

**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. SHAINOOR KANJI**, of the City of Thornhill, 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 Hunter, Chair
Susan Davis
Dr. Vinay Bhide
Dr. Sandy Venditti

BETWEEN:

**ROYAL COLLEGE OF DENTAL
SURGEONS OF ONTARIO**

- and -

DR. SHAINOOR KANJI

) Appearances:
)
) Ms. Andrea Gonsalves
) Independent Counsel for the
) Discipline Committee of the Royal
) College of Dental Surgeons of Ontario
)
) Ms. Dayna Simon
) For the Royal College of Dental
) Surgeons of Ontario
)
) Mr. Matthew Wilton
) For Dr. Shainoor Kanji

Hearing held October 4, 2018

REASONS FOR DECISION

This matter came on for hearing before a panel of the Discipline Committee (the "Panel") at the Royal College of Dental Surgeons of Ontario (the "College") in Toronto on October 4, 2018.

PUBLICATION BAN

On the request of the College and on the consent of the Member, the Panel made an order directing that no person shall publish or broadcast the identity of any patients referred to orally at the hearing or in the exhibits filed at the hearing, or any information that could disclose their identity.

THE ALLEGATIONS

The allegations against Dr. Shainoor Kanji (the "Member") were set out in the Notices of Hearing. The first Notice of Hearing (H160007), dated April 18, 2016, which contains the following allegations against the Member.

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 signed or issued a certificate, report or similar document that you knew or ought to have known contained a false, misleading or improper statement relative to one of your patients, namely [K.G.], contrary to paragraph 28 of Section 2 of the Dentistry Act Regulation.

Particulars:

- You issued a claim to Sun Life Financial, [K.G.'s] insurer, for \$1,600 on or about December 29, 2014, for services not provided, of which the insurer paid \$1,252 on or about February 2, 2015.
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 submitted an account or charge for dental services that you

knew or ought to have known was false or misleading relative to one of your patients, namely [K.G.], contrary to paragraph 33 of Section 2 of the Dentistry Act Regulation.

Particulars:

- You charged a fee to Sun Life Financial, [K.G.'s] insurer, for \$1,600 on or about December 29, 2014, for services not provided, of which the insurer paid \$1,252 on or about February 2, 2015.
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 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 [K.G.], contrary to paragraph 59 of Section 2 of the Dentistry Act Regulation.

Particulars:

- You intentionally issued a claim to Sun Life Financial, [K.G.'s] insurer, for services you did not intend to perform, namely two restorations and gingival curettage. You intended to apply the money received to other services, including the provision of a partial denture which had not been approved or paid for by [K.G.'s] insurance company.
- You allowed your personal familiarity with [K.G.] to affect your professional judgment with respect to your billing practices.

The second Notice of Hearing (H170015), dated August 25, 2017, contains the following allegations against the Member.

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 years 2014-2015, 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 Ontario Regulation 853, Regulations of Ontario, 1993, as amended

[A.M.#1]
 [A.M.#2]
 [A.A.]
 [D.S.]
 [D.M.]
 [D.A. (aka D.K.)]
 [E.A.#1]
 [E.A.#2 (aka E.K.)]
 [F.S. (aka F./P.M.)]
 [J.B-G.]
 [J.M.]
 [J.T.]
 [P.L.]
 [P.K. (aka P.S.)]
 [Q.C.]
 [R.L.]
 [R.A.C.]
 [R.B.]
 [S.M.]
 [S.A.#1]
 [S.A.#2]
 [S.A.#3]
 [T.B.]
 [T.A.]
 [Y.T.]

Particulars:

- Some records for [S.M.] were undated.
- Radiographs found in [A.M.#2's] patient record were not documented as having been taken.
- For 12 patients, treatment that was billed/claimed was not documented in the progress notes and/or was not supported by appropriate progress notes or other records and/or the progress notes did not document any justification for providing those services.

Patients

[A.M.#1]	2014-2015
[S.M.]	2014-2015
[Q.C.]	2014-2015
[R.A.C.]	2014-2015
[S.A.#3]	2015
[T.A.]	2015
[R.L.]	2015
[E.A.#2 (aka E.K.)]	2015

[R.B.]	2015
[S.A.#1]	2015
[D.A. (aka D.K.)]	2015

- In or about 2014, you billed/issued a claim for a periodontal examination for [R.A.C] but did not complete periodontal charting.
- You billed/issued a claim for a specific examination for [T.A.] in or about 2015 but appeared to have performed a periodontal re-evaluation.
- For 7 patients, you billed/issued a claim for a complete examination, but you appeared to have performed a recall examination or did not complete sufficient documentation to support the use of the code for a complete examination.

Patients

[P.K. (aka P.S.)]	2015
[S.A.#1]	2015
[S.A.#2]	2014
[A.A.]	2015
[E.A.#1]	2015
[D.S.]	2015
[F.S. (aka F./P.M.)]	2015

- For 5 patients, you billed/issued claims for a recall examination, but the chart entries do not indicate that you performed such an examination.

Patients

[T.B.]	2015
[P.L.]	2015
[R.L.]	2015
[D.M.]	2015
[Y.T.]	2015

- For 2 patients, you billed/issued claims for specific examinations but had no progress notes for such an examination.

Patients

[T.B.]	2015
[J.B-G.]	2015

- With respect to [R.A.C.], your records were unclear with respect to the prosthodontic treatment provided in or about 2015, including with respect to the number of units in the bridge provided. Your records were also inadequate with

respect to the preparation for this prosthodontic treatment, including but not limited to the dates on which treatment was provided.

- For 8 patients, the quality of your radiographs was poor, with questionable or no diagnostic value, and/or the radiographs were improperly mounted and/or labelled, which could lead to a diagnostic or treatment error.

Patients

[A.A.]	2015
[D.A.(aka D.K.)]	2015
[E.A.#1]	2015
[J.B-G.]	2015
[T.B.]	2015
[S.M.]	2015
[D.S.]	2015
[F.S. (aka F./P.M.)]	2015

- For 2 patients, you recommended and/or performed restorative treatment that did not appear to have been supported by the available radiographs.

Patients

[J.M.]	2015
[D.A.(aka D.K.)]	2015

- For 6 patients, you documented that you provided and/or billed/issued claims for restorations that did not appear to have been performed and/or for restorations of more or different surfaces than appear to have been treated. You also provided restorative treatment without diagnosing the need for it.

Patients

[R.L.]	2015
[J.M.]	2015
[E.A.#2 (aka E.K.)]	2015
[T.B.]	2015
[D.A. (aka D.K.)]	2015
[J.T.]	2015

- In or about 2015, you provided copies of your records for [R.A.C.] to Sun Life Financial, the patient's insurer, that were different from the records subsequently collected by the College.

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 2015, you falsified a record relating to your practice relative to one of your patients, namely [R.A.C.], contrary to paragraph 26 of Section 2 of Ontario Regulation 853, Regulations of Ontario, 1993, as amended.

Particulars:

- In or about 2015, you provided copies of your records for [R.A.C.] to Sun Life Financial, the patient's insurer, that were different from the records subsequently collected by the College.
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 years 2014-2015, you signed or issued a certificate, report or similar document that you knew or ought to have known contained a false, misleading or improper statement relative to one or more of the following patients, contrary to paragraph 28 of Section 2 of Ontario Regulation 853, Regulations of Ontario, 1993, as amended.

[A.M.#1]

[A.M.#2]

[C.B.]

[D.A. (aka D.K.)]

[E.A. (aka E.K.)]

[P.K. (aka P.S.)]

[Q.C.]

[R.L.]

[R.A.C.]

[R.B.]

[S.M.]

[S.A.#1]

[S.A.#3]

[T.B.]

Particulars:

- You issued claims under [S.M.]'s insurance plan for services provided to [A.M.#2] in or about 2014 and/or 2015.

- You issued claims for services not provided and/or for services that were provided on a different date than the date claimed for 14 patients.

Patients

[A.B.#1]	2014-2015
[S.M.]	2014-2015
[R.A.C.]	2014-2015
[Q.C.]	2014-2015
[P.K. (aka P.S.)]	2015
[C.B.]	2015
[S.A.#3]	2015
[T.A.]	2015
[R.L.]	2015
[E.A.#2 (aka E.K.)]	2015
[R.B.]	2015
[S.A.#1]	2015
[D.A. (aka D.K.)]	2015

- You issued claims for more units of treatment, including scaling, than appeared to have been provided, for 2 patients.

Patients

[A.K.#1]	2015
[S.M.]	2015

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 years 2014-2015, you submitted an account or charge for dental services that you knew or ought to have known was false or misleading relative to one or more of the following patients, contrary to paragraph 33 of Section 2 of Ontario Regulation 853, Regulations of Ontario, 1993, as amended.

[A.K.#1]
 [S.M.]
 [R.A.C.]
 [Q.C.]
 [P.K. (aka P.S.)]
 [C.B.]
 [S.A.#3]
 [T.A.]
 [R.L.]
 [E.A.#2 (aka E.K.)]

[R.B.]
 [S.A.#1]
 [D.A. (aka D. K.)]

Particulars:

- You charged a fee for services not provided and/or for services that were provided on a different date than the date claimed for 14 patients.

Patients

[A.M.#1]	2014-2015
[S.M.]	2014-2015
[R.A.C.]	2014-2015
[Q.C.]	2014-2015
[P.K. (aka P.S.)]	2015
[C.B.]	2015
[S.A.#3]	2015
[T.A.]	2015
[R.L.]	2015
[E.A.#2 (aka E.K.)]	2015
[R.B.]	2015
[S.A.#1]	2015
[D.A. (aka D.K.)]	2015

- You charged fees for more units of treatment, including scaling, than appeared to have been provided, for 2 patients.

Patients

[A.M.#1]	2015
[S.M.]	2015

5. 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 years 2014-2015, 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, contrary to paragraph 59 of Section 2 of Ontario Regulation 853, Regulations of Ontario, 1993, as amended.

[S.M.]
 [A.M.#2]
 [A.M.#1]
 [R.A.C.]

Particulars:

- In or about 2014 and/or 2015, you intentionally issued claims to [S.M.'s] insurance for services you did not intend to perform. You intended to apply the money received from the insurance company to services provided to [A.M.#2].
- You allowed your personal familiarity with [A.M.#2], [S.M.], and [A.M.#1], who you described as distant relatives, to affect your professional judgment with respect to your billing practices.
- You demonstrated poor judgment by allowing information about [A.M.#2's] possible disability and lack of dental insurance coverage to influence your decision-making regarding your billing practices, namely by issuing claims to [S.M.'s] insurer for treatment provided to [A.M.#2].
- You admitted that you intentionally charged fees/issued claims that were inaccurate as "favours" for [K.G.] and [S.M.] and/or [A.M.#2] and/or [A.M.#1], but you stated that you had not provided "favours" to any other patients. It appeared that you did charge fees/issue claims for services not provided with respect to other patients, including [R.A.C.], as well.
- [withdrawn]
- In or about 2015, you provided copies of your records for [R.A.C.] to Sun Life Financial, the patient's insurer, that were different from the records subsequently collected by the College.

THE MEMBER'S PLEA

The College sought leave to withdraw the fifth particular under allegation 5 in Notice of Hearing H170015, with the consent of the Member. The panel granted the leave as requested. The Member admitted to the remaining allegations of professional misconduct in both Notices of Hearing. The Member also made admissions in writing in an Agreed Statement of Facts, which he signed.

The Panel conducted a plea inquiry at the hearing, and was satisfied 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 provides as follows (references to documents in the Document Book marked as an exhibit at the hearing have been omitted).

Background

1. Dr. Shainoor Kanji first registered with the Royal College of Dental Surgeons ("College") in 2009 as a general dentist.
2. Dr. Kanji received Notice of Hearing dated April 18, 2016 and Notice of Hearing dated August 25, 2017 and reviewed them with her legal counsel.
3. The two Notices of Hearing particularize the following allegations of professional misconduct against Dr. Kanji, which in summary are that she:
 - Signed or Issued a false/misleading certificate or report
 - Submitted a false/misleading account or charge for dental services
 - Engaged in conduct that would reasonably be regarded by members as disgraceful, dishonourable, unprofessional or unethical
 - Failed to keep records as required;
 - Falsified a record

Withdrawals

4. The College seeks to withdraw the following particular from Allegation #5 in the Notice of Hearing dated August 25, 2017:
 - You withheld information about the laboratories with which you worked from the College's Investigator by failing to provide the names of five laboratories with which you worked when asked for these names.
5. The College is seeking withdrawal of this particular for the following reasons:

- The College is now of the view that this allegation cannot be proven in accordance with the burden of proof required at a Discipline Hearing based on the documentary evidence.

Admissions

6. Dr. Kanji admits to the remaining allegations and particulars as set out in both of the Notices of Hearing.
7. Dr. Kanji further admits that these allegations, together with the particulars and facts set out in the Notice of Hearing and this Agreed Statement of Facts, constitute professional misconduct, as set out in the Professional Misconduct Regulation.

Facts

H160007: File C150241 – Complaint by [K.G.]

8. In an online complaint received by the College on May 19, 2015, [K.G.] complained that Dr. Kanji billed her insurance company, Sun Life Financial (“Sun Life”), for dental services that Dr. Kanji did not provide. She also complained that Dr. Kanji did not provide x-rays and records to Sun Life when requested.
9. Dr. Kanji was notified of the complaint, asked to provide her original patient records for [K.G.], and was given an opportunity to respond to the substance of the complaint.
10. Dr. Kanji’s letter of response was received by the College on July 14, 2015. Dr. Kanji’s response also enclosed her patient records for [K.G.].
11. In summary, Dr. Kanji’s response to [K.G.’s] complaint was as follows:
 - She and [K.G.] were [acquainted]. [K.G.] became [known to her] in October 2014. She and [K.G.] “got to know each other well”. She learned that [K.G.] had been diagnosed with depression and she felt “sad” for [K.G.].
 - [K.G.] often mentioned her discomfort with her upper transitional partial denture so Dr. Kanji looked at it and offered to “help her out”. [K.G.] had not seen a dentist for over two years and “needed dental care badly.”
 - On January 24, 2015, Dr. Kanji saw [K.G.] at her dental office in Markham. She took x-rays, performed an

examination and a cleaning. She also took impressions for an upper cast partial denture and whitening trays. [K.G.] had “extensive old restoration” on some of her molars and Dr. Kanji recommended crowns for those teeth. Dr. Kanji and her assistant explained the treatment plan to [K.G.]. She advised [K.G.] that her office would send a pre-determination request for the treatment plan to Sun Life.

- [K.G.] insisted that she did not have any money to pay for her treatment and she did not make any co-payments towards her treatment that day.
- On February 14, 2015, [K.G.’s] partial denture was delivered to her at her home. Sun Life had not approved the pre-determination for the partial denture. Sun Life requested further x-rays from Dr. Kanji. [K.G.] returned to the dental office on March 14, 2015 so that Dr. Kanji could take the x-rays that Sun Life requested.
- Dr. Kanji submitted insurance claims to Sun Life using the billing fee codes for two restorations and surgical curettage, which she did not provide in order to cover other services, including [K.G.’s] share of the cost of the partial denture. Dr. Kanji received a payment of \$1,252.00 from this claim. She gave [K.G.] \$400.00 out of this payment “so she could have some money”.
- The pre-determination request her office sent to Sun Life for other services, including the partial denture, totaled “around \$4,000.00” and was not approved by Sun Life. If the insurance company had approved it, she would have completed the work for [K.G.] and then submitted a claim to the insurance company.
- Dr. Kanji did not do “any of this to make any money” for herself but because she “felt compelled to help her as she was in great need for dental services and had insurance to do that work.”
- She has since repaid Sun Life the amount of \$1,252.00 for services that she did not perform. Because she provided [K.G.] with \$400.00 of that amount, she was left with \$852.00 from Sun Life which she intended to use towards dental services [K.G.] needed for dentures, crowns, and other work.
- Regarding [K.G.’s] complaint about her abscessed tooth 16, this tooth had an extensive old amalgam filling and the

treatment plan for the tooth included a crown. When she examined the tooth, it had no symptoms.

12. Full disclosure of the complete Record of Investigation was provided to both the Member and the complainant at the completion of the investigation and they were each given an opportunity to respond.

13. The panel considered the matter and had serious concerns that Dr. Kanji issued a claim to [K.G.'s] insurer for services she did not provide. Consequently, the panel formed an intention to refer specified allegations of professional misconduct for a Hearing before a Discipline Committee. The College sent letters to [K.G.] and Dr. Kanji notifying them of the panel's intention and offering them the opportunity to make submissions before the panel finalized its decision.

14. On April 14, 2016, Dr. Kanji attended before a panel of the ICR Committee and, in summary, made the following submissions:

- She has practised dentistry for over 25 years in three different countries and no one has made allegations about her practice in the past.
- She made an error in judgment in this case; [K.G.] was her roommate and she saw her in a depressed state every day.
- She should have provided the services to [K.G.] for free rather than doing what she did.
- She finished [K.G.'s] case and provided her with the denture. [K.G.] was happy with the denture. [K.G.'s] insurer never paid her for this service.
- This was an isolated case. The College has 30-35 charts from her office and has found no problems.

15. After considering Dr. Kanji's oral submissions, the panel of the ICR Committee decided to confirm its intention and finalized its decision to proceed with a referral of specified allegations of professional misconduct to the Discipline Committee for a hearing.

H170015 – File G150064N – Section 75(1)(a) Investigation and Report

16. On August 17, 2015, the College Registrar received correspondence from Ms. I [REDACTED] F [REDACTED], an investigator at Sun Life. In her

correspondence, Ms. F [REDACTED] advised that Sun Life had carried out an audit of insurance claims received from Dr. Shainoor Kanji and the company had the following concerns:

- Dr. Kanji intentionally submitted claims for services which had not been rendered for patients [K.G.] and [S.M.]; and,
- Dr. Kanji submitted claims for services under a false patient in order to obtain insurance coverage for patient [S.M.].

17. The College Registrar appointed an investigator under clause 75(1)(a) of the *Health Professions Procedural Code* to inquire into whether Dr. Kanji had committed an act or acts of professional misconduct or is incompetent in respect of her billing and recordkeeping practices from the period 2014 to the end of July 2015. A panel of the ICR Committee approved the appointment.

18. During the course of the investigation, Dr. Kanji provided, among other things, the following information in interviews with the College Investigator:

- With respect to [K.G.]:
 - Some services were “properly billed” to Sun Life.
 - On December 29, 2014, she claimed several services that were not in fact provided to [K.G.]. She then made false chart entries to correspond with the services she claimed.
 - She did this to collect reimbursement for the remainder of the balance owing on the removable partial denture that she had provided for [K.G.].
 - Upon receiving payment from Sun Life, for the services she claimed on December 29, 2014, she provided [K.G.] with \$400.00 out of “sympathy”.
 - She retained \$1,252.00 of the amount received from Sun Life and later wrote them a cheque to reimburse this amount.
 - She acknowledges her behaviour was improper, but her motivation was to help [K.G.].
 - Her behaviour did not result in personal benefit.
- With respect to [S.M.]:

- He is an adult patient who is insured. His brother is [A.M.#2], and his father is [A.M.#1]. All three are [acquainted with] Dr. Kanji.
- [A.M.#2] is an adult patient who is not insured and who works part-time. Dr. Kanji believes that he is developmentally delayed. He used to be covered by the insurance plan of his parents, but he no longer qualifies because of his age.
- The dental treatment that Dr. Kanji completed for [A.M.#2] was billed under [S.M.'s] insurance plan in order to collect for treatment rendered to [A.M.#2]. This was [S.M.'s] idea and Dr. Kanji agreed to it.
- She regrets agreeing to do this and wishes that she had treated [A.M.#2] for free instead.
- She did not remember this happening any other time.

19. On March 1, 2017, the College Investigator produced a report of the investigation ("Registrar's Report"). The Registrar's Report identified the following issues:

- Inaccuracy of services claimed for patient [K.G.];
- Inaccuracy of services claimed for patients in the [M] family: [A.M.#2], [A.M.#1], and [S.M.];
- Inaccuracy of the procedures claimed for the remaining 38 insured patients:
 - Patient [R.A.C.]:
 - Surgical curettage for the entire maxilla was claimed for December 23, 2014, although this appeared to be the first appointment with this patient.
 - Surgical curettage for the entire mandible was claimed for December 29, 2014, although there was no appointment scheduled for this date.
 - Although surgical curettage procedures include root planing, chart entry notes from February 10, 2015 suggest that root planing was not completed on December 29, 2014.

- The chart entry for December 23, 2014 indicates that a periodontal examination was carried out, but there is no periodontal charting from that date.
- Dr. Kanji wrote to Sun Life in response to their audit, that the radiographs she claimed for February 10, 2015 were taken on December 23, 2014.
- Various other discrepancies.
- Patient [Q.C.]:
 - Various services claimed may not have actually been provided.
 - An excessive number of units of scaling and polishing were claimed within 21 days.
- Patient [P.K. (aka S.)]:
 - Procedures claimed for one calendar year may have been provided in the following calendar year.
 - Radiographs were claimed but no radiographs were found for this patient.
 - A complete examination was claimed, but an emergency examination appears to have been performed.
- The balance (35 of 38 patients) had inaccuracies in respect of one or more of the following treatments claimed:
 - Complete examinations;
 - Recall examinations;
 - Specific examinations;
 - Radiographs;
 - Scaling;
 - Fluoride;
 - Oral Hygiene Instruction;
 - Restorations;
 - Oral disease;
 - Surgical curettage;

- Topical chemotherapeutic and/or antimicrobial agents;
- Complicated extraction.

20. It was noted in the Registrar's Report that the copy of the records Dr. Kanji provided to Sun Life for one patient differed from the same chart collected by the College Investigator.

21. The Registrar's Report was disclosed to Dr. Kanji and her legal counsel, Mr. Matthew Wilton. Mr. Wilton provided a written response on behalf of Dr. Kanji. Included in the response was:

- An acknowledgement from Dr. Kanji in respect of altering records and improper billing for patient [K.G.] as set out in the Investigator's Report.
- An acknowledgement from Dr. Kanji in respect of altering records and improper billing for the [M.] family of patients (i.e., [S.M.]), as set out in the Investigator's Report.
- Various acknowledgements from Dr. Kanji in respect of the rest of the patients considered, including: recordkeeping (i.e., altering records, dating in the past, missing and poor recordkeeping) and improper billing (i.e., claiming treatment not done, altering dates of treatment to secure coverage from insurance (December/January)).
- Some submissions to challenge or mitigate the issues identified in the College's analysis of records, including:
 - Administrative errors (some intentional but unbeknownst to Dr. Kanji) on the part of Dr. Kanji's staff.
 - Recordkeeping errors.
 - A new and poorly-run office.
 - Her training in Alberta and in the United States, where dental assistants have more expansive roles than in Ontario and where she could rely on them more heavily.
 - Dr. Kanji was not solely motivated by money.
- An offer to take remedial courses and be monitored by the College

22. A panel of the Inquiries, Complaints and Reports (ICR) Committee of the College considered the Registrar's Report as well as Mr.

Wilton's response. It formed an intention to refer specified allegations of professional misconduct to the Discipline Committee and Mr. Wilton and Dr. Kanji were invited to make written and/or oral submissions prior to the referral.

23. On August 15, 2017, the ICR Committee decided to confirm its intention and finalized its decision to proceed with a referral of specified allegations of professional misconduct to the Discipline Committee for a hearing.

Summary

24. Dr. Kanji admits the facts as set out in the remaining allegations and particulars of both Notices of Hearing to which she has pleaded guilty, and admits the facts as set out above.

25. Dr. Kanji further admits that these acts constitute professional misconduct.

26. Dr. Kanji has demonstrated her remorse by pleading guilty.

DECISION

Having considered the evidence and submissions of the parties, the Panel found that the Member committed professional misconduct as alleged in the Notices of Hearing.

REASONS FOR DECISION

The Member pled guilty to the allegations as set out in the Notices of Hearing and agreed to the facts presented in the Agreed Statement of Facts.

The Panel accepts through the Member's own admission and on the evidence contained in the Agreed Statement of Facts that Dr. Kanji submitted a false/misleading account or charge for dental services, signed or issued a false/misleading certificate or report, engaged in conduct that would be regarded by members as disgraceful, dishonourable, unprofessional or unethical, failed to keep records as required, and falsified a record. The particulars of these findings are described in the Notices of Hearing and Agreed Statement of Facts, as set out above.

PENALTY SUBMISSIONS

The parties presented the panel with a Joint Submission with respect to Penalty and Costs, which provides as follows.

1. The Royal College of Dental Surgeons of Ontario ("College") and Dr. Shainoor Kanji ("Member") jointly submit that this panel of the Discipline Committee, impose the following penalty on the Member as a result of the panel's finding that the Member is guilty of professional misconduct, namely, that it make an order:

- (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 four (4) months, to be served consecutively, such suspension to commence within thirty (30) days of this Order becoming final;
- (c) that the Registrar impose the following terms, conditions and limitations on the Member's certificate of registration (the "Suspension 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 the 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 Suspension Conditions imposed by virtue of 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 that the Registrar also impose the following additional terms, conditions and limitations on the Member's Certificate of Registration (the "Practice Conditions"), namely:
- (i) requiring that the Member successfully complete, at her own expense, the College's full day course in recordkeeping, approved by the College, and provide proof of successful completion in writing to the Registrar within six (6) months of this Order becoming final;
 - (ii) requiring that the Member successfully complete, at his/her own expense, the ProBE Program on Professional/Problem-Based Ethics, to be completed with an "unconditional pass" within twelve (12) months of this Order becoming final;
 - (iii) requiring that the Member successfully complete, at her own expense, a one on one course in financial

recordkeeping and billings, approved by the College within six (6) months of this Order becoming final.

- (iv) the Member's practice shall be monitored by the College by means of office visit(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 date of the finalization of this Order and ending twenty-four (24) months from the College receiving proof of the Member's successful completion of the course(s) referred to above, or until the Inquiries, Complaints and Reports Committee is satisfied that the Member has successfully completed the monitoring program, whichever date is later;
- (v) that the Member shall cooperate with the College during the office visit(s) and further, shall pay to the College in respect of the costs of monitoring, the amount of \$1,000.00 per office visit, such amount to be paid immediately after completion of each of the office visit(s);
- (vi) that the representative or representatives of the College shall report the results of those office visit(s) to the Inquiries, Complaints and Reports Committee of the College and the Inquiries, Complaints and Reports Committee may, if deemed warranted, take such action as it considers appropriate;
- (vii) the Practice Conditions imposed by virtue of subparagraphs (1)(d)(i)-(iii) above 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 described in subparagraphs (1)(d)(i)-(iii) above have been completed successfully;
- (viii) the Practice Condition imposed by virtue of subparagraph (1) (d)(iv) above shall be removed from the Member's certificate of registration twenty-four (24) months following receipt by the College of confirmation in writing acceptable to the Registrar that the requirements set out in subparagraphs (1)(d)(i)-(iii)

above have been completed successfully, or upon receipt of written confirmation from the Inquiries, Complaints and Reports Committee that the Member has successfully completed the monitoring program, whichever date is later.

- (e) that the member 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.
- 3. The College and the Member further submit that pursuant to the *Code*, as amended, the results of these proceedings must be recorded on the Register of the College and any publication of the Decision of the panel would therefore occur with the name and address of the Member included.
- 4. This joint submission on penalty and costs was reached as a result of a pre-hearing conference held with respect to these matters and it received the endorsement of the pre-hearing conference president.

Both parties submitted that the proposed penalty should be accepted by the Panel.

Counsel for the Member and for the College both argued that the Joint Submission with respect to Penalty and Costs meets the goals of penalty. Specific and general deterrence are accomplished by the suspension and reprimand components of the penalty and by the requirement that the results of the proceedings be recorded in the public register on the College's website. Remediation and the ultimate goal of public protection are met by the continuing education courses that the Member must complete, as well as the requirement that his practice be monitored for a two (2) year period.

College counsel and the Member's counsel both argued that this case is about significant errors in judgement where the Member submitted false or misleading reports, billings and falsified records. Both parties were of the opinion that the Member could be rehabilitated through remediation. The terms of the Joint Submission requiring the Member to complete specific courses on recordkeeping, ethics, and financial recordkeeping and billing will serve that purpose.

In terms of an aggravating factor, College counsel argued that altering a patient's record is considered serious error in judgement. As a mitigating factor

the Member has cooperated with the College and admitted her misconduct. This has avoided a more lengthy and costly hearing.

PENALTY DECISION

The Panel accepted the Joint Submission with respect to Penalty and Costs and ordered that:

1. The Member shall 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;
2. The Registrar is directed to suspend the Member's certificate of registration for a period of four (4) months, to be served 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 "Suspension Conditions"), which conditions shall continue until the suspension of the Member's certificate of registration as referred to in paragraph 2 above has been fully served, namely:
 - (a) while the Member's certificate of registration is under suspension, the Member shall not be present in 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 the 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 Suspension Conditions imposed by virtue of subparagraphs 3(a)-(d) above shall be removed at the end of the period the Member's certificate of registration is suspended.
4. The Registrar is directed to also impose the following additional terms, conditions and limitations on the Member's Certificate of Registration (the "Practice Conditions"), namely:
- (a) requiring that the Member successfully complete, at her own expense, the College's full day course in recordkeeping, approved by the College, and provide proof of successful completion in writing to the Registrar within six (6) months of this Order becoming final;
 - (b) requiring that the Member successfully complete, at his/her own expense, the ProBE Program on Professional/Problem-Based Ethics, to be completed with an "unconditional pass" within twelve (12) months of this Order becoming final;
 - (c) requiring that the Member successfully complete, at her own expense, a one on one course in financial recordkeeping and billings, approved by the College within six (6) months of this Order becoming final.

- (d) the Member's practice shall be monitored by the College by means of office visit(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 date of the finalization of this Order and ending twenty-four (24) months from the College receiving proof of the Member's successful completion of the course(s) referred to above, or until the Inquiries, Complaints and Reports Committee is satisfied that the Member has successfully completed the monitoring program, whichever date is later;
- (e) that the Member shall cooperate with the College during the office visit(s) and further, shall pay to the College in respect of the costs of monitoring, the amount of \$1,000.00 per office visit, such amount to be paid immediately after completion of each of the office visit(s);
- (f) that the representative or representatives of the College shall report the results of those office visit(s) to the Inquiries, Complaints and Reports Committee of the College and the Inquiries, Complaints and Reports Committee may, if deemed warranted, take such action as it considers appropriate;
- (g) the Practice Conditions imposed by virtue of subparagraphs 4(a)-(c) above 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 described in subparagraphs 4(a)-(c) above have been completed successfully;
- (h) the Practice Condition imposed by virtue of subparagraph 4(d) above shall be removed from the Member's certificate of registration twenty-four (24) months following receipt by the College of confirmation in writing acceptable to the Registrar that the requirements set out in subparagraphs 4(a)-(c) above have been completed successfully, or upon receipt of written confirmation from the Inquiries, Complaints and Reports Committee that the Member

has successfully completed the monitoring program, whichever date is later.

5. The Member shall 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

The Panel is aware that joint submissions should be respected unless they fall so far outside the range of an appropriate sanction that they would bring the administration of justice at the College into disrepute, or are otherwise contrary to the public interest. The Panel concluded that the jointly proposed penalty was appropriate in all circumstances of this case. It therefore accepted the Joint Submission and made an order in accordance with its terms.

The Panel was satisfied that a four (4) month suspension, a reprimand and the recording of the results of these proceedings on the College register will act to deter the Member from behaving in this manner again and would also send a clear message to the members of the profession that professional misconduct of this nature will not be tolerated by the College.

The terms, conditions and limitations imposed on the Member's certificate of registration will serve to protect the public as well as remediate the Member. Dr Kanji is required to take courses in record keeping, in financial recordkeeping and billing, and in ethics (PRoBE), which will help her gain insight and improve her practice in the future. Public protection will also be afforded by a 24-month period of practice monitoring by the College, the cost of which will be paid by the Member.

At the conclusion of the discipline hearing on October 4, 2018, the Panel administered a public, oral reprimand to the Member in accordance with paragraph 1 of the Panel's order. A copy of the reprimand is attached to these Reasons for Decision.

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


Chairperson

Oct 22, 2018²⁸
Date

RCDSO v Dr. Shainoor Kanji

Oral Reprimand delivered October 4, 2018

Dr. Kanji, as you know, this Discipline panel has ordered you be given an oral reprimand as part of the sanction imposed upon you. The reprimand should impress upon you the seriousness of your misconduct.

The fact that you have received this reprimand will be part of the public portion of the Register and, as such, part of your record with the College.

You will be given an opportunity to make a statement at the end of the reprimand if you wish.

The panel has found that you have engaged in multiple acts of professional misconduct. The misconduct related to: you signed or issued a false/misleading certificate or report; you submitted a false/misleading account or charge for dental services; you engaged in conduct that would reasonably be regarded by members as disgraceful, dishonourable, unprofessional or unethical; and you failed to keep records as required; and falsified a record.

Your professional misconduct is a matter of profound concern. It is completely unacceptable to your fellow dentists and to the public. You have brought discredit to the entire profession and to yourself. Public confidence in this profession has been put in jeopardy.

Of special concern to us is the fact that the professional misconduct in which you engaged has involved a large number of patients. We expect you to reflect upon your mistakes and use this remediation opportunity to improve your practice to meet the standards expected of the profession.

As I advised earlier, you will now be given an opportunity to make a comment if you wish to do so. This is not an opportunity for you to debate the merits or the correctness of the decisions we have made.

Do you have any questions or do you wish to make any comments?

[None stated.]

Thank you for attending today. We are adjourned.