Member's plea of guilty and the Panel's finding of professional misconduct is limited to the remaining patient particulars.