

IN THE MATTER OF A HEARING BY THE DISCIPLINE COMMITTEE OF THE BRITISH  
COLUMBIA COLLEGE OF ORAL HEALTH PROFESSIONALS PURSUANT TO THE  
*HEALTH PROFESSIONS ACT*, RSBC 1996 c. 183

BETWEEN:

THE BRITISH COLUMBIA COLLEGE OF ORAL HEALTH PROFESSIONALS

AND:

PAUL BIDDLE

**DECISION OF THE DISCIPLINE PANEL**

<b>Hearing Date:</b>	July 10, 2024 (by videoconference)
<b>Discipline Committee Panel:</b>	Carol Williams, Chair Isabelle Gauthier Dr. Brendan Matthews
<b>Counsel for the College:</b>	Nazio Filice
<b>Paul Biddle:</b>	not appearing
<b>Independent Counsel for the Panel:</b>	Amy M. Nathanson

**A. INTRODUCTION**

1. A panel of the Discipline Committee (the **Panel**) of the British Columbia College of Oral Health Professionals (the **College**) conducted a hearing pursuant to section 38 of the *Health Professions Act* (the **HPA**), to hear and determine allegations in an Amended Citation dated May 31, 2024 (the **Citation**) against Paul Biddle (the **Respondent**).
2. The allegations against the Respondent are set out in paragraphs 1-20 of the Citation. The College alleges that the Respondent failed to respond substantively to its communications relating to its investigation of two complaints against the Respondent.

3. The hearing (the **Hearing**) took place via video-conference on July 10, 2024. The College called two witnesses: Julie Boyce and Dr. Gary Sutton. The Respondent did not attend the Hearing and no one was in attendance on his behalf.
4. For the reasons set out below, the Panel finds that the College has proven the allegations in the Citation to the requisite standard and the Respondent's conduct constitutes professional misconduct.

**B. SERVICE OF CITATION/RESPONDENT'S NON-ATTENDANCE**

5. The original citation was issued on February 16, 2024, and was personally served on the Respondent on February 23, 2024, in accordance with s. 37(2) of the *HPA*. The Citation was amended on May 31, 2024. The College filed an affidavit with proof of service of the Citation on the Respondent on June 6, 2024, by registered mail.
6. On June 24, 2024, the College sent the Respondent a letter by registered mail, setting out the anticipated evidence of the College's witnesses and enclosing the documentary evidence the College intended to rely on at the Hearing.
7. The College also confirmed that on July 8, 2024, it sent an email to the Respondent with the link for attending the Hearing.
8. The Panel asked counsel for the College if he had been contacted by the Respondent or knew any reason for the Respondent's non-attendance at the Hearing. Counsel confirmed he had not heard from the Respondent and did not know why he was not in attendance.
9. Section 38(5) of the *HPA* provides that a hearing may proceed in the absence of the registrant if the panel is satisfied that the registrant has been properly served with the citation. The panel may also consider if there are valid reasons for the registrant's failure to attend.
10. The Panel was satisfied that the Respondent was properly served with the Citation and was provided the link to attend the Hearing remotely. The Panel was also not aware of any reason for the Respondent's failure to attend the Hearing. Accordingly, the Panel decided to proceed with the Hearing in the absence of the Respondent.

C. **EVIDENCE**

11. The College called two witnesses: Julie Boyce, the College's Director of Professional Conduct, Competence and Fitness and Dr. Gary Sutton, a complaint investigator.

12. The Respondent did not attend the Hearing and no evidence was called on his behalf.

Evidence of Julie Boyce

13. Ms. Boyce's evidence was tendered by way of an affidavit made on June 24, 2024. Ms. Boyce also attended the Hearing to be available for cross examination.

14. Ms. Boyce is an Inspector appointed by the College's Inquiry Committee to conduct complaint investigations. At the material time in relation to the Citation, Ms. Boyce was the Manager of Early Resolution and Complaint Investigation for the College.

15. Ms. Boyce's affidavit contained the following evidence:

(a) The Respondent is a registrant with the College under the full denturist class of registrants. The Respondent has not renewed his registration, but held active registrant status with the College in the years relating to the Citation.

(b) On September 9, 2022, the College received a complaint on behalf of [REDACTED] relating to denturist services the Respondent provided in 2019 (the **First Complaint**). On or about October 20, 2022, the Inquiry Committee approved the First Complaint for Investigation.

(c) On February 7, 2023, the College received a complaint from [REDACTED] regarding denturist services the Respondent provided from 2022 to 2023 (the **Second Complaint**). On or about February 24, 2023, the Inquiry Committee approved the Second Complaint for investigation.

(d) The First Complaint and the Second Complaint (collectively, the **Complaints**) were assigned to Ms. Boyce and Dr. Gary Sutton, two inspectors on the College's Investigation Committee.

- (e) On October 25, 2022, the College emailed the Respondent a letter from Ms. Boyce regarding the First Complaint, enclosing, among other things, a copy of the complaint, a Practitioner Questionnaire and an Investigation Information Sheet. Ms. Boyce requested a written response and supporting documents by November 15, 2022. The Respondent did not respond to Ms. Boyce's letter.
- (f) On December 16, 2022, the College sent the Respondent a letter from Dr. Sutton (by email and mail to the most recent address in the College register), enclosing a copy of Ms. Boyce's letter and requesting a substantive response by January 26, 2023. The Respondent did not respond to Dr. Sutton's letter.
- (g) On January 23, 2023, the College sent the Respondent a letter from Ms. Boyce (by email and mail to the Respondent's practice address in Richmond, B.C.) requesting a response to the College's letters by February 6, 2023. The Respondent did not respond to Ms. Boyce's letter.
- (h) On March 8, 2023, the College sent the Respondent a letter regarding the Second Complaint, enclosing, among other things, a copy of the complaint, a Practitioner Questionnaire and a Complaints Investigation Information Sheet. The College requested a response, with supporting documents, by March 29, 2023.
- (i) Call logs exhibited to Ms. Boyce's affidavit indicate that from February 24, 2023 to March 13, 2023, Emma Lehto, a Complaints Officer with the College made eleven telephone calls to the Respondent at his Richmond practice and his personal telephone number. Ms. Lehto was unable to reach the Respondent and left two voicemails requesting that he call her back regarding the Complaints.
- (j) On March 13, 2023, the Respondent called Ms. Lehto. Details of this call are set out in a Complaint File Telephone Log (the **Telephone Log**) exhibited to Ms. Boyce's affidavit. During the call the Respondent advised that he had not been at the Richmond location for two years and provided contact information for his new office in Tsawwassen. The Respondent also denied receiving any correspondence from the College and requested copies. In relation to the Second Complaint, the

Respondent advised that he had not performed any work and had repaid the patient. Ms. Lehto asked the Respondent to send an email setting out this information. The Respondent did not email this information to Ms. Lehto.

- (k) On March 22, 2023, the College sent the Respondent letters from Ms. Boyce (by email and mail to the Respondent's office in Tsawwassen) regarding each Complaint. Ms. Boyce requested responses to her letters by April 12, 2023.
- (l) On April 11, 2023, the College received a letter from the Respondent enclosing a partially completed Practitioner Questionnaire relating to the First Complaint.
- (m) On April 20, 2023, the College sent the Respondent a letter from Ms. Boyce (by email and mail) acknowledging receipt of the Practitioner Questionnaire and advising that the College required additional information regarding the First Complaint, including treatment records and financial documents, by May 4, 2023.
- (n) On April 20, 2023, the College also sent the Respondent a letter from Ms. Boyce (by email and mail) regarding the Second Complaint, noting that the College had not received any response from him and requesting a response by May 4, 2023. The Respondent did not respond to either of Ms. Boyce's April 20, 2023 letters.
- (o) On May 4 and 9, 2023, Ms. Lehto attempted to reach the Respondent by telephone regarding his lack of response to the Second Complaint. Ms. Lehto left voicemails, which the Respondent did not return.
- (p) On May 12, 2023, the College received mail from the Respondent enclosing a partially completed Practitioner Questionnaire relating to the Second Complaint.
- (q) On June 28, 2023, the College sent the Respondent a letter from Ms. Boyce (by email and mail) acknowledging receipt of the Practitioner Questionnaire relating to the Second Complaint. Ms. Boyce advised that the College required further information, including treatment and financial records, by July 12, 2023.
- (r) Also on June 28, 2023, the College emailed the Respondent a letter from Ms. Boyce requesting that he provide additional information regarding the First

Complaint, including treatment and financial records by July 12, 2023. The Respondent did not respond to either of Ms. Boyce's June 28, 2023 letters.

- (s) On July 13, 2023, the College sent the Respondent letters from Ms. Boyce (by email and mail) following up on her previous correspondence regarding the Complaints and requesting responses by July 24, 2023. Ms. Boyce reminded the Respondent of his duty to respond in a reasonably timely and substantive manner and a duty under the College's bylaws to cooperate with complaint investigations. The Respondent did not respond to either of Ms. Boyce's July 13, 2023 letters.
- (t) On July 26, 2023, Farica Lyte, a Complaints Officer with the College, attempted to reach the Respondent by telephone and left him a message advising that the College wanted to confirm that he had received its correspondence regarding the Complaints. The Respondent did return Ms. Lyte's voicemail.
- (u) On August 15, 2023, Ms. Boyce called the Respondent and left a message advising that a College Inspector, Dr. Sutton, would be attending the Respondent's office to deliver correspondence and to access treatment records for both complainants. Dr. Sutton's evidence regarding his visit to the Respondent's office on August 15, 2023 is set out below.
- (v) On August 22, 2023, the College emailed the Respondent letters from Ms. Boyce regarding the Complaints. Ms. Boyce confirmed that the Complaints had not been resolved and reminded the Respondent of his duty to respond to the College, and that his failure to do so may constitute professional misconduct. Ms. Boyce advised that if the Respondent did not respond by August 29, 2023, the matter would be referred to the Inquiry Committee and it could take steps, including directing the Registrar to issue a citation to proceed to a discipline hearing.
- (w) The Respondent did not respond to Ms. Boyce's August 22, 2023 letters. On September 14, 2023, the Complaints were brought to the Inquiry Committee and it directed the Registrar to issue a citation against the Respondent.

Evidence of Dr. Sutton

16. Dr. Sutton gave evidence that since the Respondent had not responded to the College's correspondence regarding the Complaints and since he lived near the Respondent's office, he offered to personally deliver the College's letters to the Respondent to ensure he received them.
17. Dr. Sutton gave evidence regarding his attendance at the Respondent's office and referred to the Site Visit Report that he had completed after his visit.
18. Dr. Sutton's evidence was that he attended the Respondent's office on August 15, 2023, to deliver letters of the same date from Ms. Boyce regarding the Complaints (and enclosing the College's previous correspondence). The Respondent was not at his office, so Dr. Sutton provided the letters to a technician who was present and observed the technician place the letters in the Respondent's office. Dr. Sutton also left his business card and cell number and asked that the Respondent call him when he returned to the office.
19. At approximately 4:15pm that afternoon Dr. Sutton received a call on his cell phone from the Respondent. Dr. Sutton described the Respondent as angry and disrespectful. The Respondent advised Dr. Sutton that the Complaints had been dealt with months ago and that the funds had been returned. The Respondent said that the College did not know how to do its job and told Dr. Sutton to stop "f...ing bothering him" and hung up.

**D. COLLEGE'S SUBMISSIONS**

20. The College referred to its Bylaw 6.09, which deals with notifying the College of changes to contact information:
  - 6.09 A registrant must immediately notify the registrar of any change in the name or contact information the registrant most recently provided to the registrar.
21. The College relied on the Telephone Log, which sets out that the Respondent confirmed that he had been at his new office in Tsawwassen for two years and had not provided the College with his updated contact information.

22. The College submitted that the Respondent's failure to provide the College with his new office address for two years constitutes a failure to comply with Bylaw 6.09.
23. The College also referred to Bylaw 13.04, which deals with a registrant's duty to cooperate with an assessment or investigation by the College and provides in part:
- 13.04 (1) A registrant or certified dental assistant who is the subject of a complaint being assessed under section 32(2) of the Act or a matter being investigated under section 33 of the Act must co-operate fully in the assessment or investigation including, without limitation, by responding fully and substantively, in a form and manner acceptable to the inquiry committee,
- (a) to the complaint, if any, once the complaint or a summary of it is delivered to the registrant or certified dental assistant, and
- (b) to all requests made or requirements imposed by an inspector or the inquiry committee in the course of the assessment or investigation.
- (2) A registrant or certified dental assistant who is required or requested to do anything under section 13.02 or subsection (1) must comply with the requirement or request
- (a) in the case of information or a record, even if the information or record is confidential, and
- (b) as soon as practicable and, in any event, by the date and time set by an inspector or the inquiry committee.
- ...
24. The College also referred to s. 19(8) of the *HPA*, which provides that a registrant must not practice a designated health profession except in accordance with the bylaws of the College.
25. With respect to the First Complaint, the College submitted that it first contacted the Respondent on October 25, 2022, and that its subsequent communications provided him with ample opportunity to respond, which he failed to do.
26. The College noted that the Respondent had called the College once, and provided some information regarding the First Complaint in the partially completed Practitioner



Questionnaire he mailed to the College. However, the College submits that the Respondent has failed to respond to its subsequent correspondence requesting additional information regarding the First Complaint.

27. The College also noted the Respondent's limited cooperation in relation to the Second Complaint – the Respondent sent the College a partially completed Practitioner Questionnaire. However, the College submits that the Respondent has not responded to its subsequent correspondence requesting additional information and a substantive response to the Second Complaint.
28. The College highlighted that the Respondent's only response to Dr. Sutton delivering correspondence from the College to his office was his telephone call to Dr. Sutton telling him that the College did not know how to do its job.
29. The College also highlighted that in its correspondence it specifically reminded the Respondent of his duty to respond to the College and to cooperate with its investigation into the Complaints.
30. The College submitted that it gave the Respondent ample opportunity to respond to the Complaints, but his responses were incomplete, inadequate and inappropriate. The College noted that it was only after numerous unsuccessful attempts to obtain responses from the Respondent that it finally referred the matter to the Inquiry Committee and the Citation was issued.
31. The College referred the Panel to the decision in *Law Society of Ontario v. Diamond*, 2021 ONCA 255 (*Diamond*), where the respondent's eight months delay in providing the Law Society with information it had requested was found to be professional misconduct. The College also highlighted the finding in *Diamond* that confusion or ignorance about the obligations owed to a regulator is not an excuse for non-compliance.
32. The College submitted that the Respondent's conduct is more serious than the conduct in *Diamond* because the Respondent still has not provided substantive responses to the Complaints and has refused to cooperate with the College's investigation.

33. The College submitted that the evidence clearly establishes that the Respondent has not provided a substantive response to the Complaints despite its repeated requests and that his failure to do so is a breach of the bylaws and the *HPA*. The College also submitted that the Panel should find that the Respondent's conduct amounts to professional misconduct.

**E. ANALYSIS AND FINDINGS**

34. Section 39(1) of the *HPA* provides that on completion of a hearing, the panel may dismiss the matter or determine that the respondent:

...

- (a) has not complied with this Act, a regulation or a bylaw;
- (b) has not complied with a standard, limit or condition imposed under this Act,
- (c) has committed professional misconduct or unprofessional conduct,
- (d) has incompetently practised the designated health profession, or
- (e) suffers from a physical or mental ailment, an emotional disturbance or an addiction to alcohol or drugs that impairs their ability to practise the designated health profession.

35. The College bears the burden of proof and must prove its case on the civil standard of proof on a balance of probabilities. In *F. H. v. McDougall*, [2008] 3 S.C.R. 41, the Supreme Court of Canada held that this means that the "evidence must always be sufficiently clear, convincing and cogent to satisfy the balance of probabilities test" (see para 46).
36. This burden and standard of proof has been applied in previous discipline decisions by the College and by many other regulatory bodies in British Columbia.
37. The Panel accepts the evidence of Ms. Boyce and Dr. Sutton and is satisfied that their evidence and the documentary evidence establish on a balance of probabilities that the allegations in the Citation occurred.

38. First, the Panel finds that the evidence establishes that the Respondent had been at his new office address in Tsawwassen for two years without advising the College of his new practice address. As a result, the Panel finds that the Respondent failed to comply with Bylaw 6.09 by not immediately advising the College of his new contact information.
39. The remaining allegations in the Citation are that the Respondent failed to respond to the College's communications regarding the Complaints. The College submits that the Respondent's failure to respond is a breach of Bylaw 13.04 and s. 19(8) of the *HPA*.
40. Bylaw 13.04 provides that a registrant "must" co-operate fully in an investigation and respond "fully and substantively" to all requests made by an inspector or the inquiry committee in the course of an investigation. Bylaw 13.04 also requires a registrant to comply with requests "as soon as practicable" and in any event, by the date and time specified by the College.
41. The Panel finds that the evidence establishes that the Respondent was the subject to two complaints (the Complaints) and that on October 20, 2022 the Inquiry Committee approved the First Complaint for investigation and that on February 24, 2023, the Inquiry Committee approved the Second Complaint for investigation.
42. The evidence also establishes that the College advised the Respondent of the First Complaint on October 25, 2022, and advised the Respondent of the Second Complaint on March 8, 2023.
43. The Panel finds that the circumstances set out in Bylaw 13.04 in which a duty to cooperate arises are present in this case and that the Respondent was required to cooperate fully in the College's investigation and respond fully and substantively to requests from the Inquiry Committee and inspectors assigned to investigate the Complaints as soon as practicable (or by the deadlines they specified).
44. The Panel finds that between October 25, 2022 and August 22, 2023, the College made numerous requests of the Respondent regarding the Complaints and the investigation that had been initiated as a result. During this period the College sent the Respondent at least 13 letters and attempted to reach him by telephone at least 15 times.

45. The Respondent communicated with the College regarding the Complaints on four occasions during this period. The Respondent's first communication was on March 13, 2023, when he telephoned Ms. Lehto. By this time, the College had sent the Respondent four letters and attempted to contact him by telephone nine times. During this call the Respondent provided Ms. Lehto with some details regarding the Second Complaint, although he did not set these out in an email as she requested.
46. The Respondent's second contact with the College was in April 2023, when he sent the College a partially completed Practitioner Questionnaire relating to the First Complaint. On the questionnaire the Respondent included payment details, noted that no treatment or dentures were provided, described his services as "consultation," and noted:
- Paid by Green Shield. Should have been pre orth  
Patient has been reimbursed.  
Patient was unable to return due to COVID and my office was also closed. I  
moved and when the patient found my new number I returned the money in full.*
47. The Respondent had crossed out five sections in the questionnaire relating to treatment and did not enclose any supporting documents.
48. The Respondent's third contact with the College was in May 2023, when he sent the College a partially completed Practitioner Questionnaire relating to the Second Complaint. The Respondent only sent two pages of the four page questionnaire. On one page the Respondent had crossed out four sections and left the remaining section blank. On the other page the Respondent left one section blank and noted the following in the remaining section: *Patient was paid back in full. No dentures provided.* The Respondent did not provide any supporting documents.
49. The final time the Respondent contacted the College was when he called Dr. Sutton on August 15, 2023 after Dr. Sutton attended his office. However, the Respondent did not provide Dr. Sutton with any substantive information regarding the Complaints. Rather, the Respondent was rude to Dr. Sutton and used unprofessional language.

50. The Panel finds that beginning in October 2022 through August 2023, the Respondent failed to respond to the College's correspondence and requests for information regarding the Complaints in a full or substantive manner. The College made repeated requests for information and followed up with the Respondent many times.
51. The Respondent's communications with the College and the responses he provided did not fully and substantially address the Complaints or the College's requests and he did not respond as soon as practicable or by the dates specified.
52. The Respondent provided limited information to the College regarding the Complaints and did not provide any of the additional information or documents the College repeatedly requested. For example in the College's April 20, 2022 letter to the Respondent after it received the Practitioner Questionnaire regarding the First Complaint, the College requested treatment records and financial records and specifically asked the Respondent to address what efforts he made to follow up with the patient after he moved offices. The Respondent did not provide the College with any documents or a response to its specific question.
53. Another example is the College's June 28, 2023 letter to the Respondent following its receipt of the Practitioner Questionnaire relating to the Second Complaint. In its letter the College requested treatment records and financial records and asked the Respondent to address several specific issues, including to respond to the allegations that the Respondent stopped responding to the complainant after issues with his dentures were not resolved after 10 visits and two adjustments. The Respondent did not provide the College with any documents and never responded to the specific issues raised in the College's letter.
54. The Respondent failed to respond to the College's letters by seven of the nine deadlines set by the College. By the time the Respondent responded to the College for the first time when he called Ms. Lehto on March 13, 2023, he had failed to respond by the November 15, 2023, January 26, 2023 and February 6, 2023 deadlines set by the College.

55. The Panel finds that the evidence establishes, on a balance of probabilities, that the Respondent failed to respond to the College's requests for information and failed to cooperate with the College's investigation into the Complaints, despite express reminders from the College of his obligation under the bylaws to do so. As a result, the Panel finds that the Respondent failed to comply with Bylaw 13.04 and s. 19(8) of the *HPA*.

### **Unprofessional Conduct and Professional Misconduct**

56. The Panel must also determine how to characterize the Respondent's conduct in accordance with the *HPA*.
57. Section 26 of the *HPA* defines professional misconduct and unprofessional conduct as follows:
- “professional misconduct” includes sexual misconduct, unethical conduct, infamous conduct and conduct unbecoming a member of the health profession.
- “unprofessional conduct” includes professional misconduct.
58. Professional misconduct specifically includes conduct unbecoming a member of the health profession and is considered to be conduct that it is a marked departure from expected standards for a health professional. Professional misconduct is conduct that is more serious or egregious in nature than unprofessional conduct.
59. Compliance with the duty to cooperate with an investigation by the College is important and necessary for the College's role of regulating oral health professionals in British Columbia in the public interest and for the protection of the public. The Panel finds that the Respondent's failure to respond fully and substantively to the College's communications regarding the Complaints and his failure to cooperate with its investigation was conduct unbecoming and a significant departure from the standard to be expected of a professional dentist and therefore constitutes professional misconduct.
60. To summarize, the Panel finds that the Respondent breached Bylaws 6.09 and 13.04, breached s. 19(8) of the *HPA* and finds that his conduct amounts to professional misconduct.

61. The Panel will provide a copy of these Reasons for Judgment (the **Reasons**) to the College and will email a copy to the Respondent. The Panel also directs that the College provide a copy of the Reasons to the Respondent by way of registered mail.

**F. SCHEDULE FOR SUBMISSIONS ON PENALTY AND COSTS**

62. The parties may provide the Panel with written submissions regarding penalty and costs in accordance with the following schedule:
- (a) The College delivers its submissions to the Panel and the Respondent by December 12, 2024;
  - (b) The Respondent delivers his submissions to the Panel and counsel for the College by January 16, 2025;
  - (c) The College may deliver reply submissions to the Panel and the Respondent by January 23, 2025.
63. The parties may deliver written submissions to the Panel through legal counsel for the Panel by email at: [anathanson@lawsonlundell.com](mailto:anathanson@lawsonlundell.com).
64. The Panel will provide the parties written reasons setting out their decision on penalty and costs.

**G. DELIVERY AND PUBLIC NOTIFICATION**

65. The Panel reminds the College of the requirements in s. 39(3)(c) of the *HPA*.
66. The Panel directs that pursuant to s. 39.3(1)(d) of the *HPA*, the Registrar notify the public in accordance with s. 39.3(1)(d) of the Panel's determination.

**H. NOTICE OF RIGHT TO APPEAL**

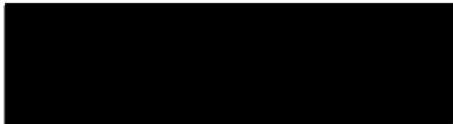
67. The Respondent is advised that under section 40(1) of the *HPA*, a respondent aggrieved or adversely affected by an order of the Discipline Committee under s. 39 of the *HPA* may appeal the decision to the Supreme Court of British Columbia.

68. As set out in s. 40(2) of the *HPA*, an appeal must be commenced within 30 days after the date on which these Reasons are delivered to the Respondent. Section 40 of the *HPA* provides further details regarding an appeal of this decision to the Supreme Court of British Columbia.

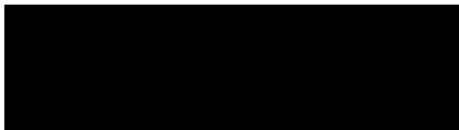
Dated: November 13, 2024



Carol Williams, Chair



Isabelle Gauthier



Dr. Brendan Matthews