

**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 of the Dentistry Act, 1991, Statutes of Ontario, 1991, Chapter 24 (“Dentistry Act”) respecting one **DR. RASHMI KUMRA** of the City of Toronto, 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 and Ontario Regulation 853, Regulations of Ontario, 1993, as amended

**Members in Attendance:** Dr. Richard Bohay – Chair  
Dr. Harpaul Anand  
Dr. William Coyne  
Mr. Manohar Kanagamany – Public Member  
Mr. Derek Walter – Public Member

**Appearances:** Nick Coleman for the RCDSO  
Seth Weinstein for Dr. Rashmi Kumra  
Brian Gover, Independent Legal Counsel  
to the Discipline Committee of the RCDSO

### **DECISION AND ORDER**

#### **Introduction**

On June 2, 2016, a Panel of the Discipline Committee of the Royal College of Dental Surgeons of Ontario (“Panel”) conducted a hearing respecting allegations against Dr. Rashmi Kumra (“Member”), pursuant to the provisions

of the *Health Professions Procedural Code* (“*Code*”), which is Schedule 2 to the *Regulated Health Professions Act, 1991*, S.O. 1991, c.18. At the outset of the hearing, the Panel made an order pursuant to s. 45(3) of the *Code*, banning the publication or broadcasting of the identities of, and identifying information relating to the Member’s patients.

The Panel received and reviewed the Notice of Hearing (filed as **Exhibit 1**), which contained five (5) allegations of professional misconduct against the Member, together with associated particulars. The hearing proceeded in relation to four (4) of those allegations (Allegations 2 through 5), the gist of which is set out below:

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 2013, you failed to keep records as required by the Regulations relative to one or more of the following patients, contrary to paragraph 25 of Section 2 of the Dentistry Act Regulation.<sup>1</sup>
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 2013, 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 the following patients, contrary to paragraph 28 of Section 2 of the Dentistry Act Regulation.<sup>2</sup>

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<sup>1</sup> Forty-nine patients’ names were listed generally in relation to this allegation. Seven particulars stated that (1) the Member was unable to locate and provide to the College any patient records for one patient; (2) the Member wrote no progress notes relating to treatment rendered on June 13, 2013, the date of a claim for one patient; (3) the Member’s progress notes indicated that two units of scaling were completed, but three units were claimed for two patients; (4) the Member wrote no progress notes relating to her claims for three patients; (5) the Member failed to document in her progress notes the scaling units provided to one patient; (6) the Member’s progress notes did not correspond to dates of service on claim forms for four patients; and (7) according to the Member’s progress notes and/or claims, she provided scaling to 47 patients without documentation of any calculus to justify the scaling.

<sup>2</sup> Fifty-two patients’ names were listed generally in relation to this allegation. Seven particulars stated that (1) the Member issued two claims for code 01102, two claims for code 11113 and two claims for code 11107 for one date, June 13, 2013, for a single patient; (2) the Member issued claims for three units of scaling for two

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 2013, you charged a fee that was excessive or unreasonable in relation to the service performed relative to one or more of the following patients, contrary to paragraph 31 of Section 2 of the Dentistry Act Regulation.<sup>3</sup>
5. You committed an act or acts of professional misconduct as provided by s.51(1)(c) of the *Code*, in that, during the year 2013, you submitted an account or charge that you knew or ought to have known was false or misleading relative to one or more of the following patients, contrary to paragraph 33 of Section 2 of the Dentistry Act Regulation.<sup>4</sup>

When called upon to admit or deny these four (4) allegations, the Member admitted each of them.

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patients, but her progress notes indicate two units of scaling were completed; (3) the Member issued a claim for services provided to four patients, but her progress notes do not correspond to the dates of the charges on the claim forms; (4) the Member issued claims for scaling for 18 young children between the ages of 10 months and four years old, ages at which polishing may be appropriate but scaling is not appropriate; (5) the Member issued claims for scaling for 47 patients without documentation of any calculus to justify the scaling; (6) the Member issued claims for units of scaling for 21 patients when she was managing the patients' behavioural issues, such as lack of cooperation or crying, which were documented in her progress notes; and (7) the Member issued claims for two units of scaling for five children who were 14 months old or younger, and therefore lacked sufficient teeth and calculus to require 30 minutes (two units) of scaling.

<sup>3</sup> Twenty-five patients' names were listed generally in relation to this allegation. Four particulars stated that (1) the Member issued two claims for code 01102, two claims for code 11113 and two claims for code 11107 for one date, June 13, 2013, for a single patient; (2) the Member's progress notes indicate two units of scaling were completed, but three units were claimed for two patients; (3) for 21 patients, the Member billed for units of scaling when she was managing the patients' behavioural issues, such as lack of cooperation or crying, which were documented in her progress notes; and (4) according to the Member's progress notes and/or claims, she provided two units of scaling to five children who were 14 months old or younger and therefore lacked sufficient teeth and calculus to require 30 minutes (two units) of scaling.

<sup>4</sup> Fifty-two patient's names were listed generally in relation to this allegation. Seven particulars stated that (1) the Member charged two fees for code 01102, two fees for code 11113 and two fees for code 11107 for one date, June 13, 2013, for a single patient; (2) the Member issued claims for three units of scaling for two patients, but her progress notes indicate two units of scaling were completed; (3) the Member charged a fee for services provided to four patients, but her progress notes do not correspond to the dates of the charges on the claim forms; (4) the Member charged a fee for scaling for 18 young children between the ages of 10 months and four years old, ages at which polishing may be appropriate but scaling is not appropriate; (5) the Member charged a fee for scaling for 47 patients without documentation of any calculus to justify the scaling; (6) the Member charged a fee for units of scaling for 21 patients when she was managing the patients' behavioural issues, such as lack of cooperation or crying, which were documented in her progress notes; and (7) the Member charged a fee for two units of scaling for five children who were 14 months old or younger, and therefore lacked sufficient teeth and calculus to require 30 minutes (two units) of scaling.

College Counsel sought and was granted leave to withdraw a fifth allegation,<sup>5</sup> which had alleged that during the year 2013, the Member recommended and/or provided an unnecessary dental service to relative to certain named patients, contrary to paragraph 6 of Section 2 of the Dentistry Act Regulation.

### **Agreed Statement of Facts**

An Agreed Statement of Facts was filed as **Exhibit 2**. As will be seen, it was organized in a way that facilitated the Panel's understanding of specific facts and admissions made by the Member in relation to each of the five admitted allegations set out in the Notice of Hearing (**Exhibit 1**). In addition, in paragraphs 24 and 25 of the Agreed Statement of Facts, the Member specifically admitted that the acts described elsewhere in the document constitute professional misconduct. The Agreed Statement of Facts is set out in its entirety below:

#### **Allegations of Professional Misconduct**

1. The allegations of professional misconduct against Dr. Rashmi Kumra are set out in the Notice of Hearing dated June 1, 2015 (Exhibit 1).

#### **Background**

2. Dr. Kumra has been registered with the College since February 22, 2011. She obtained her dental education at the University of Mumbai, Nair Hospital Dental College, in Mumbai, India in 1997, and at the University of Colorado in Denver, Colorado in 2010.
3. At all relevant times, Dr. Kumra was providing dental services to young children under to auspices of the Ontario Works Dental Program at the City of Toronto. Dr. Kumra's current primary practice is at Smile Dental on St. Clair Ave. W. in Toronto.

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<sup>5</sup> This appeared as Allegation 1 on the Notice of Hearing, Exhibit 1.

4. The Ontario Works Dental program is a publically-funded program to provide dental care to low income families. For families in Toronto, the program is administered by the City of Toronto.

#### **Complaint**

5. The College received a complaint dated July 22, 2013 regarding Dr. Kumra from Dr. H [REDACTED] S [REDACTED], [REDACTED] [REDACTED] [REDACTED] on July 31, 2013. The complaint was processed as such by the College on August 1, 2013. The complaint related to excessive claims and treatment provided by Dr. Kumra in relation to child patients, aged 1-8 years, in March-July 2013.

#### **Investigation**

6. The Registrar of the College appointed an investigator to inquire into the complaint regarding Dr. Kumra's conduct pursuant to the Health Professions Procedural Code, section 75(1)(c) on August 13, 2013.
7. Dr. Kumra was notified by the College regarding Dr. S [REDACTED]'s complaint on August 15, 2013. Dr. Kumra was asked to produce her original records for the patients identified in the complaint. She was also encouraged to provide her response to the complaint by September 19, 2013.
8. Dr. Kumra provided records for 75 of the 78 patients identified in the complaint to the College on August 15, 2013. Dr. Kumra subsequently confirmed that she did not have radiographs for any of the 78 patients.
9. Dr. Kumra elected not to respond to the complaint until the investigation had been completed.
10. Dr. Kumra subsequently provided the original patient records for two of the three patients that had not been delivered to the College previously. She was unable to provide the records for the third patient.

### Investigation Report

11. The College investigator completed her review of Dr. Kumra's patient charts in relation to the complaint in her report to the Registrar dated December 4, 2013. The report was submitted as the Registrar's Report to the Inquiries, Complaints and Reports Committee (ICRC) on December 16, 2013.
12. In the Report of Investigation, the College investigator noted that Dr. Kumra had submitted claims for both polishing and scaling of teeth for all but one of the 77 patients for whom Dr. Kumra had produced records (one patient had a claim for polishing but no scaling). The College investigator also made the following observations with respect to her review of the patient records:

*In the following Table, the patients are listed in order of age – from the youngest to the eldest:*

Age at Time of App't Patient Name	Date of Claim	No. of Units of Scaling Claimed	Progress Notes Indicate...
<b>Patients under 1 year of age</b>			
<b>10 months</b> I.A.	May 18/13	11112****	pt crying, light plaque accumulation <b>no units of scaling documented</b>
<b>11 months</b> O.A.	Jun. 06/13	11112	2 U scale, primary dentition, pt uncooperative, moderate plaque accumulation
<b>Patients between 1 and 1 ½ years of age</b>			
<b>1 year</b> H.A.	Apr. 27/13	11117	½ U scale, primary dentition
<b>1 year</b> M.H.	Jun. 17/13	11112	2 U scale, primary dentition
<b>1 year</b> R.H.	Jun. 13/13	11112	2 U scale, primary dentition, pt uncooperative, light plaque accumulation, generalized
<b>1 year, 2 months</b> L.A.	Jun. 12/13	11112	2 U scale, primary dentition, pt was crying for 20 mins during scaling, moderate plaque, healthy gingiva
<b>1 year, 2 months</b> O.Y.	Mar. 25/13	11117	½ U scale, primary dentition
<b>Patients between 1 ½ and 2 years of age</b>			
<b>1 year, 8 months</b> R.K.	Jul. 02/13	11117***	<b>no progress notes</b>
<b>1 year, 11 months</b> T.M.	Jun. 24/13	11111	1 U scale, primary dentition, light plaque present, healthy gingiva
<b>Patients between 2 and 2 ½ years of age</b>			
<b>2 years</b>	Jun.	11112	2 U scale, primary dentition, pt



Age at Time of App't Patient Name	Date of Claim	No. of Units of Scaling Claimed	Progress Notes Indicate...
A.A.	29/13		uncooperative, moderate plaque accumulation
2 years, 2 months M.D.N.	Jun. 28/13	11111	1 U scale, primary dentition, pt uncooperative, light plaque present, gingiva healthy
2 years, 5 months K.M.	Jun. 05/13	11112	3 U scale, primary dentition, moderate plaque accumulation, generalized, pt uncooperative, Took 30 mins to calm patient down
<b>Patients between 2 ½ and 3 years of age</b>			
2 years, 11 months A.I.	Jul. 06/12	11117  polishing not claimed	½ U scaling, primary dentition, moderate plaque accumulation, generalized, light supragingival calculus deposits, generalized, healthy gingiva, firm with stippling
<b>Patients between 3 and 3 ½ years of age</b>			
3 years, 4 months Z.I.	Apr. 23/13	11112	2 U scale, primary dentition, pt was uncooperative, moderate plaque accumulation
3 years, 5 months Y.Y.	Mar. 25/13	11112	2 U scale, primary dentition, moderate plaque accumulation, generalized, pt. uncooperative
<b>Patients between 3 ½ and 4 years of age</b>			
3 years, 8 months R.F.	May 18/13	11112	2 U scale, pt uncooperative, moderate plaque accumulation, generalized, healthy gingiva
3 years, 8 months S.G.	Jul. 03/13	11111	1 U scale, primary dentition, moderate plaque accumulation, generalized, light supragingival calculus deposits, generalized, gingiva healthy
3 years, 10 months A.I.	Jun. 01/13	11112	2 U scale, primary dentition, moderate plaque accumulation, generalized, mature plaque noted
3 years, 11 months M.G.	Jun. 10/13	11112	2 U scale, primary dentition, pt was crying, very light plaque accumulation, healthy gingiva
<b>Patients between 4 and 4 ½ years of age</b>			
4 years, 1 month A.K.	Jul. 02/13	11111***	no progress notes
4 years, 3 months S.M.	Jun. 11/13	11112	2 U scale, primary dentition, moderate plaque accumulation, generalized, healthy gingiva
4 years, 4 months T.J.	Jun. 11/13	11112	2 U scale, primary dentition, moderate plaque accumulation, generalized, mature plaque
4 years, 4 months A.M.	May 17/13	11112	2 U scale, pt crying, primary dentition
<b>Patients between 4 ½ and 5 years of age</b>			

Age at Time of App't Patient Name	Date of Claim	No. of Units of Scaling Claimed	Progress Notes Indicate...
4 years, 6 months H.A.A.	Jul. 02/13 (Jun. 28 in chart)*****	11111	1 U scale, light plaque present
4 years, 6 months R.H.	Jun. 08/13	11112	2 U scale, primary dentition, moderate plaque accumulation, generalized, healthy gingiva
4 years, 7 months H.H.	May 18/13	11112	2 U scale, moderate plaque accumulation, generalized, slightly bulbous papilla
4 years, 8 months M.A.	May 25/13	11112	2 U scale, primary dentition, gingiva healthy, moderate plaque
4 years, 9 months Y.B.	May 27/13	11112	2 U scale, primary dentition, Pt. crying during scaling
4 years, 10 months R.H.	Jun. 13/13 (Jun. 14 in chart)*****	11112	2 U Scale done yesterday, mixed dentition, advance dental age, moderate plaque accumulation, generalized, light supragingival calculus deposits, pt uncooperative
4 years, 11 months A.A.	Jun. 06/13	11112	2 U scale, primary dentition, pt. has dental fear, moderate plaque accumulation, generalized
4 years, 11 months S.A.	Jun. 28/13	11111	1 U scale, primary dentition, light plaque, firm gingiva, slightly bulbous papillae
<b>Patients between 5 and 5 ½ years of age</b>			
5 years B.H.	Jun. 17/13 (Jun. 18 in chart)*****	11112	2 U scaling, primary dentition, moderate plaque buildup
5 years M.O.	May 15/13	11113	3 U scaling, primary dentition, moderate plaque accumulation, generalized, firm gingivitis with stippling present, pt was uncooperative and crying during scaling
5 years, 1 month A.Y.	Mar. 25/13	11113	3 U scale, primary dentition, moderate plaque accumulation, generalized, pt. uncooperative
5 years, 2 months S.A.A.	Mar. 25/13	11112	2 U scale, primary dentition, moderate plaque accumulation, pt un-cooperative
5 years, 3 months M.H.	Jun. 13/13	11113*	<b>no progress notes</b>
5 years, 3 months M.A.	May 18/13	11112	2 U scale, moderate plaque accumulation, generalized, light supragingival and subgingival calculus deposits, generalized
5 years, 3 months I.K.	Apr. 23/13	11113	3 U scale, primary dentition, pt was crying, heavy plaque accumulation
5 years, 4 months	Jul. 03/13	11111	1 U scale, primary dentition, light



Age at Time of App't Patient Name	Date of Claim	No. of Units of Scaling Claimed	Progress Notes Indicate...
S.G.			plaque present, moderate plaque accumulation, generalized, gingiva healthy
<b>Patients between 5 ½ and 6 years of age</b>			
<b>5 years, 7 months</b> H.A.	May 18/13	11113	3 U scaling, pt was uncooperative, moderate plaque accumulation, generalized, light supragingival and subgingival calculus deposits, gingiva healthy
<b>5 years, 7 months</b> S.F.	Jun. 13/13	11113	3 U scale, mixed dentition, pt was uncooperative during scaling, moderate accumulation of plaque, generalized, supragingival calculus on lingual of lower anterior, bleeding during scaling
<b>5 years, 7 months</b> M.M.	Jun. 07/13	11113	3 U scale, primary dentition, healthy gingiva, pt was apprehensive, moderate plaque accumulation, light supragingival calculus deposits
<b>5 years, 8 months</b> A.A.	Apr. 27/13	11113	3 U scale, mixed dentition, moderate plaque accumulation
<b>5 years, 8 months</b> A.H.	Jun. 05/13	11113	3 U hand scale, mixed dentition, moderate plaque buildup, moderate plaque accumulation
<b>5 years, 10 months</b> A.A.	May 25/13	11112	2 U scale, uncooperative, primary dentition, moderate plaque accumulation, very light calculus deposits, healthy gingiva
<b>Patients between 6 and 6 ½ years of age</b>			
<b>6 years, 2 months</b> R.H.	Jun. 13/13	11112	mixed dentition, 2 U hand scale, moderate plaque accumulation, generalized, mature plaque
<b>6 years, 2 months</b> R.H.	Jun. 08/13	11113	3 U hand scale, mixed dentition, moderate plaque accumulation, generalized, moderate supragingival calculus deposits, generalized interproximal and moderate light supragingival calculus present on the facial of all maxillary molars
<b>6 years, 3 months</b> D.L.F.	Jun. 04/13	<u>11113</u> **	<u>2 U scale</u> , mixed dentition, hand scale, mature plaque
<b>6 years, 4 months</b> H.A.	May 18/13	11113	3 U scale, gingiva healthy, moderate plaque accumulation, generalized, moderate supragingival calculus
<b>6 years, 4 months</b> R.H.	May 18/13	11113	3 U scale, healthy gingival condition

Age at Time of App't Patient Name	Date of Claim	No. of Units of Scaling Claimed	Progress Notes Indicate...
6 years, 5 months S.D.N.	Jun. 28/13	11111	1 U scale, mixed dentition, moderate plaque, light supragingival calculus deposits, healthy gingiva
6 years, 5 months S.H.	May 25/13	11113	mixed dentition, moderate plaque accumulation, generalized mature plaque noted, healthy gingiva
<b>Patients between 6 ½ and 7 years of age</b>			
6 years, 6 months S.J.	Jun. 17/13 (Jun. 18 in chart)*****	11113	3 U scale, mixed dentition, healthy gingiva
6 years, 7 months A.A.	Jun. 08/13	11113	3 U scale, mixed dentition, moderate plaque accumulation, generalized, light supragingival calculus deposits, generalized
6 years, 7 months Z.A.	Jun. 08/13	11113	<b>no progress notes</b>
6 years, 7 months I.Y.	Mar. 25/13	11113	3 U scale, mixed dentition, moderate plaque accumulation, generalized, moderate calculus deposits, light supragingival calculus deposits
6 years, 8 months H.A.	Jul. 05/13	11112	2 U scale, mixed dentition, moderate plaque accumulation, generalized, moderate calculus deposits
6 years, 9 months H.E.	Jun. 01/13	11113	3 U scale, permanent dentition
6 years, 10 months H.M.	Jun. 05/13	11113	3 U hand scale, mixed dentition, mature plaque, light supragingival calculus
6 years, 11 months A.A.	Apr. 27/13	<u>11113</u> **	<u>2U scale</u> , primary dentition, moderate plaque accumulation, generalized
6 years, 11 months A.H-Y.	Jun. 12/13	11113	3 U scale, mixed dentition, moderate plaque accumulation, moderate supragingival calculus deposits, generalized interproximal
<b>Patients between 7 and 7 ½ years of age</b>			
7 years A.I.	Jun. 01/13	11113	2 U scale, primary dentition, moderate plaque accumulation, generalized, mature plaque
7 years, 1 month Y.D.	Jun. 12/13	11113	<b>patient chart was not found in office</b>

<b>Age at Time of App't Patient Name</b>	<b>Date of Claim</b>	<b>No. of Units of Scaling Claimed</b>	<b>Progress Notes Indicate...</b>
<b>7 years, 5 months</b> H.H.	Mar. 12/13	11113	3 U scale, mixed dentition, moderate plaque accumulation, generalized, moderate calculus deposits on lower anterior teeth, light supragingival calculus interproximal, firm gingival stippling
<b>Patients between 7 ½ and 8 years of age</b>			
<b>7 years, 6 months</b> J.M.	Jun. 05/13	11113	3 U scale, mixed dentition, moderate plaque accumulation, generalized, moderate calculus deposits lower anterior teeth, mature plaque, gingivitis
<b>7 years, 7 months</b> I.A.	Jun. 14/13	11113	3 U scale, mixed dentition, moderate plaque accumulation, generalized, light supragingival calculus deposits, generalized, healthy gingiva
<b>7 years, 8 months</b> I.W.	Jun. 01/13	11113	3 U Scale, mixed Dentition, moderate plaque accumulation, generalized, light supragingival calculus deposits
<b>7 years, 9 months</b> A.E.	Jun. 19/13	11113	3 U scale, mixed dentition, moderate plaque accumulation, Light Supragingival Calculus Deposits Generalized, healthy gingiva
<b>7 years, 10 months</b> Z.M.	May 17/13	11113	3 U scale, moderate plaque accumulation, generalized, healthy gingiva, food deposits remaining interproximal
<b>7 years, 10 months</b> M.Y.	Mar. 25/13	11112	2 U scale, moderate plaque accumulation, generalized, moderate calculus deposits, supragingival calculus deposits, mixed Dentition
<b>7 years, 11 months</b> F.M.	Jun. 15/13	11113	3 U scale, mixed dentition, light supragingival calculus deposits, generalized, mature plaque
<b>Patients between 8 and 8 ½ years of age</b>			
<b>8 years</b> H.A.	May 18/13	11113	4 U scale, moderate plaque accumulation, generalized, light supragingival and sub gingival calculus deposit, generalized, healthy gingivae, bleeding during scaling
<b>8 years</b> S.H.	May 14/13	11113	3 U scale, mixed dentition, moderate plaque accumulation, generalized, moderate calculus deposits on lower teeth, light supragingival calculus deposits, generalized, firm gingiva

Age at Time of App't Patient Name	Date of Claim	No. of Units of Scaling Claimed	Progress Notes Indicate...
8 years, 1 month W.M.	Jun. 05/13	11113	3 U scale, mixed dentition, moderate supragingival plaque, calculus present interproximal, mature plaque
8 years, 2 months J.D.	Jun. 28/13	11112	2 U scale, moderate plaque and calculus build up on lingual of lower anterior teeth
8 years, 2 months I.M.	Jun. 15/13	11113	3 U scale, mixed dentition, moderate plaque accumulation, generalized, light supragingival calculus deposits, generalized, healthy gingiva
8 years, 3 months N.Y.	Jun. 29/13	11112	2 U scale, mixed dentition, moderate plaque accumulation, generalized, mature plaque, light supragingival calculus deposits generalized
8 years, 4 months M.A.	May 18/13	11113	3 U scale, mixed dentition, heavy plaque accumulation, generalized, moderate calculus deposits, gingivitis

\* For 1 patient (M.H.), no progress notes were found relating to the date of the claim (Jun. 13/13) and 2 claims were submitted for codes: 01102, 11113 and 11107 for that date.

\*\* For 2 patients (A.A. and D.L.F.), the progress notes indicate 2 units of scaling, but 3 units were claimed.

\*\*\* For 3 patients (A.K., R.K. and Z.A.), no progress notes were found relating to the claims.

\*\*\*\* For 1 patient (I.A.), a progress note was found but no units of scaling were documented.

\*\*\*\*\* For 4 patients (H.A.A., B.H., R.H. and S.J.), dates of progress notes did not correspond to dates of services on claim forms by 1 or 4 days (4 days in the case of H.A.).

13. Dr. Kumra provided her submissions in response to the Registrar's report to the College on February 18, 2014.
14. The College investigator contacted Dr. Kumra to seek clarification regarding some points in her submission on February 19, 2014.
15. A copy of Dr. Kumra's submissions and the memo regarding her clarification of those submissions were provided to Dr. S [REDACTED], the complainant, on February 21, 2014. Dr. S [REDACTED] did not provide any further comment.

16. The review of the complaint against Dr. Kumra by the ICRC was delayed until February 2015. The College continued to update Dr. S [REDACTED] and Dr. Kumra regarding the delay as required by the *Health Professions Procedural Code*.

**Decision of the ICRC**

17. The ICRC considered the complaint against Dr. Kumra, including the Registrar's Report and Dr. Kumra's submissions in response, on February 23, 2015. Dr. Kumra was subsequently notified that the panel had serious concerns regarding her conduct with respect to billing and recordkeeping practices in relation to the complaint. Dr. Kumra was invited to make further submissions in response to the panel's intention to refer specified allegations or professional misconduct against her to the Discipline Committee before the final decision was made.
18. At the request for counsel, the deadline for making further written submissions to the ICRC was extended to May 1, 2015, with the opportunity for submissions to be made in person at the meeting of the ICRC on May 12, 2015.
19. Counsel provided her submissions to the ICRC on behalf of Dr. Kumra on April 28, 2015. In those submissions, Dr. Kumra expressed her regret that she had failed to maintain the standards of practice with respect to the concerns identified by the ICRC. She also accepted the overall accuracy of the Report of Investigation, subject only to minor discrepancies.
20. The ICRC issued its decision to refer allegations of professional misconduct against Dr. Kumra to the Discipline Committee at the meeting of the panel on May 12, 2015. As noted above, the specified allegations of professional misconduct are set out in the Notice of Hearing dated June 1, 2015 (Exhibit 1).
21. Dr. Kumra was notified regarding the decision of the ICRC through correspondence to her counsel dated May 13, 2015. Dr. S [REDACTED], the complainant, was also notified regarding the decision of the ICRC on the same date.
22. If she testified, Dr. Kumra would state she submitted claims for additional units of scaling because of the extra time she or her

staff had to take with the young patients because some were uncooperative or upset. However, she recognizes that she should not have submitted claims in excess of treatments actually provided to these patients. Dr. Kumra would also note that the claims she submitted for the patients in question were disputed by the City of Toronto and not ever paid to her.

**Regulation 547**

23. *Regulation 547*, R.R.O. 1990, s. 38 provides that a dentist is required to make and keep clinical and financial records respecting his or her patients, including, amongst other things, the examination procedures used, the clinical findings obtained, and the treatment prescribed and provided.

**Admissions of Professional Misconduct**

24. Dr. Kumra admits that she committed the acts of professional misconduct as alleged in paragraphs #2-5 of the Notice of Hearing dated June 1, 2015 (Exhibit 1).
25. In particular, Dr. Kumra admits that:
- she failed to keep records as required by the Regulations, as alleged in paragraph #2 of the Notice of Hearing;
  - she signed or issued a certificate, report or similar document that she knew or ought to have known contained a false, misleading or improper statement relative to her patients, as alleged in paragraph #3 of the Notice of Hearing;
  - she charged a fee that was excessive or unreasonable in relation to the services performed relative of her patients, as alleged in paragraph #4 of the Notice of Hearing; and
  - she submitted an account or charge for dental services that she knew or ought to have known was false or misleading relative to her patients, as alleged in paragraph #5 of the Notice of Hearing.
26. With leave of the panel, the College withdraws the allegation in paragraph #1 of the Notice of Hearing.



Counsel for the Member acknowledged that the Member had signed the Agreed Statement of Facts (**Exhibit 2**).

The Panel's independent legal counsel advised us that pursuant to s. 49 of the *Code*,<sup>6</sup> the Agreed Statement of Facts constituted the evidence for the purposes of the hearing, and that the Member's admissions of professional misconduct constituted an adequate basis upon which to make findings of professional misconduct in relation to each of Allegations 2, 3, 4 and 5.

### **Finding of Professional Misconduct**

The Panel accepted that the Member's admissions of professional misconduct, made both before us and within the Agreed Statement of Facts (**Exhibit 2**), together with the facts contained within the Agreed Statement of Facts, constituted sufficient basis for us to find that the Member engaged in the forms of professional misconduct set out in Allegations 2, 3, 4 and 5 of the Notice of Hearing (**Exhibit 1**).

### **Joint Submission with respect to Penalty and Costs**

The Panel was advised that the parties had entered into a Joint Submission with respect to Penalty and Costs ("Joint Submission"), which was filed as **Exhibit 3**. The Joint Submission provides as follows:

1. The Member shall appear before the Panel of the Discipline Committee to be reprimanded, on a date to be fixed by the Registrar;

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<sup>6</sup> The relevant aspect of s. 49 provides that "the findings of a panel shall be based exclusively on evidence admitted before it".

2. The Registrar shall suspend the Member's certificate of registration for a period of eight (8) months. The suspension shall commence 30 days following the Order becoming final, or on a date selected by the Member, provided that such date is within three (3) months of this Order becoming final, and shall run without interruption.
3. The Registrar shall 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: The Royal College of Dental Surgeons of Ontario ("the College") and Dr. Rashmi Kumra ("the Member") jointly submit that the Panel of the Discipline Committee should make the following order:
  - a. while the Member's certificate of registration is under suspension, the Member shall not be present in her 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 clauses (a)-(d) of paragraph 3 above shall be removed at the end of the period during which the Member's certificate of registration is suspended.
4. The Registrar shall impose the following additional terms, conditions and limitations on the Member's certificate of registration ("the Conditions"), namely:
- a. the Member shall complete successfully, at her own expense, the following courses:
    - i. the ProBE Program for Professional/Problem-Based Ethics, with an unconditional pass;
    - ii. the College course on Recordkeeping for Ontario Dentists; and
    - iii. a comprehensive course on pediatric dentistry, including dental assessment regarding prophylaxis and scaling, treatment

time, billing for prophylaxis and scaling, informed consent, and appropriate dental education for patients and parents, as approved by the Registrar;

such courses to be completed within six (6) months of this Order becoming final or such further time as may be permitted by the Registrar;

- b. the Member's practice shall be monitored by the College by means of inspection(s) by a representative or representatives of the College at such time or times as the College may determine during the twenty-four (24) months following the College receiving written confirmation of the Member's successful completion of the course(s) referred to clause (a) of paragraph 4 above. The Member shall cooperate with the College during the inspections and, further, shall pay to the College in respect of the cost of monitoring, the amount of \$600.00 per inspection, such amount to be paid immediately after completion of each of the inspections;
- c. the Conditions imposed by virtue of clause (a) of paragraph 4 shall be removed from the Member's certificate of registration upon receipt by the College of confirmation in writing acceptable to the Registrar that the courses have been completed successfully; and
- d. the Conditions imposed by virtue of clause (b) of paragraph 4 shall be removed from the Member's certificate of registration 24 months following receipt by the College of confirmation in writing acceptable to the Registrar that the requirements set out in clause (a) of paragraph 4 above have been completed successfully.

5. The Member shall pay costs to the College in the amount of \$5,000.00 no later than 30 days following this Order becoming final.

Both parties made submissions in support of the Joint Submission.

After reviewing the elements of the Joint Submission with us, College Counsel, Mr. Coleman alluded to the professional misconduct in this case, which involved misuse of billing codes and a failure to keep required records. There were no records at all for one of the 78 patients whose records were reviewed. Some progress notes were inconsistent with the claims that were submitted. Those claims were made to a publicly funded program established for the benefit of children from low income families.

However, Mr. Coleman acknowledged, the Member accepted responsibility for her professional misconduct.

In his submissions, Mr. Coleman also referred to the decision of a discipline panel in a similar case, *RCDSO v. Dr. Mary Enriquez*, dated June 17, 2003. The penalty order made in that case included a reprimand, suspension of the member's certificate of registration for a period of ten (10) months, and imposition of terms, limitations and conditions.

The Member's counsel, Mr. Weinstein, submitted that the jointly proposed penalty order meets all necessary objectives and is in the public interest. He described the Member as "extremely remorseful".

Mr. Weinstein pointed out that the Member was registered in 2011 but immediately went into private practice, on her own. She believed that the billings were justified by the amount of time she spent with the patients. This was not a situation, Mr. Weinstein submitted, where the misconduct was driven by greed.

It was Mr. Weinstein's submission that this experience has caused the Member to revisit how she conducts her practice. For example, she has undertaken to complete the recordkeeping course offered by the College. Mr. Weinstein described the Member as a dentist who wants to improve and takes the situation very seriously.

In his advice to us, the Panel's independent legal counsel, Mr. Gover, reviewed the concept of a "range of penalties", the process by which the Joint Submission was developed, the elements of the Joint Submission, and the principles established by the courts regarding joint submissions as to penalty generally. Mr. Gover advised us that the question before us was this: "Would accepting the proposed penalty order involve imposing a penalty that is clearly outside the appropriate range of penalty, so as to bring the administration of justice into disrepute or to otherwise be contrary to the public interest?" If the answer to that question was "No", then the Panel should accept the Joint Submission. In fact, Mr. Gover advised us, the proposed penalty was within the appropriate range of penalty in the circumstances of this case.

### **Decision and Reasons as to Penalty and Costs**

After deliberation, the Panel announced that it accepted the Joint Submission, and ordered that its terms be implemented.

The Panel's reasons for accepting the Joint Submission are as follows.

The Panel was mindful that joint submissions by experienced counsel should generally be accepted unless there are extraordinary circumstances that justify an alternative penalty be imposed. In this case, the Panel unanimously agreed that the proposed order presented in the Joint Submission was reasonable and in the public interest.

It is the Panel's view that 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 and in the College's ability to regulate the profession in the public interest.

The eight month suspension, along with the oral reprimand and the publication of this decision, including the Member's name and address, directly address the principles of specific and general deterrence. The suspension is significant and reflects the extent and gravity of the particulars set out in each of the allegations. The suspension carries a financial burden for the Member and this along with the reprimand and publication that includes the Member's name and address brings awareness of the Member's professional misconduct to colleagues, staff, current patients of the practice and the public. The Member and other members of the profession will appreciate the impact these penalty orders have for a practising dentist.

The requirements that the Member successfully complete (1) the ProBe Program for Professional/Problem based Ethics Course and the prescribed examination, (2) the College course on Recordkeeping for Ontario Dentists, and (3) a comprehensive course in pediatric dentistry approved by the Registrar; and following the suspension, undergo 24 months of monitoring by the College will serve to rehabilitate the Member and provide public confidence that the Member is prepared to continue to practise Dentistry in Ontario.

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.

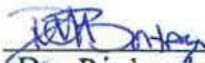
The extent to which the Member committed acts of professional misconduct was considered an aggravating factor in this case. The Panel heard that the Member entered directly into her own practice and did not benefit from mentorship and that she based her billing practices on time and difficulty rather than on the actual procedure provided. While the Panel does not

excuse the actions of the Member based on inexperience or ignorance, it does believe that through this disciplinary process the Member will be better prepared to resume dental practice and not repeat the same misconduct in the future. The Panel accepts, as mitigating, the fact that the Member plead guilty to the allegations, accepting responsibility for her actions and her expression of remorse. The Panel was also advised that the Member never did receive payment for the fees submitted. The Panel agrees with the Member's counsel that the Member's actions and decisions through this disciplinary process reflect those of a member who wants to improve.

#### **Administration of Oral Reprimand**

At the conclusion of the hearing, the Member waived her right of appeal. Consequently, in accordance with paragraph 1 of the Panel's penalty order, the Panel administered the oral reprimand to the Member.

June 29, 2016

  
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Dr. Richard Bohay, Chair  
on behalf of the Panel:

Dr. Harpaul Anand  
Dr. William Coyne  
Mr. Manohar Kanagamany – Public  
Member  
Mr. Derek Walter – Public Member