

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

PANEL:

Hanno Weinberger, Chairperson
Peter Cassano, Professional Member
Garnett Pryce, Professional Member
Ivan McFarlane, Public Member

BETWEEN:

COLLEGE OF DENTURISTS OF ONTARIO)	REBECCA DURCAN for
)	College of Denturists of Ontario
)	(the "College")
- and -)	
STEPHANIE BLACK)	STEPHANIE BLACK, the member
)	Self-represented
)	
)	LUISA RITACCA
)	Independent Legal Counsel
)	
)	Heard: November 16, 2015

DECISION AND REASONS

This matter came on for hearing before a panel of the Discipline Committee on November 16, 2015 at Victory Verbatim in Toronto, Ontario

The Allegations

The allegations against Stephanie Black (the "Member") as stated in the Notice of Hearing dated September 4, 2014, are as follows.

IT IS ALLEGED THAT:

1. At all material times, Stephanie Black was a member of the College.
2. J.B. was Ms. Black's patient.
3. In or about August 2011, Ms. Black performed a preliminary assessment on J.B. during a consultation. In or about October, 2011 Ms. Black advised J.B. that, before the oral surgeon could provide an assess-

ment, J.B. required six implant attachments; and that she had to pay Ms. Black \$16,000 in order to do the preparatory work and dentures for the implants.

4. J.B. paid Ms. Black \$16,000 which was an excessive and/or unreasonable amount for the work that Ms. Black was supposed to perform.
5. J.B. only required four implants. However, Ms. Black did not alter the treatment plan and/or reimburse J.B. any of the \$16,000.
6. When J.B. attempted to have the work performed, Ms. Black avoided scheduling any appointments with her, did not provide J.B. with her dentures and/or did not provide J.B. with any reason for her failure to do so.
7. It is alleged that Ms. Black engaged in the following acts of professional misconduct as set out in Ontario Regulation 854/93, section 1:
 - a) She failed to maintain the standards of the profession (paragraph 2);
 - b) *Withdrawn*;
 - c) She failed to fulfill the terms of an agreement with J.B. (paragraph 7);
 - d) *Withdrawn*;
 - e) She charged a fee that was excessive or unreasonable in relation to the services performed (paragraph 26);
 - f) She engaged in conduct or performed an act, in the course of practicing Denturism that, having regard to all the circumstances, would reasonably be regarded by members as dishonourable, *withdrawn* or unprofessional (paragraph 47).
8. Further particulars of the specified allegations of professional misconduct relied upon by the College are contained in the documentary disclosure provided to Ms. Black in support of the allegations in the Notice of Hearing.

Member's Plea

Stephanie Black admitted to the allegations set out in paragraphs numbered 1 – 7 a), c), e), f) and 8 in the Notice of Hearing. The panel conducted an oral plea inquiry and was satisfied that the Member's admission was voluntary, informed and unequivocal.

Agreed Statement of Facts

Counsel for the College advised the panel that agreement had been reached on the facts and introduced an Agreed Statement of Facts (Exhibit #2) which provided as follows.

Stephanie Black ("Ms. Black") is registered as a Denturist in the Province of Ontario.

1. Stephanie Black (“Ms. Black”) is registered as a Denturist in the Province of Ontario.
2. J.B. was Ms. Black’s patient.
3. In or about August 2011, Ms. Black performed a preliminary assessment on J.B. during a consultation. In or about October, 2011 Ms. Black advised J.B. that, before the oral surgeon could provide an assessment, J.B. required six implant attachments; and that she had to pay Ms. Black \$16,000 in order to do the preparatory work and dentures for the implants. Attached at Tab A is a copy of the clinical chart, the account and receipts.
4. J.B. paid Ms. Black \$16,000 which was an excessive and/or unreasonable amount for the work that Ms. Black was supposed to perform. This was confirmed by Jodie Carr, DD as set out in Tab B.
5. J.B. only required four implants. However, Ms. Black did not alter the treatment plan and/or reimburse J.B. any of the \$16,000.
6. When J.B. attempted to have the work performed, Ms. Black avoided scheduling any appointments with her, *withdrawn* and/or did not provide J.B. with any reason for her failure to do so. This was in breach of the agreement as understood by J.B.
7. As a result of the above, it is agreed that Ms. Black engaged in the following acts of professional misconduct as set out in Ontario Regulation 854/93, section 1:
 - a. She failed to maintain the standards of the profession (paragraph 2);
 - b. *Withdrawn*;
 - c. She failed to fulfill the terms of an agreement with J.B. (paragraph 7);
 - d. *Withdrawn*;
 - e. She charged a fee that was excessive or unreasonable in relation to the services performed (paragraph 26);
 - f. She engaged in conduct or performed an act, in the course of practicing denturism that, having regard to all the circumstances, would reasonably be regarded by members as dishonourable, *withdrawn* or unprofessional (paragraph 47).

Decision

The panel considered the Agreed Statement of Facts and finds that the facts support a finding of professional misconduct. In particular, the panel finds that the Member committed acts of professional misconduct as alleged in the Notice of Hearing in that a) she failed to maintain the standards of the profession; b) she failed to fulfill the terms of an agreement with her patient; c) she charged a fee that was excessive or unreasonable in relation to the services performed; and, d) she engaged in conduct or performed an act, in the course of practising denturism that, having regard to all the circumstances, would reasonably be regarded by members of the profession as dishonourable or unprofessional.

Reasons for Decision

The panel accepted the Agreed Statement of Facts as the totality of the facts and evidence put before it. As set out in the Agreed Statement of Facts, the Member admitted that she avoided scheduling the final appointment(s) for the patient (JB), and provided no reason for her failure to do so. Further, despite the quantum of work required in this case, the fee charged was an excessive amount. There was no clear line of communication between the Member and JB and the agreement, as understood by JB, was breached. Entries in JB's chart stopped on February 23, 2013. The patient attempted unsuccessfully to have the work finished by the Member.

The panel heard from the Member that the work on JB was very close to completion. The Member told the panel that the final stage that needed to be completed was the attachment of JB's upper dentures to the implants. Be that as it may, the panel recognized, and the Member acknowledged, that regardless of how close the work was to being done, it was nevertheless left incomplete.

The Agreed Statement of Facts confirmed for the panel that in this matter, the level of communication between the Member and the patient, and the treatment plan followed by the Member fell below the accepted standards of the profession. Finally, the panel was satisfied that the conduct would reasonably be considered by members of the profession to be dishonourable or unprofessional.

Penalty Submission

Counsel for the College advised the panel that a Joint Submission as to Penalty had been agreed upon. The Joint Submission as to Penalty provides as follows:

1. Ms. Black is required to appear before a panel of the Discipline Committee to be reprimanded.
2. The Discipline Committee shall direct the Registrar to suspend Ms. Black's certificate of registration for a period of three (3) months, to commence on the date of this Order.
3. The Discipline Committee shall direct the Registrar to impose the following terms, conditions or limitations on Ms. Black's certificate of registration:
 - a. The Member must submit proof of registration in a course(s) of communication, treatment planning and record keeping, approved by the Registrar, within thirty (30) days of the date of this Order, to the Registrar;
 - b. Within six (6) months after the date of the Order, Ms. Black must, at her own expense, successfully complete to the Registrar's satisfaction, the course(s) set out in 3(a), as approved by the Registrar; and
 - c. Within 30 days of completing the course(s) set out in 3(a), Ms. Black must provide proof acceptable to the Registrar that she has completed the course(s) set out in 3(a) and submit a summary of the learning outcomes of the course(s) set out in 3(a),
4. Ms. Black is required to pay to the College costs in the amount of \$4,000.00, payable in full no later than 6 months after the date of the Order.

College Counsel submitted that an appropriate penalty must address the four principles of sanction. The first, specific deterrence speaks directly to the Member and the Member's conduct. The second, general deterrence speaks to the profession at large as well as the public. Public protection and transparency are the third principle

that an appropriate penalty addresses. This principle ensures the public's confidence in the profession. The fourth principle is remediation. Remediation provides an opportunity for the Member to learn and grow from the experience that resulted in the findings of misconduct.

College Counsel also spoke to the aggravating and mitigating factors. In this case, the aggravating factors were the agreed conduct itself. Additional aggravating factors included the fact that the patient in this matter was a senior and the disrespectful acts of conduct were repeated.

The mitigating factors were that this was the first time that the Member had appeared before a panel of the Discipline Committee. By agreeing to have an Agreed Statement of Facts entered at the hearing, the Member admitted that the allegations were in fact acts of professional misconduct, thereby truncating the length of the hearing and avoiding the need to have witnesses called in for the hearing.

College Counsel argued that in this matter the proposed reprimand, suspension and course work addressed all four principles of sanctioning.

The reprimand is a specific deterrent for the Member and a general deterrent for the profession. Although an daunting experience, the reprimand provides an opportunity for the panel to dialogue with and provide advice to the Member. For the profession, the reprimand reminds them that the College responds seriously to unprofessional conduct of this nature.

The proposed suspension is a lengthy one and acts as a significant specific deterrent. As a general deterrent, a suspension of this length makes the profession sit up and take notice. The suspension also addresses the need to protect the public. Further, it reassures the public that their confidence in the profession is warranted.

The coursework designed to address issues of communication, treatment planning, and record keeping will provide a remedial opportunity for the Member. The coursework will highlight areas that can be improved in the Member's practice on a go forward basis.

As to cost recovery, College Counsel submitted that the proposed figure of \$4000 is vastly below the total cost of bringing this matter to hearing. Those costs are not solely the costs associated with the hearing, but also those incurred at the investigation stage.

College Counsel shared two similar cases from the *Royal College of Dental Surgeons of Ontario* to reassure the panel that the proposed penalty fell within an appropriate range.

College Counsel closed by stating that the proposed penalty took into account the aggravating and mitigating factors and addressed the four principles of penalty.

The Member chose not to make any submissions with regard to the joint submission.

Penalty

The panel makes the following order as to penalty and costs:

1. Ms. Black is required to appear before a panel of the Discipline Committee to be reprimanded.
2. The Discipline Committee shall direct the Registrar to suspend Ms. Black's certificate of registration for a period of three (3) months, to commence on the date of this Order.

3. The Discipline Committee shall direct the Registrar to impose the following terms, conditions or limitations on Ms. Black's certificate of registration:
 - a. The Member must submit proof of registration in a course(s) of communication, treatment planning and record keeping, approved by the Registrar, within thirty (30) days of the date of this Order, to the Registrar;
 - b. Within six (6) months after the date of the Order, Ms. Black must, at her own expense, successfully complete to the Registrar's satisfaction, the course(s) set out in 3(a), as approved by the Registrar; and
 - c. Within 30 days of completing the course(s) set out in 3(a), Ms. Black must provide proof acceptable to the Registrar that she has completed the course(s) set out in 3(a) and submit a summary of the learning outcomes of the course(s) set out in 3(a),
4. Ms. Black is required to pay to the College costs in the amount of 54,000.00, payable in full no later than 6 months after the date of the Order.

Reasons for Penalty

The panel concluded that the proposed penalty was in fact reasonable and in the public interest. The panel agreed with College Counsel that the Member had co-operated with the College and, by agreeing to the facts and a proposed penalty, had accepted responsibility for her actions.

The panel agreed that a reprimand would act as a specific deterrent and allow the panel, on behalf of the profession and the public, to speak directly to the Member and to offer advice on the importance of maintaining professional conduct.

The suspension is a lengthy and significant one. The suspension acts as both a specific and general deterrent. For the Member, the suspension will provide a time for reflection and the opportunity to ensure that best practices are put into place to ensure that such acts of professional misconduct do not occur again. For the profession and the public, the suspension sends a clear message that the College will not tolerate acts of professional misconduct and will deal with them severely once they are brought to light. The length of the suspension will also reassure the public that its confidence in the profession and the College is well placed.

The proposed coursework in communication, treatment planning, and record keeping, addresses the principle of remediation. The coursework will provide the Member with an opportunity to review and evaluate her current practices and more importantly, learn and adapt best practices to ensure that her future patients are receiving the best possible care. The coursework will also

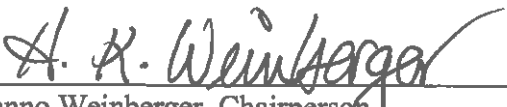
provide the strong foundation and tools for the Member to continue to make positive contributions to the field of denturism.

The panel is convinced that this penalty order addresses all four principles of sanctioning, is fair and reasonable and speaks to the issue of transparency as well as protecting the public interest.

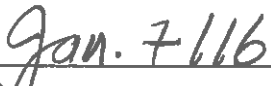
The Reprimand

At the end of the hearing, the Member confirmed on the record that she was waiving her right to appeal from this decision and so the panel conducted the reprimand.

I, Hanno Weinberger, sign this decision and reasons for the decision as Chairperson of this Discipline panel and on behalf of the members of the Discipline panel as listed below:



Hanno Weinberger, Chairperson



Date

Peter Cassano, Professional Member
Garnett Pryce, Professional Member
Ivan McFarlane, Public Member

