

**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. JASHANDEEP KAUR**, of the City of Brampton, 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
Dr Peter Delean
Joseph Richards II

BETWEEN:

**ROYAL COLLEGE OF DENTAL
SURGEONS OF ONTARIO**

- and -

DR. JASHANDEEP KAUR

) 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. Jashandeep Kaur

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 June 20, 2019.

PUBLICATION BAN

On the request of the College and with the consent of the Member, the Panel made an order that no person shall publish, broadcast or in any manner disclose the names of any patients, or any facts or information that could identify any patients referred to orally at the hearing or in the exhibits filed at the hearing.

THE ALLEGATIONS

The allegations against Dr. Kaur (the "Member") were set out in a Notice of Hearing dated May 25, 2018, 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 years 2016 and/or 2017 and/or 2018, you failed to comply with an order of a panel of the Discipline Committee or an order of a panel of the Fitness to Practice Committee, contrary to paragraph 52 of Section 2 of Ontario Regulation 853, Regulations of Ontario, 1993, as amended.

Particulars:

- The Discipline Committee issued an order on or about April 27, 2016, requiring you to obtain an unconditional pass in the ProBE Program for Professional/Problem-Based Ethics within six months of the order becoming final (i.e., by October 27, 2016). You participated in the course in or about August 2016, but failed the program. You participated in the course in or about March 2018, but obtained a conditional pass. To date, you have not yet completed and obtained an unconditional pass in the program.

2. *Withdrawn.*

THE MEMBER'S PLEA

The College sought leave to withdraw allegation 2 in the Notice of Hearing and the Panel granted leave. The Member admitted to the remaining allegation of professional misconduct in the Notice of Hearing. The Member also made admissions in writing in an Agreed Statement of Facts, which she signed.

The Member answered a written plea inquiry and signed it. The plea inquiry was entered as an exhibit at the hearing. The Member confirmed at the hearing that she understood the contents of that document. The Panel was satisfied that the Member's admissions of professional misconduct 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 allegation in the Notice of Hearing. The Agreed Statement of Facts provides as follows (with references to tabs in the accompanying Document Book omitted).

Background

1. Dr. Jashandeep Kaur is a general practitioner and has been a member of the College since 2005.
2. Dr. Kaur received a Notice of Hearing dated May 25, 2018.
3. The Notice of Hearing particularizes two allegations of professional misconduct all with respect to Dr. Jashandeep Kaur's failure to complete the required remediation.
 - Failed to comply with an order of a panel of the Discipline Committee.
 - Engaged in disgraceful, dishonourable, unprofessional or unethical conduct.

Withdrawals

4. The College seeks to withdraw Allegation #2 set out in the Notice of Hearing dated May 25, 2018, as the College is satisfied that Dr. Kaur is willing to be governed by the College, for reasons set out below.

Admissions

5. Dr. Kaur admits to Allegation #1 and the particulars therein as set out in the Notice of Hearing.

6. Dr. Kaur further admits that this allegation 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

7. On March 4, 2016, Dr. Kaur appeared before a panel of the Discipline Committee and pled guilty to specified allegations of professional misconduct.
8. At that hearing, Dr. Kaur was unrepresented and entered into a joint submission on penalty with the College which the panel accepted. Among other things, the penalty included a term, condition or limitation on Dr. Kaur's certificate of registration that she must obtain an unconditional pass in the ProBE program for Professional/Problem-Based ethics within six months of the order becoming final, which was a deadline of September 4, 2016. The panel of the Discipline Committee issued its decision and reasons on April 27, 2016.
9. From August 14 to 16, 2016, Dr. Kaur participated in the ProBE course, however she failed the Program. Dr. Kaur received an evaluation and assessment report from the course providers dated September 8, 2016.
10. The following is ProBE's standard description of a fail outcome in the course: "The participant demonstrated little sincere effort and/or ability to engage in the ProBE program, or the candidate exhibited limited capacity or concern for the ethical and social obligations of his/her profession and his/her practice of the profession. In our opinion, such a candidate did not "get it", is unlikely to intellectually grasp an ethical issue or conflict in the future."
11. Dr. Kaur was notified by the College that she would be required to take the next ProBE course, which was scheduled for October 2016. Dr. Kaur then advised the College that the October course was full.
12. On September 26, 2016, Dr. Kaur informed the College that she would attend the program in January 2017. Dr. Kaur was granted an extension to attend in January 2017.
13. Dr. Kaur did not attend the January 2017 course. No explanation was received at the time.
14. On June 7, 2017, a member of the College staff wrote to Dr. Kaur and said there was no choice but to inform the College Registrar that she was in breach of the order of the Discipline

Committee. She also advised that the next course being offered in Toronto was scheduled for July 18-20, 2017.

15. On June 8, 2017, Dr. Kaur sent an email to the College stating that she would “definitely” register for the program scheduled for July 2017.
16. On June 16, 2017, Dr. Kaur sent an email to the College requesting a further extension due to financial constraints. Dr. Kaur was advised that College staff do not have the authority to vary an Order of the Discipline Committee.
17. The College did not receive any further communication indicating that Dr. Kaur had enrolled in the ProBE course again.
18. On August 16, 2017, the fact that Dr. Kaur was in breach of the Order of the Discipline committee was brought to the attention of the Registrar, Mr. Irwin Fefergrad, who appointed an investigator, under section 75(1)(a) of the Code to investigate the breach.
19. Dr. Kalyani Baldota conducted the investigation and prepared a report dated January 8, 2018.
20. In the Report, Dr. Baldota reviewed the investigation process, the College’s attempts to both help facilitate Dr. Kaur’s attendance in the program and to remind Dr. Kaur of her obligation to complete the ProBE Program.
21. Dr. Kaur was provided with a copy of the section 75(1)(a) report and given an opportunity to respond, which she did on January 25, 2018.
22. In summary, in her response to the report, Dr. Kaur apologized for her inability to re-take the ProBE course on time and cited issues of “personal and financial crisis”. She advised that she has enrolled for the March 2018 session of the ProBE course.
23. A panel of the Inquiries, Complaints and Reports Committee (“ICRC”) met to consider this matter on March 7, 2018. The panel reviewed the investigation report and all prior decisions in respect of Dr. Kaur. The panel expressed concerns about Dr. Kaur’s governability and lack of cooperation with the College, in particular that she had not yet successfully completed the ProBE ethics course as ordered by a panel of the Discipline Committee two years prior. The panel formed an intention to refer specified allegations of professional misconduct to the Discipline Committee and offered Dr. Kaur an opportunity to make submissions to the panel at its next meeting before it finalized its decision.

24. From March 23-25, 2018, Dr. Kaur attended the ProBE Program again. She submitted her final essay to ProBE on April 6, 2018.
25. Through her legal counsel Mr. Matthew Wilton, Dr. Kaur responded in writing to the panel's intention, which response is summarized as follows:
 - Dr. Kaur had "imperfect compliance" with an order of the Discipline Committee. Dr. Kaur accepts that she should have been more organized in responding to the College but submits that while she did not complete the course successfully; she attended the course twice. Mr. Wilton expects that she has passed the course this time.
 - Dr. Kaur is not ungovernable and she exhibits a continuing willingness to comply with the College.
 - Financial difficulties and inability to pass the course are cited as reasons for being in breach of the Discipline Committee's order.
26. On April 20, 2018, the College was informed by the ProBE administrators that Dr. Kaur obtained a "conditional" pass for the course she took in March. According to ProBE's standard description, a conditional pass is as follows:

"The participant's overall success is qualified by some particular aspect of his/her performance in the ProBE program. The participant may have demonstrated partial comprehension or involvement in the ProBE program. Our reasoning for this assessment is included in the Report. In our opinion, such a candidate "got most of it".
27. The requirement of the Discipline Committee was to obtain an unconditional pass. The College received a copy of the evaluation and assessment report dated April 20, 2018, which enclosed a copy of Dr. Kaur's essay she completed in the course and ProBE's evaluation/assessment categories.
28. On May 9, 2018, Dr. Kaur and her legal counsel Mr. Wilton attended at the ICR panel meeting and made submission. In summary, they said:
 - Dr. Kaur was unrepresented at the Discipline Hearing and had Mr. Wilton been retained he would have sought to vary the order to allow her more time to successfully complete the course.
 - After failing the first course, she communicated "poorly" with the College about her plans to take the course.

- She took the course again in March 2018, and tried her hardest on the essay but only obtained a conditional pass. The report from ProBE noted significant improvement from the first time she took the course.
 - The ProBE report raised the question of whether Dr. Kaur had difficulty because English was her second language.
 - Dr. Kaur is governable. Failing a course she tried to complete should not be considered an issue of governability. She is embarrassed and frustrated but determined to succeed.
 - Dr. Kaur said she found it difficult to participate and she is shy and doesn't like to speak up in a group and it was difficult because English is her second language.
29. After considering the submissions at its May 2018 meeting the ICR panel made a final decision to refer specified allegations of professional misconduct to the Discipline Committee in respect to the issues of:
- Dr. Kaur's breach of the order of the Discipline Committee for failing to complete and obtain an unconditional pass in the ProBE Program; and
 - Disgraceful, dishonourable, unprofessional or unethical conduct; namely, in respect of her governability.

Summary

30. Dr. Kaur admits the facts as set out in the Allegations and particulars of Allegation #1 in the Notice of Hearing, to which she has pleaded guilty, and admits the facts as set out above.
31. Dr. Kaur further admits that these acts constitute professional misconduct.
32. Dr. Kaur has demonstrated her remorse by pleading guilty.

DECISION

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

REASONS FOR DECISION

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

was satisfied based on the evidence that Dr. Kaur failed to comply with an order of the Discipline Committee, which constitutes professional misconduct under s. 2.52 of O. Reg. 853/93.

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. Jashandeep Kaur ("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 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) requiring the Member to obtain a one on one Mentor in Ethics who has been approved by the College and that the Member work with the mentor for a period of at least twenty-four (24) months, to continue until the mentor advises the College in writing that mentorship is no longer required. During the course of the mentorship the mentor will report to the College in writing at least every three months at Dr. Kaur's expense.
 - (c) requiring the Member to cooperate with the Mentor in Ethics and implement and maintain his or her suggestions.
 - (d) that the member pay costs to the College in the amount of \$2500.00 in respect of this discipline hearing, such costs to be paid in full within six (6) months of this Order becoming final.
2. 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.
3. This joint submission on penalty and costs was reached as a result of a pre-hearing conference held with respect to these matters before Dr. Stan Kogon, and received his endorsement.

At the hearing, there was discussion about the appropriate form of the Panel's order regarding terms (b) and (c) of the Joint Submission. Both parties agreed that to give effect to those terms, the Panel's order should direct the Registrar to impose them as terms, conditions and limitations on the Member's Certificate of Registration. Those conditions should be removed from the Member's Certificate of Registration upon receipt by the College of confirmation that the terms have been completed.

Both parties submitted that the proposed penalty meets the objectives of penalty and should be accepted by the Panel.

Counsel for the Member and Counsel for the College both submitted that a reprimand and a 24-month mentoring period at the Member's expense was an appropriate form of penalty. They agreed that the nature of Dr. Kaur's misconduct was not at the more serious end of the spectrum.

Counsel explained that the Joint Submission had the support of the Presiding Officer at the pre-hearing conference, Dr. Kogon. The feedback provided regarding the Member's participation in the ProBE course indicated that her difficulties in successfully completing the course might be due, at least in part, to the fact that English is not the Member's first language. With Dr. Kogon's assistance, the parties arrived at a Joint Submission that includes a requirement for one-on-one mentoring in the hopes that it will be more effective for the Member than the group-based ProBE course. Counsel for both parties advised the Panel that the Member has identified a mentor who shares her language and South Asian ethnic background, which will help address any language- or culture-related issues she may have encountered in the ProBE course.

The costs were kept to a minimum because of the Member's financial situation.

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 impose the following terms, conditions and limitations on the Member's Certificate of Registration (the "Practice Conditions"), namely:

- (a) requiring the Member to obtain a one on one Mentor in Ethics who has been approved by the College and that the Member work with the mentor for a period of at least twenty-four (24) months, to continue until the mentor advises the College in writing that mentorship is no longer required. During the course of the mentorship the mentor will report to the College in writing at least every three months at Dr. Kaur's expense.
- (b) requiring the Member to cooperate with the Mentor in Ethics and implement and maintain his or her suggestions.

The Practice Condition 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 mentorship described as above, has been completed successfully.

- 3. The Member shall pay costs to the College in the amount of \$2500.00 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 reprimand and a twenty-four (24) month mentoring period will serve as both specific and general deterrents.

To protect the public, the Member's name and address will be published on the College Register along with results of the proceedings and the Panel's decision. The mentoring requirement will also provide public protection and help rehabilitate the Member, as it will help her to understand and address the issues that brought her before the Discipline Committee and to avoid similar misconduct in the future.

The Panel considered the following mitigating factors:

- The nature of the misconduct was not very serious, and the Member cooperated with the College.
- The Member attempted the mandated ProBE course in ethics twice but was unsuccessful. Her attempts demonstrate that she acted in good faith.
- English is her second language and she may have found it difficult to receive an unconditional pass in the ProBE ethics course due to language issues rather than comprehension.
- The Member is a single mother with 2 children and works only two days per week. The parties advised the Panel that she has limited financial resources.

The Panel considered the Member's breach of a Discipline Committee order and her irregular correspondence with the College as aggravating factors.

The Panel was satisfied that mentoring with a South Asian bioethicist would be more beneficial to remediating the Member than the ProBE course.

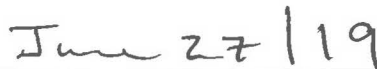
The Panel accepted the proposed amount of \$2,500 for the College's costs due to the Member's financial constraints.

At the conclusion of the discipline hearing on June 20, 2019, 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



Date

RCDSO v. Dr. Jashandeep Kaur

Dr. Jashandeep Kaur, 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 an act of professional misconduct. The misconduct related to your failure to comply with an order of the Discipline Committee. The panel views this non-compliance with an order as unprofessional.

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.

Of special concern to us is the fact that the professional misconduct in which you engaged has involved non-compliance with a previous order of the Discipline Committee. In view of the fact that this is your second appearance before a Discipline panel, we are concerned about your governability. We trust that the tailored mentoring program ordered by the panel will successfully improve your grasp of professional ethical issues.

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?

(Hear the Member's comments at this point)

Thank you for attending today. We are adjourned.