

**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. GENADI RAICHELSON**, of the City of North York 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: Richard Hunter, Chair
Carol Janik
Elliott Gnidec
Susan Davis
Manohar Kanagamany

BETWEEN:

ROYAL COLLEGE OF DENTAL SURGEONS OF ONTARIO) Appearances:)) Ms. Luisa Ritacca) Independent Counsel for the) Discipline Committee of the) Royal College of Dental) Surgeons of Ontario)) Ms. Dayna Simon and) Dr. Helene Goldberg) For the Royal College of Dental) Surgeons of Ontario)
- and -)
DR. GENADI RAICHELSON) Mr. Matthew Wilton) For Dr. Genadi Raichelson

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 December 7, 2017.

PUBLICATION BAN

On the request of the College and on the consent of the Member, the Panel made an order banning the publication or broadcasting of the names of any patients referred to in the hearing, including in the Notice of Hearing and/or the Agreed Statement of Facts and/or any of the exhibits, as well as an order banning the publication or broadcasting of any information that would identify those patients.

THE ALLEGATIONS

The allegations against Dr. Genadi Raichelson (the “Member”) were contained in the Notice of Hearing, dated February 21, 2017. The allegations against the Member 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(s) 2015 and 2016, 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.

Particulars:

- You allowed a person that you knew or ought to have known was unregistered and unregulated, to practice dentistry and perform controlled acts including intra-oral procedures and prescribing medication, in your office.
- You allowed a person that you knew or ought to have known was unregistered and unregulated, to perform intra-oral procedures such as examinations and procedures below the dermis, in your office.

- You allowed a person that you knew or ought to have known was unregistered and unregulated, to have access to your prescription pad.
- All of these acts put the public at risk.

THE MEMBER'S PLEA

The Member admitted the allegations of professional misconduct. He also made admissions in writing in the Agreed Statement of Facts, which was signed by the Member. 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 (without exhibits) provides as follows.

Background

1. Dr. Genadi Raichelson first registered with the Royal College of Dental Surgeons ("College") in 1996 as a general dentist.
2. Dr. Raichelson received a Notice of Hearing dated February 21, 2017 and reviewed it with his legal counsel [Tab A – Document Book].
3. The Notice of Hearing particularizes one allegation of professional misconduct against Dr. Raichelson which is that he engaged in disgraceful, dishonourable, unprofessional or unethical conduct, namely that:
 - Allowed a person that he knew or ought to have known was unregistered and unregulated, to practice dentistry and perform controlled acts including intra-oral procedures and prescribing medication, in his office.
 - Allowed a person that he knew or ought to have known was unregistered and unregulated, to perform intra-oral procedures such as examinations and procedures below the dermis, in his office.
 - Allowed a person that he knew or ought to have known was unregistered and unregulated, to have access to his prescription pad.

Admissions

4. Dr. Raichelson admits to Allegation 1 and the particulars therein as set out in the Notice of Hearing.

5. Dr. Raichelson 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 [Tab B – Document Book].

Facts

6. The College received information that a man by the name of Vladimir Tsvetkov was illegally practicing dentistry without a license at a dental clinic operated by Dr. Genadi Raichelson. Accordingly, the College engaged the services of an external investigator, Amy Shillington from Benard & Associates, to look into this matter.

7. On May 16, 2016, the College received an investigative report from Ms. Shillington. In summary the report stated the following:

- On May 15, 2016, Ms. Shillington attended Dr. Raichelson's office at 325 Sheppard Avenue East, Toronto, Ontario.
- Ms. Shillington asked to see "Vlad" and advised Mr. Tsvetkov that she had a "big pain on her bottom back teeth and was not sure if there was an infection".
- Mr. Tsvetkov asked if she had an x-ray and Ms. Shillington replied "no".
- Mr. Tsvetkov left the reception area and returned a few minutes later with a handwritten prescription for six tablets of Zithromax 250mg.
- Ms. Shillington asked what Zithromax was and Mr. Tsvetkov replied, "It's very nice" and instructed her to telephone the clinic on Monday for an appointment with Dr. Makki for root canal treatment.
- Ms. Shillington asked Mr. Tsvetkov if he could check her mouth to see if the tooth was infected and he agreed. He put gloves on and picked up an explorer and a mirror. He used the end of the mirror to tap on Ms. Shillington's teeth, used his fingers to press down on her teeth, asked her if she felt pain and used an air/water syringe to blow air on her teeth.
- She asked if he was registered with the RCDSO and he said "ya". When asked the same question again he replied "no" and "for me that's okay".

8. Ms. Shillington interviewed Dr. Raichelson and he told her:
 - He was not aware that Mr. Tsvetkov was not registered with the College. He was aware that in order to practise dentistry an individual was required to be registered with the College.
 - He did not verify if Mr. Tsvetkov was licensed on the College's website.
 - Mr. Tsvetkov began seeing patients on Saturdays, by appointment and only provided examinations and consultations.
 - He was unaware that Mr. Tsvetkov was writing prescriptions on his prescription pad. He confirmed that the prescription written for the investigator was not signed by him although the signature was "similar".
 - He would no longer allow Mr. Tsvetkov to provide dentistry at the clinic.

9. Based on the information provided in Ms. Shillington's report, the Registrar believed that he had reasonable and probable grounds upon which to conduct an investigation into the practice of Dr. Raichelson pursuant to section 75(1)(a) of the Health Professions Procedural Code of the *Regulated Health Professions Act, 1991*.

10. On June 22, 2016, a section 75(1)(a) investigation was authorized by a panel of the Inquires, Complaints and Reports Committee of the College to investigate whether Dr. Raichelson has committed an act or acts of professional misconduct in respect of permitting an unlicensed individual to practice dentistry and perform controlled acts.

11. A College investigator, Dr. Helene Goldberg conducted a section 75(1)(a) investigation and prepared a report [Tab C – Document Book].

12. In summary, Dr. Goldberg found that Dr. Raichelson was permitting an unregistered and unregulated person (Vladimir Tsvetkov) to practice dentistry in his office and that Mr. Tsvetkov had performed controlled acts, including intra-oral procedures and prescribed medication in Dr. Raichelson's office.

13. In addition, Dr. Goldberg noted in her report that the College sought and obtained a court order directing Mr. Tsvetkov to comply with the legislation and cease using the title dentist or dental surgeon, cease holding himself out as a dentist and cease performing any controlled acts in Ontario in relation to dentistry. A copy of the court order dated July 18, 2016, is included as an attachment to Dr. Goldberg's report. Also appended to Dr. Goldberg's report is a letter from "Volody Tsvetkov"

dated July 19, 2016 addressed to “Dr. Genadi”, apologizing for “causing him trouble”.

14. Dr. Raichelson was provided with a copy of the investigative report and given an opportunity to respond.

15. By letter dated October 14, 2016, Dr. Raichelson responded to the issues in the section 75(1)(a) investigative report, through his legal counsel Mr. Matthew Wilton [Tab D – Document Book].

16. In summary, Dr. Raichelson, responded:

- He was introduced to Mr. Vladimir Tsvetkov in August 2015 through a mutual friend. Mr. Tsvetkov said he was a dentist.
- Mr. Tsvetkov displayed a level of dental knowledge that led him to believe that he was a dentist.
- He was too trusting and naïve and did not verify Mr. Tsvetkov’s credentials.
- In October or November 2015, Mr. Tsvetkov contacted him and stated that he was moving to Niagara Falls, Ontario and closing his office north of the city in Thornhill, Ontario.
- He asked him if he could complete various treatments that he had already started, which included treatment for friends and family.
- He agreed and advised him that he could use an operatory every other Saturday when he himself was not seeing patients.
- Mr. Tsvetkov worked in the operatory that Dr. Raichelson’s associate used.
- He did not gain financially from Mr. Tsvetkov’s activity in the practice.
- Mr. Tsvetkov only saw patients when he (Dr. Raichelson) was present in the office.
- Mr. Tsvetkov said initially that he would only be doing examinations and consultations, but he (Dr. Raichelson) heard hand pieces being used while patients were in the operatory.
- He was “shocked” to discover that Mr. Tsvetkov had used his prescription pad. He did not give him permission to use his prescription pad but it was accessible to Mr. Tsvetkov because he believed that he was a licensed dentist who could be trusted not to forge his signature.
- His (Dr. Raichelson’s) dental assistant, confirmed that occasionally some instruments were present in the sterilization sink when the office re-opened on Monday.
- He regrets that he placed trust in Mr. Tsvetkov, who believed that “he was a properly licensed dentist.”

- In a letter dated July 19, 2016, Mr. Tsvetkov admitted that he took advantage of Dr. Raichelson and “is too embarrassed to apologize in person”.

17. The panel formed an intention to refer specified allegations of professional misconduct to be heard by a panel of the Discipline Committee. As is the College’s practice, the member and his legal counsel were given notice of the panel’s intention and invited to make written and/or oral submissions to the panel, which he did.

18. In summary, Dr. Raichelson responded:

- He was unaware that Mr. Tsvetkov was not registered as a dentist with the College.
- Upon learning that Mr. Tsvetkov was not a dentist, Dr. Raichelson immediately advised Mr. Tsvetkov that he would no longer be permitted to use the premises.
- There was no written lease, no payment of rent and he did not charge Mr. Tsvetkov for the use of the operatory.
- He did not gain financially from Mr. Tsvetkov’s activities, and at no time represented to any member of the public directly or indirectly that Mr. Tsvetkov was licensed to practice dentistry.
- He (Dr. Raichelson) has not breached any specific standard of practice of dentistry.
- Mr. Wilton obtained an opinion from Ms. Jennifer J. Miles, VP of Realty Lease Consultants Inc. She assists dentists in negotiating and drafting leases and it is her position that when negotiating leases on behalf of dentists who are subleasing to other dentists, it is not the industry practice to require the tenant to produce proof of registration at the RCDSO.
- He has taken the Jurisprudence and Ethics course and has taken steps to implement electronic prescription writing to replace the use of paper prescription pads.

19. Dr. Raichelson and Mr. Wilton also attended by teleconference before the panel of the ICR Committee on January 5, 2017. Mr. Wilton made oral submissions which reiterated his written submissions and are summarized as follows:

- Mr. Tsvetkov said he was a dentist and sounded like a dentist.
- In the fall of 2015, Dr. Raichelson allowed Mr. Tsvetkov to use one of his operatories as a favour.
- Mr. Tsvetkov was not part of Dr. Raichelson’s practice and there was no lease agreement and no financial gain to Dr. Raichelson
- There is no industry standard for a dentist to require written proof of registration, as per an opinion he obtained.

- Dr. Raichelson was duped by a dishonest man and he is a victim.
- He did not believe Dr. Raichelson's actions constituted professional misconduct.
- Dr. Raichelson has cooperated with the College and has taken proactive, remedial steps. He has taken the Jurisprudence and Ethics course and he doesn't use prescription pads anymore.

20. The panel considered both the written and oral submissions of the Member and his legal counsel. The panel decided to proceed with its intention and finalized its referral of specified allegations of professional misconduct to the Discipline Committee at its meeting on January 5, 2017.

Summary

21. Dr. Raichelson admits the facts as set out in the allegations and particulars of the Notice of Hearing, to which he has plead guilty, and admits the facts as set out above.

22. Dr. Raichelson further admits that these acts constitute professional misconduct.

23. Dr. Raichelson has demonstrated his 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 Notice of Hearing.

REASONS FOR DECISION

The Member pled guilty to the allegation as set out in the Notice of Hearing and did not dispute the facts presented in the Agreed Statement of Facts.

The Panel was of the view that Dr. Raichelson knew or ought to have known that Mr. Tsvetkov was unregulated and unregistered and that as such he should not have allowed Mr. Tsvetkov to perform intra oral procedures and prescribed medications at the Member's office. The Member's failure to take steps to inquire into Mr. Tsvetkov's background, before allowing him to practice in his office is conduct that would reasonably be regarded by members of the profession as wholly unprofessional.

PENALTY SUBMISSIONS

1. The Royal College of Dental Surgeons of Ontario ("College") and Dr. Genadi Raichelson ("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 that the Registrar impose the following terms, conditions and limitations ("conditions") on the Member's Certificate of Registration namely:
 - (i) the Member shall successfully complete, at his expense, within twelve (12) months of this Order becoming final, the ProBE Program for Professional/Problem-Based Ethics (must obtain an unconditional pass);
 - (ii) the Member's practice shall be monitored by the College by means of inspection(s) by a representative or representatives of the College at such time or times as the College may determine, during the period commencing with the date of the successful completion of the course and ending twenty-four (24) months from the date of successful completion of the course.
 - (iii) that the Member shall cooperate with the College during the inspection(s) and further, shall pay to the College in respect of the costs of monitoring, the amount of \$600.00 per monitoring inspection, such amount to be paid immediately after completion of each of the inspections, provided that the overall cost of monitoring paid by the member shall not exceed \$2,400.00, regardless of the number of inspections performed;
 - (iv) that the representative or representatives of the College shall report the results of those inspections 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;

- (c) that the member pay costs to the College in the amount of \$5,000.00 in respect of this discipline hearing, such costs to be paid in full within twelve (12) months of this Order becoming final.

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

3. It is the Member's position, which the College does not dispute, that he was duped by an unethical person and that he did not know this person was not a dentist, which is a mitigating factor on penalty. The member accepts that he ought to have known and going forward he will be checking the credentials of people working in his office.

4. In this case, both the College and the Member are of the view that the principles of deterrence and rehabilitation can be met in this case without a suspension.

5. This is the first time Dr. Raichelson has appeared before a panel of the Discipline Committee. He has no relevant complaints or investigation history. He has engaged in proactive remediation and expressed his remorse, all of which are mitigating factors which have been taken into account in this Joint Submission with Respect to Penalty and Costs.

PENALTY DECISION

The Panel ordered that:

- (a) The Member 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) The Registrar is directed to impose the following terms, conditions and limitations ("conditions") on the Member's Certificate of Registration namely:
- (i) The Member shall successfully complete, at his expense, within

twelve (12) months of this Order becoming final, the ProBE Program for Professional/Problem-Based Ethics (must obtain an unconditional pass);

(ii) the Member's practice shall be monitored by the College by means of inspection(s) by a representative or representatives of the College at such time or times as the College may determine, during the period commencing with the date of the successful completion of the course and ending twenty-four (24) months from the date of successful completion of the course.

(iii) The Member shall cooperate with the College during the inspection(s) and further, shall pay to the College in respect of the costs of monitoring, the amount of \$600.00 per monitoring inspection, such amount to be paid immediately after completion of each of the inspections, provided that the overall cost of monitoring paid by the member shall not exceed \$2,400.00, regardless of the number of inspections performed;

(iv) The representative or representatives of the College shall report the results of those inspections 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;

(c) The member pay costs to the College in the amount of \$5,000.00 in respect of this discipline hearing, such costs to be paid in full within twelve (12) 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.

It is the Member's position, which the College does not dispute, that he was duped by an unethical person and that he did not know this person was not a dentist, which is a mitigating factor on penalty. The Member accepts that he ought to have known and going forward he will be checking the credentials of people working in his office.

In this case, both the College and the Member are of the view that the principles of deterrence and rehabilitation can be met without a suspension. Specific and general deterrence is met by publishing the proceedings of the hearing including the Member's name on the College's website and Register. The imposition of costs, while not part of the penalty itself, sends a clear message that this sort of conduct may result in sanctions and costs if any other members of the College find themselves in the same position as the Member. . Public protection is afforded by office monitoring and the ProBE course that the Member is required to take. The course will serve to remediate the Member.

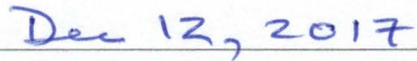
This is the first time Dr. Raichelson has appeared before a panel of the Discipline Committee. He has no relevant complaints or discipline history. He has engaged in proactive remediation and expressed his remorse, all of which are mitigating factors and have been taken into account in this proposed order.

At the conclusion of the hearing, the Member waived his right to any appeal from this decision. The panel delivered its reprimand, a copy of which is attached as Schedule "A".

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



Chairperson



Date

Schedule A

The Reprimand

Dr. Raichelson, as you know, this Discipline panel has ordered you to 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 an act of professional misconduct. The misconduct is related to your lack of due diligence by allowing an unregulated person to perform controlled acts in your office.

Your professional misconduct is a matter of concern. It is unacceptable to your fellow dentists and to the public in that you failed to inquire about Mr. Tsvetkov's credentials. Public confidence in this profession has been put in jeopardy.

The Panel is surprised that you actually didn't know that Mr Tsvetkov was unlicensed. We expect more of the profession and hope you as an individual have learned from this experience.

We appreciate your remorse and co-operation with the College in this matter. We understand this is your first appearance before the Discipline Committee and trust it will be your last.