

**IN THE MATTER OF  
THE COLLEGE OF DENTAL HYGIENISTS OF BRITISH COLUMBIA”AND  
CITATION ISSUED UNDER THE *HEALTH PROFESSIONS ACT*,  
R.S.B.C. 1996, chapter 183 (the “Act”)**

BETWEEN:

THE COLLEGE OF DENTAL HYGIENISTS OF BRITISH COLUMBIA

(the “College”)

AND:

DARREN KLUTHE (a.k.a. CHRISTIAN DALE AERIUS)

(the “Respondent”)

**Date and Place of Hearing:**

Date: Tuesday, April 11, 2017

Place: Charest Reporting  
HSBC Building  
1650-885 West Georgia Street  
Vancouver, B.C.  
V6C 3E8

**Members of the hearing panel of the Discipline Committee:**

Carol Williams (Chair)  
Zul Kanji  
Jennifer Aarestad

**Counsel for the College:**

Angela Westmacott, Q.C.

**Counsel for the Respondent:**

No attendance by the Respondent or counsel

**Independent Legal Counsel for the Panel:**

Lisa C. Fong

**Court Reporter**

Patricia Bentley

**REASONS FOR DECISION AND ORDER  
OF THE DISCIPLINE COMMITTEE**

1. A hearing panel of the Discipline Committee (the “Panel”) convened on April 11, 2017 at 9:00 a.m. to inquire into allegations of unprofessional conduct.

### **Proceeding without the Respondent**

2. The Respondent did not attend at the hearing. At the outset of the hearing, the Panel asked College counsel for any information relating to his intention to attend. Ms. Westmacott advised that she had sent the Respondent numerous letters and emails, and that Janelle Snowden, the College's executive office manager, had called him, and when she could not reach him, left a voicemail message to contact Ms. Westmacott regarding the hearing. The Panel adjourned for 10 minutes in case the Respondent was late, but the Respondent did not call or appear by the time the Panel resumed the hearing.

3. The College sought to proceed with the hearing pursuant to HPA s. 38(5). That provision allows the discipline committee to proceed with a hearing in a respondent's absence, on proof of receipt of the citation by the respondent, and take any action it is authorized to take under the HPA without further notice to the respondent.

4. Ms. Westmacott tendered an affidavit of service dated Nov. 28, 2016 (Tab 2 of the College's Book of Documents). The affidavit of service stated that on Nov. 24, 2016, the Respondent was personally served with a citation dated Nov. 17, 2016 (the "Citation"). The Citation indicated that this hearing would occur on Apr. 11 and 12, 2017. The College served the Respondent more than 30 days before the date of the hearing.

5. Ms. Westmacott also provided the Panel with copies of both an email and a letter from her to the Respondent, each dated Mar. 27, 2017, and each attaching an amended citation (the "Amended Citation"). The amendment pertained only to the date on which the Respondent signed an undertaking in 2012. The College also delivered the Amended Citation on the Respondent more than 14 days before the date of the hearing.

6. Ms. Westmacott also submitted that the Respondent was unlikely to attend, as she had sent numerous letters and emails, and he had responded to none of them with respect to the hearing.

7. The Panel decided to proceed with the hearing. The College proved that the Citation was personally served on the Respondent. Consequently, HPA s. 38(5) allowed the Panel to proceed with the hearing. The Panel also ordered that the College could amend the Citation in accordance with the Amended Citation.

### **Citation**

8. The Amended Citation is attached as Schedule A to these Reasons for Decision and Order (the "Reasons"), and forms a part of the Reasons. The only amendment is that the reference at paragraph 6 of the Schedule, which originally referred to the Respondent signing a "consent order" on Sept. 18, 2012, was amended to refer to Oct. 9, 2012.

9. **Overview:** The Respondent had, prior to 2016, undertaken to the College
- a. on Oct. 9, 2012, "2. ...to ensure he is open and forthright and provides accurate information in all future communications with the College" (the "First Undertaking"), and
  - b. on May 24, 2014, "1. ...not to repeat the conduct of failing to have professional negligence insurance in place at all times while holding full registration with the College of Dental Hygienists of British Columbia" (the "Second Undertaking").

10. At all material times, including January and March 2016, the Respondent was a full registrant of the College. Bylaw s. 47(1) provides, however, that registration in any class must be renewed annually, not later than the last day of February. The Respondent was lacking the continuing competency credits required for renewal under Bylaw s. 47(2)(d), and he did not renew his registration before the last day of February in 2016.

11. On Mar. 1, 2016, the Respondent attempted to apply for reinstatement of his registration. He was, however, lacking the continuing competency credits necessary for reinstatement. If he did not obtain reinstatement, he faced cancellation of his registration on April 1, 2016.

12. The College alleges, in brief, that the Respondent

- a. initially told College staff he had the necessary credits when he did not;
- b. later admitted he did not have sufficient credit, but then advised College staff that he had purchased modules from the B.C. Dental Hygienists Association (the "Association") before he did; and
- c. submitted a continuing competency credit form on Mar. 15, 2017 claiming for 63 hours of self-study, based on 21 modules from the Association, that he had not actually completed.

(Tabs 17 and 18 of the Book of Documents)

13. On Mar. 15, 2016, the College received his application for reinstatement. After stating to College staff, on Mar. 23, 2016, that he had completed the modules on Mar. 20, 2017, the College reinstated his registration effective Mar. 29, 2016. He was, however, a full registrant of the College throughout March 2016, subject to having his registration cancelled on April 1, 2016 until his obtained reinstatement.

14. As part of his application for reinstatement, the Respondent submitted proof of insurance, as required under Bylaw s. 6.19(2)(d), which showed that his insurance for 2016 did not commence until Jan. 22, 2016, which indicates he had no insurance coverage in 2016 prior to Jan. 22, 2016.

15. **Specific factual allegations:** The Amended Citation alleges (in addition to the undertakings set out above) the following facts:

2. Based on the investigation, the College alleges that

- (a) the Respondent advised Alexandria Kreiberg, a College staff member, on March 1, 2016 that he had all of the credits recorded on the Continuing Competency Credit form;
- (b) the Respondent advised Melina Angelova, a College staff member, on March 1, 2016 that: (i) he had picked up the BCDHA modules on February 29, 2016; and (ii) he had completed all of the BCDHA modules;
- (c) the Respondent paid for the BCDHA modules on March 7, 2016 but did not physically pick up the BCDHA modules until the afternoon of March 14, 2016;

- (d) the Respondent faxed a Continuing Competency Credit form to the College on March 15, 2016 in which he falsely declared that he had completed all 21 BCDHA modules in 63 hours when he had only picked up the BCDHA modules approximately 24 hours earlier;
- (e) the Respondent had not completed all of the 21 BCDHA modules at the same time that he faxed the Continuing Competency Credit form to the College;
- (f) the Respondent acknowledged on March 23, 2016 that he did not pick up the BCDHA modules until March 14, 2016; and
- (g) the Respondent advised the College on March 23, 2016 that he completed all of the BCDHA modules by March 20, 2016 and submitted a Certificate of Completion.

...

7. Under paragraph 2 of Consent Order #1, the Respondent undertook to be open and forthright and provide accurate information in all future communications with the College.

...

10. Under paragraph 1 of Consent Order #2, the Respondent undertook not to repeat the conduct of failing to have professional negligence insurance in place at all times while holding full registration with the College.

16. **Specific grounds for disciplinary action:** The College alleges the following:

a. professional misconduct, due to (i) the Respondent making untrue and misleading statements to the College, and (ii) his breaching an undertaking requiring that he provide accurate information in all future communications with the College; and

4. The Respondent engaged in professional misconduct by making false statements and providing untruthful and misleading information to the College regarding the completion of his Continuing Competency Credits.

...

8. The Respondent contravened paragraph 2 of Consent Order #1 by:

(a) falsely advising Ms. Kreiberg on March 1, 2016 that he had all of the credits recorded on the Continuing Competency Credit Form;

(b) falsely advising Ms. Angelova on March 1, 2016 that: (i) he had picked up the BCDHA modules on February 29, 2016; and (ii) he had completed all of the BCDHA modules; and

(c) faxing a Continuing Competency Credit form to the College on March 15, 2016 in which he falsely declared that he had completed all 21 BCDHA modules, and did so in 63 hours when he had picked up the BCDHA modules only approximately 24 hours earlier.

...

12. The Respondent's contravention of para. 2 of Consent Order #1 and para. 1 of Consent Order #2 constitutes professional misconduct.

b. professional misconduct due to the Respondent breaching an undertaking requiring that he maintain professional insurance while registered as a full registrant with the College.

11. The Respondent contravened paragraph 1 of Consent Order #2 by failing to have professional liability insurance in place between January 1, 2016 and January 22, 2016 while registered as a full registrant with the College.

12. The Respondent's contravention of para. 2 of Consent Order #1 and para. 1 of Consent Order #2 constitutes professional misconduct.

### **Evidence**

17. **Witnesses:** The College called four witnesses:

- a. Jennifer Lawrence, Registrar of the College;
- b. Milena Angelova, Quality Assurance Supervisor;
- c. Chris Kilmaster, Member Service Coordinator for the Association; and
- d. Hudson Andrews, investigator.

18. The Panel summarizes the evidence of the witnesses as follow, but more details of their evidence may be found in the section further below setting out the Panel's factual findings. The Panel found all of these witnesses to be credible, and accepted the evidence of each of them.

19. Ms. Lawrence testified about, among other things,

- a. the Respondent's status as a full registrant from Mar. 1, 2015 to Feb. 28, 2016;
- b. the nature of the College's continuing competency requirements, including the requirement for 75 CC credits during each three-year cycle;
- c. if a registrant does not renew each year by the end of February, the need for that registrant to obtain reinstatement before April 30 to avoid having his registration cancelled;
- d. the requirements for reinstatement;
- e. her discussions with two College staff members, Alexandria Kreiberg and Milena Angelova, concerning their discussions with the Respondent on Mar. 1, 2016, and her directing them to record their conversations with him in memorandum, which is at Tab 5 of the College's Book of Documents (addressed below);
- f. the Respondent completing his application for reinstatement by faxing a CC Credit Form to the College on Mar. 15, 2016, which is Tab 7 of the College's Book of Documents (addressed below), and that he declared 63 credits based on 21 study modules produced by the Association;
- g. the information she received from a discussion with Ms. Kilmaster that the Respondent only picked up his 21 modules on Mar. 14, 2016, each of which most registrants would require 3-5 hours to complete, according to Ms. Kilmaster;

- h. her referring the matter to the Inquiry Committee, which commenced an investigation on its own motion into the Respondent's conduct;
- i. the Respondent also going by the name "Christian Dale Aeries";
- j. the Respondent's proof of insurance for 2016, which is at Tab 19 of the College's Book of Documents (addressed below) shows he did not have insurance in place from Jan. 1 to Jan. 21, 2016;
- k. two prior undertakings of the Respondent, which he gave on Oct. 9, 2012 and May 24, 2014, which undertakings are at Tabs 17 and 18 of the College's Book of Documents (addressed below); and
- l. a second investigation by the Inquiry Committee, on its own motion, concerning his breaching two undertakings.

Ms. Lawrence identified each of the documents in the College's Book of Documents (addressed below), all of which the Panel accepted as authentic and admissible.

20. Ms. Angelova testified about, among other things,
- a. requirements of the College's quality assurance program, including continuing competence (or CC) credit requirements;
  - b. her discussion with the Respondent on Mar. 1, 2016, including
    - i. his stating that he had purchased 65 credits of modules from the Association the previous day, and that he had completed around 20 credits,
    - ii. her telling him that she would send him the CC Credit Form that he was to complete and return once he had completed his activities, and
    - iii. her telling him that he could not send his CC Credit Form for activities he had not actually completed,

which she recorded in a memorandum to file at Tab 5 of the College's Book of Documents (addressed below);

21. Ms. Kilmaster testified about her duties as Member Service Coordinator for the Association. She further testified that
- a. she was not at the Association's office on Mar. 7, 2016 when the Respondent came in to order modules, but that her duties included preparing the modules;
  - b. on Mar. 8 she contacted the Respondent to advise him that she would be preparing the modules;
  - c. the Respondent picked up the modules on Mar. 14, 2016 and that she was the one who provided the modules; and
  - d. the modules have certificate of completion that are issued by the Association.

22. Ms. Kilmaster also testified about the Association's statistics about how long, on average, members take to complete modules. A table of average hours to complete various modules was included in the documents at Tab 13 of the College's Book of Documents (addressed below). She testified to some outliers, meaning people who would take much time, or much less time, but she had not experienced someone who had finished the modules as quickly as him, given that he

called on Mar. 20, 2016 to advise that he had finished, and came back on Mar. 21, 2016 to pick up his certificates.

23. Hudson Andrews testified about his role as inspector in investigating this matter, which he documented in an investigation report at Tab 13 of the College's Book of Documents (addressed below). In addition to producing the investigation report, Mr. Andrews produced his typed notes of his interview with the Respondent. Mr. Andrews testified that the Respondent made the statements recorded in the interview notes. The Panel sets out key admissions by the Respondent in the section further below concerning the Panel's factual findings, but in brief, the Respondent admitted to saying he had credit when he did not, and confirmed that some of the information he had given to College staff members "was fabricated".

24. **Documents:** The College submitted the following exhibits:

- a. **Ex. 1:** the Amended Citation;
- b. **Ex. 2:** Affidavit of Service (Tab 2 of the Book of Documents);
- c. **Ex. 3:** A letter from Ms. Westmacott to the Respondent dated Mar. 27, 2017 (attaching the Amended Citation);
- d. **Ex. 4:** An e-mail from Ms. Westmacott to the Respondent dated Mar. 27, 2017 (attaching the Amended Citation);
- e. **Ex. 5:** The Respondent's registration certificate for 2015-2016 (indicating the Respondent's status as "Full Practicing" from Mar. 1, 2015 to Feb. 29 2016); and
- f. **Ex. 6:** The College's Book of Documents.

25. The College's Book of Documents (Ex. 6) consisted of nineteen documents, all of which the Panel accepted into evidence:

- a. **Tab 1:** Citation dated Nov. 17, 2016, including Schedule;
- b. **Tab 2:** Affidavit of Service sworn Nov. 28, 2016, indicating service of the Citation on the Respondent at 9:45 a.m. on Nov. 24, 2016;
- c. **Tab 3:** The Respondent's Registration Card from Mar. 29, 2016 to Feb. 28, 2017;
- d. **Tab 4:** The Respondent's Registration Card from Mar. 1, 2017 to Feb. 28, 2018;
- e. **Tab 5:** A memorandum setting out conversations between the Respondent and Alexandria Kreiberg (a former College employee), and between the Respondent and Milena Angelova (Quality Assurance Supervisor), all on Mar. 1, 2016.
- f. **Tab 6:** 2016/2017 Registration Reinstatement Application Form stamped received by the College on Mar. 15, 2016.
- g. **Tab 7:** Continuing Competency Credit Form dated Mar. 15, 2016, and a sales receipt from the Association for 21 modules of a Dental Hygiene Refresher Program;
- h. **Tab 8:** A letter from Ms. Lawrence to the Respondent dated Mar. 17, 2016;
- i. **Tab 9:** E-mail from the Respondent to Jannelle Snowden dated Mar. 23, 2016, with various certificates of completion stamped received by the College on Mar. 23, 2016;

- j. **Tab 10:** E-mail from the Respondent to Janelle Snowden dated Mar. 25, 2016;
- k. **Tab 11:** A letter from Ms. Lawrence to the Respondent dated Apr. 5, 2016 concerning an investigation by the Inquiry Committee on its own motion concerning misleading or untruthful statements;
- l. **Tab 12:** E-mail from the Respondent to the College dated Apr. 22, 2016;
- m. **Tab 13:** Inspector's Report dated Jun. 17, 2016, including
  - i. a "Darren Kluthe Transcript Summary" dated Jun. 15, 2016, and
  - ii. an e-mail from Chris Kilmaster concerning the average number of hours taken by participants to complete modules;
- n. **Tab 14:** E-mail from the Respondent to the College dated Jul. 18, 2016;
- o. **Tab 15:** A letter from Ms. Lawrence to the Respondent dated Aug. 18, 2016 concerning an investigation by the Inquiry Committee on its own motion concerning breaches of "Consent Orders";
- p. **Tab 16:** E-mail from the Respondent to the College dated Sept. 2, 2016;
- q. **Tab 17:** Undertaking and Consent Order dated May 24, 2014 (signature date);
- r. **Tab 18:** Undertaking and Consent Order dated Oct. 9, 2012 (signature date); and
- s. **Tab 19:** Certificate of Professional Liability Insurance No. 11716 issued to the Respondent as insured, with a policy period from Jan. 22, 2016 to Dec. 31, 2016.

All Panel references to "tabs" refer to the Book of Documents (Ex. 6) unless otherwise noted.

26. With respect to the memorandum of Mar. 1, 2016 (Tab 5) (the "Memorandum"), Ms. Lawrence testified that one author, Alexandria Kreiberg, was a former employee of the College who is now living in the United States. The Memorandum came about after both Ms. Kreiberg and Ms. Angelova spoke to the Respondent on Mar. 1, 2016, and then both spoke to Ms. Lawrence about concerns relating to the Respondent not having met continuing education requirements. Ms. Lawrence asked both of them to prepare a note of their telephone conversations. Ms. Kreiberg created the Memorandum with the text concerning her three discussions with the Respondent between 8:00 a.m. and 10:30 a.m. on Mar. 1, 2016. Ms. Angelova added the text concerning her one discussion with the Respondent around 10:45 a.m. that same day.

27. The Panel accepts the Memorandum as an accurate record of the conversations between the Respondent and College staff on Mar. 1, 2016. In addition to the Panel not being bound by court rules of evidence, the Panel is satisfied that the College's staff prepared the Memorandum in the ordinary course of business, on the same day that Ms. Kreiberg and Ms. Angelova spoke to the Respondent.

#### **Factual findings**

28. Disciplinary hearings before the Panel are civil proceedings where the burden of proof lies on the College, and its standard of proof is the balance of probabilities. The Panel must find that alleged conduct is more likely than not.

29. The Panel has found the following facts.



30. **Undertakings:** On Oct. 9, 2012, the Respondent signed and gave the First Undertaking, namely an undertaking “2. ...to ensure he is open and forthright and provides accurate information in all future communications with the College” (Tab 18). The allegation of this undertaking at paragraphs 6 and 7 are proven.

31. On May 24, 2014, the Respondent signed and gave the Second Undertaking, namely an undertaking that he “1. ...not to repeat the conduct of failing to have professional negligence insurance in place at all times while holding full registration with the College of Dental Hygienists of British Columbia” (Tab 19). The allegation of this undertaking at paragraphs 9 and 10 are proven.

32. The Panel notes that even if the Respondent had not given the Second Undertaking, Bylaw section 68.1 stipulates that, “All registrants, other than non-practising registrants, must be insured against liability arising from an error, omission or negligent act in the provision of services included in the practice of dental hygiene in an amount of at least \$1 million per occurrence in a form that is satisfactory to the college.”

33. **Status as a full registrant:** The Respondent was a full registrant of the College from January 1, 2016 onward, and his registration had not yet been cancelled in March 2016, when he was attempting to complete his application for reinstatement (Ex. 5).

34. **Misrepresentations:** On Mar. 1, 2016, in response to Ms. Kreiberg advising the Respondent that he was short continuing competency (“CC”) credit for reinstatement, the Respondent told Ms. Kreiberg that he had his CC credits recorded on CC credit forms (Tab 5). The allegation at para. 2(a) is proven, except that the date of this representation was Mar. 1, 2016.

35. On Mar. 1, 2016, the Respondent advised Ms. Angelova that he could not enter his CC credits because he did not actually have all the credits accumulated (Tab 5 and testimony of Milena Angelova). The alleged representation at para. 2(a) was therefore a misrepresentation.

36. During his discussion with Ms. Angelova on Mar. 1, 2016, the Respondent told her that he had purchased 65 credits of modules from the Association “yesterday” and said that he had “around 20” credits to date. Ms. Angelova said she would send him the CC Credit Form he was to complete and return once he had completed his activities. She told him that he could not send the CC Credit Form for activities he had not actually completed (Tab 5 and testimony of Milena Angelova). The allegation at para. 2(b) that he picked up the Association modules on Feb. 29, 2016 is proven. The allegation at para. 2(b) that he had completed all of the Association modules is proven insofar as he said he had completed “around 20” credits. In the CC Credit Form that he eventually submitted on Mar. 15, 2016, the Respondent indicated that he had completed 21 modules (Tab 7).

37. On Mar. 7, 2016, the Respondent ordered modules from the Association, and on Mar. 14, 2016, the Respondent picked up the modules from the Association (testimony of Chris Kilmaster). The Respondent admits in an e-mail dated Mar. 23, 2016 (Tab 9), and in an e-mail dated Apr. 22, 2016 (Tab 12) that he picked up the modules on Mar. 14, 2016. The facts alleged at para. 2(c) are proven.

38. On Mar. 15, 2016, the Respondent faxed a CC Credit Form to the College in which he declared that he had completed 21 Association modules through 63 hours (i.e., 21 modules times 3 hours per module): “I hereby certify that I have participated in the continuing competency activities described above for the number of credit hours requested...” (Tab 7 and testimony of

Jennifer Lawrence). The Respondent claimed for 76.5 credits for the three-year CC cycle, which includes 63 credits from the modules. Although the copy of the CC Credit Form document before the Panel is missing a fax line, a Reinstatement Application Checklist confirms that the Respondent provided a complete reinstatement application, including a declaration of CC credits, on Mar. 15, 2016 (Tab 5, page 18).

39. On Mar. 17, 2016, Ms. Lawrence sent a letter to the Respondent advising that the Association had confirmed that he had picked up 21 modules on Mar. 14, and advised that, "I am not prepared to approve your reinstatement application until you provide a written explanation of how you were able to complete 21 modules in less than 36 hours" (Tab 8).

40. On Mar. 23, 2016, the Respondent advised the College by e-mail that, "I completed the modules on March 20<sup>th</sup>, 2016. I began the modules on March 14, 2016" (Tab 9). He provided the College with certificates of completion issued by the Association on Mar. 21, 2016 (Tab 9). The Respondent also admitted in an e-mail dated Apr. 22, 2016 (Tab 12) that he completed the modules on Mar. 20, 2016. During an interview with Hudson Andrews, the Respondent admitted, "I said I had my credits – when actually, I didn't", or words to that effect (Tab 13 "Darren Kluthe Transcript Summary" and testimony of Hudson Andrews). He also confirmed, "some of the information was fabricated" (Tab 13 and testimony of Hudson Andrews).

41. Given that the Respondent had only picked up the modules on the previous day, and did not have 63 hours to complete the modules before his declaration, the Panel finds that his declaration in his CC Credit Form was false. The Respondent also admitted that he completed the modules on Mar. 20, 2016. The facts alleged at paragraphs 2(d), 2(e), 2(f) and 2(g) are proven. Additionally, the assertion at paragraph 3 that the Respondent acknowledged to an inspector that information he supplied to the College was fabricated is proven.

42. **Lack of insurance while a full registrant:** The Respondent provided the College with a Certificate of Professional Liability Insurance for 2016 that indicated his insurance coverage for 2016 did not commence until Jan. 22, 2016 (Tab 19).

43. The allegation at paragraph 11 that the Respondent failed to have professional liability insurance in place "between January 1, 2016 and January 22, 2016" is proven with respect to the period from Jan. 1, 2016 to Jan. 21, 2016.

#### **Professional misconduct**

44. The Respondent was a full registrant in January 2016. Although the Respondent had missed the deadline for renewing his registration at the end of February 2016, his registration was not yet cancelled. He was still a full registrant of the College in March 2016.

45. Ms. Westmacott cited a number of cases for the proposition that procuring membership or registration through a false representation constitutes professional misconduct. For example, the Appellate Division of the Ontario Supreme Court said in the 1931 case of *Harcourt* that an engineer "procuring of registration by a false and fraudulent representation was unprofessional conduct, not merely antecedent to his acceptance, but continuing unprofessional conduct in retaining membership of an association thus procured by fraudulent means." *Re Harcourt and Association of Professional Engineers of the Province of Ontario*, [1931] O.J. No. 46, 39 O.W.N. 462 (ONSC-App.Div.) at para. 7. More recently, a discipline panel of the Law Society of British Columbia found that providing false answers in an application for admission constituted conduct unbecoming, and that where such false answers were given by someone who was a member at

the time, they could also be characterized as professional misconduct: Re Power, 2009 LSBC 23 (CanLII) at paras. 34 and 35.

46. The Code of Ethics, which is Schedule F of the College's Bylaws, specifies that registrants must, "12. Represent the values and ethics of dental hygiene before others, and maintain the public trust in dental hygienists and their profession". Honesty is a foundational value and ethic of the profession. Further, the Respondent expressly undertook on Oct. 9, 2012, through the First Undertaking, to be "open and forthright" and to provide "accurate information" to the College.

47. The Panel has determined, under section 39(1) of the Act, that the Respondent engaged in professional misconduct by

- a. making knowingly false statements to the College relating to his continuing competency credits, specifically by
  - i. falsely advising Ms. Kreiberg on Mar. 1, 2016 that he had all of his CC credits recorded;
  - ii. falsely advising Ms. Angelova on Mar. 1, 2016 that he had picked up modules on Feb. 29, 2016; and
  - iii. falsely declaring on a CC Credit Form which he submitted on Mar. 15, 2016 that he had completed 21 modules in 63 hours;
- b. his contravening an undertaking to ensure he is open and forthright and provides accurate information in all future communications with the College, by making two misrepresentations to College staff members, and by falsely declaring that he completed continuing competency hours for which he claimed credit; and
- c. his also contravening an undertaking not to repeat the conduct of failing to have professional negligence insurance in place at all times while holding full registration with the College, by failing to have professional liability in place while a full registrant between Jan. 1 and Jan. 21, 2016.

48. The Panel also wishes to express its concern that the Respondent has exhibited a failure to take responsibility for his own conduct, as reflected by his failing to comply with undertakings to avoid repeating misconduct; his excuses for why he did not have sufficient continuing competency credits, and about why he lied about having his credits; his placing blame on College staff for his situation, on stress, and on his not fully appreciating what was expected of him (Tab 12). The Panel also expresses its concern with respect to the Respondent's failure to respond to the College's counsel about the hearing, and his failing to attend the hearing without notice.

#### **Penalty, publication and costs**


49. Submissions regarding penalty, publication and costs will be forthcoming from the College and may be forthcoming from the Respondent. The Panel will arrive at a decision on these issues in due course, and its further reasons will form part of these Reasons.

#### **Notice**

50. The Respondent is advised that under section 40(1) of the Act, a respondent aggrieved or adversely affected by an order of the Discipline Committee under section 39 of the Act may

appeal the decision to the Supreme Court. Under section 40(2), an appeal must be commenced within 30 days after the date on which this order is delivered.

These are the Panel's Reasons for Decision and Order.

	Vancouver, BC	May 2, 2017
Name	Place	Date

Name	Place	Date

Name	Place	Date

appeal the decision to the Supreme Court. Under section 40(2), an appeal must be commenced within 30 days after the date on which this order is delivered.

These are the Panel's Reasons for Decision and Order.



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Name *Zul Kanji* Place *Vancouver, BC* Date *May 2, 2017*

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Name Place Date

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Name Place Date

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These are the Panel's Reasons for Decision and Order.

C. Williams	Victoria BC	21 May 2017
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## COLLEGE OF DENTAL HYGIENISTS OF BRITISH COLUMBIA

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### AMENDED CITATION TO APPEAR Section 37 of the *Health Professions Act*

TO: Darren Kluthe  
1001 – 1931 Nelson Street  
Vancouver, B.C. V6G 1N3

(the "Respondent")



Exhibit No. 1  
Wns: RE: D. KLUTHE  
Date: APRIL 11-2017  
Patricia Bentley

**TAKE NOTICE** that the Inquiry Committee of the College of Dental Hygienists of British Columbia (the "College") has directed me, as the Registrar, to issue this Citation under section 37 of the *Health Professions Act*, R.S.B.C. 1996, c. 183 (the "Act"). A hearing panel of the College's Discipline Committee will conduct a hearing to inquire into your conduct, the circumstances of which are set out in the attached schedule, to determine whether you have engaged in professional misconduct as defined in s. 26 of the Act by providing false statements and untruthful and misleading information to the College regarding completion of Continuing Competency Credits, and contravening undertakings in s. 36 consent orders to be forthright and provide accurate information to the College, and to refrain from repeating the conduct of failing to have professional negligence insurance in place at all times while holding full registration with the College.

**AND FURTHER TAKE NOTICE** that the hearing will be held as follows:

PLACE: Charest Reporting  
HSBC Building  
1650 - 885 W. Georgia Street  
Vancouver, BC V6C 3E8

DATE: Tuesday, April 11<sup>th</sup> and Wednesday, April 12<sup>th</sup>, 2017

TIME: 9:00 am to 4:00 pm

If you are unavailable on the date set for the hearing, you may apply in writing to request a change in the date or time.

**AND FURTHER TAKE NOTICE** that s. 38(4.1) of the Act entitles you to an outline of the anticipated evidence from each of the witnesses that will be called and an opportunity to inspect any documentary evidence at least 14 days prior to the hearing. Your rights relating to the hearing can be found in the Act and the College Bylaws.

**AND FURTHER TAKE NOTICE** that at the hearing, legal counsel on behalf of the College will make submissions with respect to the appropriate action to be taken regarding your registration. The action that can be taken includes suspension and/or cancellation of your registration and/or the imposition of a fine under s. 39(2) of the Act.

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**Non-Appearance by Respondent:** If you fail to appear at the date, time and place set for the hearing, the Discipline Committee is entitled to proceed with the hearing in your absence upon proof of receipt of the Citation by you and may take any action, without further notice to you, that it is authorized to take under the Act, Regulations and College Bylaws pursuant to s. 38(5) of the Act.

#### DISCIPLINE COMMITTEE'S CONTACT INFORMATION

The mailing address and contact information for the Discipline Committee for delivery is:

College of Dental Hygienists of British Columbia  
Suite 600, 3795 Carey Road  
Victoria, British Columbia V8Z 6T8  
Tel: (250) 383-4101  
Fax: (250) 383-4144

Attention: Discipline Committee

Dated at Victoria, British Columbia, this 17<sup>th</sup> day of November, 2016.



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Jennifer Lawrence  
Registrar

## SCHEDULE

### Nature of the alleged conduct to be inquired into:

**(a) Making false statements and providing untruthful and misleading information to the College regarding completion of Continuing Competency Credits**

1. On April 4, 2016, the Inquiry Committee of the College initiated an investigation under s. 33(4)(c) of the Act to investigate whether the Respondent made false statements and provided untruthful and misleading information to the College regarding the submission of his Continuing Competency Credits.
2. Based on the investigation, the College alleges that:
  - (a) the Respondent advised Alexandria Kreiberg, a College staff member, on March 1, 2016 that he had all of the credits recorded on the Continuing Competency Credit form;
  - (b) the Respondent advised Melina Angelova, a College staff member, on March 1, 2016 that: (i) he had picked up the BCDHA modules on February 29, 2016; and (ii) he had completed all of the BCDHA modules;
  - (c) the Respondent paid for the BCDHA modules on March 7, 2016 but did not physically pick up the BCDHA modules until the afternoon of March 14, 2016;
  - (d) the Respondent faxed a Continuing Competency Credit form to the College on March 15, 2016 in which he falsely declared that he had completed all 21 BCDHA modules in 63 hours when he had only picked up the BCDHA modules approximately 24 hours earlier;
  - (e) the Respondent had not completed all of the 21 BCDHA modules at the time that he faxed the Continuing Competency Credit form to the College;
  - (f) the Respondent acknowledged on March 23, 2016 that he did not pick up the BCDHA modules until March 14, 2016; and
  - (g) the Respondent advised the College on March 23, 2016 that he completed all of the BCDHA modules by March 20, 2016 and submitted a Certificate of Completion.
3. The Respondent acknowledged to the inspector appointed by the Inquiry Committee that some of the information he supplied to the College was fabricated.
4. The Respondent engaged in professional misconduct by making false statements and providing untruthful and misleading information to the College regarding the completion of his Continuing Competency Credits.

**(b) Failing to comply with Consent Order undertakings**

5. On August 15, 2016, the Inquiry Committee initiated an investigation under s. 33(4)(c) of the Act to investigate whether: (a) the Respondent's provision of false statements and untruthful and misleading information to the College regarding his Continuing Competency Credits as alleged above constituted a violation of a consent order executed in 2012; and (b) the Respondent's practice without professional negligence insurance from January 1, 2016 to January 21, 2016 while registered as a full registrant with the College constituted a violation of a consent order executed in 2014.
6. On ~~September 18, 2012~~, October 9, 2012, the Respondent signed a consent order under s. 36 of the Act arising from an investigation regarding unauthorized practice without registration ("Consent Order #1).
7. Under paragraph 2 of Consent Order #1, the Respondent undertook to be open and forthright and provide accurate information in all future communications with the College.
8. The Respondent contravened paragraph 2 of Consent Order #1 by:
  - (a) falsely advising Ms. Kreiberg on March 1, 2016 that he had all of the credits recorded on the Continuing Competency Credit Form;
  - (b) falsely advising Ms. Angelova on March 1, 2016 that: (i) he had picked up the BCDHA modules on February 29, 2016; and (ii) he had completed all of the BCDHA modules; and
  - (c) faxing a Continuing Competency Credit form to the College on March 15, 2016 in which he falsely declared that he had completed all 21 BCDHA modules, and did so in 63 hours when he had picked up the BCDHA modules only approximately 24 hours earlier.
9. On May 24, 2014, the Respondent executed a consent order under s. 36 of the Act arising from an investigation regarding unauthorized practice while failing to have professional negligence insurance in place ("Consent Order #2").
10. Under paragraph 1 of Consent Order #2, the Respondent undertook not to repeat the conduct of failing to have professional negligence insurance in place at all times while holding full registration with the College.
11. The Respondent contravened paragraph 1 of Consent Order #2 by failing to have professional liability insurance in place between January 1, 2016 and January 22, 2016 while registered as a full registrant with the College.
12. The Respondent's contravention of para. 2 of Consent Order #1 and para. 1 of Consent Order #2 constitutes professional misconduct.