

**DISCIPLINE COMMITTEE OF
THE COLLEGE OF DENTURISTS OF ONTARIO**

B E T W E E N :

COLLEGE OF DENTURISTS OF ONTARIO

- and -

WILLIAM KENYON

REASONS FOR DECISION

1. This matter came on for hearing before the Discipline Committee of the College of Denturists on September 24th, 2009. The hearing took place on September 24th and 25th, 2009.

2. On September 25th, 2009 the Discipline committee rendered the following the decision:
 1. ***THE DISCIPLINE COMMITTEE FINDS*** that William Kenyon committed acts of professional misconduct under paragraphs 1, 2, 19, 43, 44 and 47 of section 1 of Ontario Regulation 854/93, under the Denturism, 1991.

 2. ***THE DISCIPLINE COMMITTEE DIRECTS*** the Registrar to revoke the member's certificate of registration.

 3. ***THE DISCIPLINE COMMITTEE ORDERS*** that the member pay to the College within two (2) years of the date of the hearing of this matter a portion of the College's costs and expenses fixed in the amount of \$6,000.00.

THE FACTS

3. William Kenyon practiced denturism at the Mountain Denture Care Centre in Hamilton, Ontario.

4. This proceeding concerned, inter alia, Mr. Kenyon's compliance with a previous order of the Discipline Committee of this College. On October 17th, 2005, the Discipline Committee made the following order:

1. *The Discipline Panel orders that the Registrar be directed to revoke Mr. Kenyon's Certificate of Registration.*
2. *The Discipline Panel orders that the Registrar be directed to suspend the revocation of the certificate of registration of Mr. Kenyon ordered in paragraph 1, above, until one of the following events fails to occur....*
 - (c) *Mr. Kenyon shall respond fully and meaningfully in writing within 30 days to any letter mailed by any representative of this College to 74 Flanders Drive, Waterdown, ON L0R 2H or such other substituted address given by Mr. Kenyon in writing to the Registrar.*
 - (d) *Mr. Kenyon shall maintain a functional voice message system at the following number 905 690 7730 or such other substituted number given by Mr. Kenyon in writing to the Registrar and shall respond fully and meaningfully within 3 business days to any message left by any representative of the College at that telephone number....*

(g) *If requested to do so, Mr. Kenyon shall meet in person with any committee or representative of the College at the time and place requested by the committee or representative.*

5. While investigating a complaint filed with the College against Mr. Kenyon, the Complaints Committee wrote to him on April 18th, 2007, to the address last provided by Mr. Kenyon to College. The letter requested, in bold type, for Mr. Kenyon to “submit your response, including a legible photocopy of all patient records and other documents you have relating to this matter, by no later than May 21st, 2007.”

6. Mr. Kenyon responded to this letter by letter dated May 18th, 2007. However, this letter was not received by the College until June 1st, 2007. That being so, Mr. Kenyon breached the Discipline Committee order dated October 17th, 2005, as set out above.

7. Following the receipt of Mr. Kenyon’s response, Cliff Muzlowsky, then Registrar of the College, reviewed the material submitted. He concluded that there would have been other information available such as the procedures completed, the fees, when the payments were received, receipt issues, charts of the missing teeth, and so on. Particularly notable was the absence of the financial aspect of the transaction with the complainant in question.

8. Upon presentation to the Complaints Committee and arising from the concern from the Committee that all of the records had not been produced, Mr. Kenyon was sent a further letter by the College dated September 20th, 2007, signed by Cliff Muzlowsky. This letter set out a number of questions that the Complaints Committee had expressed in their meeting on September 7th, 2007. Mr. Kenyon responded to these questions by letter dated October 9th, 2007, received by the College October 15th, 2007. Ultimately, Mr. Kenyon agreed to discuss the issue with the Chair of the Complaints Committee, Gus Koroneos, on December 20th, at 9 am. This was a prearranged telephone call with Mr. Kenyon.

9. When Mr. Koroneos called on December 20th, he spoke to Mr. Kenyon's receptionist who advised that Mr. Kenyon was busy with patients. Mr. Koroneos called again at 1 pm and was advised that Mr. Kenyon was at lunch. He called again at 3 pm and was unable to reach Mr. Kenyon.

10. Mr. Kenyon's failure to answer Mr. Koroneos' telephone calls on December 20th, 2007 amounted to a failure to cooperate with a reasonable inquiry of the College.

11. As it relates to this particular complaint, the records that were produced suggested to the Committee that Mr. Kenyon had sent his invoicing to the insurer prior to the work having been completed. The last paragraph of Mr. Kenyon's letter of May 18th, 2007, suggested that the complainant had her dentures at the time.

12. It is also to be noted that, despite the fact that Mr. Kenyon had been told to bring along with him all documents, dentures, and lab material to the meeting with the Complaints Committee on May 15th, 2008, he brought records but no dentures or lab materials. He also advised the Committee that he had already contacted the insurer and advised that his office had made an error with regard to payment for the dentures which had not been completed. To the knowledge of Cliff Muzlowsky, Mr. Kenyon had not repaid the insurer.

13. The College received a further complaint with respect to the Mr. Kenyon with regard to a different patient. This second complaint was sent to Mr. Kenyon by the College by letter dated May 8th, 2008, which letter was addressed to the last known address known to the College for Mr. Kenyon. Mr. Kenyon failed to respond to this letter and therefore breached the order of the Discipline Committee dated October 17th, 2005.

14. The College wrote to Mr. Kenyon again on July 2nd, 2008 which, according to the evidence, was not actually sent out to Mr. Kenyon until July 22nd, 2008. Mr. Kenyon delivered a response by letter dated July 30th, 2008.

15. This case strikes at the heart of self regulation. Private industry and businesses do not have the benefits of self regulation. With those privileges come obligations.

16. It is an essential element of self regulation that all members of the profession adhere to the rules that are imposed. A member ought not to be asked again or reminded. This is particularly so in Mr. Kenyon's case, where he was subject to an order regarding his cooperation.

17. Even in a case where there is no prior discipline history, Mr. Kenyon failed in his obligations to respond promptly to any inquires from the College in the circumstances set out above.

18. However, in addition to the above, Mr. Kenyon had been the subject of a Discipline Committee order which required to him to respond within 30 days and he breached that order. It was Mr. Kenyon's obligation to ensure that his response was received, not simply to mail the response within 30 days.

19. This is not a technical breach given Mr. Kenyon's past history and the fact that he is subject to a Discipline Committee order.

20. Mr. Kenyon further breached his professional obligations by failing to keep his appointment with Mr. Koroneos.

21. Further, the records as produced by Kenyon were inconsistent and displayed a lack of clarity as to when or if the dentures were inserted. The October 13th entry is internally inconsistent as it states "sent October 20th".

22. The evidence establishes that Mr. Kenyon did not tell the truth to the Complaints Committee when he said that he called the insurer during the course of the meeting he had with the Complaints Committee on May 15, 2008. Upon weighting all of the evidence we are satisfied that that is the case.

23. As it relates to the second complaint. Mr. Kenyon failed to respond at all to the College's initial letter of May 8, 2008, and thereby breached the order once again.

24. As a result of the aforesaid, we found Mr. Kenyon to have been guilty of professional misconduct as set out above.

DISPOSITION REGARDING PENALTY

25. The College sought revocation of Mr. Kenyon's certificate of registration.

26. When considering the matter we appreciate the fact that we must be mindful to act in the public interest and to deal with this matter with a range of dispositions that a reasonably informed member of the public would consider appropriate.

27. We have also considered the issues of individual and general deterrence, as well as the possible rehabilitation of Mr. Kenyon and the mitigating factors that were presented.

28. Mr. Kenyon has a lengthy discipline history. It is clear that there have been many attempts to rehabilitate Mr. Kenyon.

29. On March 10th, 1995, Mr. Kenyon was found guilty of professional misconduct and reprimanded and was ordered to pay a fine of \$2,500. On June 15th, 1998, Mr. Kenyon was found guilty of professional misconduct and was suspended for 3 months commencing August 1st, 1998, ordered to construct 10 new sets of dentures on a pro bono basis, and pay costs of \$5,000.

30. Following this, there was the order of October 17th, 2005, which was the subject matter of these proceedings.

31. That order was subsequently varied on March 23rd, 2006 which was in, essence, an indulgence with respect to the payment of costs.

32. In all the circumstances and weighing the mitigating factors, including Mr. Kenyon's age, the nature of conduct, and the fact that, that he has already paid a very heavy price for his behaviour, our decision was to revoke Mr. Kenyon's certificate of registration and to order him to pay to College, within 2 years of the date of the hearing, a portion of the College costs and expenses fixed in the amount of \$6,000.

Dated at Toronto this _____ day of February, 2010

Walter Connell
Chair
Discipline Committee