DECISION NO.  2016-HPA-088(a)

In the matter of an application (the “Application”) for review under section 50.54 of the Health Professions Act, R.S.B.C. 1996, c. 183, as amended, (the “Act”) of a registration decision made by registration committee

BETWEEN:  The Applicant

AND: The College of Denturists of British Columbia

BEFORE: Marilyn Clark, Panel Chair

DATE: Conducted by way of written submissions closing on August 2, 2016

APPEARING: For the Applicant: Self-represented

DECISION ON APPLICATION FOR REVIEW OF A REGISTRATION DECISION

I  INTRODUCTION

[1] The Applicant, a current registrant with the College of Dental Technologists of Alberta, is seeking a review of the registration decision of the College to deny his application for active full registration based on the College’s statement that “satisfactory evidence of good character was not evident in your application.” The Applicant is seeking to have the Review Board confirm his licensure with the College.

[2] At this Stage, I can adjudicate based on the investigative record provided by the College (the “Record”) and the Applicant’s submissions or I can advance the application to a Stage 2 hearing in which case no decision will be made until receipt of submissions from the College and a further reply from the Applicant. I have decided it is appropriate to adjudicate by way of a Stage 1 hearing. This review, therefore, is based solely on the Record provided by the College and submissions from the Applicant.

II  BACKGROUND

[3] The Applicant describes himself as a Clinical Dental Technologist with Restricted Activities Authorization in the Province of Alberta. He describes his authorized restricted activities to:
... provide denture services directly to the public. We are permitted to do relines, rebase, and repair full upper and lower dentures as well as partial dentures and able to do intraoral impressions and bite registrations where necessary. We are able to fit these prosthetics where fitting is incidental to the service provided. We are allowed to provide new dentures to the public, under prescription from a denturist or a dentist.

Clinical dental technologists do not require denturist's services when doing the procedures of impressions, relining, rebasing and realignment of dentures.

[4] His application for registration to the College is dated March 23, 2015. He advised the College that he was in possession of a denturist diploma from 1990 from Vancouver Community College.

[5] Included with his application were the required primary and secondary identifications, a Statutory Declaration declaring among other things he is a person of good character, three character references, a number of certificates confirming his successful completion of various continuing education courses including the Restricted Activities Authorization and the results of a Criminal Records check. This latter indicates an offence was found but not one that would present a risk to children or vulnerable adults.

[6] The application package was presented to the Registration Committee meeting on August 14, 2015, and the Registration Committee determined they needed additional information. They requested from the College of Dental Technologists of Alberta (Alberta College):

... information about the scope of practice of a Clinical Dental Technologist in Alberta, a copy of his registration file from the College of Dental Technicians of Alberta, including his current registration status, and clarification with respect to the Certificate of Registration issued by the College of Dental Technicians of Alberta.

[7] The Registrar of the Alberta College responded to the College's request for information on January 29, 2016. She clarified that the Applicant held registration status and was permitted to provide "all aspects of service, including the Restricted Activities outlined in Sections 10 – 14 of the Dental Technologists Profession Regulation ... and to work unsupervised in the Province of Alberta."

[8] My reading of Sections 10 – 14 of the Alberta Regulation noted above indicates a person so authorized may perform certain activities "for the purpose of colour matching or determining a preliminary fit." Section 13(1) and (2) give specific direction in regard to such restricted activities as follows:

13(1) prior to performing a restricted activity described in section 10 or 11, a regulated member, authorized by the Registrar under section 10 or 11, must have a written direction from a dentist or denturist

(a) who is authorized to perform the restricted activity, and
(b) who is responsible for determining the final fit of an appliance or denture.

(2) Despite subsection (1), a regulated member authorized by the Registrar under section 10 or 11 may perform a restricted activity described in section 10 or 11 without a written direction described in subsection (1) if a dentist or denturist who is authorized to perform the restricted activity is on site with the regulated member and provides direct verbal instruction to the regulated member while the regulated member performs the restricted activity.

[9] The Registrar of the Alberta College listed a number of complaints and disciplinary matters that were found in the review of the Applicant's file. Among them, three complaints that were dismissed as they were considered third party complaints and five complaints from Alberta Blue Cross ("ABC") related to the Applicant's practice of billing ABC using procedure billing codes restricted for the use of members of the Canadian Dental Association. The Applicant had been advised on a number of occasions that dental technologists were not authorized to use such codes. Further, the Applicant was reported to have been rude and disrespectful to the staff of ABC.

[10] A Hearing was conducted under the provisions of the Alberta Health Professions Act on December 12, 2011, following these ABC complaints to the Alberta College and the following determination was made:

(1) [The Applicant] is guilty of unprofessional conduct, contrary to Section 1(1)(pp)(ii) and (xii) of the Health Professions Act of Alberta (Charge 1(a)).

(2) [The Applicant] is guilty of unprofessional conduct, contrary to Section 1(1)(pp)(ii) of the Health Professions Act of Alberta (Charge 1(b)).

(3) [The Applicant] is ordered to pay the total costs of these proceedings to a maximum of two thousand dollars ($2,000).

(4) [The Applicant] is ordered to complete the next available CDTA Bylaws, Code of Ethics and Standards of Practice course.

(5) There will be a publication of the Hearing Tribunals' findings and orders, with no names, in the College's newsletter, website and a report at the College's annual general meeting.

I note a subsequent complaint from ABC was received one year after this decision relating to the same issues but in this case naming an individual patient. This was one of the third party complaints dismissed by the Alberta College.

[11] A further complaint was filed on December 2, 2015, by a dentist in Alberta. The Registrar of the Alberta College reported this complaint, one that could generally be described as one of unprofessional conduct, is currently being investigated.

[12] The College's Registration Committee at its meeting of March 24, 2016, denied the application "as the evidence provided was not satisfactory that he is of good character."
[13] The Applicant wants the Review Board to overturn the decision of the Registration Committee and confirm that "my character and my reference should not be questioned."

III LEGISLATIVE ROLE

[14] As the hearing chair, I am limited by the Act which stipulates in s.50.54(9) that I may make an order:

   (a) confirming the registration decision,
   (b) directing the registration committee to make a decision that could have been made by the registration committee in the matter, or
   (c) sending the matter back to the registration committee for reconsideration with directions.

[15] The Act further stipulates in s.50.54(10) and (11) as follows:

   (10) The review board may make an order under subsection (9) directing the registration committee to grant registration with or without limits or conditions, or certification, as the case may be, only if the review board is satisfied that

   (a) all of the following apply:

      (i) the registration committee failed to act fairly in considering the application for registration or certification;

      (ii) the registration decision

         (A) was made arbitrarily or in bad faith,

         (B) was made for an improper purpose,

         (C) was based entirely or predominantly on irrelevant factors, or

         (D) failed to take requirements under this Act into account;

   (b) the conditions described in subsection (11) (a) or (b) are met . . .

   (11) The following conditions apply for the purposes of subsection (10) (a) (iii):

   (a) in the case of a person applying for registration as a member of the college,

      (i) the person's knowledge, skills and abilities must be substantially equivalent to the standards of academic or technical achievement and the competencies or other qualifications required for registration in a class of registrants, and

      (ii) the applicant must meet any other conditions or requirements for registration in the class of registrants; . . .
IV DISCUSSION AND ANALYSIS

[16] The litany of complaints filed against the applicant with the Alberta College is troubling. They have a common thread:

(a) the activities being undertaken by the Applicant are being performed without a prescription from a denturist or dentist contrary to his College's requirements and his scope of practice;

(b) he continues to use billing codes which he is not authorized to use even having been advised of such; and

(c) he appears to misunderstand his scope of practice that limits his activities even with his Restricted Activities Authorization "to colour matching or determining a preliminary fit."

[17] He states in his letter of application to the College that he has been authorized to conduct restricted activities enabling him to "provide denture services directly to the public." He states "We are permitted to do relines, rebase, and repair full upper and lower dentures as well as partial dentures and able to do intraoral impressions and bite registrations where necessary. We are able to fit these prosthetics where fitting is incidental to the service provided."

[18] He advertised the business he operates in an Alberta city as "Your Denture Care Specialists", providing Denture Rejuvenation, Duplicate Dentures, Complete Dentures, Partial Dentures, processed Relines and Repairs and claims to be "An alternative denture provider."

[19] The complaints from ABC provide a picture of an individual who ignores the direction given by a claims administrator. In addition, the ABC complaint of repeated non-professional activity that followed twelve months after a Hearing under the Alberta Health Professions Act confirms to this writer that the Applicant is comfortable acting in a manner that lacks integrity and ignoring the provisions of the undertaking into which he entered.

[20] The Applicant provided the College with three letters of reference confirming he was of good character. These letters were written by persons identifying themselves as a friend and/or a colleague. They are positive in their comments about the Applicant speaking to his professional qualifications, and to his caring, straight-forward and honest character.

[21] It is my opinion after reading the entire Record provided by the College, including the letters of reference provided by the Applicant that the Applicant has failed to provide the required evidence of character sufficient to mitigate the evidence of his unethical and improper conduct provided by the Alberta College. He is too cunning in his interpretation of those procedures he is allowed to perform, he flirts with the truth, and he inaccurately advertises his businesses. The Registration Committee, responsible for ensuring the public is protected, has made the correct decision.
[22] It is my opinion that none of the provisions of s.50.54(10)(a) of the Act, quoted in paragraph [15] apply to the Registration Committee's decision. I confirm their decision.

V DECISION

[23] In accordance with s.50.54(9)(a) of the Act, I confirm the decision of the Registration Committee.

[24] In making this decision, I have considered all of the information and submissions whether or not specifically reiterated herein.

“Marilyn Clark”

Marilyn Clark, Panel Chair
Health Professions Review Board

September 1, 2016