

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. JASPAL SINGH BHANDAL**, of the City of Etobicoke, 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: Richard Hunter, Chair
Margaret Dunn
Carol Janik
Benjamin Lin
Susan Davis

BETWEEN:

ROYAL COLLEGE OF DENTAL SURGEONS	) Appearances:
OF ONTARIO)
	) Ms. Luisa Ritacca
	) Independent Counsel for the
	) Discipline Committee of the
	) Royal College of Dental
	) Surgeons of Ontario
- and -)
	) Nick Coleman and Chris Swayze
	) For the Royal College of Dental
	) Surgeons of Ontario
)
DR. JASPAL BHANDAL	) Ajit Saroha
	) for Dr. Jaspal Bhandal

Hearing held on May 9 and 10, 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 May 9 and 10, 2018.

THE ALLEGATIONS

The allegations against Dr. Bhandal (the “Member”) were contained in the Notice of Hearing, dated March 10, 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 2016, you used a term, title or designation indicating specialization in dentistry in contravention of section 8 or 9, contrary to paragraph 45 of Section 2 of Ontario Regulation 853, Regulations of Ontario, 1993, as amended.

Particulars:

- In or about the year 2016, you held yourself out as a specialist in orthodontics on your clinic website, despite being registered with the College as a general dentist when you published the following information:
 - o “Dr. Bhandal offers high quality family and cosmetic dentistry in Woodbridge, Ontario. He is also a specialist orthodontist in Woodbridge;”
 - o “Dr. Bhandal is also a specialist in Orthodontics – a field of dentistry that deals with tooth and jaw alignment.”
- In or about the year 2016, you used the protected title “orthodontist” on your clinic website in reference to yourself, which, as a general dentist, you were not entitled to use.

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 2016, you published, displayed, distributed, or used or caused or permitted, directly or indirectly, the publication, display, distribution or use of any advertisement, announcement or information related to your practice,

which,

- (i) as a result of its content or method or frequency of dissemination, may be reasonably regarded by members as likely to demean the integrity or dignity of the profession or bring the profession into disrepute,
- (ii) included information that,
 - A. was false, misleading, fraudulent, deceptive, ambiguous or confusing or likely to mislead or deceive the public because, in context, it made only partial disclosure of relevant facts,
 - B. was not relevant to the public's ability to make an informed choice, or
 - C. was not verifiable by facts or could only be verified by a person's personal feelings, beliefs, opinions or interpretations,
- (iii) made comparisons with another practice or member or would reasonably be regarded as suggestive of uniqueness or superiority over another practice or member, or
- (iv) was likely to create expectations of favourable results or to appeal to the public's fears, contrary to paragraph 60 of Section 2 of Ontario Regulation 853, Regulations of Ontario, 1993, as amended.

Particulars:

- In or about the year 2016, you published information on your website that is likely to mislead the public in that you identified yourself as a “specialist in Orthodontics” and a “specialist orthodontist,” when in fact you are registered with the College as a general dentist, and despite orthodontist being a protected title under the legislation.

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 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:

- In or about the year 2016, you held yourself out as an orthodontic specialist on your clinic website by stating that you are a “specialist orthodontist” and “a specialist in Orthodontics,” despite being registered with the College as a general dentist, and despite orthodontist being a protected title under the legislation.
- You failed to learn from a 2008 Decision of the College’s Executive Committee in which you mislead the public by holding yourself out as an orthodontic specialist through the use of the Standard Information Form approved by the Canadian Association of Orthodontics (CAO) in your clinic, despite being registered with the College as a general dentist. You signed an Undertaking as a result of this decision in which you voluntarily agreed to cease using the Standard Information Form of the CAO and submit to the Registrar for approval the form(s) you proposed to use in its place.

THE MEMBER’S PLEA

The Member denied allegations 1, 2 and 3.

THE EVIDENCE

The evidence in this matter was largely uncontested.

Dr. Bhandal has been registered with the College since 2002 as a general dentist. He does not have any specialization designation and in particular does not have a specialty in orthodontics. Dr. Bhandal did confirm, however that he provides orthodontic services to his patients.

Dr. Bhandal practices out of a number of clinics, including located in Woodbridge, Ontario. He maintains one website for all of his practices. Sometime in 2016, Dr. Bhandal’s website contained information about his Woodbridge clinic, which described him as a “specialist orthodontist” and “a specialist in Orthodontics”.

Dr. Bhandal did not dispute that his website contained this information and that the information was inaccurate. It was Dr. Bhandal’s evidence, however, that he did not control the content on the website and that on his regular review of it, he overlooked the misstatements.

The panel also heard evidence that in 2008, the Member signed an undertaking with the College after it was revealed that he had used a Standard Information Form, which contained the language “Certified Specialist in Orthodontics” and “Signature of Certified Orthodontist”.

Dr. Bhandal acknowledged the errors on his website and explained that he had taken immediate steps to rectify the errors, by hiring a new web designer. In support of this evidence, the Member filed his initial response to the College, as well as copies of his revised website pages.

DECISION

The Panel finds the Member guilty of professional misconduct as set out in allegations 1, 2 and 3 of the Notice of Hearing. With respect to Allegation 3, the Panel finds that the conduct of the Member would reasonably be regarded by other members of the profession as unprofessional and unethical.

REASONS FOR DECISION

The Panel concluded that the evidence presented, which was largely uncontested, demonstrated that the Member engaged in misconduct as alleged.

Allegation 1: There was no dispute that Dr. Bhandal’s website misrepresented him as a specialist in orthodontics. The Member is not a specialist. The Member did not deny that his website contained this error.

Allegation 2: The Member directly or indirectly allowed or permitted the publication of information that was false, misleading, fraudulent and deceptive on his website. Although the Member argued that his web provider made the error, the Member admitted that he usually reviews the website changes but must have “missed” this change.

The RCDSO Practice Advisory on Professional Advertising November 2012 clearly states that “the member must control any and all printed and/or electronic material about your practice”.

Allegation 3: Dr. Bhandal displayed a disregard for his obligations as a professional and he is guilty of overstating his qualifications on his website. This behaviour would reasonably be regarded by his fellow members as unprofessional and unethical. The Panel was particularly troubled by the fact that the Member had already been made aware of the importance of not misstating his qualifications back in 2008. That said, the Panel did not find that

the Member's conduct was disgraceful or did he demonstrate any moral failing in his conduct, which would have been considered disgraceful and dishonourable, conduct.

PENALTY SUBMISSIONS

The College submitted that this Panel ought to make the following order:

1. The Member shall appear before the Panel of the Discipline Committee to be reprimanded, on a date to be fixed by the Registrar.
2. The Registrar shall suspend the Member's certificate of registration for a period of three (3) months. The suspension shall commence thirty (30) days following this Order becoming final, or on a date selected by the Member provided that such date is within six (6) months of this Order becoming final, and shall run without interruption.
3. The Registrar shall 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 his dental office when patients are present, save and except for unforeseen non-patient related emergencies. Where the Member is required to attend for a non-patient related emergency, the Member shall immediately advise the Registrar of that fact including details of the nature of the emergency;
 - (b) upon commencement of the suspension, the Member shall advise all of the Member's staff as well as any other dentist in the office that the Member engages in practice with, whether that Member is a principal in the practice or otherwise associated with the practice, of the fact that the Member's certificate of registration is under suspension;
 - (c) during the suspension, the Member shall not do anything that would suggest to patients that the Member is entitled to engage in the practice of dentistry and shall ensure that the Member's staff is instructed not to do anything that would suggest to patients that the Member is entitled to engage in the practice of dentistry during the suspension;
 - (d) the Member shall permit and co-operate with any office monitoring which the Registrar feels is appropriate in order to ensure that the Member has complied with this Order, and in that connection, the Member shall provide access to any

records associated with the practice in order that the College can verify that the Member has not engaged in the practice of dentistry during the suspension; and

- (e) the Suspension Conditions imposed in clauses (a)-(d) of paragraph 3 above shall be removed at the end of the period during which the Member's certificate of registration is suspended.

4. The Registrar shall impose the following additional terms, conditions and limitations on the Member's certificate of registration (the "Practice Conditions"), namely:

- (a) The Member shall successfully complete, at his 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;
- (b) the Member shall ensure that all advertisements, website content and other promotional materials regarding his practice are approved in advance by the College for twenty-four (24) months following this Order becoming final;
- (c) the Practice Conditions imposed by virtue of clause (a) of paragraph 4 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 ProBE Program described in clause (a) of paragraph 4 above has been completed successfully;
- (d) the Practice Conditions imposed by virtue of clause (b) of paragraph 4 shall be removed from the Member's certificate of registration twenty-four (24) months following this Order becoming final.

The Member argued that a suspension was not appropriate in the circumstances.

The Member's position was that no harm came to any patients and another member initiated the complaint. He stated that the issue was "nothing more than a civil wrong".

PENALTY DECISION

The Panel ordered as follows:

1. The Member shall appear before the Panel of the Discipline Committee to be reprimanded, on a date to be fixed by the Registrar.
2. The Registrar shall suspend the Member's certificate of registration for a period of six (6) weeks. The suspension shall commence thirty (30) days following this Order becoming final, or on a date selected by the Member

provided that such date is within six (6) months of this Order becoming final, and shall run without interruption.

3. The Registrar shall 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 his dental office when patients are present, save and except for unforeseen non-patient related emergencies. Where the Member is required to attend for a non-patient related emergency, the Member shall immediately advise the Registrar of that fact including details of the nature of the emergency;
 - (b) upon commencement of the suspension, the Member shall advise all of the Member's staff as well as any other dentist in the office that the Member engages in practice with, whether that Member is a principal in the practice or otherwise associated with the practice, of the fact that the Member's certificate of registration is under suspension;
 - (c) during the suspension, the Member shall not do anything that would suggest to patients that the Member is entitled to engage in the practice of dentistry and shall ensure that the Member's staff is instructed not to do anything that would suggest to patients that the Member is entitled to engage in the practice of dentistry during the suspension;
 - (d) the Member shall permit and co-operate with any office monitoring which the Registrar feels is appropriate in order to ensure that the Member has complied with this Order, and in that connection, the Member shall provide access to any records associated with the practice in order that the College can verify that the Member has not engaged in the practice of dentistry during the suspension; and
 - (e) the Suspension Conditions imposed in clauses (a)-(d) of paragraph 3 above shall be removed at the end of the period during which the Member's certificate of registration is suspended.
4. The Registrar shall impose the following additional terms, conditions and limitations on the Member's certificate of registration (the "Practice Conditions"), namely:
 - (a) The Member shall successfully complete, at his 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;
 - (b) the Member shall ensure that all advertisements, website content and other promotional materials regarding his practice are approved

in advance by the College for twenty-four (24) months following this Order becoming final;

- (c) the Practice Conditions imposed by virtue of clause (a) of paragraph 4 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 ProBE Program described in clause (a) of paragraph 4 above has been completed successfully;
- (d) the Practice Conditions imposed by virtue of clause (b) of paragraph 4 shall be removed from the Member's certificate of registration twenty-four (24) months following this Order becoming final.

REASONS FOR PENALTY DECISION

The Panel was satisfied that a reprimand and a six (6) week suspension of the Member's Certificate of Registration are warranted in this situation due to the Member's failure to abide by standards set out in the Ontario Regulation 853/93 under the Dentistry Act 1991, S.O. 1991, c.24. This serves to act as specific and general deterrents to the member and profession.

The Panel was troubled that the Member was not more vigilant with the accuracy of his advertising because of the previous Undertaking he had signed with the College.

The terms, limitations and conditions on the Member's Certificate of Registration specify he must participate in a ProBE (Ethics) course. All advertisements, website content and other promotional materials have to be approved by the College for 24 months. These conditions will assist in public protection and remediation of the Member.

The Panel recognized the Member's acknowledgement of his misleading advertising and its speedy correction. The Member has not appeared before a Discipline Panel in the past.

COST SUBMISSIONS


The College submitted a cost estimate of \$45,000.00 to conduct the investigation and Hearing. It requested that the Member pay \$15,000.00 within 30 days of the Order becoming final.

COST DECISION AND REASONS

The Panel agreed with the College's submission and ordered the Member pay \$15,000.00. The Panel was of the opinion that this Hearing might have been

settled at a Pre Hearing conference which would have resulted in substantial financial and time savings to both parties.

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



Chairperson

May 22, 2018

Date

Schedule A

Reprimand for Dr. Jaspal Bhandal May 9 and 10, 2018

Dr. Bhandal, please stand.

Dr. Bhandal, a Discipline Panel found you guilty of serious allegations of professional misconduct. As part of its penalty order, the panel has ordered you to receive an oral reprimand and this will be delivered at this time. You will be given an opportunity for you to review the decision by the Panel but now is not the time for you to debate the merits of our decision.

Dr. Bhandal, you have been found guilty of three allegations of professional misconduct arising from your failure to abide by the College's Regulations with respect to advertising.

In 2016 you presented yourself as a specialist in Orthodontics on your website despite being registered as a general dentist with the College. The Panel is concerned that you failed to be diligent in monitoring your promotional materials, particularly after the Executive Committee had you sign an Undertaking.

The Panel accepts that no apparent harm came to any of your patients and acknowledges your apology to the College and the speedy manner in which you corrected your website inaccuracies.

Despite your claim that the misrepresentation was unintentional it is nevertheless your professional responsibility that you comply with your governing body's regulations and guidelines.

We trust that this has been a learning experience for you and that you will not appear before the Discipline Panel again.