

**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. SUNNY DHINGRA**, of the City of Maple 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. Flavio Turchet
Dr. William Coyne
Mr. Gregory Larsen
Mr. Derek Walter

BETWEEN:

ROYAL COLLEGE OF DENTAL SURGEONS	)	Appearances:
OF ONTARIO)	
	)	Mr. Ian Roland
	)	For the Royal College of Dental
	)	Surgeons of Ontario
- and -)	
)	
)	
DR. SUNNY DHINGRA	)	Dr. R. K. Arya
	)	For Dr. Sunny Dhingra
)	
)	
	)	Ms. Julie Maciura
	)	Independent Counsel for the
	)	Discipline Committee of the Royal
	)	College of Dental Surgeons of
	)	Ontario

Hearing held on September 27, 2016.

DECISION AND REASONS FOR DECISION

This matter arose by way of a Notice of Hearing dated January 28, 2016 (File H160002) which was served on Dr. Sunny Dhingra (or the “Member”). The hearing into the allegations was set for and held on September 27, 2016.

The Member was present and was represented by Dr. R. K. Arya.

PUBLICATION BAN

The panel of the Discipline Committee made an Order that there shall be a ban on the publication or broadcasting of the identity of any patients of the Member, or any information that could disclose the identity of any patients that are named in the Notice of Hearing and/or the Agreed Statement of Facts and/or any of the exhibits in this matter.

HEARINGS JOINED ON CONSENT

On the consent of the Royal College of Dental Surgeons of Ontario and on the consent of the Dr. Dhingra and Dr. Ajeet Ghumman, the Discipline Committee heard and determined the allegations of professional misconduct brought against each of Dr. Dhingra and Dr. Ghumman at a single hearing. Because the matters arose by way of two different Notices of Hearing, the panel issued separate decisions and reasons.

ALLEGATIONS

The Notice of Hearing dated January 28, 2016 (File H160002) alleged 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 2013 and/or 2014, you failed to comply with Section 3 relating to an agreement with the guardian of a minor patient, namely, R. N., contrary to paragraph 20 of Section 2 of the Dentistry Act Regulations.

Particulars:

- On or about November 7, 2013, R. N. agreed to pay a \$200.00 deposit towards treatment to be rendered for her minor daughter, M. N., on November 19, 2013, under a general anaesthetic.
- This payment was identified on the patient account ledger as “Prepay allocated for: ga deposit.”
- There was no agreement by R. N. that this pre-paid fee would be used to pay

- for services other than services related to the provision of a general anaesthetic.
- In or about May 2014, you misallocated part of the \$200.00 fee pre-paid by R. N. for this purpose and used this money to pay for “Telephone Time” and/or “Extraordinary Predit Time 1u” without R. N.s’ knowledge or consent.
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 2013 and/or 2014, you failed to comply with Section 4 respecting payment in advance for treatment provided on a fee for service basis relative to the guardian of a minor patient, namely, R. N., contrary to paragraph 21 of Section 2 of the Dentistry Act Regulation.

Particulars:

- On or about November 7, 2013, R. N. agreed to pay a \$200.00 deposit towards treatment rendered under a general anaesthetic for her minor daughter, M. N., on November 19, 2013.
 - This payment was identified on the patient account ledger as “Prepay allocated for: ga deposit.”
 - In or about May 2014, you misallocated part of the \$200.00 paid in advance by R. N. for this purpose and used this fee to pay for “Telephone Time” without R. N.s’ knowledge or consent.
 - In or about May 2014, you misallocated part of the \$200.00 paid in advance by R. N. for this purpose and used this fee to pay for “Extraordinary Predit Time 1u” without R. N.s’ knowledge or consent.
3. You committed an act or acts of professional misconduct as provided by s.51(1)(c) of the *Code*, in that, during the years 2013 and/or 2014, you failed to itemize or explain, when requested to do so by a patient or the patient’s guardian or authorized representative, the services provided and the fee charged for each service using terminology understandable to the guardian of a minor patient, R. N., contrary to paragraph 23 of Section 2 of the Dentistry Act Regulation.

Particulars:

- In or about 2013 and/or 2014, you, through your employee who is not a regulated health professional, failed to adequately and clearly respond to a request by the parent of a minor patient, R. N., for an explanation about the services provided and the fees charged for each service, in terminology understandable to her, related to fees charged for the Ontario Dental Association’s *Suggested Fee Guide for General Practitioners* billing codes 93311 (“Telephone Time”) and/or 93321 (Extraordinary Predit Time 1u”).

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 2014, you charged a fee that was excessive or unreasonable in relation to the service performed relative to a patient of your practice, namely M. N., contrary to paragraph 31 of Section 2 of the Dentistry Act Regulation.

Particulars:

- In or about May 2014, you charged a \$90.00 fee for “Telephone Time” and a \$101.53 fee for “Extraordinary Predit Time 1u” which were excessive and/or abusive billing practices, given that these services were not provided and/or there was no documentation to justify the fees for these services.

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 2014, you charged a fee or an amount under an agreement that was excessive or unreasonable having regard to the services covered by the agreement relative to a patient of your practice, namely M. N., contrary to paragraph 32 of Section 2 of the Dentistry Act Regulation.

Particulars:

- In or about May 2014, you charged a \$90.00 fee for “Telephone Time” and a \$101.53 fee for “Extraordinary Predit Time 1u” which were excessive and/or unreasonable given that there was no documentation to justify the fees for these services and the patient’s guardian, R. N., had not agreed to allow money pre-paid for a general anaesthetic administered to her minor daughter,

M. N., to be used to pay for telephone time and the submission of pre-determinations.

6. You committed an act or acts of professional misconduct as provided by s.51(1)(c) of the *Code*, in that, during the year 2014, you submitted an account or charge for dental services that you knew or ought to have known was false or misleading relative to a patient of your practice, namely M. N., contrary to paragraph 33 of Section 2 of the Dentistry Act Regulation.

Particulars:

- In or about May 2014, you charged a fee of \$90.00 for “Telephone Time” and/or a fee of \$101.53 for “Extraordinary Predit Time 1u”, which were false or misleading, given that these services were not provided.
- The fees for these services were charged six months subsequent to when these services were allegedly provided.

7. You committed an act or acts of professional misconduct as provided by s.51(1)(c) of the *Code*, in that, during the years 2013 and/or 2014, 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 a minor patient, namely M. N., and/or her guardian, R. N., contrary to paragraph 59 of Section 2 of the Dentistry Act Regulation.

Particulars:

- In or about 2013 and/or 2014, you and/or your employees failed to advise R. N. in advance that the \$200.00 fee that she pre-paid towards the fees for a general anaesthetic for M. N., would be used for another purpose.

MEMBER'S PLEA

Prior to taking the Member's plea, College counsel advised the Panel that the parties were proceeding on the basis of an Agreed Statement of Facts.

The Member pled guilty to the allegations as set out in the Agreed Statement of Facts, which is set out below.

THE EVIDENCE

The Agreed Statement of Facts, which was made an exhibit in the hearing, is set out below:

1. The following facts are agreed to by the parties. The parties agree that the facts set out below constitute the basis for the Discipline Committee panel to accept a guilty plea by Dr. Ajeet Ghumman and Dr. Sunny Dhingra to the allegations of professional misconduct set out in paragraphs numbered 1, 4, 5, and 6, apart from the second detailed particular in paragraph 6, of the Notices of Hearing dated February 4, 2016, in respect of each of the Members.
2. The College withdraws and the Members accept that paragraphs numbered 2, 3, and 7 of the Notices of Hearing are withdrawn.
3. The matter set out in each of the Notices of Hearing concerns a complaint brought by R. N. on behalf of her 8 year old daughter, M. N.. The complaint is made against both Dr. Ajeet Singh Ghumman and Dr. Sunny Dhingra, who are orthodontists who own Dental Works 4 Kids, situated in the Town of Maple, Ontario.
4. The context of the complaint concerns the dental treatment of R. N.'s daughter M.

N., and the associated charges and billing for treatment and associated expenses. R. N. and her daughter were covered by Ontario Works for dental treatment.

5. On or about November 7, 2013, R. N. and her daughter attended at the dental office owned and operated by Dr. Ghumman and Dr. Dhingra (the “dental office”) for an assessment of the dental work to be performed. At the time R. N. was informed that the dental procedure for her daughter would be performed under a general anaesthetic and that Ontario Works did not cover the cost of the general anaesthetic procedure. She was told that she required to pay \$450 for the general aesthetic procedure. She paid \$200 that day.
6. The Members assert that on November 7, 2013, R. N. was requested to provide a deposit of \$200, in order to hold a room for a general anaesthetic procedure. It was the Member’s practice to request this non-refundable sum to book the general anesthesia appointment. The deposit was to be applied towards treatment rendered during the general anesthesia appointment. If the patient did not attend this appointment the deposit was to be applied towards a missed cancellation fee or reapplied to holding a rebooked appointment. It was not a charge that was covered within the scope of the patient’s government insurance with Ontario Works.
7. On November 19, 2013, R. N. and her daughter M. N. attended at the dental office, at which time the dental procedure was performed on M. N.. R. N. paid a further \$250 that day.
8. The Members further assert that the \$250, paid by R. N. on November 19, 2013, was for certain dental services that were possible services not paid by Ontario Works. The Members assert that the \$450 was not intended to be an extra levy or to be applied for any services covered or partially covered by the patient’s insurance. It was intended to be applied only to those services rendered that were not covered within the scope of Ontario Works.
9. From the pre-paid amount of \$450, the dental office allocated the following clinical costs that were denied by Ontario Works:

92229	55.00
92219	67.90
92229	55.00
92219	67.90
11101	<u>12.67</u>
	\$258.47

9229 pertains to each additional unit of time over eight in connection with provisions of facilities, equipment and support services for general anaesthesia when provided by a separate practitioner;

92219 pertains to each additional unit over eight in connection with anaesthesia which includes pre-anaesthetic evaluation and post-anaesthetic evaluation and post-anaesthetic follow-up; and

11101 pertains to unit of teeth polishing

10. This left a balance of \$191.53, of the pre-payment amount of \$450.

11. In May, 2014, more than 6 months after the dental services were rendered, the dental office account showed 2 additional charges for non-clinical services.

“Telephone time 90.00

and

Extraordinary Predit Time 1U 101.53”

12. The Ontario Dental Association’s Suggested Fee Guideline for Dental Practitioners, at p. 66 (Revised January 1, 2014) provides:

For extraordinary time spent, on the telephone with third party administrators or their agents, in relation to claim/treatment plan forms, or the claim problem of the patient (plus long distance charges).

93311 One unit of time (15 minutes) + E 60.00

For Extraordinary Office Time Spent, in forwarding predetermination records, in predetermination situations, to third parties plus expenses (i.e. registration, postage, etc.)

93321 One unit of time (15 minutes) + E 37.00

13. R. N. was not informed by the dental office that there may be additional non-clinical charges incurred as a result of “extraordinary time spent, on the telephone with third party administrators or their agents, in relation to claim/treatment plan forms...” and “extraordinary office time spent, in forwarding predetermination records, predetermination situations to third parties plus expenses...”.

14. R. N. was neither informed of such charges nor did she agree to pay such services, or to have the prepayment made by her for clinical charges (general anesthetic), described in the patient account ledger as “pre pay allocated for: ga deposit” reallocated to non-clinical charges.

FINDING

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:

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 2013 and/or 2014, you failed to comply with Section 3 relating to an agreement with the guardian of a minor patient, namely, R. N., contrary to paragraph 20 of Section 2 of the Dentistry Act Regulations.
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 2014, you charged a fee that was excessive or unreasonable in relation to the service performed relative to a patient of your practice, namely M. N., contrary to paragraph 31 of Section 2 of the Dentistry Act Regulation.
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 2014, you charged a fee or an amount under an agreement that was excessive or unreasonable having regard to the services covered by the agreement relative to a patient of your practice, namely M. N., contrary to paragraph 32 of Section 2 of the Dentistry Act Regulation.
6. You committed an act or acts of professional misconduct as provided by s.51(1)(c) of the *Code*, in that, during the year 2014, you submitted an account or charge for dental services that you knew or ought to have known was false or misleading relative to a patient of your practice, namely M. N., contrary to paragraph 33 of Section 2 of the Dentistry Act Regulation.

The following specified allegations of professional misconduct were **withdrawn**:

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 2013 and/or 2014, you failed to comply with Section 4 respecting payment in advance for treatment provided on a fee for service basis relative to the guardian of a minor patient, namely, R. N., contrary to paragraph 21 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 years 2013 and/or 2014, you failed to itemize or explain, when requested to do so by a patient or the patient's guardian or authorized representative, the services provided and the fee charged for each service using terminology understandable to the guardian of a minor patient, R. N., contrary to paragraph 23 of Section 2 of the Dentistry Act Regulation.
7. You committed an act or acts of professional misconduct as provided by s.51(1)(c) of the *Code*, in that, during the years 2013 and/or 2014, 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 a minor patient, namely M. N., and/or her guardian, R. N., contrary to paragraph 59 of Section 2 of the Dentistry Act Regulation.

Reasons for Finding

The Member made the admissions and pled guilty to the allegations set out in the Agreed Statement of Facts. He did not dispute the allegations, particulars or facts presented in the Agreed Statement of Facts. The Panel found that the evidence contained in the Agreed Statement of Facts constitutes professional misconduct and accordingly it accepted the admissions and found the Member guilty of professional misconduct.

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. The Member shall appear before the panel of the Discipline Committee to be reprimanded within thirty (30) days of this Order becoming final or on a date fixed by the Registrar;
2. The Member shall successfully complete, at his own expense, a course approved by the Registrar, in financial recordkeeping, including the appropriate use of billing codes, which course is to be completed within six (6) months of this Order becoming final.
3. Immediately following the successful completion of the course referred to in paragraph 2, the member's practice shall be monitored by a dentist approved by the Registrar, at such time or times as the College shall determine, with advance notice to the Member, for a period of twenty-four (24) months, at the Members' expense, to a maximum of \$2,400.00. The monitoring dentist shall submit reports to the Registrar following each visit, which reports will be filed with the Inquiries, Complaints and Reports Committee.

Furthermore, the panel ordered that the Member be required to pay to the College, within fifteen (15) days of the date upon which this Order becomes final, the sum of \$1,250.00 respecting partial reimbursement of the costs and expenses of the hearing in this matter.

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

Reasons For Penalty

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

The Panel agreed that the misconduct in this case was not of the most serious but the Panel also agrees that it is always the dentist's responsibility to ensure that there is no misunderstanding about the services to be provided or the fees to be charged.

The Panel agreed 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.

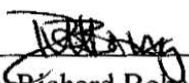
The oral reprimand and the publication of this decision, including the name of the Member, directly addresses the principles of specific and general deterrence as they will serve to prevent this kind of conduct from being repeated, either by the Member himself or another member of the profession. The record keeping course and monitoring are remedial in nature and specifically address the area of practice in which the Member misconducted himself.

In its deliberation on penalty the Panel considered as mitigating circumstance the fact that the Member has no discipline history at the College, the Member's cooperation with the College and his admission of guilt, which indicates to the panel his acceptance of responsibility and remorse for his conduct and the fact that the Member has voluntarily repaid the disputed amount of money to the complainant.

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 this matter.

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

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



 Dr. Richard Bohay
 Chairperson

13 October 2016

 Date