

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

PANEL: Elizabeth Gorham-Matthews, Chair, Professional Member  
Avneet Bhatia, Public Member  
Aisha Hasan, Public Member

BETWEEN:

COLLEGE OF DENTURISTS OF ONTARIO

REBECCA DURCAN for  
College of Denturists of Ontario

- and -

MARIO HERVAS  
Reg. No. 626-95

Self-represented

JORDAN STONE  
Independent Legal Counsel

Heard: September 26, 2022

**DECISION AND REASONS**

This matter came on for an electronic hearing before a panel of the Discipline Committee on September 26, 2022 via videoconference.

**The Allegations**

The panel received a Notice of Hearing dated November 24, 2020, which was marked as Exhibit

1. The allegations contained in the Notice of Hearing are as follows:

### The Member

1. Mario Hervas (“the Member”) became a member of the College of Denturists of Ontario (the “College”) in or about September 1995. At the relevant time, the Member worked at Mario Hervas Denture Clinic (the “Clinic”).

### The Client

2. It is alleged that on or about May 15 2019, the Client had her initial appointment with the Member. The Client was seeking a repair to a loose cap on the upper right side of her fixed bridge. The Member repaired the cap on the bridge.
3. It is alleged that in light of the services sought and/or the intra-oral condition of the Client, the Member ought to have referred the Client to a dental surgeon.
4. It is alleged that at this appointment:
  - a. The Member failed to obtain basic health information from the Client;
  - b. The Member failed to document the appointment;
  - c. The Member demanded \$200 in cash from the Client and refused and/or would not provide her with a receipt; and/or
  - d. The Member held himself out as a dentist.
5. It is alleged that approximately one to two months later, the Client returned to the Member. The Client was seeking a repair to a loose cap on her upper bridge. The Member repaired the cap.
6. It is alleged that in light of the services sought and/or the intra-oral condition of the Client, the Member ought to have referred the Client to a dental surgeon.
7. It is alleged that at this appointment:
  - a. The Member failed to obtain basic health information from the Client;

- b. The Member failed to document the appointment
  - c. The Member demanded \$200 in cash from the Client and refused and/or would not provide her with a receipt; and/or
  - d. The Member held himself out as a dentist.
8. It is alleged that immediately thereafter, the two caps that the Member replaced fell out of the bridge.
9. It is alleged that immediately thereafter, the Client returned to the Member. The Member repaired the caps on the bridge.
10. It is alleged that in light of the services sought and/or the intra-oral condition of the Client, the Member ought to have referred the Client to a dental surgeon.
11. It is alleged that at this appointment:
- a. The Member failed to obtain basic health information from the Client;
  - b. The Member failed to document the appointment
  - c. The Member demanded \$80 in cash from the Client and refused and/or would not provide her with a receipt; and/or
  - d. The Member held himself out as a dentist.
12. It is alleged sometime thereafter, the Client returned to the Member. The Client was seeking assistance as the front cap on the bridge had fallen out. It is alleged that the Member removed several of the front caps despite the fact that the Client did not consent to this. It is alleged that the Client was not satisfied with how the Member reattached the caps to the bridge.
13. It is alleged that in light of the services sought and/or the intra-oral condition of the Client, the Member ought to have referred the Client to a dental surgeon.

14. It is alleged that at this appointment:

- a. The Member failed to obtain basic health information from the Client;
- b. The Member failed to document the appointment; and/or
- c. The Member held himself out as a dentist.

15. It is alleged that approximately three weeks later, the front cap fell out again.

16. It is alleged that on one or more occasions, the Member pushed the Client.

Acts of Professional Misconduct

17. As a result of the above, it is alleged that the Member engaged in professional misconduct pursuant to Clause 51(1)(c) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991*, and as set out in one or more of the following paragraphs of section 1 of Ontario Regulation 854/93 under the *Denturism Act, 1991*:

- a. **Paragraph 2:** Failing to maintain the standards of practice of the profession;
- b. **Paragraph 4:** Abusing a patient verbally or physically;
- c. **Paragraph 14:** Failing to refer to a dental surgeon or a physician a patient who has an apparent intra oral condition that the member recognizes or ought to recognize is outside the scope of practice of denturism;
- d. **Paragraph 28:** Failing to issue a receipt when requested to do so;
- e. **Paragraph 33:** Contravening by act or omission the Act, the *Regulated Health Professions Act, 1991*, or the regulations under either of those Acts; and/or

- f. **Paragraph 47:** Engaging in conduct or performing an act, relevant to the practice of denturism, that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable, unethical or unprofessional.

Counsel for the College advised the Panel that the College was requesting leave to withdraw the allegation set out in paragraph 17(b) of the Notice of Hearing. That allegation related to abusing a patient verbally or physically. The Panel granted this request.

### **Agreed Statement of Facts**

The Panel was provided with an Agreed Statement of Facts (marked as Exhibit 2), which provides as follows:

#### **The Member**

1. Mario Hervas (the “Member”) became a member of the College of Denturists of Ontario (the “College”) in September 1995. At the relevant time, the Member worked at Mario Hervas Denture Clinic (the “Clinic”). Attached at **Tab “A”** is a copy of the Member’s Profile on the College register. Prior to registering with the College, the Member practised dentistry in another jurisdiction. He is not a member of the Royal College of Dental Surgeons of Ontario.
2. On or about May 25, 2021, the Member was administratively suspended. He has not been practising denturism since that date.

#### **Appointment #1**

3. On May 15, 2019, the Client had her initial appointment with the Member. The Client was seeking a repair to a loose cap on the upper right side of her fixed bridge. If the Member was to testify, he would advise the Discipline Committee that he advised the Client that this would be a temporary repair.

4. A bridge is a dental—not a denturism—device. A bridge is not a removable denture. Therefore, the Member was not permitted to repair the bridge. The Member repaired the cap on the bridge, contrary to section 27(2)11 of the *Regulated Health Professions Act, 1991* (the “RHPA”), which is a controlled act not authorized to denturists. Attached at **Tab “B”** is the relevant legislative excerpt.
5. Further, section 32 of the RHPA provides further clarification that denturists are not permitted to repair bridges:

**Dental devices, etc.**

32 (1) No person shall design, construct, repair or alter a dental prosthetic, restorative or orthodontic device unless,

(a) the technical aspects of the design, construction, repair or alteration are supervised by a member of the College of Dental Technologists of Ontario or the Royal College of Dental Surgeons of Ontario; or

(b) the person is a member of a College mentioned in clause (a).

**Employers**

(2) A person who employs a person to design, construct, repair or alter a dental prosthetic, restorative or orthodontic device shall ensure that subsection (1) is complied with.

**Supervisors**

(3) No person shall supervise the technical aspects of the design, construction, repair or alteration of a dental prosthetic, restorative or orthodontic device unless he or she is a member of the College of Dental Technologists of Ontario or the Royal College of Dental Surgeons of Ontario.

## Denturists

(4) This section does not apply with respect to the design, construction, repair or alteration of removable dentures for the patients of a member of the College of Denturists of Ontario if the member does the designing, construction, repair or alteration or supervises their technical aspects.

6. The Member admits that although he was trying to help the Client, he went beyond what he was authorized to do as a denturist in Ontario. Even though he was a dentist, he recognizes that he is not a dentist in Ontario and cannot perform acts of dentistry.
7. While examining the Client, the Member noted that there was a total destruction of abutments and soft dentine tissue remnants of the abutments because of decalcification. He also noted reabsorption of the gums and maxillary bone. Her gums were inflamed.
8. If the Member was to testify, he would advise the Discipline Committee that he advised the Client that she also needed to see a dentist. Regardless, in light of the services sought and the intra-oral condition of the Client, it is agreed that the Member ought to have referred the Client to a dental surgeon.
9. If the Client was to testify, she would advise the Discipline Committee that she believed that the Member was a dentist.
10. At this appointment, the Member:
  - (a) Did not obtain basic health information from the Client;
  - (b) Did not document the appointment (attached at **Tab "C"** is the totality of the records maintained by the Member for the Client);
  - (c) Asked for \$200 in cash from the Client and did not provide the Client with a receipt when requested; and
  - (d) Held himself out as a dentist.

## **Appointment #2**

11. Approximately one to two months later, the Client returned to the Member. The Client was seeking another repair to a loose cap on her upper bridge. The Member repaired the cap on the bridge, contrary to section 27(2)11 of the RHPA, which is a controlled act not authorized to denturists.
12. In light of the services sought and the intra-oral condition of the Client, which continued to be very concerning, the Member ought to have referred the Client to a dental surgeon.
13. If the Client was to testify, she would advise the Discipline Committee that she continued to believe that the Member was a dentist.
14. At this appointment, the Member:
  - (a) Did not obtain basic health information from the Client;
  - (b) Did not document the appointment;
  - (c) Asked for \$200 in cash from the Client and did not provide the Client with a receipt; and
  - (d) Held himself out as a dentist.

## **Appointment #3**

15. Immediately thereafter, the two caps that the Member replaced fell out of the bridge.
16. The Client returned to the Member. The Member repaired the cap on the bridge, contrary to section 27(2)11 of the RHPA, which is a controlled act not authorized to denturists.
17. If the Member was to testify, he would advise the Discipline Committee that he advised the Client that she also needed to see a dentist. Regardless, in light of the



services sought and the intra-oral condition of the Client, which continued to be concerning, the Member ought to have also referred the Client to a dental surgeon.

18. If the Client was to testify, she would advise the Discipline Committee that she continued to believe that the Member was a dentist.
19. At this appointment, the Member:
  - (a) Did not obtain basic health information from the Client;
  - (b) Did not document the appointment;
  - (c) Asked for \$80 in cash from the Client and did not provide the Client with a receipt when requested; and
  - (d) Held himself out as a dentist.

#### **Appointment #4**

20. Sometime thereafter, the Client returned to the Member. The Client was seeking assistance as the front cap on the bridge had fallen out. The Member removed several of the front caps, contrary to section 27(2)11 of the RHPA, which is a controlled act not authorized to denturists. Further, the Client did not consent to this. The Client was not satisfied with how the Member reattached the caps to the bridge.
21. If the Member was to testify, he would advise the Discipline Committee that he advised the Client that she also needed to see a dentist. Regardless, in light of the services sought and the intra-oral condition of the Client, which continued to be concerning, the Member ought to have also referred the Client to a dental surgeon.
22. If the Client was to testify, she would advise the Discipline Committee that she continued to believe that the Member was a dentist.
23. At this appointment, the Member:

- (a) Did not obtain basic health information from the Client;
- (b) Did not document the appointment; and
- (c) Held himself out as a dentist.

### **Contravening a Standard of Practice of the Profession**

- 24. As stipulated in the Standards of Practice: Record Keeping, members of the College must maintain client records that are accurate, clear, concise, and present a comprehensive picture of provided services. Financial records must also be kept as part of the client record. Attached at **Tab “D”** is a copy of the relevant Standard.
- 25. It is agreed that the Member breached this standard of practice of the profession by engaging in the conduct described in this Agreed Statement of Facts.

### **Professional Misconduct**

- 26. By this document, the Member admits to the truth of the facts referred to in paragraphs 1 to 25 above (the “Agreed Facts”).
- 27. It is agreed that the above conduct constitutes professional misconduct pursuant to Clause 51(1)(c) of the *Health Professions Procedural Code*, being Schedule 2 to the RHPA, as set out in the following paragraphs of section 1 of Ontario Regulation 854/93 made under the *Denturism Act, 1991*:
  - (a) **Paragraph 2:** Failing to maintain the standards of practice of the profession, namely the Standards of Practice: Record Keeping;
  - (b) **Paragraph 14:** Failing to refer to a dental surgeon or a physician a patient who has an apparent intra oral condition that the member recognizes or ought to recognize is outside the scope of practice of denturism;
  - (c) **Paragraph 28:** Falling to issue a receipt when requested to do so;

- (d) **Paragraph 33:** Contravening by act or omission the Act, the RHPA, or the regulations under either of those Acts, namely sections 27(2)11 and 32 of the RHPA; and
- (e) **Paragraph 47:** Engaging in conduct or performing an act, relevant to the practice of denturism that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable, unethical or unprofessional.

28. By this document, the Member states that:

- (a) he understands fully the nature of the allegations against him;
- (b) he has no questions with respect to the allegations against him;
- (c) he understands that by signing this document he is consenting to the evidence as set out in the Agreed Facts being presented to the Discipline Committee;
- (d) he understands that by admitting the allegations, he is waiving his right to require the College to prove the case against him and the right to have a hearing;
- (e) he understands that the decision of the Discipline Committee and a summary of its reasons, including reference to his name, may be published in the College's annual report and any other publication or website of the College;
- (f) he understands that any agreement between him and the College with respect to any penalty proposed does not bind the Discipline Committee; and
- (g) he understands and acknowledges that he is executing this document voluntarily, unequivocally, free of duress, free of inducement or bribe,

and that he has been advised of his right to seek legal advice and that he has had the opportunity to receive such advice.

29. In light of the Agreed Facts and Admission of Professional Misconduct, the College and the Member submit that the Discipline Committee should find that the Member has committed professional misconduct.

### **Member's Plea**

The Member admitted the allegations contained in paragraphs 17(a), 17(c), 17(d), 17(e), and 17(f) of the Notice of Hearing. The Panel conducted an oral plea inquiry and was satisfied that the Member's plea was voluntary, informed, and unequivocal.

### **Decision on Misconduct**

The panel considered the Agreed Statement of Facts and the Member's plea and found that the facts and admissions support findings of professional misconduct. In particular, the Panel found that the Member committed acts of professional misconduct as alleged in paragraphs 17(a), 17(c), 17(d), 17(e), and 17(f) of the Notice of Hearing.

### **Joint Submission on Penalty**

The Panel was provided with a Joint Submission on Penalty (marked as Exhibit #3), which provides as follows:

The College of Denturists of Ontario (the "College") and Mario Hervas (the "Member") agree and jointly submit that the following would be an appropriate order as to penalty in this matter:

1. The Member is required to appear before a panel of the Discipline Committee to be reprimanded immediately following the hearing.
2. The Registrar is directed to suspend the Member's Certificate of Registration for a period of six months, on a date to be selected by the Registrar, to begin once the Member's Certificate of Registration is reinstated.

3. The Registrar is directed to immediately impose the following specified terms, conditions or limitations on the Member's Certificate of Registration, to be completed before the Member's Certificate of Registration is reinstated:
- (a) Requiring the Member to successfully complete, to the satisfaction of the Registrar and at his own expense, a pre-approved record-keeping course, within four months of the date of this Order;
  - (b) Requiring the Member to successfully complete, to the satisfaction of the Registrar and at his own expense, a pre-approved ethics course, within four months of the date of this Order;
  - (c) Requiring the Member to attend one mentoring session, at his own expense, with a mentor, pre-approved by the Registrar, to review the issues raised in this case, within four months of the date of this Order; and
  - (d) Requiring the Member to successfully complete, to the satisfaction of the Registrar, an essay to the Registrar setting out what the Member has learned from the investigation, hearing, record-keeping course, ethics course, and mentoring session, within six months of the date of this Order.

### **Penalty Submissions**

Counsel for the College submitted that in view of the facts and admissions set out in the Agreed Statement of Facts and the findings of professional misconduct, the proposed penalty, although significant, is fair. College counsel submitted that the joint submission achieved the principles of specific deterrence, general deterrence, remediation, and maintenance of public confidence in the profession.

College counsel submitted that the proposed penalty was in the usual range of penalties for similar misconduct and directed the Panel to several decisions, including *College of Nurses of Ontario vs Gordon-Neblette* (2016), *Ontario College of Optometrists of Ontario vs Ng* (2016), and *Ontario College of Optometrists of Ontario vs Tepperman* (2019).

Counsel for the College directed the Panel to the decision of *Timothy Edward Bradley v Ontario College of Teachers* (2021) for the test that the Panel must apply in considering the joint submission. College counsel submitted that the joint submission was not so unhinged from the circumstances of the case that its acceptance would lead reasonable and informed persons to believe that the proper functioning of the justice system had broken down.

The Member was given an opportunity to comment on the penalty and confirmed that he agreed with the terms of the Joint Submission on Penalty.

### **Penalty Decision**

The Panel accepted the Joint Submission on Penalty and made an order:

1. Requiring the Member to appear before the panel to be reprimanded immediately following the hearing of this matter.
2. Directing the Registrar to suspend the Member's Certificate of Registration for a period of six months, on a date to be selected by the Registrar, to begin once the Member's Certificate of Registration is reinstated.
3. Directing the Registrar to impose the following specified terms, conditions and limitations on the Member's certificate of registration, to be completed before the Member's Certificate of Registration is reinstated:
  - a. Requiring the Member to successfully complete, to the satisfaction of the Registrar and at his own expense, a pre-approved record-keeping course, within four months of the date of this Order;
  - b. Requiring the Member to successfully complete, to the satisfaction of the Registrar and at his own expense, a pre-approved ethics course, within four months of the date of this Order;

- c. Requiring the Member to attend one mentoring session, at his own expense, with a mentor, pre-approved by the Registrar, to review the issues raised in this case, within four months of the date of this Order; and
- d. Requiring the Member to successfully complete, to the satisfaction of the Registrar, an essay to the Registrar setting out what the Member has learned from the investigation, hearing, record-keeping course, ethics course, and mentoring session, within six months of the date of this Order.

### **Reasons for Penalty Decision**

The Panel found that the penalty in the joint submission would serve as a deterrent to the Member specifically and the profession in general. The order serves to maintain confidence in the College's ability to fulfill its mandate to regulate denturism in the public interest.

The penalty has a significant educational component, which will achieve remediation. Significant remediation is appropriate in the circumstances due to the nature of the findings of professional misconduct.

The six-month suspension of the Member's certificate of registration is significant, but appropriate given the seriousness of the findings in this matter.

The reprimand, and the fact that the reprimand will be posted on the public register, serves the principles of specific deterrence and general deterrence. The principle of transparency has also been met by the fact that the outcome of the hearing, including the reprimand, will be available to the public on the College's website.

In accepting the joint submission, the Panel considered that the Member has no discipline history at the College, that there is no evidence that this is a pattern of behavior with other clients, that he cooperated with the investigation and that he pled guilty, thereby saving considerable time and expense to the College. This also indicates that the Member is taking responsibility for his actions.

The Panel found that the principles of public protection, specific deterrence, general deterrence, and remediation were all served by this order in all the circumstances.

*Elizabeth Gorham-Matthews*

Elizabeth Gorham-Matthews  
Chairperson

*October 24, 2022*

Date

Elizabeth Gorham-Matthews  
Avneet Bhatia  
Aisha Hasan