

**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. WEI CHIN**, of the City of Toronto 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
 Margaret Dunn
 Kate Towarnicki
 Manohar Kanagamany
 Lisa Kelly

BETWEEN:

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| 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 |
| - and - |) | |
| |) | Mr. Ian Roland and |
| |) | Dr. Chris Swayze |
| |) | For the Royal College of Dental |
| |) | Surgeons of Ontario |
| |) | |
| DR. WEI CHIN |) | Mr. Mark Donald |
| |) | For Dr. Wei Chin |

Hearing held on January 10, 2018

REASONS FOR DECISION - Summary

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 January 10, 2018.

PUBLICATION BAN

At the request of the College and on the consent of the Member, the Panel made an order that no person shall publish, broadcast or in any manner disclose any facts or information concerning the personal health information of the Member referred to orally in evidence or in submission, or in the exhibits filed at the hearing. Further, the Panel ordered that there shall be no public release of any documentary evidence filed at the hearing that contain or identifies the Member’s personal health information.

In light of the Panel’s Publication Ban, the full text of its Reasons for Decision will not be available to the public. Below, is a summary of the Panel’s Reasons for Decision.

THE ALLEGATIONS

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) 2013, 2014, 2015 and 2016, 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 Ontario Regulation 853, Regulations of Ontario, 1993, as amended.

Particulars:

- You signed an Undertaking/Agreement on January 9, 2012, and undertook to the College as follows:
 - [Confirm your health status with the College on an on-going basis. You failed to do so on numerous occasions.]¹
- 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 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.

¹ Portions of this Notice of Hearing have been summarized for confidentiality reasons.

Particulars:

- The Registration Committee felt that if you [confirmed your health status with the College on an-going basis], the public would be protected.
- You breached the terms of the Undertaking/Agreement that you signed on January 9, 2012, from the onset.
- You were aware that failure to abide by any of the terms of the Undertaking/Agreement constitutes professional misconduct and/or incompetence and may result in you being referred to the Discipline Committee of the College in respect of specified allegations of professional misconduct or incompetence arising out of your failure to abide by any of the terms of this Undertaking/Agreement and/or to the Fitness to Practice Committee of the college on the allegation that you are an incapacitated member.
- You were aware that the Undertaking/Agreement that you signed shall remain in force until removed or varied by the Registrar or the Executive Committee of the College.
- You did not contact the College to seek changes to the terms [...] outlined in the Undertaking/Agreement.
- Your actions raise concerns regarding your governability.

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 Member was first registered with the College in 1995, as a General Dentist. He remained a member of the College until December 31, 2006, at which time he resigned from the College as a result of health issues.

As a result of an application made by Dr. Chin dated September 8, 2011, to have his registration reinstated, and as a result of information provided to the Registration Committee, the Registration Committee reinstated Dr. Chin's registration on the basis and

in accordance with the terms and conditions set out in an Undertaking Agreement from Dr. Chin dated January 9, 2012.

Dr. Chin's registration was reinstated on January 25, 2012, on the basis of the January 9, 2012 Undertaking and Agreement.

The Member acknowledges that from January, 2012, to the present, the Member breached certain terms of the Undertaking Agreement.

Dr. Chin admits the allegation of professional misconduct set out at paragraph number 1 and to unprofessional conduct in respect of paragraph number 2 of the Notice of Hearing. He admits to the particulars set out under paragraph numbered 1 in the Notice of Hearing and the particulars in paragraph number 2, except for the last particular, i.e., "your actions raise concerns regarding your governability".

Dr. Chin admits that it was his responsibility to submit to the requirements of the 2012 Undertaking/Agreement, and to ensure that he provided the required information to the College by the deadlines required, or to apply to the College to have the terms of the 2012 Undertaking Agreement revised. He did neither from 2012 to 2017.

DECISION AND REASONS FOR 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.

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 the evidence contained in the Agreed Statement of Facts clearly substantiates the allegations and demonstrated the Member's disregard for his patients' safety and for the terms of the Undertaking he signed.

PENALTY SUBMISSIONS

1. The Royal College of Dental Surgeons of Ontario ("College") and Dr. Wei Chin ("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 terms, conditions and limitations ("conditions") on the Member's Certificate of Registration, including that he shall undertake to confirm his health status with the College on an on-going basis.

PENALTY DECISION AND REASONS FOR PENALTY

The Panel agreed and accepted the Joint Submission on Penalty

The Panel concluded that the proposed penalty was appropriate in all circumstances of this case. It therefore accepted the Joint Submission and ordered its terms be implemented.

The Panel was satisfied that 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 undertakings with the College must be followed. .

The Terms, Conditions and Limitations serve to protect the public.

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

COST SUBMISSIONS

The College sought \$10,000.00 from the Member for a portion of its costs associated with its legal costs and the costs of the hearing. The Member took the position that he should bear none of the College's costs.

The College's position was based on the fact that Dr. Chin knew or ought to have known his obligations when he signed the Undertaking. He failed to meet those obligations and the College's members at large should not bear the full cost of the hearing, which was necessitated by Dr. Chin's breach.

The Member's position was that he maintained communication with the College when he could not fulfill his obligations and asked for direction. He argued that certain breaches of the Undertaking were out of his control, such as his physician cancelling appointments and the lab refusing to provide testing on an every 4-month basis. The Member argued that on these facts, this was not an appropriate case for costs.

COST DECISION AND REASONS

The Panel considered the parties' submissions. The Panel determined that this was an appropriate case for costs and so ordered that the Member pay the College \$8,000.00 for

its costs. The Panel further orders that this payment be made within 60 days of the date of the release of this decision.

The Panel found that it was ultimately Dr. Chin's responsibility to abide by the terms of his Undertaking or – if he simply could not do so – take the appropriate steps to have the terms varied. He was obligated to meet the terms of the Undertaking but failed to do so. Dr. Chin was also advised that he could apply to have the terms of the Undertaking changed but failed to do so. In the circumstances, Dr. Chin's breach necessitated a referral to Discipline and this hearing process. As such, Dr. Chin should be responsible for a portion of the costs associated with the hearing.

Full text of the Reasons for Decision, signed by the Chair of the Panel, Dr. Richard Hunter on January 16, 2018.

Schedule A

Reprimand for Dr. Wei Chin January 10, 2018

Dr. Chin, as you know, the 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 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 you have engaged in acts of professional misconduct. The misconduct relates to your failure to abide by the 2012 Undertaking Agreement and as such might have put your patients at risk.

The College takes the matter of public protection very seriously. It does not make light of the fact that you failed to follow the Undertaking that you agreed to and signed.

Your professional misconduct is a matter of 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.