

Hearing held on October 28, 2019

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 October 28, 2019.

PUBLICATION BAN

On the request of the College, the Panel made an order banning the publication or broadcasting of the names of, and identifying information in relation to, any patients referred to in the hearing, including in the Notices of Hearing, the Agreed Statement of Facts and any of the exhibits.

THE ALLEGATIONS

The allegations against Dr. Rohringer (the “Member”) were contained in the Notice of Hearing, dated July 16, 2018, which became Exhibit #1. At the outset of the hearing, two of the allegations contained in it (Allegations #1 (sexual abuse of patients) and #2 (failure to keep records relative to a patient)) were withdrawn at College Counsel’s request. As amended with his consent, the remaining allegations against the Member were as follows:

3. You have been guilty of professional misconduct as provided by s.37(3)(b) of the Health Disciplines Act, Revised Statutes of Ontario, 1990, Chapter H.4 and/or Revised Statutes of Ontario, 1980, Chapter 196, in that, during the year(s) 1987, 1988, 1989, 1990, and/or 1991, you failed to maintain the standards of practice of the profession relative to one of your patients, namely Person E, contrary to paragraph 4 of s.37(1) of Regulation 547, Revised Regulations of Ontario, 1990, as amended, and/or contrary to paragraph 4 of s. 37 and/or s. 37(1) of Regulation 447, Revised Regulations of Ontario, 1980, as amended.

Particulars:

- You made sexual advances to Person E, who was both a patient and staff member in your practice, in or about 1987. Person E was approximately 16 years old at the time.
 - You rubbed her shoulders.
 - You kissed her.
 - You put your hands under her shirt, touching her breasts.

- You kissed and touched Person E in your dental office.
 - You touched Person E on the leg, under her skirt, under the tablecloth at events attended by staff members for your dental practice, such as Christmas parties/lunches.
 - You had sexual intercourse with Person E, who was both a patient and a staff member in your practice, beginning in or about 1988 and/or 1989. Person E was 17 or 18 years old at the time. Your sexual relationship with Person E continued until or about 1991. Person E continued to work in your practice until or about 1992. She remained your patient beyond this time period.
4. You have been guilty of professional misconduct as provided by s.37(3)(b) of the Health Disciplines Act, Revised Statutes of Ontario, 1990, Chapter H.4 and/or Revised Statutes of Ontario, 1980, Chapter 196, in that, during the year(s) 1987, 1988, 1989, 1990, and/or 1991, you engaged in sexual impropriety with a patient, namely Person E, contrary to paragraph 37 of s.37(1) of Regulation 547, Revised Regulations of Ontario, 1990, as amended, and/or contrary to paragraph 36 of s. 37 and/or s. 37(1) of Regulation 447, Revised Regulations of Ontario, 1980, as amended.

Particulars:

- You made sexual advances to Person E, who was both a patient and staff member in your practice, in or about 1987. Person E was approximately 16 years old at the time.
 - You rubbed her shoulders.
 - You kissed her.
 - You put your hands under her shirt, touching her breasts.
 - You kissed and touched Person E in your dental office.
 - You touched Person E on the leg, under her skirt, under the tablecloth at events attended by staff members for your dental practice, such as Christmas parties/lunches.
 - You had sexual intercourse with Person E, who was both a patient and a staff member in your practice, beginning in or about 1988 and/or 1989. Person E was 17 or 18 years old at the time. Your sexual relationship with Person E continued until or about 1991. Person E continued to work in your practice until or about 1992. She remained your patient beyond this time period.
5. You have been guilty of professional misconduct as provided by s.37(3)(b) of the Health Disciplines Act, Revised Statutes of Ontario, 1990, Chapter H.4 and/or Revised Statutes of Ontario, 1980, Chapter 196, in that, during the year(s) 1987, 1988, 1989, 1990, and/or 1991, you did conduct yourself or commit an act or acts relevant to the practice of dentistry that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional relative to one of your

patients, namely Person E, contrary to paragraph 41 of s.37(1) of Regulation 547, Revised Regulations of Ontario, 1990, as amended, and/or contrary to paragraphs 40 and/or 41 of s. 37 and/or s. 37(1) of Regulation 447, Revised Regulations of Ontario, 1980, as amended.

Particulars:

- You made sexual advances to Person E, who was both a patient and staff member in your practice, in or about 1987. Person E was approximately 16 years old at the time.
 - You rubbed her shoulders.
 - You kissed her.
 - You put your hands under her shirt, touching her breasts.
 - You kissed and touched Person E in your dental office.
 - You touched Person E on the leg, under her skirt, under the tablecloth at events attended by staff members for your dental practice, such as Christmas parties/lunches.
 - You had sexual intercourse with Person E, who was both a patient and a staff member in your practice, beginning in or about 1988 and/or 1989. Person E was 17 or 18 years old at the time. Your sexual relationship with Person E continued until or about 1991. Person E continued to work in your practice until or about 1992. She remained your patient beyond this time period.
6. 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, relative to your patients and staff members, contrary to paragraph 59 of Section 2 of Ontario Regulation 853, Regulations of Ontario, 1993, as amended.

Particulars:

- You sexually harassed staff members in your dental practice.
 - You sexually harassed Person A during the years 2008, 2009, 2010, 2011, and/or 2012.
 - You emailed pornographic images to Person A on or about November 24, 2008.
 - You showed Person A a photo of a woman's breasts on your cell phone.
 - You put a sex toy in Person A's desk drawer.
 - In or about 2011, when Person A's hours and therefore wages

were reduced when an additional staff member was hired, you offered to pay Person A out of your own pocket if she would spend time with and/or be with you outside of the office.

- In response to a request from Person A to work additional hours, you commented that, in addition to working in your dental practice, she worked as a stripper.
 - In or about 2012, you asked Person A if she would go out with you if she no longer worked in the office.
 - In the presence of Person M, a staff member in your practice, you commented that Person A should go out with you.
 - You attempted to kiss Person A.
 - You touched Person A's buttocks.
 - In or about 2012, you intimidated Person A by hovering over her, and Person A feared you would try to touch and/or kiss her, as you had done previously.
 - In the presence of Person F, a staff member in your practice, you told Person A that you wanted her to bend over more.
 - You commented on Person A's appearance, including her clothing and/or her hair colour, which was inappropriate.
 - You made jokes of a sexual nature to Person A and/or in her presence.
- You created an inappropriately sexualized work environment for your staff members, some of whom were also patients.
- You made comments with sexual innuendo and/or content and/or references in the presence of staff members.
 - You told/made jokes with sexual innuendo and/or content and/or references in the presence of staff members.
 - You flirted with some staff members, especially younger staff members.
 - You stood up against Person F, violating her personal space.
 - You massaged the shoulders of staff members, including Person G.
 - You commented on the clothing and/or appearance of your daughters' friends to or in the presence of staff members.
 - You asked various staff members, including Person H, Person B, and Person C, who it would be appropriate for you to date with respect to age, asking questions such as "What age difference is

too much?” or “What would you consider to be too young for me to date?” or, regarding a 21-year-old, “Is she old enough for [me] to date?”

- In or about 2002 and/or 2003, you kissed staff member Person I in your place of work, which was witnessed by another staff member, Person J.
 - You discussed your sex life with staff members, including Person A.
 - You cut holes in a dental bib where an individual’s breasts would be and told staff that you were going to put it on a patient.
 - You promoted your comedy performances, which contained sexual content and, in particular, sexual content related to the practice of dentistry, to staff members and/or in their presence.
- You harassed staff members and/or patients in your office with non-sexual conduct that was nevertheless inappropriate.
 - You yelled and swore at staff member and former patient Person K.
 - You yelled and swore at staff member and former patient Person L.
 - You sent a text message to staff member Person A, stating “FU.”
 - You promoted your comedy performances, which contained sexual content and, in particular, sexual content related to the practise of dentistry, to patients and/or in their presence.

THE MEMBER’S PLEA

The Member admitted each of the allegations that remained in the Notice of Hearing, as amended (that is, each of Allegations #3, #4, #5 and #6 as set out above).

In connection with his admissions of guilt, a Plea Inquiry form duly signed by the Member was filed as Exhibit #2. On the basis of the Plea Inquiry and the fact that he was represented by experienced counsel, the Panel was satisfied that the Member’s admissions were voluntary, informed and unequivocal.

THE EVIDENCE

With the Member’s consent, College Counsel filed an Agreed Statement of Facts, which became Exhibit #3. Ms. Rothstein also read the entire document into the record. The Agreed Statement of Facts provided as follows:

A. Allegations of Professional Misconduct

1. On June 4, 2018, the College's Inquiries, Complaints and Reports Committee referred allegations of professional misconduct to the Discipline Committee. The allegations of professional misconduct against the Member are set out in the Notice of Hearing, dated July 16, 2018 (the "Allegations").
2. 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.

B. Background

3. The Member has been registered as a general dentist with the Royal College of Dental Surgeons of Ontario (the "College") since 1985.
4. At the relevant times, the Member operated a dental practice in Brampton, Ontario, out of two different locations: Trinity Dental Centre and Centennial Dental Centre.
5. The Member has no history of findings by the Discipline Committee of the College.

C. Withdrawals

6. The College is not proceeding with respect to Allegations 1 and 2 in the Notice of Hearing. The College is also not proceeding with respect to the portions of the particulars contained at bullets 2 and 31 under Allegation 6 in the Notice of Hearing that allege that Person A was the Member's patient.
7. Accordingly, with leave of the Discipline Committee, the College withdraws those allegations and those portions of the particulars.

D. The Standards of Practice

8. The practice advisories of the College are to be considered by all Ontario dentists in the care of their patients and the management of their practices and staff. Practice advisories are relevant to whether appropriate standards of practice and professional responsibilities have been maintained by a dentist.
9. The College's *Prevention of Sexual Abuse and Boundary Violations* practice advisory (the "Practice Advisory"), was first published in November 1994 and updated in November 2017. The Practice Advisory provides guidance to members of the profession on the general expectations and obligations of dentists with respect to appropriate conduct towards patients and staff.
10. The Practice Advisory provides that a dentist meets the professional standards by:
 - (a) refraining from having sexual relationships with patients, which includes comments and touching of a sexual nature, as well as sexual intercourse and other sex acts;
 - (b) not hugging or kissing patients;
 - (c) refraining from behaviours, gestures, and/or remarks that may reasonably be perceived by patients as romantic, sexual, exploitative and/or abusive;

- (d) refraining from telling sexually suggestive jokes, making comments about a patient or staff member's body, appearance or clothing, making inquiries about intimate aspects of the lives of patients or staff members and/or disclosing intimate aspects of the dentist's life.
- (e) respecting personal space by being aware of their own behaviour within others' personal space and acting accordingly; and
- (f) using draping practices that respect patient privacy and ensuring that patient bibs or drapes are placed in a professional manner.

11. The Practice Advisory also provides that dentists are obligated to maintain a professional workplace. In order to do so, dentists must:

- (a) ensure the workplace does not include sexually suggestive jokes, posters, pictures and/or documents that could be offensive to patients or staff; and
- (b) be mindful of patient perceptions regarding the conversations dentists have with staff members during treatment.

12. The Practice Advisory states that the abuse and harassment of staff members is an extremely serious issue. A dentist may be found guilty of professional misconduct for sexual harassment of staff or boundary violations with staff.

E. Facts and Admissions

1. Allegations 3, 4, and 5

13. Person E became a patient at the Member's practice in February 1980, when she was eight years old. Person E was initially a patient of another dentist. In or around 1985, when Person E was approximately 14 years old, she became one of the Member's patients.

14. In 1987, when Person E was 16 years old, she began working part-time at the Member's practice as a receptionist and also as the Member's dental assistant. Throughout her employment at the office, Person E continued to be a patient of the Member's.

15. When Person E was in or around 16 or 17 years old, the Member began to make sexual advances towards her. On multiple occasions during Person E's shifts, the Member rubbed her shoulders, kissed her, and put his hands under her shirt and touched her breasts. On other occasions when Person E was working, the Member asked her to perform various tasks in the office's back room, including filing, retrieving of charts, and calling people who hadn't paid their accounts. The Member then came to the office's back room while she was there and shut the door. He kissed her and touched her breasts, both over and under her shirt.

16. At one or more of the office's events such as Christmas parties that Person E attended, the Member sat next to her, reached under the table and touched her leg under her skirt.

17. In or around 1988-1989, when Person E was 17 or 18 years old, Person E and the Member began a sexual relationship. Person E was, at the time, both a staff member and the Member's patient.

18. The Member rented hotel rooms where he and Person E had sexual intercourse, on numerous occasions, over the course of two or three years.

19. The sexual relationship ended in or around 1991, when Person E was 20 years old. Person E remained an employee until the following year. Person E remained a patient of the Member's until in or around 2003.

2. Admissions

20. The Member admits to the facts of Allegations 3, 4, and 5, as outlined above. Therefore, in relation to this conduct, the Member admits the following:

- (a) that he contravened a standard of practice or failed to maintain a standard of practice of the profession, contrary to paragraph 4 of s. 37(1) of Regulation 547, Revised Regulations of Ontario, 1990, as amended, and/or contrary to paragraph 37 of s. 37 and/or s. 37(1) of Regulation 447, Revised Regulations of Ontario, 1980, as amended, as set out in Allegation 3 of the Notice of Hearing.
- (b) that he engaged in sexual impropriety with a patient, contrary to paragraph 37 of s. 37(1) of Regulation 547, Revised Regulations of Ontario, 1990, as amended, and/or contrary to paragraph 37 of s. 37 and/or s. 37(1) of Regulation 447, Revised Regulations of Ontario, 1980, as amended, as set out in Allegation 4 of the Notice of Hearing; and
- (c) that he 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 or unprofessional, contrary to paragraph 41 of s. 37(1) of Regulation 547, Revised Regulations of Ontario, 1990, as amended, and/or contrary to paragraphs 40 and/or 41 of s. 37 and/or s. 37(1) of Regulation 447, Revised Regulations of Ontario, 1980, as amended, as set out in Allegation 5 of the Notice of Hearing.

3. Allegation Six

(a) *Sexual harassment of Person A*

21. Person A was employed by the Member's dental practice beginning in 2007, when she began working on a part-time basis as a receptionist. From 2008 to 2012, Person A worked full-time as a receptionist. Person A primarily worked at the Trinity Dental location, but also occasionally worked at Centennial Dental on weekends.

22. The Member sexually harassed Person A during the years she was a full-time employee, from 2008-2012.

23. The Member flirted with Person A throughout her employment at his office, and attempted to pursue a relationship with her outside of the work environment to the point where she felt that she could no longer work there.

24. The Member made inappropriate comments to Person A including about her physical appearance, the clothes she was wearing, and her looks. On one occasion, the Member commented about how "hot" she was with her coloured hair. On other occasions throughout her employment, the Member made sexual jokes to her and/or in her presence.

25. On or about November 24, 2008, the Member emailed pornographic images of multiple naked women to Person A. On another occasion, the Member showed Person A a photo of a woman's bare breasts on his cell phone. The Member told Person A to "look at these." On another occasion, the Member put a sex toy, a large white rubber dildo, in Person A's desk drawer.

26. On one occasion, the Member touched Person A's buttocks. Person A was bent over, filing a chart on the bottom shelf of a filing cabinet. The Member approached Person A from behind and touched her buttocks with an open hand.

27. On another occasion, in or around 2007 or 2008, while Person A was bent over accessing files on the bottom shelf of a filing cabinet, the Member commented that he would like to see her bend over more often because he liked the view. This comment was overheard by at least one other staff member, Person F.

28. In or about 2011, Person A's hours and wages were reduced when an additional staff member was hired. The Member offered to pay Person A out of his own pocket if she would spend time with him and/or be with him outside of the office. Person A declined. When Person A once asked the Member if she could work additional hours, the Member commented that Person A worked as a "stripper" "on the side".

29. In or about 2012, the Member asked Person A if she would go out with him if she was no longer working at the dental office. On at least one other occasion, the Member commented that Person A should go out with him, which was overheard by another staff member, Person M.

30. On at least one occasion in or around 2012, the Member attempted to kiss Person A in the workplace. The Member came very close to her face and said "give me a kiss." Person A said "no" and backed away.

31. In or about 2012, on one occasion while Person A was bent over a filing cabinet, the Member hovered over her, intimidating her and leading her to fear that the Member would touch her buttocks again, as he had done previously. Person A broke down and cried as a result of this conduct.

(b) *Inappropriately sexualized work environment*

32. The Member engaged in conduct and/or acts that created an inappropriately sexualized work environment for his staff members.

33. The Member regularly made comments containing sexual innuendo or that related to sexual topics while at work. These included jokes, comments, banter, and sometimes flirtatious remarks. The Member engaged in this behaviour routinely and in all aspects of his practice, including in the presence of patients, staff members, and staff members who were also his patients.

34. For example, Person B, a current staff member, has been a receptionist at Trinity Dental Centre on and off for 35-40 years. Repeatedly throughout her employment, Person B witnessed the Member speak with staff using sexual innuendo, and tell jokes and make comments of a sexual nature. Person B observed the Member be flirtatious with his younger, female staff members on a number of occasions, although never with her. The Member once asked Person B "What would you consider to be too young for me to date?"

35. The Member publicized his comedy show in the office. The Member's comedy routine included sexual jokes and remarks.

36. Person N, a current staff member, has worked at Trinity Dental Centre for 15 years as a dental assistant. On many occasions throughout the course of her employment, Person N observed the Member tell jokes from his comedy routine at the office, which contained "a lot of sexual innuendo", to both patients and staff members.

37. Person C, a current staff member, has been a receptionist at Centennial Dental Centre for eight years. When she first began working there in 2010, her daughter was 21 years old. The Member asked Person C about her daughter, "Is she old enough for [me] to date?"

38. Person F, a current staff member, has worked at both of the Member's practice locations for 12 years. The Member repeatedly told inappropriate jokes that were sexual in nature in front of staff members and patients. On more than one occasion and with more than one patient, the Member told a "cell phone joke" when a female patient's cell phone rang during treatment: the Member answered the phone and said the patient couldn't come to the phone right now because the Member "[was] in her mouth." Staff member Person G also heard the Member tell this joke on at least one occasion. Person F also heard the Member tell a story about a patient who was under nitrous oxide and oxygen sedation who had a "sexual experience". The Member told this story to staff on more than one occasion, and may also have told it to his patients.

39. Person F also heard the Member comment to another staff member on the clothes worn by his daughters' teenage female friends on at least one occasion. The Member said that "girls these days" wear very short shorts, and when his daughters' friends came to his house wearing them they "distracted" him.

40. On one occasion, in or around 2005 or 2006, the Member approached Person F from behind while her arms were inside the x-ray processing unit, and placed his body so that he was standing up against her. Person F felt that this violated her personal space and made her uncomfortable.

41. On another occasion, in or around 2006 or 2007, the Member cut holes in a dental bib where a patient's breasts would be and told staff that he was going to put it on a patient.

42. On multiple occasions, the Member also massaged the shoulders of various staff members, including Person G.

43. Person G, a former staff member from 1981-2011, also repeatedly witnessed the Member make jokes and comments in the workplace, some of which were offensive and had sexual innuendos. Person G also attended the Member's comedy show on at least two occasions, wherein he made jokes that were of a sexual nature, including some about his dental patients.

44. On another occasion, Person H, a current staff member, witnessed the Member tell jokes with sexual content to his patients on numerous occasions. One joke involved him saying that he was dating his high school sweetheart, who was too young to come to his show because she had exams. Person H told the Member that the joke was "too much given his age." The Member asked Person H "what age difference is too much?"

45. Person M, a former staff member from 2007-2014, observed that the Member repeatedly told jokes that weren't appropriate for the work environment. His jokes were "offensive" and sexual.

46. In or about 2002 or 2003, Person J, a former staff member, entered the practice through the back door, which leads into the staff room. The interior door to the staff room

was closed. When Person J opened the back staff room door, she witnessed the Member kissing another staff member, Person I. Person J resigned from her employment the same day.

(c) Harassment of staff members and/or patients

47. On one occasion, the Member swore at staff members Person L, and told her to “fuck off.”

48. On one occasion in 2013, the Member was late to arrive at the office and a patient didn't wish to wait any longer to see him, so Person K, a staff member at the time, dismissed the patient. The Member got angry, and yelled and swore at Person K in front of other staff members and patients, and “slammed things down”. Person C and Person L also witnessed this incident. On August 28, 2012, the Member sent Person A (then a staff member) a text message that asked her to advise him in advance when she was not going to be working. When Person A responded that she felt that rule was being applied only to her, the Member replied “FU”.

(d) Promotion of comedy show to patients

49. The Member promoted his comedy performances on numerous occasions to staff members and patients. The performances contained sexual content and, in particular, sexual content related to the practise of dentistry.

4. Admissions

50. The Member admits to the facts of Allegation 6, as outlined above. Therefore, in relation to this conduct, the Member admits that he 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 or unprofessional, contrary to paragraph 41 of s. 37(1) of Regulation 547, Revised Regulations of Ontario, 1990, as amended, and/or contrary to paragraphs 40 and/or 41 of s. 37 and/or s. 37(1) of Regulation 447, Revised Regulations of Ontario, 1980, as amended, as set out in Allegation Six of the Notice of Hearing.

F. General

51. The Member admits the acts described above and admits that by committing such acts, he engaged in professional misconduct as alleged in the Notice of Hearing (subject to the withdrawn allegations).

52. The Member now accepts responsibility for his actions and the resulting consequences.

53. The Member has had the opportunity to receive 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 and more particularly in Allegations #3, #4, #5 and #6.

REASONS FOR DECISION

The Member admitted these allegations of professional misconduct, and the Panel found that the Agreed Statement of Facts (Exhibit #3) clearly substantiated each of the allegations of professional misconduct against Dr. Rohringer.

JOINT SUBMISSION ON PENALTY AND COSTS

College Counsel filed a Joint Submission on Penalty and Costs (the "Joint Submission"), which was marked as Exhibit #4. It provided as follows:

The Royal College of Dental Surgeons of Ontario (the "College") and Dr. Ron Rohringer (the "Member") jointly submit that the Discipline Committee should make the following Order:

1. The Member shall appear before the Panel of the Discipline Committee to be reprimanded immediately following the hearing on October 28, 2019.
2. The Registrar shall immediately revoke the Member's Certificate of Registration.
3. The Member shall pay costs to the College in the amount of \$10,000, within 60 days of the date of this Order.

The Panel invited the parties' submissions in support of the Joint Submission.

Citing the Supreme Court of Canada's decision in *R. v. Anthony-Cook*, 2016 SCC 43, Ms. Rothstein submitted that a Discipline panel should not depart from a joint submission of this kind unless the proposed order would bring the administration of justice into disrepute or would otherwise be contrary to the public interest. Further, for joint submissions to be possible and to achieve their important purposes, the parties must have a high degree of confidence that they will be accepted. Consequently, the Panel should only reject the Joint Submission if it is outside the range of reasonable sanctions for the professional misconduct found in this case.

Ms. Rothstein submitted that the parties were able to obviate the need for a lengthy adversarial proceeding because of the resolution they negotiated, a key component of which was the Joint Submission. Both of the main complainants were consulted, and both support this resolution. It was Ms. Rothstein's submission that the proposed penalty meets the objectives of providing denunciation and deterrence, both specific to the Member and general in the sense that it would dissuade like-minded members of the College from engaging in the kinds of professional misconduct engaged in by the Member.

It was Ms. Rothstein's submission that revocation of Dr. Rohringer's Certificate of Registration is necessary because the Member is incorrigible and in order to maintain public confidence in the College's discipline process. In addition, Ms. Rothstein pointed out that if it had occurred after the *Regulated Health Professions Act* came into force in 1994, aspects of the Member's conduct would have attracted the mandatory revocation of his certificate of registration.

Referring to Allegation #6, Ms. Rothstein submitted that the Member's admitted conduct shows that he infected his practice with a sexualized atmosphere and that the Panel can infer that the behaviour referenced there took place in the presence of patients.

In mitigation, Ms. Rothstein pointed out that the Member has admitted the allegations and that a lengthy and adversarial proceeding has been avoided.

The Member's counsel, Ms. Kantor submitted that the Joint Submission called for imposition of a penalty that would be reasonable in all the circumstances of this case. Ms. Kantor also referred to mitigating factors, including the fact that this is the first time in his 35 year career when the Member has been before the a panel of the Discipline Committee. He has admitted his wrongdoing, and the Joint Submission is the product of discussions between the parties' counsel. It was Ms. Kantor's position that joint submissions of this kind are to be encouraged.

The Panel also obtained advice from its Independent Counsel. Mr. Gover advised that seldom is a particular form of penalty order appropriate, to the exclusion of all others. Instead, it is appropriate to remember that there is a range of reasonable penalty orders that can be appropriately made in relation to the vast majority of types of professional misconduct.

Mr. Gover reiterated that the Panel should accept the Joint Submission unless its acceptance would involve imposing an order as to penalty and costs that would bring the administration of justice into disrepute or would otherwise be contrary to the public interest. If the agreed upon penalty falls within the range of reasonable penalty orders that may be made in cases of this kind, the Joint Submission should be accepted.

Among the reasons why appellate courts have instructed courts and tribunals to accept joint submissions is that they are the usually the product of negotiations (a process of give and take) between experienced counsel representing the interests involved. Both the Member's counsel and College Counsel in this case are very experienced in professional discipline matters. Mr. Gover counselled the Panel that this should give us a measure of confidence that the penalty order called for by the Joint Submission is within the appropriate range.

Mr. Gover also alluded to the objectives of imposing a penalty (denunciation, specific and general deterrence, remediation, protection of the public and the need to maintain public confidence in the College's ability to regulate its members in the public interest) and advised that they are met by the penalty order that the College and the Member invited the Panel to make in this case.

It was Mr. Gover's advice that the agreed upon penalty order is within the appropriate range of penalty orders for cases of this kind, and that the Panel ought to accept the Joint Submission.

Neither the College nor the Member took issue with Independent Counsel's advice.

PENALTY DECISION

The Panel accepted the Joint Submission and so ordered as follows:

1. The Member shall appear before the Panel of the Discipline Committee to be reprimanded immediately following the hearing on October 28, 2019.
2. The Registrar shall immediately revoke the Member's Certificate of Registration.
3. The Member shall pay costs to the College in the amount of \$10,000, within 60 days of the date of this Order.

REASONS FOR DECISION ON PENALTY AND COSTS

The Panel concluded that the proposed Joint Submission on Penalty is appropriate in all the circumstances of this case. 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 into disrepute or are otherwise contrary to the public interest. In considering the appropriateness of the proposed penalty, the Panel accepted the submissions of College Counsel and counsel for the Member and the advice of its Independent Counsel and was satisfied that the agreed upon penalty and costs order was within the appropriate range and that it was in the public interest to impose it. The Penalty meets the objective of public protection and sends a clear message to the profession and the public that this conduct is unacceptable and will not be tolerated by the College.

The reprimand and revocation of the Member's Certificate of Registration satisfies the need to for both specific and general deterrence. The Panel accepted that in order to protect the public and maintain the public's confidence in the profession and deter like-minded individuals, it must impose the most serious penalty, and that is revocation.

The Panel considered the lengthy time over which the abuse occurred to be a distinct aggravating factor.

Dr. Rohinger admitted three allegations of professional misconduct and thus avoided a lengthy and costly hearing. He accepted responsibility which avoided witnesses from having to testify. The Panel considered these as mitigating factors.

Ultimately, it was the Panel's opinion that despite those mitigating factors, revocation of the Member's Certificate of Registration was the only penalty that, in all the circumstances of this case, would meet the principles of general and specific deterrence and maintain public confidence in the profession.

case, would meet the principles of general and specific deterrence and maintain public confidence in the profession.

Finally, the Panel took no issue with the aspect of the Joint Submission that called for the Member to pay costs in the amount of \$10,000, and allowing him 60 days to pay.

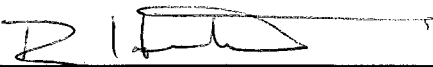
ORAL REPRIMAND

Dr. Rohringer waived his right of appeal and asked that the oral reprimand called for in the Joint Submission be administered at the conclusion of the hearing.

In administering that reprimand, the Panel informed Dr. Rohringer that his professional misconduct is a matter of profound concern and that it is completely unacceptable to his fellow dentists and to the public. He has brought discredit to the entire profession, and to himself. He has jeopardized public confidence in our profession. Of special concern to the Panel was the fact that the professional misconduct he engaged in involved a power imbalance in which he intimidated patients and staff with his inappropriate comments and behaviour. Egregious and continued sexual abuse and harassment ran rampant for many years in his practice, creating a toxic workplace environment. The penalty of revocation was appropriate because he sexualized his practice for a lengthy period of time, all for his own gratification.

When given the opportunity to speak at the conclusion of the reprimand, Dr. Rohringer indicated that he accepts responsibility for his actions.

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



Chairperson

Date: November 28, 2019