

COLLEGE OF DENTURISTS OF ONTARIO

and

WILLIAM KENYON, D.D.

REASONS FOR DECISION

Pursuant to sections 38 through 56 of the Health Professions Procedural Code, as amended, the Panel of the Discipline Committee of the College of Denturists of Ontario held a hearing on March 10, 1995, to hear and determine specific allegations of professional misconduct of William Kenyon, D.D., as outlined in the Notice of Hearing dated February 10, 1995.

ATTENDANCE

Present at this hearing were the following:

Mr. Harry Orfanidis, Chair, Professional Member, College of Denturists of Ontario

Mr. Brian Monk, Professional Member, College of Denturists of Ontario

Mrs. France D. Waychison, Public Member, College of Denturists of Ontario

Mr. Yaro Wojcicky, Registrar, College of Denturists of Ontario

Mrs. Odette Soriano, Independent Legal Counsel, Gowling, Strathy & Anderson, Barristers & Solicitors

Mrs. Julia J. Martin, Porter, Posluns & Harris, Solicitors for the College of Denturists of Ontario

Mr. William Kenyon, D.D.

Also present was the Court Reporter

Mr. Kenyon was not represented by counsel. When asked by the Chair of the Panel if he understood that he was entitled to have counsel present at the hearing Mr. Kenyon responded that he understood and was prepared to proceed with the hearing without counsel.

ALLEGATIONS

At the opening of the hearing, counsel for the College tendered as Exhibit 1 the Notice of Hearing together with proof of service.

It has been alleged that Mr Kenyon, a denturist practicing in Waterdown, Ontario, did not respond to a written notice from the Registrar advising him that the annual registration fee for the College of Denturists of Ontario was due as of April 15, 1994. After receiving a warning of possible cancellation of his certificate of registration, Mr. Kenyon provided the College with a cheque to satisfy his registration fee. This cheque was subsequently returned NSF.

Mr. Kenyon's certificate of registration was suspended on or about September 20, 1994. The certificate was restored on or about November 2, 1994; after Mr. Kenyon paid the required fees.

It was alleged that for the period of September 20, 1994 through November 2, 1994, despite the fact that his certificate of Registration was suspended, Mr. Kenyon continued to practice denturism, to use the title "denturist" and hold himself out as qualified to practice in Ontario as a denturist, contrary to paragraph 27(2).11 and section 32 of the **Regulated Health Professions Act** and section 8 of the **Denturism Act**.

It was further alleged that Mr. Kenyon did not respond to a request from the Registrar for production of proof that Mr. Kenyon held the required professional liability insurance. On November 3, 1994, the Registrar requested proof that Mr. Kenyon carried the required professional liability insurance. As of the date of the hearing, this request has not been answered.

It was alleged that Mr. Kenyon is guilty of professional misconduct as defined in paragraph 30 (carrying and providing proof of professional liability insurance), 33 (contravening the legislation), 44 (failing to reply to College communications) and 45 (failing to pay a fee after notice given) and, in the alternative, paragraph 47, (unprofessional conduct) of section 1 of Ontario Regulation 854/93 made under the **Denturism Act**.

PLEA

Mr. Kenyon pleaded guilty to the allegations as set out in the Notice of Hearing.

EVIDENCE

The following evidence was tendered at the hearing:

- (i) Agreed Statement of Facts (unsigned) [Exhibit 2]

- (ii) memorandum from Mr. Wojcicky re: certificate of registration renewal dated March 1, 1994 [Exhibit 3]
- (iii) letter to Mr. Kenyon from Mr. Wojcicky dated July 6, 1994 [Exhibit 4]
- (iv) letter to Mr. Kenyon from Mr. Wojcicky dated September 20, 1994 [Exhibit 5]
- (v) letter to Mr. Kenyon from Mr. Wojcicky dated November 3, 1994 [Exhibit 6]

The panel confirmed with Mr. Kenyon that he agreed to the facts set out in the Agreed Statement.

PANEL'S FINDING

The Panel found Mr. Kenyon guilty of engaging in professional misconduct as defined in paragraph 30, 33, 44 and 45 of section 1 of Ontario Regulation 854/93 as amended, made under the **DENTURISM ACT**.

SUBMISSIONS WITH RESPECT TO PENALTY

The College and Mr. Kenyon jointly submitted that the appropriate penalty would be an order in the following form:

1. the Discipline Committee finds William Kenyon guilty of professional misconduct as defined in paragraphs 30, 33, 44 and 45 of section 1 of Ontario Regulation 854/93 as amended, made under the **DENTURISM ACT**;
2. the Discipline Committee orders that William Kenyon be reprimanded and that the fact of the reprimand be recorded in the register;
3. The Discipline Committee orders that William Kenyon pay \$2,500.00 in respect of the College's costs and expenses.

The College made submissions to the Panel as to the following mitigating factors for the Panel to consider in determining an appropriate penalty:

(i) a message must be sent to the public, the profession and Mr. Kenyon that members must respond to requests issued by the Registrar and must comply with the legislation;

(ii) this case involves transition legislation wherein the schedule of fees has been changed and mandatory insurance introduced;

(iii) Mr. Kenyon's personal circumstances of financial hardship;

(iv) Mr. Kenyon entered a plea of guilty and, accordingly recognized that he was wrong;

(v) Mr. Kenyon cooperated with the College in the prosecution of this matter; and

(vi) this is Mr. Kenyon's first instance of discipline.

The Panel asked Mr. Kenyon if he had any further submissions as to penalty. Mr. Kenyon said he did not.

DECISION REGARDING PENALTY

The Panel recognized that it was not bound to accept the recommendations of counsel in making its decision as to penalty.

The Panel considered the joint submissions as to penalty and the College's submissions as to mitigating circumstances. The Panel did not give any weight to the fact that this case involved transitional legislation as the Panel wishes to emphasize to all members that it is their responsibility to keep abreast of the legislation governing their profession.


The Panel of the Discipline Committee ordered that:

William Kenyon be reprimanded and that the fact of the reprimand be recorded in the register; and

William Kenyon pay \$2,500.00 in respect of the College's costs and expenses.

Recognizing that nothing will be gained by aggravating Mr. Kenyon's financial hardship, the Committee accepted the schedule of payments proposed by the College.

Dated this 15th day of May, 1995


Brian Monk, D.D.


France D. Waychison

Harry Orfanidis, D.D.
(dissenting with respect to Penalty)