

INQUIRY COMMITTEE RECORD OF DECISION

FILE NAME: DH1185

FACTS

On October 24, 2011, the Inquiry Committee resolved to initiate an investigation on its own motion under section 33(4)(a) of the *Health Professions Act*, R.S.B.C. 1996, c. 183 (the “Act”). By letter, the Registrar of the College notified the Registrant of the investigation and invited a response in accordance with s. 33(5) of the *Act*, and under s. 27 of the *Act*, appointed inspectors.

The Inspectors conducted an interview with the Registrant and reported to the Committee that the Registrant had made some changes to the business website in response to meeting with the inspectors. The Registrant’s written response of January 5, 2012 advised that (s)he had been unable to make any additional changes to the business website because of technical issues. The Registrant’s written response of March 30, 2012 advised that (s)he had made further revisions to the business website to remove all the confusing and/or misleading statements.

COMMITTEE DECISION

At the conclusion of the investigation the Committee determined that the evidence fell short of establishing that the Registrant practiced out of scope but remains concerned that (s)he must observe the restriction against prescribing, dispensing and fitting nightguards as such activities are beyond the scope of dental hygiene practice.

The Committee determined, and the Registrant agreed, that the appropriate remedial action is a consent order under s. 33(6)(c) of the *Act* in which the Registrant consents to ensure that her/his future marketing material is in compliance with s. 69 of Part VII of the College bylaws and to refrain from prescribing, dispensing and fitting nightguards.

The Inquiry Committee concluded that this would be an appropriate case to see a consent order under s. 36 of the *Act* because: (a) the evidence from the business website confirmed that the Registrant had contravened s. 69 of Part VII of the College’s bylaws, (b) there was no evidence that the Registrant intentionally or deliberately contravened the marketing bylaws; (c) the Registrant voluntarily made the appropriate changes to her/his business website to comply with s. 69 of Part VII of the College bylaws; and (d) the Registrant removed references to nightguards on her/his business website but still appears to harbor the misapprehension that fabricating and seating nightguards falls within the proper scope of practice for a dental hygienist.

RELEVANT PROVISION OF ACT, REGULATION, OR BYLAWS: *Act*, section 33(4)(a); 33(5); 33(6)(c); 33(6)(d); 36; and *Bylaws*, section 69

STATUS: *Closed*

LEGISLATIVE AUTHORITY: *Health Professions Act* s 33, 36