

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

BETWEEN:

COLLEGE OF DENTURISTS OF ONTARIO

- and -

MARIO HERVAS

NOTICE OF HEARING

THE INQUIRIES, COMPLAINTS AND REPORTS COMMITTEE OF THE COLLEGE OF DENTURISTS OF ONTARIO (the "College") has referred specified allegations against you to the Discipline Committee of the College. The allegations were referred in accordance with section 26(1)1 of the *Health Professions Procedural Code* (the "Code") which is Schedule II to the *Regulated Health Professions Act, 1991*. The statement of specified allegations is attached to this Notice of Hearing as Schedule "A". A discipline panel will hold a hearing under the authority of sections 38 to 56 of the *Code* for the purposes of deciding whether the allegations are true.

The hearing will be held before a panel of the Discipline Committee (the "Panel") at a **place, date and time to be determined by the Registrar of the College**. You may have a representative appear on your behalf.

SUBSECTION 51(2) OF THE CODE PROVIDES THAT if the Panel makes a finding of professional misconduct, it may make an order, doing one or more of the following:

1. Directing the Registrar to revoke your Certificate of Registration.
2. Directing the Registrar to suspend your Certificate of Registration, for a specified period of time.
3. Directing the Registrar to impose specified terms, conditions and limitations on your Certificate of Registration, for a specified or indefinite period of time.
4. Requiring you to appear before the Panel to be reprimanded.

5. Requiring you to pay a fine, of not more than \$35,000.00, to the Minister of Finance.
6. If the act of professional misconduct was the sexual abuse of a patient, require you to reimburse the College for funding provided for that patient under the program required under section 85.7 of the Health Professions Procedural Code.
7. If the panel makes an order under paragraph 6, require you to post security acceptable to the College to guarantee the payment of any amounts the member may be required to reimburse under the order under paragraph 6.

PURSUANT TO SECTION 53.1 OF THE CODE, in an appropriate case, if the Panel finds that you committed professional misconduct or finds you to be incompetent, the Panel may make an order requiring you to pay all or part of the following costs and expenses:

1. the College's legal costs and expenses;
2. the College's costs and expenses incurred in investigating the matter; and
3. the College's costs and expenses incurred in conducting the hearing.

You are entitled to know what evidence against you the College has or knows about. The disclosure of the evidence obtained thus far is accompanied with this Notice of Hearing. You or your representative may communicate with the solicitors for the College. They are:

Rebecca Durcan
Steinecke Maciura LeBlanc
Barristers & Solicitors

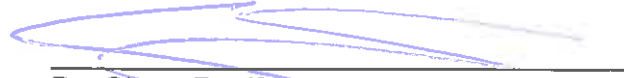
401 Bay Street
Suite 2308, P.O. Box 23
Toronto, ON M5H 2Y4
Direct: (416) 644-4783
Fax: (416) 593-7867

If you prefer to communicate with the College in French or would like the hearing of your case to be conducted in French, then you must notify the College as soon as possible so that it can make reasonable attempts to accommodate your request.

IF YOU DO NOT ATTEND THE HEARING in person or if you are not represented by someone, the Panel may proceed in your absence and you will not be entitled to any further notice of the proceedings.

Date:

November 24, 2020



Dr. Glenn Pettifer
Registrar
College of Denturists of Ontario

TO: MARIO HERVAS
Mario Hervas Denture Clinic
203-1203 St. Clair Avenue West
Toronto, ON M6E 1B5

Schedule "A"

STATEMENT OF ALLEGATIONS

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:** Falling 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.

APPENDIX

1. The documents to be tendered in evidence at the hearing have been sent with this Notice of Hearing.
2. The *Rules of Procedure of the Discipline Committee* have been sent with this Notice of Hearing.
3. Take notice that the documents that have been and may later be disclosed to you will be tendered as business documents pursuant to the *Evidence Act* of Ontario.
4. All documents that are disclosed to you in this matter are disclosed on the basis that they are to be used solely for the purpose of this proceeding and for no other purpose.

DISCIPLINE COMMITTEE OF THE
COLLEGE OF DENTURISTS
OF ONTARIO

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STEINECKE MACIURA LEBLANC
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Rebecca Durcan

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Lawyers for the College of Denturists
of Ontario