H150014
H160005

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. HELMUT RAGNITZ,** of the City of Ottawa, 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. Nancy DiSanto Dr. David Mock Mr. Gregory Larsen Mr. Manohar Kanagamany – Public Member
Appearances:	Marie Henein on behalf of the Royal College of Dental Surgeons of Ontario Dr. Helmut Ragnitz, on his own behalf Brian Gover, Independent Legal Counsel on behalf of the Discipline Committee of the Royal College of Dental Surgeons of Ontario

Hearing held on October 25 and 26, 2016

DECISION AND REASONS

Introduction

On October 25 and 26, 2016, a panel of the Discipline Committee (the "Discipline Panel") of the Royal College of Dental Surgeons of Ontario (the "College") convened to hear allegations of professional misconduct made against Dr. Helmut Ragnitz (the "Member"). The allegations against Dr. Ragnitz were set out in Notice of Hearing H150014 (**Exhibit 1B**)

containing seven (7) allegations, and Notice of Hearing H160005 (**Exhibit 2**) containing four (4) allegations. Complete versions of **Exhibit 1B**[1] and **Exhibit 2** are attached as **Appendix "A"** and **Appendix "B"**, respectively.

At the outset of the hearing, the Panel made an order pursuant to subsection 45(3) of the *Health Professions Procedural Code*[2] (the "*Code*"), banning publication of any patients' names and identifying information.

Exhibit 1A and B – Notice of Hearing H150014

The hearing proceeded in relation to four (4) allegations of professional misconduct and associated particulars contained in Notice of Hearing H150014 (filed as **Exhibit 1A** and **B**). The Member admitted three (3) of those allegations (namely, Allegations 1, 4, and 6), but denied the remaining allegation (Allegation 5). Ultimately, the Panel found the Member guilty of professional misconduct in relation to each of these four (4) allegations. They are set out below:[3]

1. You committed an act or acts of professional misconduct as provided by s.51(1)(c) of the Code, in that, from September 29, 2014 onwards, you contravened a term, condition or limitation imposed on your certificate of registration relative to the following patients, contrary to paragraph 2 of Section 2 of the Dentistry Act Regulation.

Particulars:

- You contravened a term, condition or limitation on your certificate of registration.
- You breached the Undertaking/Agreement which you signed on September 29, 2014.
- You provided prosthodontic treatment and/or performed procedures related to the execution of prosthodontic treatment, to patients from September 29, 2014 onwards which was a breach of a term, condition or limitation on your certificate of registration.

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[1] This Notice of Hearing was filed in two parts because it was found that a page was missing in what was **Exhibit 1** (and became **Exhibit 1A**) after the hearing had commenced. However, there was no issue that the Member had been given notice of all of the allegations and associated particulars contained in it. **Exhibit 1B** is a complete version of Notice of Hearing H150014.

[2] Schedule 2 to the *Regulated Health Professions Act, 1991*, SO 1991, c 18.

[3] Three other allegations that set out in this Notice of Hearing were withdrawn at the request of College Counsel. They appeared as allegations 2, 3 and 7 and alleged that the Member failed to keep records as required by the Regulations, failed to comply with Section 7 respecting the use of a practice name and engaged in improper advertising, respectively.

- You provided implant treatment to patients from September 29, 2014 onwards which was a breach of a term, condition or limitation on your certificate of registration.

Implant-Related Prosthodontic Procedures

Patients	Date(s)
A, N	December 12, 2014 and January 23 and 26, 2015
A, M	October 2 and 28 and 29, 2014
B, A	November 19, 2014 and December 4 and 27, 2014
H, M	February 24, 2015
H, N	September 30, 2014
M, A	February 3, 2015
M, D	November 12, 2014
M, J	December 17, 2014 and January 7 and 27, 2015
R, J	October 15 and 16, 2014 and November 12, 2014 and December 9, 2014
S, S	November 14, 2014
S, J	December 4 and 12, 2014
U, S	December 11, 2014 and January 12 and 27, 2015
Z, L	October 29, 2014 and December 19, 2014

Non-Implant Related Prosthodontic Procedures

Patients	Date(s)
A, W	November 10, 2014
A, S	December 2, 2014
A R, S	January 15, 2015
A, K	February 3, 2015

A, Z	December 20, 2014
A, I	October 6 and 24, 2014 and November 7 and 25, 2014
A, F	January 14, 2015
A, Z	October 22, 2014 and November 25, 2014 and January 6, 2015
A, R	February 3, 2015
B, T	January 23, 2015
B, A	November 19 and 24, 2014 and December 4 and 19, 2014 and January 9, 2015
B, J	January 9, 2015
B, C	October 17, 2014
C, A	October 4 and 17, 2014 and November 1 and 22, 2014 and December 2 and 6, 2014
C, A	December 12, 2014
C-C, H	October 14 and 16 and 21 and 23, 2014 and November 10 and 20 and 27, 2014 and December 1 and 5, 2014
G, V	October 24, 2014 and November 18 and 25, 2014
C, D	October 6, 2014
D, C	December 20, 2014
D, O	December 18, 2014
D, J	December 9, 2014
D, J	December 3 and 22, 2014
D, P	October 1, 2014
F, J	November 14, 2014 and December 5, 2014
G, F	October 27, 2014 and November 10 and 14 and 26, 2014

H, A	January 26, 2015
H, V	September 30, 2014
H, J	January 24, 2015
H, S	November 13, 2014
H, E	November 1 and 22, 2014 and January 24, 2015
H, S	November 7 and 18 and 21, 2014
H, R	October 28, 2014
J, A	October 17, 2014
K, N	January 31, 2015
L, M	February 3, 2015
L, W	February 20, 2015
L, B	February 21, 2015
M, M	October 16, 2014
M, D	November 12, 2014
M, S	October 23, 2014
M, M	January 7, 2015
M, A	February 3, 2015
M, M	October 4 and 7 and 8 and 14 and 22 and 29 and 31, 2014
N, M	November 28, 2014
P, J	September 30, 2014
P, M	December 1 and 3 and 15, 2014
P, G	December 9, 2014 and January 20 and 27 and 29, 2015
R, W	December 31, 2014
R, H	October 16, 2014

R, D	January 26, 2015 and February 4 and 17 and 24, 2015
S, A	December 18, 2014
S, B	February 4 and 19, 2015
S, L	November 24, 2014 and December 18 and 22 and/or 23, 2014
S, L	October 7, 2014
S, A	December 16, 2014 and January 21, 2015
S, J	September 30, 2014 and November 13, 2014
S, L	January 19, 2015
T, A	November 15 and 17 and 24, 2014
T A, A	September 30, 2014
T, A	November 10, 2014, December 11 and 15 and 19, 2014
T, M	February 21, 2015
T, S	January 31, 2015
Z, L	October 7 and 29, 2014

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(s) 2014 and 2015, you failed to abide by a written Undertaking/Agreement given by you to the College or to carry out an arrangement entered into with the College, contrary to paragraph 54 of Section 2 of the Dentistry Act Regulation.

   Particulars:

   - You contravened a term, condition or limitation on your certificate of registration.

   - You breached the Undertaking/Agreement which you signed on September 29, 2014.

- You provided prosthodontic treatment and/or performed procedures related to the execution of prosthodontic treatment, to patients from September 29, 2014 onwards which was a breach of your term, condition or limitation as set out in your certificate of registration.

- You provided implant treatment to patients from September 29, 2014 onwards which was a breach of your term, condition or limitation as set out in your certificate of registration.

Implant-Related Prosthodontic Procedures

Patients	Date(s)
A, N	December 12, 2014 and January 23 and 26, 2015
A, M	October 2 and 28 and 29, 2014
B, A	November 19, 2014 and December 4 and 27, 2014
H, M	February 24, 2015
H, N	September 30, 2014
M, A	February 3, 2015
M, D	November 12, 2014
M, J	December 17, 2014 and January 7 and 27, 2015
R, J	October 15 and 16, 2014 and November 12, 2014 and December 9, 2014
S, S	November 14, 2014
S, J	December 4 and 12, 2014
U, S	December 11, 2014 and January 12 and 27, 2015
Z, L	October 29, 2014 and December 19, 2014

Non-Implant Related Prosthodontic Procedures

Patients	Date(s)
A, W	November 10, 2014
A, S	December 2, 2014
A R, S	January 15, 2015
A, K	February 3, 2015
A, Z	December 20, 2014
A, I	October 6 and 24, 2014 and November 7 and 25, 2014
A, F	January 14, 2015
A, Z	October 22, 2014 and November 25, 2014 and January 6, 2015
A, R	February 3, 2015
B, T	January 23, 2015
B, A	November 19 and 24, 2014 and December 4 and 19, 2014 and January 9, 2015
B, J	January 9, 2015
B, C	October 17, 2014
C, A	October 4 and 17, 2014 and November 1 and 22, 2014 and December 2 and 6, 2014
C, A	December 12, 2014
C-C, H	October 14 and 16 and 21 and 23, 2014 and November 10 and 20 and 27, 2014 and December 1 and 5, 2014
G, V	October 24, 2014 and November 18 and 25, 2014
C, D	October 6, 2014
D, C	December 20, 2014
D, O	December 18, 2014

D, J	December 9, 2014
D, J	December 3 and 22, 2014
D, P	October 1, 2014
F, J	November 14, 2014 and December 5, 2014
G, F	October 27, 2014 and November 10 and 14 and 26, 2014
H, A	January 26, 2015
H, V	September 30, 2014
H, J	January 24, 2015
H, S	November 13, 2014
H, E	November 1 and 22, 2014 and January 24, 2015
H, S	November 7 and 18 and 21, 2014
H, R	October 28, 2014
J, A	October 17, 2014
K, N	January 31, 2015
L, M	February 3, 2015
L, W	February 20, 2015
L, B	February 21, 2015
M, M	October 16, 2014
M, D	November 12, 2014
M, S	October 23, 2014
M, M	January 7, 2015
M, A	February 3, 2015
M, M	October 4 and 7 and 8 and 14 and 22 and 29 and 31, 2014

N, M	November 28, 2014
P, J	September 30, 2014
P, M	December 1 and 3 and 15, 2014
P, G	December 9, 2014 and January 20 and 27 and 29, 2015
R, W	December 31, 2014
R, H	October 16, 2014
R, D	January 26, 2015 and February 4 and 17 and 24, 2015
S, A	December 18, 2014
S, B	February 4 and 19, 2015
S, L	November 24, 2014 and December 18 and 22 and/or 23, 2014
S, L	October 7, 2014
S, A	December 16, 2014 and January 21, 2015
S, J	September 30, 2014 and November 13, 2014
S, L	January 19, 2015
T, A	November 15 and 17 and 24, 2014
T A, A	September 30, 2014
T, A	November 10, 2014, December 11 and 15 and 19, 2014
T, M	February 21, 2015
T, S	January 31, 2015
Z, L	October 7 and 29, 2014

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(s) 2014 and 2015, you failed to take reasonable steps to ensure that any information

provided by you or on your behalf to the College was accurate, contrary to paragraph 57 of Section 2 of the Dentistry Act Regulation.

Particulars:[4]

- You provided inaccurate information to the College during the course of the investigation about the prosthodontic procedures, including implant-related procedures that you performed subsequent to signing the Undertaking/Agreement, specifically that you started new prosthodontic cases after the terms conditions and limitations took effect on your certificate of registration.

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(s) 2014 and 2015, 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 the following patients, contrary to paragraph 59 of Section 2 of the Dentistry Act Regulation.

Particulars:

- You entered into an Undertaking/Agreement with the College on September 29, 2014 and on September 30, 2014, within one day; you breached this agreement by providing prosthodontic treatment subsequent to signing the Undertaking/Agreement.

- You held yourself out as being permitted to provide prosthodontic and implant treatment despite signing an Undertaking/Agreement which restricted your provision of these services.

Implant-Related Prosthodontic Procedures

Patients	Date(s)
A, N	December 12, 2014 and January 23 and 26, 2015
A, M	October 2 and 28 and 29, 2014
B, A	November 19, 2014 and December 4 and 27, 2014

[4] A further particular in relation to this allegation was withdrawn by College Counsel. It had alleged as follows: "You failed to provide accurate information to the College as required related to your practice address."

H, M	February 24, 2015
H, N	September 30, 2014
M, A	February 3, 2015
M, D	November 12, 2014
M, J	December 17, 2014 and January 7 and 27, 2015
R, J	October 15 and 16, 2014 and November 12, 2014 and December 9, 2014
S, S	November 14, 2014
S, J	December 4 and 12, 2014
U, S	December 11, 2014 and January 12 and 27, 2015
Z, L	October 29, 2014 and December 19, 2014

Non-Implant Related Prosthodontic Procedures

Patients	Date(s)
A, W	November 10, 2014
A, S	December 2, 2014
A R, S	January 15, 2015
A, K	February 3, 2015
A, Z	December 20, 2014
A, I	October 6 and 24, 2014 and November 7 and 25, 2014
A, F	January 14, 2015
A, Z	October 22, 2014 and November 25, 2014 and January 6, 2015
A, R	February 3, 2015
B, T	January 23, 2015

B, A	November 19 and 24, 2014 and December 4 and 19, 2014 and January 9, 2015
B, J	January 9, 2015
B, C	October 17, 2014
C, A	October 4 and 17, 2014 and November 1 and 22, 2014 and December 2 and 6, 2014
C, A	December 12, 2014
C-C, H	October 14 and 16 and 21 and 23, 2014 and November 10 and 20 and 27, 2014 and December 1 and 5, 2014
G, V	October 24, 2014 and November 18 and 25, 2014
C, D	October 6, 2014
D, C	December 20, 2014
D, O	December 18, 2014
D, J	December 9, 2014
D, J	December 3 and 22, 2014
D, P	October 1, 2014
F, J	November 14, 2014 and December 5, 2014
G, F	October 27, 2014 and November 10 and 14 and 26, 2014
H, A	January 26, 2015
H, V	September 30, 2014
H, J	January 24, 2015
H, S	November 13, 2014
H, E	November 1 and 22, 2014 and January 24, 2015
H, S	November 7 and 18 and 21, 2014
H, R	October 28, 2014

J, A	October 17, 2014
K, N	January 31, 2015
L, M	February 3, 2015
L, W	February 20, 2015
L, B	February 21, 2015
M, M	October 16, 2014
M, D	November 12, 2014
M, S	October 23, 2014
M, M	January 7, 2015
M, A	February 3, 2015
M, M	October 4 and 7 and 8 and 14 and 22 and 29 and 31, 2014
N, M	November 28, 2014
P, J	September 30, 2014
P, M	December 1 and 3 and 15, 2014
P, G	December 9, 2014 and January 20 and 27 and 29, 2015
R, W	December 31, 2014
R, H	October 16, 2014
R, D	January 26, 2015 and February 4 and 17 and 24, 2015
S, A	December 18, 2014
S, B	February 4 and 19, 2015
S, L	November 24, 2014 and December 18 and 22 and/or 23, 2014
S, L	October 7, 2014
S, A	December 16, 2014 and January 21, 2015

S, J	September 30, 2014 and November 13, 2014
S, L	January 19, 2015
T, A	November 15 and 17 and 24, 2014
T A, A	September 30, 2014
T, A	November 10, 2014, December 11 and 15 and 19, 2014
T, M	February 21, 2015
T, S	January 31, 2015
Z, L	October 7 and 29, 2014

Reasons for Findings of Professional Misconduct – Exhibit 1B, Allegations 1, 4, 5 and 6

The Panel was satisfied that although the Member was self-represented, his admissions of professional misconduct in relation to Allegations 1 (contravening a term, limitation or condition imposed on the Member's certificate of registration), 4 (failing to abide by a written undertaking or agreement given to the College) and 6 (engaging in conduct or an act or acts that having regard to all the circumstances would be reasonably viewed by members as disgraceful, dishonourable, unprofessional or unethical) were voluntary, informed and unequivocal. In addition, because those admissions were made after the College began leading its evidence, the Panel had the unusual advantage of having heard testimony in relation to those allegations. Dr. Helene Goldberg, the College's Senior Dental Consultant gave evidence concerning the Registrar's investigation, in which she became involved in December, 2014. The Panel was satisfied that the Member's admissions, together with t Dr. Goldberg's evidence and the exhibits tendered during her testimony provided sufficient foundation for it to make findings of professional misconduct concerning Allegations 1, 4 and 6.

More specifically, the evidence of Dr. Goldberg showed that the Member initiated 16 prosthodontic cases after the Member had voluntarily signed an undertaking restricting his practice in implant placement and prosthodontic treatment. The Member presented no evidence to the contrary and ultimately did plead guilty to these allegations.

As noted above, the Member denied Allegation 5 (failing to take reasonable steps to ensure that any information provided by him or on his behalf to the College was accurate), but the Panel found him guilty of professional misconduct with respect to that allegation. In making

this finding, the Panel applied the standard of proof on a balance of probabilities, with the proviso that evidence must be sufficiently clear, convincing and cogent to satisfy the balance of probabilities test.[5]

The Panel's reasons for finding that the Member guilty of professional misconduct in relation to the allegation that he failed to take reasonable steps to ensure that the accuracy of information he provided or that was provided on his behalf to the College are as follows. The Panel accepted the sworn testimony of the College's investigator, Dr. Goldberg. It was Dr. Goldberg's evidence that she spoke to the Member in January 2015 and again in February 2015, that on both of those occasions the Member told her that he was not performing any surgery and that he was treating about 12 cases that were started before the undertaking was signed. Dr. Goldberg testified that the records did not support the Member's statements. Exhibit 7 identified 16 cases that were initiated after the undertaking had been voluntarily signed by the Member. The College's evidence establishing that the Member failed to take reasonable steps to ensure the accuracy of information provided to the College was uncontradicted.

Exhibit 2 – Notice of Hearing H160005

Exhibit 2 contained four (4) further allegations of professional misconduct and associated particulars. The Member denied each of these allegations, but after deliberation, the Panel found that the Member had engaged in professional misconduct in relation to each of them. The allegations in **Exhibit 2** were as follows:

1. You committed an act or acts of professional misconduct as provided by s.51(1)(c) of the Health Professions Procedural Code, being Schedule 2 of the Regulated Health Professions Act, 1991, Statutes of Ontario, 1991, Chapter 18 in that, during the year 2014, you contravened a term, condition or limitation imposed on your certificate of registration relative to one of your patients, namely T, N., contrary to paragraph 2 of Section 2 of the Dentistry Act Regulation.

Particulars:

- You contravened a term, condition or limitation on your certificate of registration.
- You breached the Undertaking/Agreement that you signed on September 29, 2014.
- You provided prosthodontic treatment and/or performed procedures related to the execution of prosthodontic treatment to T, N from September 29, 2014, onwards, which was a breach of a

[5] *F.H. v. McDougall*, [2008] 3 SCR 41, 2008 SCC 53 at para. 46.

term, condition or limitation on your certificate of registration. You provided prosthodontic treatment and/or performed procedures related to the execution of prosthodontic treatment to T, N on or about:

- October 2, 2014
- November 4, 2014
- November 5, 2014
- November 7, 2014
- November 8, 2014
- November 12, 2014

2. You committed an act or acts of professional misconduct as provided by s.51(1)(c) of the Health Professions Procedural Code, being Schedule 2 of the *Regulated Health Professions Act, 1991*, Statutes of Ontario, 1991, Chapter 18 in that, during the year 2014, you failed to abide by a written Undertaking given by you to the College or to carry out an arrangement entered into with the College, contrary to paragraph 54 of Section 2 of the Dentistry Act Regulation.

Particulars:

- You contravened a term, condition or limitation on your certificate of registration.
- You breached the Undertaking/Agreement that you signed on September 29, 2014.
- You provided prosthodontic treatment and/or performed procedures related to the execution of prosthodontic treatment to T, N from September 29, 2014, onwards, which was a breach of a term, condition or limitation on your certificate of registration. You provided prosthodontic treatment and/or performed procedures related to the execution of prosthodontic treatment to T, N on or about:
    - October 2, 2014
    - November 4, 2014
    - November 5, 2014
    - November 7, 2014
    - November 8, 2014
    - November 12, 2014

3. You committed an act or acts of professional misconduct as provided by s.51(1)(c) of the Health Professions Procedural Code, being Schedule 2 of the *Regulated Health Professions Act, 1991*, Statutes of Ontario, 1991, Chapter 18 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.

Particulars:

- The College's investigator sent you a letter on or about October 21, 2015, following a conversation with you on the same date, requesting financial records, documentation regarding your treatment plan, and any and all models for the patient. The College did not receive any of the requested records from you, and you did not otherwise respond to this letter.

4. You committed an act or acts of professional misconduct as provided by s.51(1)(c) of the Health Professions Procedural Code, being Schedule 2 of the *Regulated Health Professions Act, 1991*, Statutes of Ontario, 1991, Chapter 18 in that, during the year 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 one of your patients, namely T, N, contrary to paragraph 59 of Section 2 of the Dentistry Act Regulation.

Particulars:

- You contravened a term, condition or limitation on your certificate of registration.

- You breached the Undertaking/Agreement that you signed on September 29, 2014.

- You provided prosthodontic treatment and/or performed procedures related to the execution of prosthodontic treatment to T, N from September 29, 2014, onwards, which was a breach of a term, condition or limitation on your certificate of registration. You provided prosthodontic treatment and/or performed procedures related to the execution of prosthodontic treatment to T, N on or about:

    - October 2, 2014
    - November 4, 2014

  - November 5, 2014
  - November 7, 2014
  - November 8, 2014
  - November 12, 2014

- You are ungovernable in that you contravened a term, condition or limitation on your certificate of registration and breached the Undertaking/Agreement you entered into with the College.

Reasons for Findings of Professional Misconduct – Exhibit 2, Allegations 1 – 4

As previously noted, the Panel found the Member guilty in relation to each of these allegations. The Panel's reasons for doing so are as follows. The evidence clearly showed that prosthodontic treatment for T, N was initiated after the Member had signed the undertaking that restricted the Member from initiating any implant placement or providing prosthodontic treatment including prosthetic treatment (crowns, bridges). The Member argued that because the denture was attached with screws rather than cement this made the prosthesis a removable denture and therefore, was not included in the undertaking. The Panel did not accept this argument. The undertaking explicitly stated that the Member "will not initiate any implant placement or provide any prosthodontic treatment, including prosthetic treatment (crowns, bridges)". It is clear to the Panel that the Member should have reasonably understood that a denture attached by screws to an implant supported structure would contravene the practice restriction related to implants and prosthodontic treatment. The Panel noted that the fee code used was related to fixed rather than removable prosthodontics.

With respect to Allegation 3, Exhibit 4 (a bound volume entitled, "Documents Relating to T,N") and Exhibits 5A and 5C (the electronic notes of the College investigator, Mr. Siqueira, following his October 20, 2015 telephone call to the Member's office manager and his October 21, 2015 telephone call to the Member) and Mr. Sequeira's testimony of clearly outlined the efforts the College made to obtain records from the Member. While the Member stated that models were sent to the College, he did not provide any evidence or documents to support this.

The Panel found the evidence of the College investigators both reliable and credible. The exhibits supported their testimony.

In making these findings, the Panel once again applied the standard of proof on a balance of probabilities, with the proviso that evidence must be sufficiently clear, convincing and cogent to satisfy the balance of probabilities test.[6]

The Panel understands that a Penalty Hearing has been scheduled for February 23, 2017 in connection with this matter.

February 7, 2017

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

Dr. Nancy DiSanto
Dr. David Mock
Mr. Gregory Larsen
Mr. Manohar Kanagamany – Public Member

[6] See note 5, above.

H150014
H160005

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. HELMUT RAGNITZ,** of the City of Ottawa, 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 – Professional Member Dr. Nancy DiSanto – Professional Member Dr. David Mock – Professional Member Mr. Gregory Larsen – Public Member Mr. Manohar Kanagamany – Public Member
Appearances:	Marie Henein on behalf of the Royal College of Dental Surgeons of Ontario Dr. Helmut Ragnitz, on his own behalf Paul Le Vay, Independent Legal Counsel on behalf of the Discipline Committee of the Royal College of Dental Surgeons of Ontario

Hearing held on February 23, 2017

DECISION AND REASONS on PENALTY

Introduction

On October 25 and 26, 2016, a panel of the Discipline Committee (the "Discipline Panel") of the Royal College of Dental Surgeons of Ontario (the "College") convened to hear allegations of professional misconduct made against Dr. Helmut Ragnitz (the "Member"). In a Decision

and Reasons released February 7, 2017, the Discipline Panel found that the Member had committed acts of professional misconduct in respect of Allegations 1, 4, 5 and 6 as set out in Notice of Hearing H150014 (**Exhibit 1B**) which contained seven (7) allegations, and also found that he committed acts of professional misconduct in respect of all Allegations (ie, 1-4) as set out in Notice of Hearing H160005 (**Exhibit 2**). The allegations and findings of professional misconduct are set out in detail in our February 7th Decision and Reasons. That detail will not be repeated here but our findings are summarized below.

The Panel reminded those present that it had made an order pursuant to subsection 45(3) of the *Health Professions Procedural Code*[1] (the "*Code*"), banning publication of any patients' names and identifying information at the outset of the hearing and that order continued to apply to the penalty hearing.

Findings of Professional Misconduct

Exhibit 1A and B – Notice of Hearing H150014

The Panel found the Member guilty of professional misconduct in relation these four (4) allegations:[2]

1. He committed acts of professional misconduct as provided by s.51(1)(c) of the Code, in that, from September 29, 2014 onwards, he contravened a term, condition or limitation imposed on his certificate of registration relative to certain patients, contrary to paragraph 2 of Section 2 of the Dentistry Act Regulation.

4. He committed acts of professional misconduct as provided by s.51(1)(c) of the *Code*, in that, during the year(s) 2014 and 2015, he failed to abide by a written Undertaking/Agreement given by him to the College or to carry out an arrangement entered into with the College, contrary to paragraph 54 of Section 2 of the Dentistry Act Regulation.

5. He committed acts of professional misconduct as provided by s.51(1)(c) of the *Code*, in that, during the year(s) 2014 and 2015, he failed to take reasonable steps to ensure that any information provided by him or on his behalf to the College was accurate, contrary to paragraph 57 of Section 2 of the Dentistry Act Regulation.

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[1] Schedule 2 to the *Regulated Health Professions Act, 1991*, SO 1991, c 18.

[2] Three other allegations that set out in this Notice of Hearing were withdrawn at the request of College Counsel. They appeared as allegations 2, 3 and 7 and alleged that the Member failed to keep records as required by the Regulations, failed to comply with Section 7 respecting the use of a practice name and engaged in improper advertising, respectively.

6. He committed acts of professional misconduct as provided by s.51(1)(c) of the *Code*, in that, during the year(s) 2014 and 2015, he 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 and unethical relative to the following patients, contrary to paragraph 59 of Section 2 of the Dentistry Act Regulation.

Exhibit 2 – Notice of Hearing H160005

The Panel found that the Member had engaged in professional misconduct as follows:

1. He committed acts of professional misconduct as provided by s.51(1)(c) of the Health Professions Procedural Code, being Schedule 2 of the Regulated Health Professions Act, 1991, Statutes of Ontario, 1991, Chapter 18 in that, during the year 2014, he contravened a term, condition or limitation imposed on his certificate of registration relative to one of his patients, namely T, N., contrary to paragraph 2 of Section 2 of the Dentistry Act Regulation.

2. He committed acts of professional misconduct as provided by s.51(1)(c) of the Health Professions Procedural Code, being Schedule 2 of the *Regulated Health Professions Act, 1991*, Statutes of Ontario, 1991, Chapter 18 in that, during the year 2014, he failed to abide by a written Undertaking given by him to the College or to carry out an arrangement entered into with the College, contrary to paragraph 54 of Section 2 of the Dentistry Act Regulation.

3. He committed acts of professional misconduct as provided by s.51(1)(c) of the Health Professions Procedural Code, being Schedule 2 of the *Regulated Health Professions Act, 1991*, Statutes of Ontario, 1991, Chapter 18 in that, during the year 2015, he 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.

4. He committed an act or acts of professional misconduct as provided by s.51(1)(c) of the Health Professions Procedural Code, being Schedule 2 of the *Regulated Health Professions Act, 1991*, Statutes of Ontario, 1991, Chapter 18 in that, during the year 2014, he 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 and unethical relative to one of your patients, namely T, N, contrary to paragraph 59 of Section 2 of the Dentistry Act Regulation.

Submissions of the College

Ms. Henein on behalf of the College submitted that revocation was the appropriate penalty as the Member was ungovernable. She pointed to the Member's willful and deliberate breach of the undertaking he gave to the College. She referred to the fact that the Member had breached the undertaking the day after it was given and that it was breached with numerous patients over a lengthy period of time. Ms. Henein also highlighted evidence that Dr.Ragnitz had willfully mislead the College investigator , claiming that he had only continued to provide the restricted prosthetics to patients with whom he had started the procedure before giving the undertaking when, in fact, 16 cases were started after the undertaking had been given. He continued the treatments after he knew that he was being investigated for breach of the undertaking and after he had been expressly warned by the investigator.

Ms. Henein submitted that this evidence demonstrated that the Member was not prepared to accept the jurisdiction of his regulator, the College. She took the panel through a brief (Exhibit 12) of decision of the Complaints Committee and the ICRC concerning Dr. Ragnitz which, she submitted, showed an escalating pattern of refusing to accept the College's jurisdiction. Revocation was therefore required to fulfill the public protection mandate of the College.

Submissions of Dr. Ragnitz

Dr. Ragnitz attended and spoke on his own behalf. He said that he disagreed that he was ungovernable but added that this was not such a terrible thing given what was happening in the United States. He attempted to shift responsibility for his circumstances to patients and other practitioners. He attempted to minimize the seriousness of patient safety issues. With respect to past non-responsiveness to the College, he explained that he had not responded on certain occasions in the past because he gets his back up when he is accused of doing something that he did not do.

He provided the Panel with certain letters of support (Exhibits 13). Ms. Henein pointed out in reply that there was no indication that the authors of these letters had been told about the Panel's findings.

Dr. Ragnitz also told the Panel that he was "basically done with the College".

Decision on Penalty

The Panel directs the Registrar to revoke the Member's certificate of registration pursuant to section 51(2) of the *Code*.

Reasons for Penalty

The Panel was convinced by the evidence and by the submissions presented by the College that the Member is ungovernable.

The past decisions of the Complaints Committee and the ICRC about Dr. Ragnitz contained in Exhibit 12 demonstrate a prolonged and escalating level of failure by Dr. Ragnitz to recognize and accept the authority of the College.

Certain examples of concern to the Panel were as follows:

i) Complaint of PS: Exhibit 12, Tab 5, Page 2: "Dr. Ragnitz failed to respond to the College's requests for all of S,P's original patient records…" requiring the Committee to request the Registrar commence an investigation pursuant to s. 75(c) of the *Code*. On Page 7: The Panel expressed concern that "…despite the complainant's clear request for records and the complainant's ongoing treatment needs, Dr. Ragnitz failed to provide either S,P or his new treating dentist with all the requested records." Complaints Committee Panel met on five occasions between October 2007 and April 2009.

ii) Complaint of MS: Exhibit 12, Tab 6, Page 5: "Additionally, the panel is concerned that Dr. Ragnitz failed to provide S,M's records to the College in a timely manner." The Inquiries, Complaints and Reports Committee (ICRC) Panel met twice in 2011.

iii) Complaint of GM: Exhibit 12, Tab 7, Page 5: The ICRC Panel determined that in relation to a patient, Dr. Ragnitz failed to maintain the standards of practice for a prosthodontic specialist. The Member signed a voluntary Undertaking/Agreement to restrict his practice such that he would not initiate any implant placement or provide any prosthodontic treatment, including prosthetic treatment (crowns, bridges). Dr. Ragnitz signed the Undertaking/Agreement on 29 September 2014. The ICRC met twice in the fall of 2014.

iv) Complaint of GG: Exhibit 12, Tab 8, page 5: "…and the panel was also concerned that Dr. Ragnitz did not fully cooperate with the College's investigation." The ICRC Panel met twice in 2015.

v) Complaint of JAS: Exhibit 12, Tab 9, Page 4: "The Panel was extremely troubled by the events that unfolded in this matter. It was left with the impression that Dr. Ragnitz made little to no effort to comply with the many requests for records from his patient directly, from his patient's legal counsel and finally from his governing body, the College." "It also appeared that Dr. Ragnitz took a very lackadaisical approach to ensuring his contact information on file with the College was current and showed no signs of attempting to cooperate with the investigation." "This degree of non-cooperation with a College investigation is unacceptable." "The Panel was further troubled by Dr. Ragnitz's eventual response to the College in that he provided misleading information." On page 6 of the same decision, the Panel writes: "From that information the panel can see that Dr. Ragnitz exhibits a pattern of failing to comply with requests for records both from patients directly and from the College pursuant to an investigation. Although the importance of complying with this legislative requirement has been brought to Dr. Ragnitz's attention on multiple occasions, the panel can see from the facts in this case that Dr. Ragnitz still does not appreciate this lesson." The ICRC Panel met twice in 2015 and once in 2016.

The fact that Dr. Ragnitz breached a voluntary Undertaking/Agreement with the College that was put in place because the ICRC Panel had determined that he had failed to maintain the standards of practice for a prosthodontic specialist is an extremely serious failing on the part of Dr. Ragnitz. His decision to disregard this Undertaking/Agreement clearly indicates that he placed his own interests above those of the patients to whom he provided treatment that he was prohibited from providing by the terms of the Undertaking/Agreement. His actions further demonstrate a complete lack of respect for the authority of the College and of its public protection role in the regulation of its members.

The fact that a total of 44 patients were listed as being treated during the time that the Undertaking/Agreement was in effect and that this treatment went on from September 2014 to February 2015, demonstrated to the Panel that the Member did not simply make an isolated mistake. Rather, it shows that he had a complete disregard and contempt for the agreement he had entered into voluntarily with the College.

Of the 44 patients he treated while the Undertaking/Agreement was in effect, 16 of them were patients for whom he initiated treatment after signing the Undertaking. Of grave concern to the Panel, was the fact that even after College Investigator Dr. Helen Goldberg informed Dr. Ragnitz that he was under investigation by the College on January 7, 2015, he still proceeded to initiate treatment for eight more patients after that date. Again, the Panel found this to be overwhelming evidence that Dr. Ragnitz was ungovernable by the College.

Dr. Ragnitz lied to Dr. Goldberg when, in January 2015 and February 2015, he was asked if he had initiated any new patient treatment while the Undertaking/Agreement was in effect. This is further evidence of Dr. Ragnitz contempt for the authority of the College and of its vital role in protecting the public.

During the Penalty phase of the hearing Dr. Ragnitz attempted to explain his situation by placing responsibility on patients and other practitioners, rather than on himself. He attempted to minimize the seriousness of his actions by suggesting that the treatment he was providing was not as dangerous as if he had used sedation. While Dr. Ragnitz did eventually send a letter, in 2015, apologizing to an ICRC Panel, he did not express any remorse or demonstrate any real insight, understanding and acceptance during the course of this hearing of the importance of the role performed by the College in regulating the dental profession in the public interest and of the ultimate authority of the College over him as a regulated health professional. In fact,the account contained in the ICRC Panel Decision and Reasons dated 4 May 2016 of Dr. Ragnitz's continued non-responsiveness and lack of cooperation in respect of the investigation of the complaint of JAS, which took place *after* Dr. Ragnitz sent his letter of apology, led this Discipline Panel to put little weight on that letter. In addition, during the hearing, Dr. Ragnitz suggested that ungovernability may not be a bad thing. He minimized the findings of CC/ICRC Panels, suggesting the concerns were just financial concerns and that in some of the cases decided by the CC/ICRC Panels nothing had happened. He stated that he believed that the College was out to get him, that he was basically done with the College and that he really did not care anymore. Taken together, these comments indicate to the Panel that this Member has not accepted responsibility for his actions or that he has any interest in remediation or changing his ways or beliefs related to the authority of the College.

Finally, the Member referred to personal circumstances that, he suggested, influenced his decisions and actions. While the Panel can sympathize with any member who runs into personal difficulty and hard times, such circumstances cannot exempt that member from the ultimate responsibility that he has to his patients and to the profession and the public. The panel did not hear or receive any evidence from the Member related to any mental or physical health diagnosis that should be weighed in considering the appropriate penalty. Dr. Ragnitz submitted three letters of reference (Exhibit 13). However, none of the letters addressed Dr. Ragnitz's ability to be governed by the College and were therefore not accorded weight by the Panel.

Based on the evidence presented and after hearing the submissions of the parties, the Panel concluded that the Member is ungovernable. He did not demonstrate understanding of the seriousness of his actions and did not acknowledge the ultimate authority of the College and a member's responsibility to cooperate with the College and place patient care above all else.

The decision to revoke a member's certificate of registration is extremely serious and is not taken lightly by this Panel. This decision was reached, first and foremost, for reasons of public safety. The Panel did not believe that any remedial actions would have a positive influence on Dr. Ragnitz. This decision will serve to send a message to the profession that compliance with the College's regulation is essential and will demonstrate to the public that they can have confidence in the self-regulation of the dental profession.

March 29, 2017

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

Dr. Nancy DiSanto
Dr. David Mock
Mr. Gregory Larsen
Mr. Manohar Kanagamany