H170013

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. FADI NAEL SAMI SWAIDA,** of the City of Mississauga, 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: Dr. Richard Hunter, Chair
Susan Davis
Ram Chopra
Dr. Harpaul Anand
Dr Kate Towarnicki

BETWEEN:

ROYAL COLLEGE OF DENTAL SURGEONS OF ONTARIO	)	Appearances:
	)	Ms. Andrea Gonsalves
	)	Independent Counsel for the
	)	Discipline Committee of the Royal
	)	College of Dental Surgeons of Ontario
- and -	)	
	)	Ms. Emily Lawrence
	)	For the Royal College of Dental
	)	Surgeons of Ontario
DR. FADI NAEL SAMI SWAIDA	)	Mr. Neil Abramson
	)	For Dr. Fadi Nael Sami Swaida

Hearing held May 31, 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 31, 2018.

PUBLICATION BAN

On 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's patients referred to orally in evidence or in submissions, or in the exhibits filed at the hearing.

THE ALLEGATIONS

The allegations against Dr. Fadi Swaida (the "Member") were set out in a Notice of Hearing dated August 16, 2017, 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 period of on or about March 28, 2016 to on or about April 30, 2016, you contravened a standard of practice or failed to maintain the standards of practice of the profession relative to one of your patients, namely [T.E.], contrary to paragraph 1 of Section 2 of Ontario Regulation 853, Regulations of Ontario, 1993, as amended.

   Particulars:

   - You improperly diagnosed the need for restorative treatment on the following tooth surfaces when radiographic imaging did not show interproximal caries requiring restorative treatment:
     - 17 (upper right second permanent molar) Mesial-Occlusal
     - 16 (upper right first permanent molar) Mesial-Occlusal-Distal
     - 15 (upper right second bicuspid) Distal-Occlusal
     - 25(upper left second bicuspid) Mesial-Occlusal-Distal

- 26(upper left first permanent molar) Distal-Occlusal
- 24 (upper left first bicuspid) Distal-Occlusal
- 34 (lower left first bicuspid) Distal-Occlusal
- 35(lower left second bicuspid) Mesial-Occlusal
- 36 (lower left first permanent molar) Mesial-Occlusal
- 37 (lower left second permanent molar) Mesial-Occlusal
- 47 (lower right second permanent molar) Mesial-Occlusal
- 45 (lower right second bicuspid) Distal-Occlusal

- You improperly performed and/or directed restorative treatment. You provided and/or directed restorative treatment on the following tooth surfaces when radiographic imaging did not show interproximal caries requiring restorative treatment:
  - 25(upper left second bicuspid) Mesial-Occlusal-Distal
  - 26(upper left first permanent molar) Distal-Occlusal
  - 24 (upper left first bicuspid) Distal-Occlusal
  - 34 (lower left first bicuspid) Distal-Occlusal
  - 35(lower left second bicuspid) Mesial-Occlusal
  - 36 (lower left first permanent molar) Mesial-Occlusal
  - 37 (lower left second permanent molar) Mesial-Occlusal
  - 47 (lower right second permanent molar) Mesial-Occlusal
  - 45 (lower right second bicuspid) Distal-Occlusal

- You did not use the best radiographic technique available for the diagnosis of interproximal caries on the following tooth surfaces:
  - 17 (upper right second permanent molar) Mesial-Occlusal
  - 16 (upper right first permanent molar) Mesial-Occlusal-Distal
  - 15 (upper right second bicuspid) Distal-Occlusal
  - 25(upper left second bicuspid) Mesial-Occlusal-Distal
  - 26(upper left first permanent molar) Distal-Occlusal
  - 24 (upper left first bicuspid) Distal-Occlusal
  - 34 (lower left first bicuspid) Distal-Occlusal
  - 35(lower left second bicuspid) Mesial-Occlusal
  - 36 (lower left first permanent molar) Mesial-Occlusal

- 37 (lower left second permanent molar) Mesial-Occlusal
- 47 (lower right second permanent molar) Mesial-Occlusal
- 45 (lower right second bicuspid) Distal-Occlusal

- On or about April 30, 2016 you prescribed Amoxicillin 500mg without performing adequate diagnostic tests to determine the presence of infection and without adequate clinical indications of infection to justify the prescription.

- On or about April 30, 2016, you took a radiograph which showed that the quality of restorations placed by a restorative hygienist under your supervision and/or direction was poor. You failed to identify substandard restorations on the following teeth:
  - 34 (lower left first bicuspid)
  - 35(lower left second bicuspid)
  - 36 (lower left first permanent molar)

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 period of on or about March 28, 2016 to on or about April 30, 2016, you recommended and/or provided an unnecessary dental service(s) relative to one of your patients, namely [T.E.], contrary to paragraph 6 of Section 2 of Ontario Regulation 853, Regulations of Ontario, 1993, as amended.

   Particulars:

   - You recommended restorative treatment for the following tooth surfaces when radiographic imaging of the tooth surfaces did not show interproximal caries requiring restorative treatment:
     - 17 (upper right second permanent molar) Mesial-Occlusal
     - 16 (upper right first permanent molar) Mesial-Occlusal-Distal
     - 15 (upper right second bicuspid) Distal-Occlusal
     - 25(upper left second bicuspid) Mesial-Occlusal-Distal

- 26(upper left first permanent molar) Distal-Occlusal
- 24 (upper left first bicuspid) Distal-Occlusal
- 34 (lower left first bicuspid) Distal-Occlusal
- 35(lower left second bicuspid) Mesial-Occlusal
- 36 (lower left first permanent molar) Mesial-Occlusal
- 37 (lower left second permanent molar) Mesial-Occlusal
- 47 (lower right second permanent molar) Mesial-Occlusal
- 45 (lower right second bicuspid) Distal-Occlusal

- You performed and/or directed restorative treatment on the following tooth surfaces when radiographic imaging of the tooth surfaces did not show interproximal caries requiring restorative treatment:
  - 25(upper left second bicuspid) Mesial-Occlusal-Distal
  - 26(upper left first permanent molar) Distal-Occlusal
  - 24 (upper left first bicuspid) Distal-Occlusal
  - 34 (lower left first bicuspid) Distal-Occlusal
  - 35(lower left second bicuspid) Mesial-Occlusal
  - 36 (lower left first permanent molar) Mesial-Occlusal
  - 37 (lower left second permanent molar) Mesial-Occlusal
  - 47 (lower right second permanent molar) Mesial-Occlusal
  - 45 (lower right second bicuspid) Distal-Occlusal

3. [*Withdrawn*]

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 period of on or about March 28, 2016 to on or about April 30, 2016, you failed to keep records as required by the Regulations relative to one of your patients, namely [T.E.], contrary to paragraph 25 of Section 2 of Ontario Regulation 853, Regulations of Ontario, 1993, as amended.

   Particulars:

   - Your clinical notes dated April 5, 2016 in the patient chart indicate that you performed and/or directed restorative

treatment on that date, however you failed to indicate in your clinical notes which tooth/teeth you restored and/or directed restoration of.

- You failed to record adequate diagnoses to justify any of the restorative treatments you performed and/or directed on the following tooth surfaces:
    - 25(upper left second bicuspid) Mesial-Occlusal-Distal
    - 26(upper left first permanent molar) Distal-Occlusal
    - 24 (upper left first bicuspid) Distal-Occlusal
    - 34 (lower left first bicuspid) Distal-Occlusal
    - 35(lower left second bicuspid) Mesial-Occlusal
    - 36 (lower left first permanent molar) Mesial-Occlusal
    - 37 (lower left second permanent molar) Mesial-Occlusal
    - 47 (lower right second permanent molar) Mesial-Occlusal
    - 45 (lower right second bicuspid) Distal-Occlusal

THE MEMBER'S PLEA

The College sought leave to withdraw allegation 3 in the Notice of Hearing and the Panel granted leave. The Member admitted the remaining allegations of professional misconduct in the Notice of Hearing. He also made admissions in writing in an 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 provides as follows.

Background

1. Dr. Fadi Nael Sami Swaida has been registered with the College in the general class since 2010. He received his dental education at the University of Manitoba. Dr. Swaida works at various clinics, including the City Square Dental in

Mississauga, and at the Bond Street Clinic at 113 Bond Street in Toronto.

The Notice of Hearing

2. Dr. Swaida was served with a Notice of Hearing dated August 16, 2017. These allegations arose following a complaint by T.E., a patient.

3. The College and the Member have agreed to resolve the allegations on the basis of the facts and admissions agreed to and set out below.

4. The College seeks leave to withdraw Allegation 3 in the Notice of Hearing.

Facts and Admissions

i. Failure to meet the standards of practice

5. Dr. Swaida admits that he failed to meet the standards of practice expected of a dentist in respect of his treatment he provided to T.E.

6. T.E. attended at the office of Dr. Swaida on March 24, 2016 as a new patient. He saw a dental hygienist and received 2.5 units of scaling. The hygienist noted suspected caries on tooth 46.

7. T.E. returned on April 5, 2016 and saw Dr. Swaida. Dr. Swaida's complete charting of this visit is as follows:

Apr/05/2016
Pt came in because he had a hole in his 46
wanted to have them all checked
4 PAs were taken
Pt is informed that he needs some fillings done
pt wanted to start today on some of them
Reviewed medical history, no changes noted. Verbal consent was given for today's treatment.
Topical anesthetic was placed. 2 carpule of 4% Articaine 1:100,000 epinephrine via INF. Removed Caries, prepared tooth, 35% phosphoric acid etch, G5, Adhese Universal, Evo Tetric Flow, Ivociar Blkfill/ Evo Tetric Ceram Shade (A2), checked occlusion, and polished. Pt is happy.

8. Dr. Swaida ordered four periapical radiographs, which were taken. There was no interproximal decay visible on the radiographs. The radiographs did not show interproximal caries that required restorative treatment, although tooth 46

required treatment for a missing filling. Dr. Swaida did not order bitewing radiographs, despite that they are the preferred technique for the diagnosis of interproximal caries.

9. Dr. Swaida completed restorations to 47(MO), 46(MOD), and 45 (OD) on April 5, 2016. Dr. Swaida did not record which teeth he restored or his diagnostic rationale for completing the restorations. Dr. Swaida recommended that T.E. return for additional restorations to teeth 17(MO), 16(MOD), 15(OD), 25(MOD), 26(OD), 24(OD), 34(OD), 35(MO), 36(MO) and 37(MO).

10. On April 16, 2016, T.E. returned for restorations to 25(MOD), 26(OD), 24(OD), 34(OD), 35(MO), 36(MO) and 37(MO). Dr. Swaida's restorative dental hygienist completed the restorations under Dr. Swaida's supervision. She charted that she had "explained to pt that cavities are deep" which was not accurate.

11. On April 30, 2016, T.E. returned for an emergency examination. He was experiencing pain and sensitivity, and sporadic numbness on the left side of his mouth. Dr. Swaida examined T.E. and ordered an additional radiograph.

12. Dr. Swaida did not observe or chart the poor quality of restorations to 34(OD), 35(MO), and 36(MO), including poor margins, contours and overhangs. Dr. Swaida did not identify the substandard restorations as the possible source of pain T.E. was experiencing.

13. Instead, Dr. Swaida prescribed Amoxicillin 500mg. He did so despite the fact that the radiograph does not demonstrate any infection and he did not chart any signs of infection. Dr. Swaida did not perform any other diagnostic testing to justify the prescription of antibiotics.

14. T.E. obtained a second opinion from another dentist on May 18, 2016. This dentist confirmed that teeth 15, 16 and 17 did not have decay or caries that warranted restoration.

15. Dr. Swaida admits that, by diagnosing the need for restorative treatment, and performing and/or directing his hygienist to perform restorative treatment, where the radiographic imaging did not show caries that required restorative treatment, his conduct contravened a standard of practice or

failed to maintain the standards of practice of the profession, contrary to paragraph 1 of Section 2 of the *Dentistry Act Regulation*, as set out in Allegation 1 in the Notice of Hearing.

16. Dr. Swaida acknowledges that he failed to use the best radiographic technique for the diagnosis of interproximal caries when he ordered periapical radiographs instead of bitewing radiographs. Dr. Swaida admits that in doing so, his conduct contravened a standard of practice or failed to maintain the standards of practice of the profession, contrary to paragraph 1 of Section 2 of the *Dentistry Act Regulation*, as set out in Allegation 1 in the Notice of Hearing.

17. Dr. Swaida also admits that, by prescribing Amoxicillan without performing adequate diagnostic tests to determine the presence of infection and without adequate clinical indication of infection, his conduct contravened a standard of practice or failed to maintain the standards of practice of the profession, contrary to paragraph 1 of Section 2 of the *Dentistry Act Regulation*, as set out in Allegation 1 in the Notice of Hearing.

18. Dr. Swaida also admits that on April 30, 2016, he failed to identify the substandard restorations of teeth 34, 35 and 36 completed by the restoration hygienist under his supervision, and that he should have done so. He admits that in doing so, his conduct contravened a standard of practice or failed to maintain the standards of practice of the profession, contrary to paragraph 1 of Section 2 of the *Dentistry Act Regulation*, as set out in Allegation 1 in the Notice of Hearing.

ii. Recommending or Providing an Unnecessary Service

19. Dr. Swaida admits that, by diagnosing the need for restorative treatment, and performing and/or directing his hygienist to perform restorative treatment, where the radiographic imaging did not show caries that required restorative treatment, Dr. Swaida recommended and provided unnecessary dental services to T.E. contrary to paragraph 6 of Section 2 of the *Dentistry Act Regulation*, as set out in Allegation 2 in the Notice of Hearing.

iii. Failure to keep records as required

20. Dr. Swaida admits that he failed to keep records as required in relation to T.E. In particular, he failed to indicate in his charting which teeth he restored on April 5, 2016, stating only that T.E. "needed some filling done". He also failed to chart the rationale for the restorative treatments performed on April 5 and 16, 2016.

21. Dr. Swaida acknowledges that with respect to patient T.E., his recordkeeping was not in accordance with the regulations, or the standards of practice of the profession. Dr. Swaida acknowledges that he breached his professional, ethical and legal responsibilities that required him to maintain a complete record documenting all aspects of each patient's dental care, per the College's Dental Recordkeeping Guideline, and s. 38 of Regulation 547.

22. Therefore, Dr. Swaida admits that he failed to keep records as required by the Regulations, contrary to paragraph 25 of section 2 of the Dentistry Act Regulation, as set out in Allegation 4 in the Notice of Hearing.

Summary

23. Dr. Swaida admits that the acts described above constitute professional misconduct and he now accepts responsibility for his actions and the resulting consequences.

24. Subsequent to his treatment of T.E., Dr. Swaida voluntarily and successfully completed a one-on-one course with Dr. Laura Tam, Professor in the Faculty of Dentistry at the University of Toronto related to Treatment Planning and Oral Diagnosis of Caries.

25. Dr. Swaida has had the opportunity to take independent legal advice with respect to his admissions.

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 allegations as set out in the Notice of Hearing and did not dispute the facts presented in the Agreed Statement of Facts.

Based on the evidence contained in the Agreed Statement of Facts, the Panel was satisfied on a balance of probabilities that Dr. Swaida committed acts of professional misconduct as alleged. The evidence proved that he contravened or failed to maintain the standards of practice of the profession when he improperly diagnosed the need for restorative treatment in relation to his patient, T.E., improperly performed and/or directed his hygienist to perform restorative treatment on T.E., provided unnecessary dental treatment, did not use the best radiographic technique for diagnosing interproximal caries, and prescribed an antibiotic without performing adequate diagnostic tests to determine the presence of infection. Dr. Swaida also committed professional misconduct by recommending and providing unnecessary dental services to T.E. in that he diagnosed the need for restorative treatment, and performed and/or directed his hygienist to perform restorative treatment, where the radiographic imaging did not show caries that required restorative treatment. In addition, the Member failed to keep records as required by the Regulations when he failed to chart which specific teeth he had restored and the rationale for the restorative treatments. The particulars for these matters are 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. Fadi Nael Sami Swaida ("the 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 that 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. directing the Registrar to suspend the Member's certificate of registration for a period of one (1) month,

to run consecutively, such suspension to commence within sixty (60) days of the date this Order becomes final;

c. directing the Registrar to impose the following terms, conditions and limitations on the Member's certificate of registration ("the Conditions"), which Conditions shall continue until the suspension of the Member's certificate of registration as referred to in paragraph 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 his dental office(s) 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. during the suspension, the Member shall not do anything that would suggest to another health professional, staff member or patients that the Member is entitled to engage in the practice of dentistry and will not communicate with any health professional, staff member or patient about the practice of dentistry during the suspension;

iii. 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

iv. the Conditions imposed in subparagraphs 1(c)(i)-(iii) above shall be removed at the end of the period the Member's certificate of registration is suspended;

d. directing the Registrar to impose the following terms, conditions and limitations on the Member's certificate of registration ("the conditions"), namely

i. the Member shall successfully complete, at his expense, within six (6) months of this Order becoming final, a comprehensive hands-on course approved by the College, with an evaluative component, regarding the diagnosis and management of dental pain, including appropriate use of antibiotics;

ii. the Member's practice shall be monitored by the College, including monitoring his recordkeeping and oral diagnosis practices, by means of inspection(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 (A) on the earliest date at which the Member has both served the suspension of his certificate of registration and successfully completed the course referred to in paragraph (d)(i), or (B) six (6) months from the date this Order becomes final (whichever is earlier), and ending twenty-four (24) months thereafter, or such earlier time as a panel of the ICRC is satisfied that monitoring is no longer necessary and has advised the Member of this in writing;

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 $1,000.00 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 $4,000.00, regardless of the number of inspections performed;

iv. the representative or representatives of the College shall report the results of those

inspections to the ICRC and the ICRC may, if deemed warranted, take such action as it considers appropriate; and

e. requiring the Member to pay costs to the College in the amount of $3,000 in respect of this discipline hearing, such costs to be paid within thirty (30) days of this Order becoming final or on a date to be fixed by the Registrar.

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

Counsel for both parties argued that the Panel should accept the Joint Submission. The parties submitted that the joint proposal meets the goals of public protection, specific and general deterrence, and rehabilitation. They argued that the proposed penalty reflects the seriousness of the misconduct and is appropriate having regard to the aggravating and mitigating factors, to prior decisions of this Discipline Committee in similar cases, and to the interests of the public, the profession and the Member.

PENALTY DECISION

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

1. The Member is required 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.

2. The Registrar is directed to suspend the Member's certificate of registration for a period of one (1) month, to run consecutively, such suspension to commence within sixty (60) days of the date this Order becomes final.

3. The Registrar is directed to impose the following terms, conditions and limitations on the Member's certificate of

registration ("the 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:

i. while the Member's certificate of registration is under suspension, the Member shall not be present in his dental office(s) 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. during the suspension, the Member shall not do anything that would suggest to another health professional, staff member or patients that the Member is entitled to engage in the practice of dentistry and will not communicate with any health professional, staff member or patient about the practice of dentistry during the suspension;

iii. 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

iv. the Conditions imposed in subparagraphs 3(i)-(iii) above shall be removed at the end of the period the Member's certificate of registration is suspended;

4. The Registrar is directed to impose the following terms, conditions and limitations on the Member's certificate of registration ("the conditions"), namely

i. the Member shall successfully complete, at his expense, within six (6) months of this Order becoming final, a comprehensive hands-on course approved by the College, with an evaluative component, regarding the

diagnosis and management of dental pain, including appropriate use of antibiotics;

ii. the Member's practice shall be monitored by the College, including monitoring his recordkeeping and oral diagnosis practices, by means of inspection(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 (A) on the earliest date at which the Member has both served the suspension of his certificate of registration and successfully completed the course referred to in paragraph 4(i), or (B) six (6) months from the date this Order becomes final (whichever is earlier), and ending twenty-four (24) months thereafter, or such earlier time as a panel of the ICRC is satisfied that monitoring is no longer necessary and has advised the Member of this in writing;

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 $1,000.00 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 $4,000.00, regardless of the number of inspections performed;

iv. the representative or representatives of the College shall report the results of those inspections to the ICRC and the ICRC may, if deemed warranted, take such action as it considers appropriate; and

5. The Member shall pay costs to the College in the amount of $3,000 in respect of this discipline hearing, such costs to be paid within thirty (30) days of this Order becoming final or on a date to be fixed by the Registrar.

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 found that the Joint Submission was within the appropriate range of penalties as demonstrated by the cases relied on by the College, and that the penalty will adequately serve to protect the public. In reaching this decision, the Panel was mindful of the seriousness of the misconduct and was concerned that the Member's problems with diagnosis and restorative treatment might have run deeper than this one case, though the Panel did not have any evidence of, and made no findings about, any other instances of similar problems. The reprimand and suspension will achieve both specific and general deterrence, and the terms, conditions and limitations imposed on the Member's certificate of registration will serve to rehabilitate the Member. The Panel accepted as mitigating factors the Member's co-operation with the College, the fact that he voluntarily took a restorative dentistry course prior to this matter coming to a hearing, and that he has no prior history before the Discipline Committee. The Member's cooperation with the College led to an Agreed Statement of Facts and Joint Submission with respect to Penalty and Costs. He pled guilty and in doing so, prevented a more lengthy and costly hearing.

The Member waived his right of appeal and received the reprimand at the conclusion of the hearing, after the Panel had rendered its decision.

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

R Hunter

Chairperson

25/6/18

Date

RCDSO v Dr. Fadi Swaida

Oral Reprimand Delivered on May 31, 2018

Dr. Swaida, 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 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 multiple acts of professional misconduct. The misconduct related to many aspects of your practice, including deficient record keeping, breaching the standards of practice, poor restorative work, performing unnecessary dental treatment, improper prescribing of an antibiotic without performing adequate diagnostic tests to determine the presence of infection, and not using the best radiographic technique for the diagnosis of interproximal caries.

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.

The evidence presented in the case did not disclose what led to the acts of misconduct. This leaves the panel wondering if there may have been an underlying ethical issue. The panel also has concerns that the problem with diagnosis and restorative treatment runs deeper than this one case.

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 merit or the correctness of the decisions we have made.

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

(No comments from the member)