

CITATION: Bacchus v. Royal College of Dental Surgeons of Ontario, 2026 ONSC 3415
COURT FILE NO.: 196/25
DATE: 20260612

**ONTARIO
SUPERIOR COURT OF JUSTICE
DIVISIONAL COURT**

BETWEEN:

Appellant

- and -

Glynnis Howe and Weeam Ben Rejeb, for the Respondent

Respondent

REASONS FOR DECISION

[1] Dr. Bacchus appeals from the decision of a Committee of the Discipline Committee of the Royal College of Dental Surgeons (the “Committee”) dated June 6, 2024, finding that Dr. Bacchus committed professional misconduct (the “Merits Decisions”), and the Committee decision dated February 12, 2025, revoking Dr Bacchus’ license and ordering him to pay costs of \$451,461.61 (among other orders) (the “Penalty Decision”).

Jurisdiction and Standard of Review

[4] An appeal lies to the Divisional Court from the impugned decisions: *Health Professions Procedural Code* (the “Code”), ss. 70(1) and (2), Sched. 2 to the *Regulated Health Professions Act, 1991*, SO 1991, c.18. The “appellate” standard of review applies: correctness for questions of law, and palpable and overriding error for questions of fact. Mixed questions of fact and law are assessed on the deferential standard of review except for “extricable questions of law” which are reviewed on a correctness standard: *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, paras. 37 and 53; *Housen v. Nikolaisen*, 2002 SCC 33, paras. 10, 19, 26-37.

[5] With respect to appeals from a sanction imposed by a regulated professions tribunal, the court will interfere with a tribunal’s penalty decision only if the penalty reflects an error in law, an error in principle, or if the penalty is “clearly unfit”: *Cabot v College of Nurses of Ontario*, 2023 ONSC 2977 (Div. Ct.), para. 23, citing *Budarick v. the Corporation of the Townships of Brudenell, Lyndoch and Raglan (Integrity Commissioner)*, 2022 ONSC 640 (Div. Ct.), para. 40. A penalty will be “clearly unfit” where it does not fall within “a range of possible, acceptable outcomes which are defensible in respect of the facts and law”: *College of Physicians and Surgeons of Ontario v. Peirovy*, 2018 ONCA 420, para. 38, citing *Dunsmuir v. New Brunswick*, [2008] 1 S.C.R. 190, at para. 47.

[6] Dr Bacchus argues that the Committee’s credibility findings are not owed deference in this court because the Committee does not have special expertise in making findings of credibility. This argument is without merit. The court does not defer to triers of fact in their credibility assessments because they have “special expertise” but rather because (a) they are findings of fact subject to deference in any event; and (b) the triers of fact, immersed as they are in the record and having heard the testimony of the witnesses, is in the best position to decide who to believe: *F.H. v. McDougall*, 2008 SCC 53, para. 70; *Taylor v. College of Physicians and Surgeons*, 2018 ONSC 4562, para. 31; *Volochay v. College of Massage Therapists*, 2019 ONSC 5718, para. 78.

Background Facts

[7] In his factum, the Appellant sets out an account of the facts that are not referenced to the Committee’s decision (Factum, paras. 12-25). This is an error on an appeal. The facts in this court are the facts as found by the Committee. Where a party submits that a tribunal made palpable and overriding errors of fact, the starting place for analysis is the facts, as found by the tribunal, and then submissions may be made as to why particular findings are palpable and overriding errors. It is improper to argue a version of the facts untied to the findings below: an appeal in this court is not a “re-do” of the hearing below. This court does not immerse itself in the record below and decide what findings it would make if it was hearing the case at first instance. See: *Feng v. Ontario Securities Commission*, 2025 ONSC 2268, para. 12 (Div. Ct.); *H.H. v. Canada (Attorney General)*, 2005 SCC 25, para. 4; *Sayers Foods Ltd. v. Gay Company Ltd.*, 2026 ONSC 918, para. 34 (Div. Ct.).

Related Criminal Proceedings

[8] Dr Bacchus places emphasis on certain factual and credibility findings made in the trial decision of Raikes J. in *R. v. Bacchus*, in which Dr Bacchus was convicted of aggravated assault and assault with a weapon (2022 ONSC 5432; affd. 2024 ONCA 43).

[9] Where a fact is found in a criminal trial on the standard of proof beyond a reasonable doubt, it may be an abuse of process to contest that factual finding in subsequent legal proceedings: *Danyluk v. Ainsworth Technologies Inc.*, 2001 SCC 44 at para. 20; *Demeter v. British Pacific Life Ins. Co.* (1984), 48 OR 2d 266 at 268 (CA). However, this principle does not apply to every finding made during reasons for judgment in a prior proceeding, such as credibility findings. In any event, these issues do not actually arise in this appeal, as I explain below: the findings of Raikes J. in the criminal proceeding are not inconsistent with the findings of the Committee in this case.

Issues on Appeal

1. Did Dr. Bacchus have sex with MR when MR was Dr Bacchus' patient ?

[10] Dr Bacchus argues that the Committee made a palpable and overriding error of fact when it found that Dr Bacchus had sex with MR while MR was Dr Bacchus' patient. Dr Bacchus admitted having sex with MR in 2003. However, he denies that MR was his patient at the time he had sex with her.

[11] The Committee disbelieved Dr Bacchus on this point. It found that MR was an employee of Dr Bacchus and that Dr Bacchus provided free dental services to his employees, including MR, as part of their employment arrangements. Multiple employees of Dr Bacchus testified that this free dental care for employees was Dr Bacchus' "standard practice". MR testified that she received 4 or 5 fillings from Dr Bacchus around 2000, and that she saw him, as a patient, regularly for recall examinations in following years. The Committee found that MR had an excellent recollection of the period during which she had sexual relations with Dr Bacchus, for a period of months during the spring and summer of 2003, ending "a month or two" before MR gave birth to a child in October 2003.

[12] The Committee found that Dr Bacchus' patient records were incomplete, in part because records were destroyed during a break-in to the office in 2010. The Committee did not accept Dr Bacchus' evidence that all patient records had been transferred to the "ABELDENT" electronic records system adopted by the office in 2004: rather, it found that only some past records were transferred, and in particular, records for patients without outstanding billing balances (which would not have included MR, since she received services without charge). Finally, the Committee noted that the first entry in ABELDENT for MR was in June 2005, and it describes the services rendered as a "recall examination", strongly implying that services had been provided previously.

[13] Dr Bacchus acknowledged that he provided free dental services to his employees. The Committee found his explanation as to why he had not provided such services to MR in the period 1997-2003, when MR was his full-time employee, as incredible, and it preferred the evidence of MR.

[14] Dr. Bacchus argued that the Committee erred in principle in its understanding of whether MS was a “patient” at the time of his sexual relationship with her, in 2003, by failing to reference the 2018 Patient Criteria Regulation. I would not give effect to this submission. It is not clear that the 2018 Regulation should be applied to a sexual liaison that took place in 2003. But even if it should, the criteria promulgated in 2018 are largely declarative of the common law position that applied previously. Whether the Committee applied the common law test or the test in the 2018 Patient Criteria Regulation, the result would have been the same.

[15] I see no palpable and overriding error in the Committee’s factual conclusion that MS received dental services from Dr Bacchus during the period they had a sexual relationship, and I see no error in principle that, consequently, MS was a “patient” of Dr Bacchus during this time. I would not give effect to this ground of appeal.

2. Did Dr. Bacchus have sex with JSH when she was Dr Bacchus’ patient ?

[16] Dr Bacchus argues that the Committee erred in finding that he had sex with JSH when she was his patient. He argues that the Committee erred (i) in failing to admit a statutory declaration from JSH that she had never had sex with Dr Bacchus, (ii) in failing to apply factual and credibility findings of the Superior Court of Justice in related criminal proceedings, and (iii) in ascribing no weight to his own denials.

[17] The Committee had testimony from JSH’s former husband, JKH, to events on November 24, 2017, when JKH discovered his wife in the basement of the family home with Dr Bacchus, in highly compromising circumstances. An altercation ensued. JKH testified that the following day, when he went to Dr Bacchus’ house, Dr Bacchus told him that he had been having sex with JSH since May of that year. Another witness, KP, testified to having been at a meeting at Dr. Bacchus’ house on November 27, 2017, at which Dr. Bacchus admitted to having had a sexual relationship with JSH that lasted between 6 months and a year, evidence the Committee correctly found was admissible as an admission against interest: *General Accident Assurance Co. v. Chrusz* (1999), 45 OR (3d) 321 (CA); *Tompkins v. Ternes* (1960), 26 DLR (2d) 565 at 567; *affd.* (1960), 26 DLR (2d) 565 (Sask. CA).

[18] JSH refused to cooperate with the College investigation. The prosecution exercised its discretion not to summons her as a witness because it considered her anticipated evidence to be not credible, and in accordance with the College’s general policy of not issuing summonses to alleged sexual abuse victims. Dr Bacchus did not seek to call or serve a summons on JSH to compel her to attend as a witness.

[19] At the hearing, Dr. Bacchus denied having had sex with JSH on November 24, 2017, or at all. Dr. Bacchus also sought to tender a statutory declaration from JSH in which she denied ever having had sex with Dr. Bacchus. The Committee declined to admit the statutory declaration into evidence.

[20] The *Statutory Powers Procedure Act*, RSO 1990, c. S.22, s. 15, grants administrative tribunals discretion to admit hearsay evidence. However, s. 49 of the *Code* provides:

Despite the *Statutory Powers Procedure Act*, nothing is admissible at a hearing that would be inadmissible in a court in a civil action and the findings of a panel shall be based exclusively on evidence admitted before it.

The statutory declaration would not be admissible in a civil proceeding (absent a successful motion to admit the evidence as an exception to the inadmissibility of hearsay evidence). I conclude that the Committee did not err in finding the declaration inadmissible. Circumstances did not establish a basis on which the Committee could reasonably have admitted the declaration. The prosecution exercised its discretion not to summons JSH, but it was still open to Dr Bacchus to do so. Since Dr Bacchus did not do so, there was no foundation for a conclusion that JSH's evidence could not be obtained. This fact, and the inconsistency of the statutory declaration with the preponderance of evidence before the Committee, on a key factual issue, was a sufficient basis on which to decline to admit the statutory declaration into evidence.

[21] Dr Bacchus argues that the issue of whether he had sex with JSH was authoritatively decided by Raikes J. in his criminal prosecution. I would not accept this argument. The issue in the criminal trial was whether Dr Bacchus committed aggravated assault by stabbing JSH's husband, JKH. In the course of finding Dr Bacchus guilty, Raikes J. considered background evidence, including JKH's evidence that he discovered Dr Bacchus and his wife "in the act". Raikes J. made some adverse credibility findings respecting JKH, but still preferred JKH's evidence to that of Dr Bacchus on central issues. Raikes J. expressly declined to make a finding as to whether Bacchus and JSH were involved in sexual activity on November 24, 2017, but he did find that JKH believed that they were doing so. In my view, these findings are not inconsistent with findings made by the Committee. Raikes J. was not required to decide whether Dr Bacchus had sex with JSH and declined to do so; the Committee was required to decide that question, and did so on the basis of the evidence before it.

[22] I see no appealable error in the Committee's finding that Dr Bacchus had sex with JSH when she was a patient and an employee.

3. Did Dr. Bacchus fail to obtain and document informed consent from patients ?

[23] The Committee found that Dr. Bacchus failed to document informed consent from patients on seven occasions in 2016-2017. The Committee drew an inference that Dr Bacchus failed to obtain informed consent from the absence of proper documentation.

[24] Dr Bacchus admitted that he failed to document informed consent but testified that he had obtained verbal consent from the patients. He also argued that his approach was consistent with the College's requirements at the time, and that it was not until 2019 that the College's Recordkeeping Guidelines required documented informed consent.

[25] The College rejected Dr. Bacchus' arguments. It found that the College's Recordkeeping Guidelines in force in 2016-2017 clearly required that informed consent be documented, and moreover, that Dr. Bacchus had a prior discipline history that had led to him being cautioned and counselled about the requirement to document informed consent.

[26] I see no palpable and overriding errors in the College’s findings on this issue, and given the circumstances identified by the College, an inference was available that informed consent was not obtained from the fact that it had not been documented.

4. Did Dr. Bacchus’ Prescribing Breach the College’s Guidelines for the Prescription of Opioids ?

[27] The Committee concluded that Dr. Bacchus failed to abide by the College’s opioid guidelines. The Committee found that Dr. Bacchus contravened the standards of practice by prescribing opioids without documenting a justification or reason, and without documenting that he considered prescribing non-opioid medication first, as required.

[28] These breaches were serious. In 2015, the College promulgated its Opioid Guidelines in response to the burgeoning opioid crisis, which had become, and continues to be, a serious public health concern. The Committee had evidence that data from Ontario’s Narcotic Monitoring System established that Dr Bacchus frequently prescribed narcotics in excess of the amounts permitted by the Opioid Guidelines. The College’s expert, Dr Gizzarelli, opined that when a dentist prescribes opioids, only the lowest possible dosage for the shortest possible duration should be prescribed, to reduce the risk of addiction and to minimize transfer of the drugs into the public. Dr Gizzarelli further opined that prescription limits in the Opioid Guidelines are an “upper limit” that should not be exceeded, and where opioids are properly prescribed, the prescription should not automatically be for the prescription limit in the Guidelines, but for the fewest number of tablets possible in the patient’s circumstances.

[29] Dr Bacchus argued that the Opioid Guidelines were no more than suggestions and were not standards of practice. I would not accept this argument: professional Guidelines are a source of professional standards: *Yazdanfar v. The College of Physicians and Surgeons*, 2013 ONSC 6420; *Trozzi v. College of Physicians and Surgeons*, 2024 ONSC 6096. The import of the Opioid Guidelines, and their status as declaratory of professional standards, was established in this case by expert evidence that was accepted by the Committee.

[30] The Committee found that Dr Bacchus breached the Guidelines in respect to six patients and did so without documenting a justification or required consideration of alternatives. These findings were all available on the record before the Committee and do not disclose a palpable and overriding error.

5. Did Dr. Bacchus direct that false insurance claims be made on his behalf ?

[31] The Committee concluded that Dr. Bacchus directed his staff to file false insurance claims. Three of his former employees testified to this at the hearing. Bacchus further directed his staff to submit his patients’ claims under his colleague’s name. These factual findings were available on the record and disclose no palpable and overriding error.

6. Is there a reasonable apprehension that the Committee was biased?

[32] Dr Bacchus’ argument on this point does not come close to establishing a reasonable apprehension of bias. His principal argument is that the Committee showed bias by deciding issues against him. As noted above, I would entirely uphold the Committee’s decisions: it can hardly be

an indication of bias for the Committee to decide the case in a manner that discloses no reversible error. Further and in any event, bias is not established by an adverse decision. Far, far more is required to displace the strong presumption of impartiality: *Panel for Justice and Liberty v. National Energy Board*, [1978] 1 SCR 369 at 394; *Wewaykum Indian Band of Canada v. Canada*, 2003 SCC 45, paras. 58-77, 112; *R. v. S. (R.D.)*, [1997] 3 SCR 484.

[33] Dr Bacchus also argues that the Committee showed bias by attaching the complaints to its decision, including allegations that were dismissed. There is no substance to this argument. The decision clearly sets out what all the allegations were, and which ones were found established and which ones dismissed. Attaching the complaints as appendices to the decision is an established practice of the College's Discipline Committee, and referencing all of the charges, and how each charge was disposed of, is sound practice.

7. Did the Committee err in respect to penalties and costs ?

(a) Revocation

[34] With respect to the revocation of Dr. Bacchus's certificate of registration, the Committee held that it is not open to them, for the purposes of deciding penalty, to reconsider the finding of whether MR and JSH were patients. Having found that they were patients at the time of their respective sexual relationships, the Committee found that the care was not 'incidental' to their sexual relationships. The Committee is required, pursuant to sections 51(5) and 51(5.2) to reprimand Dr Bacchus and to revoke his certificate of registration.

[35] The Committee went on to conclude that even if revocation was had not been mandatory, Dr. Bacchus's overall conduct warranted revocation in any event.

[36] In light of the findings on liability, revocation was mandatory. Had it not been, the Committee's conclusion that revocation was warranted in the overall circumstances of the case was justified, and certainly was within "a range of possible, acceptable outcomes which are defensible in respect of the facts and law."

(b) Costs

[37] With respect to costs, the Committee had no concerns as to the reasonableness of the costs incurred by the College to investigate and prosecute this matter. This is because the matter involved 5 separate Notices of Hearing, multiple allegations, and the hearing proceeded over 17 days and involved multiple witnesses and exhibits. The Committee noted that Dr. Bacchus did not make reasonable concessions that could have shortened the hearing, but rather, raised numerous objections that lengthened the hearing.

[38] We saw some of this pattern in this appeal in which Dr Bacchus raised numerous points that were obviously meritless (for example, that no deference is owed to credibility findings, and the entire argument respecting bias). The costs awarded were 2/3 of the College's actual costs and expenses and this court has upheld awards calculated in this manner in other discipline cases: *Walia v. College of Veterinarians*, 2021 ONSC 4023, *Bayfield v. College of Physiotherapists*, 2014 ONSC 6570; *Barrington v. The Institute of Chartered Accountants of Ontario*, 2011 ONCA 409. The award of costs in this case is very substantial indeed - \$451,461.61 –and could be a

barrier to access to justice. However, issues about Dr Bacchus' ability to pay the award were not raised with the Committee and would have required evidence before the Committee could take an argument of relative impecuniosity into account to moderate an otherwise justified costs award. There was no such evidence before the Committee. I would not interfere with the Committee's costs award.

Disposition

[39] I would dismiss the appeal, with costs in the agreed amount of \$15,000 payable by Dr Bacchus to the College within 30 days.

“D.L. Corbett J.”

I agree: “Faieta J.”

I agree: “LeMay J.”

Released: June 12, 2026