

Good Character and the Dalhousie Dentistry Students

Josh Koziebrocki and David Litwin

Over the past two months, the dental world and Canadians at large have been following events at the University of Dalhousie, where a group of dentistry students used a private Facebook group to post offensive and demeaning comments about their classmates. These events have placed a new focus on the “good character” requirement, a pre-requisite for dentists and health professionals who seek to practice in Canada. What “good character” means, and how past conduct plays into the analysis, is the subject of this article.

In December 2014, a complaint was made to the University regarding a private Facebook group operated by thirteen male dentistry students. It had come to light that these men were using the group to, at least in part, post inappropriate and offensive comments about their classmates. The group discussed using chloroform to incapacitate female classmates and prompted members to post the names of classmates who they would most like to have “hate sex” with. When one of the group members began to feel uncomfortable, he showed the offensive posts to a classmate, who in turn complained to



the University.

The University launched an investigation, and the story became national news. The thirteen students were suspended from their clinical training, and they were separated from their classmates. At present, it remains unclear whether they will graduate as scheduled.

The Dental Colleges of at least four provinces, including Alberta, British Columbia, Ontario, and Nova Scotia, have stated that they will scrutinize all male graduates from Dalhousie's class of 2015 for evidence of good character. The Colleges have made it clear that the students' behaviour may serve as a barrier to entry into the practice of dentistry. The Registrar of the Royal College of Dental Surgeons of Ontario, Irwin Fefergrad, focussed on the need to protect the public in commenting on this situation – “we need to make sure that the public is protected and that anybody we give a license to is safe to practice, and that the individual is of good moral fibre and has not done anything of this kind.”

Though each province has its own laws governing Dental Colleges, the good character requirement is present for health professionals, including dentists, throughout Canada. In Ontario, the law requires dentists to “practice dentistry with decency, integrity and honesty and in accordance with the law” and allows the College to refuse registration where there is reason to believe that this standard will not be met.

In contemplation of the Facebook posts, provincial Colleges such as the Royal College of Dental Surgeons in Ontario will ask themselves this: does the activity in question, weighed against all of the other past and present conduct of these students, provide reasonable grounds for the belief that they will not practice dentistry with decency, integrity, and honesty?

The purpose is not to punish these individuals for bad behaviour, but rather to evaluate, based on their conduct, whether they are capable of being dentists of good character. Therefore, rather than looking at this event in isolation, the Dental Colleges will consider any rehabilitative actions taken by these students. For example, the majority of the group members are participating in a “restorative justice program” organized by the University. The program brings them together with the individuals who they made to feel like victims in an effort to understand the harms that they caused and develop steps to resolve the issues.

Similarly, the group member who first came forward with respect to the offensive posts has written a letter of apology stating that “[w]hile I did not play a direct involvement in the hurtful comments brought forth, I apologize for being a bystander [...] No father can stand idly by with this happening and consider himself a man. I knew it was time to step forward. My children deserve to know their father did the

right thing. To the direct victims: I am eternally sorry for the damage caused by what has occurred.” His rehabilitative conduct will be considered alongside his participation in the Facebook group.

For the Dental Colleges, it will likely not matter whether or not criminal charges are laid. The Halifax Regional Police have stated that these students committed no crimes and that no criminal investigation into this matter will be commenced. This is not determinative of good character. In other words, legal activity may violate the good character requirement.

In order to deny certification on the basis of character, it does not need to be more likely than not that a dentist will conduct himself inappropriately. The standard of “reasonable belief” is a lower threshold than “more likely than not”.

Where a Dental College has doubts as to the character of an applicant, it may choose to certify the applicant with specific conditions. For example, the College may require that the dentist be supervised in their practice for a period of time or may require that they participate in educational programs. Courts have provided regulatory bodies a broad discretion in placing restrictions on a professional's practice.

Once an application is made, the Registrar may certify or refuse to certify. If they refuse, the matter will be referred to a registration committee, at which point the applicant will be notified. The applicant is entitled to make written submissions to the registration committee, and it is routine practice to allow the applicant to make oral submissions if they choose.

Few of the facts in this case have been made public at this point in time. For this reason, it is difficult to predict how Dental Colleges will treat these events. One question worthy of contemplation is this: while the Facebook comments are undoubtedly offensive, do they reach such a level that they should bar these students from practicing dentistry? The Colleges to which these students apply will need to analyze this question independently for each individual. Needless to say, these students will likely need to go beyond simply filling out an application and meeting the College's technical requirements. If their character is put in issue, they will each need to demonstrate that their conduct does not amount to poor character. **OH**

Josh Koziembrocki is a Partner at Lerner's, Health Law Group. His practice focuses on representing health professionals in disciplinary, criminal and civil hearings. He has significant experience assisting health professionals in difficult and challenging situations involving both their licence to practice and criminal prosecution. Josh can be reached at 416 601 2362 or jkoziembrocki@lerner.ca.