

Public Notification of Discipline Hearing Outcome: Mr. Darren Kluthe (alias: Mr. Christian Dale Aerius)

“Trust and integrity are precious resources, easily squandered, hard to regain. They can thrive only on a foundation of respect for veracity.” (Sissela Bok, American Philosopher and Ethicist)

On October 17, 2016, following an investigation, the Inquiry Committee of the College of Dental Hygienists of British Columbia (the “College”) directed the Registrar to issue a registrant, Mr. Darren Kluthe, with a citation for a discipline hearing to consider whether he had engaged in professional misconduct.

This case comprised two central themes: truthfulness and complying with one’s professional responsibilities to their regulatory body. The hearing was scheduled to take place on April 11, 2017 and notice was given to all parties. Mr. Kluthe chose not to attend. As allowed under the *Health Professions Act (HPA)* the presiding Panel of the Discipline Committee (the “Panel”) elected to hear the case in Mr. Kluthe’s absence and a summary is below.

Evidence Considered by the Panel:

As a result of a prior investigation 5 years ago by the Inquiry Committee, Mr. Kluthe signed a consent order on October 9, 2012 undertaking that he would “ensure he is open and forthright and provide accurate information in all future communications with the College”.

On May 24, 2014, after a subsequent Inquiry Committee investigation, Mr. Kluthe signed a another consent order undertaking “not to repeat the conduct of failing to have professional negligence insurance in place at all times while holding full registration” and “not to repeat the conduct of engaging in unauthorized practice of dental hygiene by failing to have valid professional negligence insurance in place as a full registrant”.

More recently, during the 2016 renewal year:

- Mr. Kluthe failed to renew his registration prior to the annual deadline at the end of February and attempted to reinstate his registration on March 1, 2016.
- As it was also the end of his continuing competency (CC) cycle, completion of 75 CC credits was required. On March 1, 2016, Mr. Kluthe initially informed the College that he had all the required credits recorded on a paper CC credit tracking form; however later that day he admitted that he only had 20 of the 75 credits completed.
- On March 1, 2016, Mr. Kluthe also informed the College by telephone that he had purchased a set of the British Columbia Dental Hygienists’ Association (BCDHA) refresher modules on

February 29, 2016, to fulfill his remaining required CC credits. He asked if he could submit his CC credit form the next day and was informed by the College that the form could only be submitted **after** the CC credit activities had been completed.

The evidence presented in the hearing established that Mr. Kluthe did not actually order the BCDHA modules until March 7, 2016. The evidence also established that Mr. Kluthe was notified that the modules were ready to be picked up from the BCDHA office on March 8, 2016; however, he did not return to pick them up until March 14, 2016.

On March 15, 2016, Mr. Kluthe faxed a CC credit tracking form to the College's office on which he declared that he had completed all 21 modules and claimed 63 additional hours of CC credits. On March 17, 2016, the Registrar wrote to Mr. Kluthe to ask him to explain how he could have completed 63 hours of CC credits in an approximately 24-hour timeframe. Mr. Kluthe later acknowledged that he did not pick up the modules until March 14, 2016 and that he did not complete them until March 20, 2016. He admitted to the College's appointed inspector that some of the information he had submitted during his reinstatement application process was false.

During a review of Mr. Kluthe's reinstatement application, evidence also showed that his 2016 negligence insurance did not take effect until January 22, 2016. Therefore, he was uninsured from January 1 to January 21, 2016, and had failed to uphold one of his professional responsibilities. Mr. Kluthe's failure to maintain professional negligence insurance coverage was a recurrent issue.

The Panel's Decision:

On May 2, 2017, the Panel rendered its decision and found that there were grounds for disciplinary action. The Panel found that Mr. Kluthe had engaged in professional misconduct in attempting to reinstate his registration by knowingly making false statements about his CC credits.

When a registrant signs and submits documentation to the College, it is a legal document intended to represent truthful information, and the trust of the regulator and the public is dependent on this. Veracity, or truthfulness, is a foundational ethic to the profession of dental hygiene and the College's [Code of Ethics](#) requires that registrants must "represent the values and ethics of dental hygiene before others".

In addition to the multiple instances of untruthful information provided by Mr. Kluthe regarding his CC credits, which was a breach of a prior consent order, the Panel also found that he had engaged in professional misconduct by breaching another prior consent order in which he undertook not to practice without professional negligence insurance.

It is worth noting that throughout the inquiry and discipline processes, Mr. Kluthe frequently failed to communicate with the College despite numerous efforts by staff, or attempted to justify his conduct through excuses or shifting blame. In the [Reasons for Decision and Order of the Discipline Committee](#) rendered on May 2, 2017, the Panel wished to express its concern that Mr. Kluthe:

“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”.

The Panel also expressed its concern regarding Mr. Kluthe’s failure to respond to the College’s legal counsel about the hearing and his decision not to attend. Of additional note, Mr. Kluthe contacted the College on July 6, 2017 to request that his registration be cancelled.

Penalty Assigned:

Following the finding of professional misconduct, the Panel was then to determine an appropriate penalty. Legal counsel for the College made a submission that requested reasonable penalty measures that were supported by other examples from relevant case law. Mr. Kluthe was also offered the opportunity to make a submission for consideration, either in writing or in person before the Panel; however, he did not avail himself of either option.

The Panel reconvened on September 13, 2017 to consider evidence and the College’s submission on an appropriate penalty. In the [Reasons for Decision and Order of the Discipline Committee on Penalty, Costs and Public Notice](#) that was rendered, the Panel noted that Mr. Kluthe:

“provided no acceptable explanation for his egregious behavior”.

The Panel was also troubled by the possibility that Mr. Kluthe may have cancelled his registration part way through the discipline proceedings in order to avoid having his license to practice revoked. Therefore, the Panel ordered:

“a reprimand that reflects the College’s disapproval of [Mr. Kluthe’s] behavior regarding both his professional misconduct, and his resigning his registration during the hearing”.

The Panel also declared that Mr. Kluthe’s conduct warranted a number of measures, limits and conditions under sections 39(2) and 39(8) of the *HPA*, as follows:

- a) cancellation of registration;
- b) no eligibility to reapply for registration, including reinstatement, for ten (10) years;
- c) the following additional pre-conditions to registration, including reinstatement:
 - successfully complete the CDHBC Clinical Examination within the preceding six (6) months prior to submitting his application for reinstatement to the College to ensure that his skills are current on re-entry; and
 - a reflective essay to the Registration Committee of not less than 1,500 words outlining the professional obligations of registrants of the College, with a specific focus on the obligation to respond promptly and accurately to all College communications and to be forthright with the College on any information that a registrant provides;
- d) the following conditions on the Registrant’s practice after registration, including reinstatement:

- successfully completing any outstanding requirements imposed by the Quality Assurance Committee prior to the cancellation of his registration in 2017 within thirty (30) days of reinstatement;
- establishing a formal mentorship program with a mentor, to be approved in advance by the College, for a period of not less than three (3) years and meet with the mentor at least monthly to discuss issues with respect to his practice and professional conduct; and
- contacting the College on the first day of each month as long as he holds full registration to ensure that he is receiving, reading and responding to communications from the College;

e) a reprimand, or Appropriate Measures, be entered onto the register pursuant to section 21(2)(g) and (5) of the Act;

f) the Registrant pay costs within fourteen (14) days of the decision to the College in the amount of \$12,423.40, consisting of:

- \$7,679.98, representing one-half of the College's legal fees; and
- \$4,743.42, for counsel's disbursements.

g) public notification of the penalty order to all registrants, and the regulatory bodies governing the practice of dental hygiene in every other Canadian jurisdiction (pursuant to Bylaw s. 59(1)), with authorization to notify other regulatory or governing bodies of a health profession inside or outside of Canada pursuant to Bylaw s. 59(1).

*Sissela Bok. (n.d.). AZQuotes.com. Retrieved October 31, 2017, from AZQuotes.com Web site:
http://www.azquotes.com/author/1595-Sissela_Bok