

**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. JASHANDEEP KAUR**, of the City of Brampton 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*").

Members in Attendance: Dr. Richard Bohay (Chair)
Dr. Michael O'Toole
Dr. David Mock
Mr. Gregory Larsen
Mr. Derek Walter

BETWEEN:

ROYAL COLLEGE OF DENTAL SURGEONS)	Appearances:
OF ONTARIO )	) Ms. Johanna Braden
	) Independent Counsel for the
	) Discipline Committee of the
	) Royal College of Dental
- and - )	) Surgeons of Ontario
)
	) Ms. Megan Shortreed
	) For the Royal College of Dental
	) Surgeons of Ontario
)
DR. JASHANDEEP KAUR )	) No Representation for
	) Dr. Kaur

Hearing held on March 4, 2016.

REASONS FOR DECISION

This matter came on for hearing before a panel of the Royal College of Dental Surgeons of Ontario (the “College”) in Toronto on March 4, 2016.

PUBLICATION BAN

On the request of the parties, the panel made an order banning the broadcasting or publication of the names of the clients referred to in the hearing, including in the Notice of Hearing, the Agreed Statement of Facts, and other exhibits filed at the hearing.

THE ALLEGATIONS

The allegations in the Notice of Hearing dated November 9, 2015 concerning Dr. Jashandeep Kaur (“the Member”) are as follows.

1. You committed an act or acts of professional misconduct as provided by s.51(1)(c) of the *Code* in that, during the years 2012, 2013 and/or 2014, you contravened a standard of practice or failed to maintain the standards of practice of the profession relative to two of your patients, namely B. S. and S. S., contrary to the Dentistry Act Regulation.
2. You committed an act or acts of professional misconduct as provided by s.51(1)(c) of the *Code* in that, during the years 2012, 2013 and/or 2014, you failed to keep records as required by the Regulations relative to three of your patients, namely B. S., S. S. and S. S., contrary to paragraph 25 of Section 2 of the Dentistry Act Regulation.
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 2015, you failed to reply appropriately or within a reasonable time to a written enquiry made by the College, contrary to paragraph 58 of Section 2 of the Dentistry Act Regulation.

THE MEMBER’S PLEA

The Member orally admitted that she understood the allegations of professional misconduct and admitted that they were true. She also made admissions in writing in the Agreed Statement of Facts, which was signed by the Member. In the Agreed Statement of Facts the Member expressly admitted the facts as set out in the Notice of Hearing, and that these facts constitute professional

misconduct as alleged. The panel found that the Member's admissions were voluntary, informed and unequivocal.

THE EVIDENCE

On consent of the parties, College Counsel introduced into evidence an Agreed Statement of Facts which substantiated the allegations. The Agreed Statement of Facts (without exhibits) provides as follows.

Background

1. Dr. Jashandeep Kaur has been registered with the College as a general dentist since July 14, 2000. She operates a dental practice called Chinguacousy Dentistry in Brampton, Ontario.
2. Dr. Kaur has no history of findings by the Discipline Committee of the College.

The Notice of Hearing

3. Dr. Kaur was served with a Notice of Hearing dated November 9, 2015. These allegations arose following an investigation under s. 75(1)(c) of the Code.
4. The College and the Member have agreed to resolve the allegations on the basis of the facts and admissions agreed to and set out below.

Facts and Admissions

i. Improper prescribing contrary to the standards of practice

5. Dr. Kaur admits that she improperly prescribed medication to her two children. In particular:
 - a. on November 20, 2012, Dr. Kaur improperly prescribed amoxicillin to her son, B.S., for a throat infection;
 - b. on April 2, 2013 and July 15, 2014, Dr. Kaur improperly prescribed antibiotics to her son, B.S., to treat bleeding from a fall; and

- c. on October 6, 2012, April 14, 2014, and September 2, 2014, Dr. Kaur improperly prescribed amoxicillin to her son, Sh.S., for an improper purpose.
6. Sections 3 and 4 of the *Dentistry Act* define the practice of dentistry as the treatment of the oral-facial complex. The above noted prescriptions were for reasons that did not come within the practice of dentistry, and therefore were outside of the scope of Dr. Kaur's practice.
7. By improperly prescribing medication to her children, Dr. Kaur admits that her conduct contravened a standard of practice or failed to maintain the standards of practice of the profession, contrary to paragraph 1 of Section 2 of the *Dentistry Act Regulation*, as set out in Allegation 1 in the Notice of Hearing.
 - ii. *Failing to keep records as required*
8. The College's investigation revealed that Dr. Kaur had prescribed medication to her two sons, Sh.S. and B.S., as well as to her husband, S.S., on multiple occasions. In particular:
 - a. Dr. Kaur prescribed antibiotics to Sh.S. on October 6, 2012, April 14, 2014 and September 2, 2014;
 - b. Dr. Kaur prescribed antibiotics to B.S. on November 20, 2012, April 2, 2013 and July 15, 2014; and
 - c. Dr. Kaur prescribed antibiotics to S.S. on January 27, 2010 and November 14, 2012, pain medication to S.S. on February 6, 2010, pain medication with codeine to S.S. on January 27, 2010, January 31, 2010 and August 28, 2010, and a muscle relaxant to S.S. on August 28, 2010.
9. During the College investigator's attendance at Dr. Kaur's office on October 17, 2014, the investigator asked Dr. Kaur for the original patient records, including radiographs, for her two children, Sh.S. and B.S., and her husband, S.S.. Dr. Kaur responded that she only had some limited records for Sh.S., and that neither B.S. nor S.S. were patients of the dental office, and therefore she had no records for either B.S. or S.S..
10. On November 20, 2014, Dr. Kaur provided the College with patient records for S.S.. If she were to testify, Dr. Kaur would explain that she had initially told the College investigator that S.S. was not a patient because she was under stress due to a matrimonial dispute with S.S., and the College

investigator's visit was when she first learned that S.S. had reported her to the College regarding her prescriptions to her children.

11. In S.S.'s patient record, there is a treatment note dated January 27, 2010, which includes a rationale for the prescription on that date. Otherwise, there were no notes in S.S.'s chart about prescribing medication or the need to prescribe medication, and the dental work was not related in time to the prescriptions made.
12. With respect to Sh.S., there were two appointments noted in the patient record, on December 29, 2012 and July 26, 2013. Both appointments involved the placement of restorations. There were no notes in Sh.S.'s chart about prescribing medication or the need to prescribe medication, and the dental work was not related in time to the antibiotics prescriptions made.
13. With respect to B.S., Dr. Kaur maintained no patient record at all.
14. Therefore, by failing to keep records with respect to the rationale for all of the above noted prescriptions, except for the January 27, 2010 prescription to S.S., Dr. Kaur admits that she failed to keep records as required by the Regulations, contrary to paragraph 25 of section 2 of the *Dentistry Act Regulation*, as set out in Allegation 2 in the Notice of Hearing.

iii. Failing to reply appropriately to the College

15. The ICRC met on July 27, 2015, and requested that the College investigator obtain further information, including the dates of the appointments that were attended by Sh.S. in Dr. Kaur's office, and a copy of Dr. Kaur's daily schedule for those dates.
16. The College investigator reached Dr. Kaur by telephone on August 17, 2015, and explained to her the further information the ICRC was seeking. Dr. Kaur was upset during the phone call and told the College investigator that she would not cooperate. When the College investigator inquired whether Dr. Kaur was saying she would not cooperate with the ICRC panel's request, Dr. Kaur stated that she would see whether or not she could provide the requested information.
17. Dr. Kaur responded to the College investigator on August 21, 2015. She stated that "according to the calendar/schedule", Sh.S. was only in the office on April 24, 2015. She stated that she would fax a copy of this

calendar/schedule. Dr. Kaur also stated that Sh.S. visited the office “multiple times casually or for dental [treatment]”.

18. Dr. Kaur subsequently faxed the College investigator a copy of a Walkout Statement regarding an appointment with Sh.S. on December 29, 2012. The College investigator emailed Dr. Kaur in response to the fax to state that she had requested a copy of the calendar/appointment schedule. The College investigator also requested a list of dates with respect to the multiple times Sh.S. attended the office “casually” or for “dental treatment” as described by Dr. Kaur in her email.
19. On August 28, 2015, Dr. Kaur responded to the College investigator that she had “already sent you whatever I had”.
20. Therefore, by failing to respond to a request from the College to provide a list of dates and/or appointment schedules to confirm the dates on which she treated her son, Dr. Kaur admits that she failed to reply appropriately or within a reasonable time to a written enquiry made by the College, contrary to Paragraph 58 of Section 2 of the *Dentistry Act Regulation*, as set out in Allegation 3 of the Notice of Hearing.

Summary

21. Dr. Kaur admits that the acts described above constitute professional misconduct and she now accepts responsibility for her actions and the resulting consequences.
22. Dr. Kaur has had the opportunity to take independent legal advice with respect to her admissions, but she has declined to do so.

DECISION

Having considered the evidence and submissions of the parties, the panel finds that the Member committed professional misconduct as alleged in paragraphs numbered 1, 2 and 3 in the Notice of Hearing.

REASONS FOR DECISION

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

PENALTY AND COSTS SUBMISSIONS

The parties presented a joint submission which requested that this panel make an order as follows

- (a) requiring the Member to appear before the panel of the Discipline Committee to be reprimanded within ninety (90) days of this Order becoming final or on a date fixed by the Registrar;
- (b) directing the Registrar to suspend the Member's certificate of registration for a period of two (2) months, to run consecutively, such suspension to commence within thirty (30) days of this Order becoming final;
- (c) directing the Registrar to 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 subparagraph 1(b) above has been fully served, namely:
 - (i) 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;
 - (ii) 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;
 - (iii) 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;
 - (iv) 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

- (v) the Conditions imposed in subparagraphs 1(c)(i)-(iv) above shall be removed at the end of the period the Member's certificate of registration is suspended;
- (d) directing the Registrar to also impose the following terms, conditions and limitations on the Member's Certificate of Registration, namely:
- (i) the Member shall successfully complete, at her expense, within six (6) months of this Order becoming final, the ProBE Program for Professional/Problem-Based Ethics (must obtain an unconditional pass);
 - (ii) the Member shall successfully complete, at her expense, within six (6) months of this Order becoming final, the College's course in Record Keeping;
 - (iii) the Member's practice shall be monitored by the College, including monitoring her prescriptions, by means of inspection(s) by a representative or representatives of the College at such time or times as the College may determine with advance notice to the Member, during the period commencing with the later of her successful completion of the courses as set out in subparagraphs 1(d)(i)-(ii) above and the end of her current period of monitoring as ordered by the Inquiries, Complaint and Reports Committee ("ICRC") on October 17, 2014, and ending twenty-four (24) months thereafter, or until a panel of the ICRC is satisfied that monitoring is no longer necessary and has advised the Member of this in writing;
 - (iv) the Member shall cooperate with the College during the inspection(s) and further, shall pay to 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;
 - (v) the representative or representatives of the College shall report the results of those inspections to the ICRC and the ICRC may, if deemed warranted, take such action as it considers appropriate; and

- (e) that the member pay costs to the College in the amount of \$3500 in respect of this discipline hearing, such costs to be paid in full within six (6) months of this Order becoming final.

The College and the Member further submitted that pursuant to the *Regulated Health Professions Act, 1991*, as amended, the results of these proceedings must be recorded on the Register of the College and publication of the Decision of the panel would therefore occur with the name and address of the Member included.

DECISION ON PENALTY AND COSTS

The panel of the Discipline Committee accepted the joint submission from the parties and imposed the following penalty upon the Member:

1. The Member shall appear before the panel of the Discipline Committee to be reprimanded within ninety (90) days of this Order becoming final.
2. The Registrar is directed to suspend the Member's certificate of registration for a period of two months, to run consecutively, such suspension to commence within thirty (30) days of this Order becoming final.
3. The Registrar is directed to 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 subparagraph 1(b) 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 3(a)-(d) above shall be removed at the end of the period for which the Member's certificate of registration is suspended.
4. The Registrar is directed to impose the following terms, conditions and limitations on the Member's certificate of registration, namely:
- (a) the Member shall successfully complete, at her expense, within six (6) months of this Order becoming final, the ProBE Program for Professional/Problem-Based Ethics in that she must obtain an unconditional pass;
 - (b) the Member shall successfully complete, at her expense, within six (6) months of this Order becoming final, the College's course in Recordkeeping;
 - (c) the Member's practice shall be monitored by the College, including monitoring her prescriptions, by means of inspection(s) by a representative or representatives of the College at such time or times as the College may determine with advance notice to the Member, during the period commencing with the later of her successful completion of the courses as set out in subparagraphs 4(a) and (b) above and the end of her current monitoring as ordered by the Inquiries, Complaints and Reports Committee ("ICRC") on October 17, 2014, and ending twenty-four (24) months thereafter, or until a panel of the ICRC is satisfied that monitoring is no longer necessary and has advised the Member of this in writing;

- (d) the Member shall cooperate with the College during the inspection(s) and further, shall pay to 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; and
- (e) the representative or representatives of the College shall report the results of those inspections to the ICRC and the ICRC may, if deemed warranted, take such action as it considers appropriate.

5. The Member is required to pay costs to the College in the amount of \$3,500.00 in respect of this discipline hearing, such costs to be paid in full within six (6) months of this Order becoming final.

REASONS FOR PENALTY DECISION

In its deliberations, the panel was mindful that joint submissions should generally be accepted unless there are extraordinary circumstances that justify a departure from the joint submission. In this case, the panel unanimously agreed that the proposed order presented in the Joint Submission on Penalty 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.

The two-month suspension, along with the oral reprimand and the publication of this decision, including the name of the Member, directly address the principles of specific and general deterrence. The suspension carries both a financial burden for the Member and brings awareness of the professional misconduct of the Member to staff, current patients of the practice and the public. Both the individual Member and the members of the profession will appreciate the impact these penalty orders have for a practicing dentist.

The requirement that the Member successfully complete the ProBe Program for Professional/Problem based Ethics Course and the prescribed examination and the

College course on Recordkeeping for Ontario Dentists will serve to rehabilitate the Member. The College will also monitor the Member's practice including her prescriptions for a period of 24 months. This practice monitoring will commence following the end of the current practice monitoring and follow her completion of the required courses. This period of practice monitoring will serve in the rehabilitation of the Member and the protection of the Public.

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.

During the deliberation on penalty the panel considered the past history of the Member with ICRC and the failure of the Member to comply with past ICRC undertakings as serious aggravating factors. The panel expressly addressed this concern in its oral reprimand of the Member. During the hearing, the panel was advised that the Member was fully co-operative with the College throughout the discipline hearing process. Based on the submission of College Counsel on this point, the panel believes that the Member, having gone through the disciplinary process, now clearly understands the obligations and expectations on a Member when dealing with investigations and undertakings imposed by the College. Finally, the panel also considered as mitigating the fact that the Member admitted her guilt, agreed to the proposed penalty and expressed remorse for her actions.

I, Dr. Richard Bohay, sign these Reasons for Decision as Chairperson of this Discipline Panel.


Chairperson


Date