

**DISCIPLINE COMMITTEE
OF THE COLLEGE OF DIETITIANS OF ONTARIO**

PANEL:	Elizabeth Wilfert, Chair	Public Member
	Lesia Kicak	Professional Member
	Barbara Major-McEwan	Professional Member
	Deion Weir	Professional Member
	Edith Brown	Public Member

BETWEEN:

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)	
COLLEGE OF DIETITIANS)	Marc H. Spector
OF ONTARIO)	for the College of Dietitians
)	of Ontario
- and -)	
)	
ANASTASIA BIGAS)	Lad Kucis
)	for Anastasia Bigas
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)	Heard: May 15, 2013

Also present at the hearing were:

Mr. Brian Gover - Independent Legal Counsel to the Panel
Mr. Matthew Dixon - Court Reporter

DECISION AND REASONS

Introduction

A hearing before a panel of the Discipline Committee (the “Panel”) of the College of Dietitians of Ontario (the “College”) was held on May 15, 2013. The College has a mandate to regulate the practice of dietetics and to govern its members and, in so doing, serve and protect the public interest.

The Allegations

The allegations against Anastasia Bigas, (the "Member"), were set out in the Notice of Hearing, dated March 12, 2013. The Notice of Hearing was entered as Exhibit 1 at the hearing.

The allegations in respect of the Member's conduct were as follows:

1. It is alleged that, from approximately September 2011 to approximately February 2012, Ms. Bigas breached standards of practice of the profession. Ms. Bigas:
 - a. entered into an intimate relationship (eventually involving sexual intercourse), with PN, approximately ten days after seeing him for a clinical consultation;
 - b. failed to transfer or to properly transfer PN's care to another health care professional when attempting to discharge him as a client;
 - c. failed to make an appropriate referral to another health care professional when she observed that PN's health was declining;
 - d. accessed PN's medical file for reasons not related to her clinical or professional relationship with him;
 - e. accessed the medical file of PN's mother who has never been one of Ms. Bigas' clients; and
 - f. provided PN with health information from his mother's medical file without first receiving his mother's consent.
2. It is alleged that Ms. Bigas placed herself in a conflict of interest by not first transferring PN's care to another health care professional before entering into an intimate relationship with him.
3. It is alleged that, from approximately September 2011 to approximately February 2012, Ms. Bigas took pharmaceutical samples of erectile dysfunction drugs from

her employer's office without authorization and without her employer's knowledge. Ms. Bigas then dispensed those samples to PN for his use, contrary to section 14 of the *Food and Drugs Act* and section 27 of the *Regulated Health Professions Act, 1991*.

4. It is alleged that the above conduct demonstrates that Ms. Bigas engaged in professional misconduct pursuant to paragraph 5 (failing to maintain a standard of practice); paragraph 11 (practising the profession while in a conflict of interest); paragraph 12 (giving client information without consent); paragraph 32 (contravening the *Dietetics Act 1991*, the *Regulated Health Professions Act, 1991* or the regulations under either of them); paragraph 34 (contravening a law or rule designed to protect the public health or relevant to suitability to practice), and paragraph 36 (disgraceful, dishonourable or unprofessional conduct); of section 1 of Ontario Regulation 680/93, as amended, under the *Dietetics Act, 1991*.

Member's Plea

The Member admitted the allegations. The Panel conducted a plea inquiry and concluded that the Member's admission was voluntary, informed and unequivocal.

Agreed Statement of Facts

College Counsel advised that an agreement had been reached on the facts and introduced an Agreed Statement of Facts (Exhibit #2) which provides as follows.

1. Anastasia Bigas ("Ms. Bigas") is a registered dietitian in Ontario. She has been a member of the College of Dietitians of Ontario since August 2008.
2. Ms. Bigas practises dietetics as part of a Family Health Team, where family doctors work with other health care professionals such as nurses, mental health counselors, pharmacists and dietitians. The team includes 21 dietitians.

3. Mr. P.N. ("PN") is an individual who suffers from a number of ailments including obsessive compulsive disorder, depression and anxiety. PN regularly consults with a number of health care providers including his family physician and his psychiatrist.
4. In early September 2011, PN was referred by his family physician to Ms. Bigas for a dietetic consultation. Ms. Bigas and PN's family physician practise out of the same clinic.
5. The only appointment between Ms. Bigas and PN took place on September 13, 2011. At the end of the appointment, Ms. Bigas advised PN that, although she did not see the need for any follow-up consultation with her, he could follow up with her if his blood work later showed that his diet had to be better managed. Ms. Bigas then made a notation in PN's file indicating that she had discharged him. If this were a contested hearing, Ms. Bigas would testify that although she did not specifically advise PN that she had "discharged" him, she nevertheless believed that PN understood that she was discharging him from her care.
6. Later that day, PN sent Ms. Bigas an e-mail requesting additional dietary information and the two began exchanging e-mails over the next several days. Within a day or two of the initial e-mail, PN suggested to Ms. Bigas that they meet "off the record". Ms. Bigas responded that she would like to do that and stated, "I'm glad that you mentioned 'off the record' as I've discharged you as a patient, so our meeting would be of a social nature."
7. Ms. Bigas did not, however, transfer PN's dietary care to another registered dietitian or other health care professional in the event that he needed follow-up care or wanted additional dietetic advice.
8. Ten days after the September appointment, Ms. Bigas and PN met at a coffee shop and went for dinner together. When PN started to disclose information about his health to Ms. Bigas, Ms. Bigas indicated that she was familiar with his medical conditions, as shortly before their outing and without PN's consent, she

had reviewed PN's patient file at the clinic for personal reasons and to "check him out".

9. Within a few weeks, Ms. Bigas and PN's relationship evolved and they became sexually intimate. Shortly afterwards, PN obtained both samples and a prescription for erectile dysfunction drugs from his urologist. On one or two occasions, Ms. Bigas also obtained erectile dysfunction samples from one of the clinics that she worked at (without permission from her employer), and dispensed them to PN.
10. During their relationship, PN requested that Ms. Bigas provide him with information from his medical file, and she did so approximately 11 times. PN's mother was also a patient at the clinic. On a few occasions, PN requested that Ms. Bigas provide him with information from his mother's file, and she did so.
11. If this were a contested hearing, Ms. Bigas would testify that she thought that she had the permission of PN's mother to do so even though she only heard this through PN. PN's mother was not Ms. Bigas' client. Ms. Bigas acknowledges that it was inappropriate for her to access PN's mother's file or share this information with anyone, including PN.
12. During his relationship with Ms. Bigas, PN began losing weight. He felt that he needed to see a dietitian, and advised Ms. Bigas of his concerns. Ms. Bigas responded by stating that she felt she could not provide PN with dietetic care and, although she advised PN that she could arrange for him to see a dietitian, she expressed concerns about doing so. Specifically, Ms. Bigas advised PN that she was concerned that another dietitian might inquire as to why Ms. Bigas could not assist him.
13. Ms. Bigas expressed similar concerns regarding the issue of PN seeking assistance from his family physician and advised PN to tell his family physician that his problems were not diet-related. Specifically, Ms. Bigas was concerned that the family physician might inquire why Ms. Bigas could not assist him if his

problems were diet-related. Ms. Bigas did not, however, specifically advise PN not to see his physician.

14. If this were a contested hearing, Ms. Bigas would testify that, notwithstanding her concerns about sharing her relationship with others, she believed that PN's problems were not diet-related. Ms. Bigas would also testify that she advised PN that if his family physician believed that additional dietary advice was needed, he should advise his family physician about their relationship.
15. If this were a contested hearing, PN would testify that he resisted speaking to his family physician because he was concerned that his physician might discover his personal relationship with Ms. Bigas and PN wanted to protect her.
16. On another occasion, Ms. Bigas advised PN that, if anyone inquired how they met, he should respond by saying that they met at a coffee shop. Ms. Bigas agrees that she did so because she did not want people to mistakenly believe that she was in a relationship with an existing client.
17. The parties agree that the above demonstrates that Ms. Bigas engaged in professional misconduct pursuant to paragraph 5 (failing to maintain a standard of practice); paragraph 11 (practising the profession while in a conflict of interest); paragraph 12 (providing client information without consent); paragraph 32 (contravening the *Dietetics Act 1991*, the *Regulated Health Professions Act, 1991* or the regulations under either of them); and paragraph 36 (disgraceful, dishonourable or unprofessional conduct) of section 1 of Ontario Regulation 680/93, as amended, under the *Dietetics Act, 1991*.

Decision

Consistent with the Agreed Statement of Facts and in light of the parties' submissions, the Panel made the following finding:

THAT Ms. Bigas engaged in professional misconduct pursuant to paragraph 5 (failing to maintain a standard of practice); paragraph 11 (practising the

profession while in a conflict of interest); paragraph 12 (providing client information without consent); paragraph 32 (contravening the Dietetics Act 1991, the Regulated Health Professions Act, 1991 or the regulations under either of them); and paragraph 36 (disgraceful, dishonourable or unprofessional conduct) of section 1 of Ontario Regulation 680/93, as amended, under the Dietetics Act, 1991.

Penalty Decision and Reasons

Counsel for the College advised the Panel that a Joint Submission as to Penalty (“Joint Submission”, Exhibit #3) had been agreed upon. The Joint Submission requested that the Panel make an order as follows:

1. THE DISCIPLINE COMMITTEE FINDS Anastasia Bigas guilty of professional misconduct within the meaning of paragraph 5 (failing to maintain a standard of practice of the profession); paragraph 11 (practising the profession while in a conflict of interest); paragraph 12 (providing client information without consent); paragraph 32 (contravening the *Dietetics Act 1991*, the *Regulated Health Professions Act, 1991* or the regulations under either of them); and paragraph 36 (engaging in disgraceful, dishonourable or unprofessional conduct) of section 1 of Ontario Regulation 680/93, as amended, under the *Dietetics Act, 1991*.
2. THE DISCIPLINE COMMITTEE REQUIRES that Ms. Bigas appear before it to be reprimanded on a date to be set by the Registrar.
3. THE DISCIPLINE COMMITTEE DIRECTS the Registrar to suspend Ms. Bigas' Certificate of Registration immediately for eight and one-half (8 ½) consecutive months. The suspension shall continue indefinitely until Ms. Bigas complies with the terms, conditions and limitations set out in paragraph 4 of this Order.
4. THE DISCIPLINE COMMITTEE DIRECTS the Registrar to impose the following terms, conditions and limitations on Ms. Bigas' Certificate of Registration:

- a. Ms. Bigas must, at her own expense, successfully complete the Professional Problem Based Ethics Course ("ProBE") to be offered by The Center for Personalized Education for Physicians; and
 - b. Ms. Bigas must, within 30 days of completing the ProBE course, advise the Registrar in writing that she has completed and passed the course.
5. THE DISCIPLINE COMMITTEE ORDERS that Ms. Bigas pay the College's costs in the amount of \$1,500 to be paid no later than thirty (30) days following her return to practice from suspension.

Upon deliberation, the Panel accepted the terms and conditions on the Joint Submission on Penalty and imposed the following order:

1. THE DISCIPLINE COMMITTEE FINDS Anastasia Bigas guilty of professional misconduct within the meaning of paragraph 5 (failing to maintain a standard of practice of the profession); paragraph 11 (practising the profession while in a conflict of interest); paragraph 12 (providing client information without consent); paragraph 32 (contravening the *Dietetics Act 1991*, the *Regulated Health Professions Act, 1991* or the regulations under either of them); and paragraph 36 (engaging in disgraceful, dishonourable or unprofessional conduct) of section 1 of Ontario Regulation 680/93, as amended, under the *Dietetics Act, 1991*.
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 - b. Ms. Bigas must, within 30 days of completing the ProBE course, advise the Registrar in writing that she has completed and passed the course.
5. THE DISCIPLINE COMMITTEE ORDERS that Ms. Bigas pay the College's costs in the amount of \$1,500 to be paid no later than thirty (30) days following her return to practice from suspension.

The Panel's reasons for accepting the Joint Submission are as follows.

The evidence before the Panel (in the form of the Agreed Statement of Facts, Exhibit #2) demonstrated that the Member crossed professional boundaries by engaging in an intimate relationship with a client, provided medical information without client consent and dispensed medication to that client. This conduct amounted to professional misconduct in that the Member

1. Breached standards of practice of the profession by entering into a intimate relationship with a client ten days after seeing him for a clinical consultation and failed to transfer the patient's care to another healthcare professional,
2. Accessed the client's and client's mothers' medical files without consent,
3. Through her actions, placed herself in a conflict of interest,
4. Dispensed pharmaceutical samples to the client which is contrary to the *Food and Drugs Act* and the *Regulated Health Professions Act, 1991*, and
5. In doing these things, engaged in disgraceful, dishonourable or unprofessional conduct

The Joint Submission addressed the three main issues of this hearing (crossing professional boundaries, accessing medical information without consent and dispensing medication to a client).

The Panel acknowledges that the Member quickly cooperated with the investigation as noted by the two month timeline involved in bringing this matter to a hearing. The Joint

Submission appropriately reflects the Member's high degree of cooperation. It is also evident that the Member's cooperation and past complaint-free practice were considered by the parties in formulating the Joint Submission.

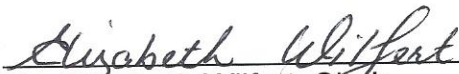
The agreed penalty falls within the range of penalties when compared to similar hearings, as evident in the joint case book provided to the Panel. The Panel finds this penalty to be fair and consistent with penalties given for similar misconduct.

The Panel concluded that this penalty will deter this Member and other members from engaging in these or similar acts of professional misconduct and foremost, it protects the public. The terms, conditions and limitations on the Member's certificate will aid in the Member's remediation and will enhance her knowledge of ethical practice, which will also assist in preventing the Member from engaging in professional misconduct again.

Administration of Reprimand

The Chair asked if a written notice of waiver of appeal or if an agreement had been signed with respect to the reprimand. Counsel for the Member stated on the record that the Member had waived her right of appeal. The reprimand was therefore administered to the Member on the same day, on the record.

I, Elizabeth Wilfert, sign this decision and reasons for the decision as Chair of this Discipline panel and on behalf of the members of the Discipline panel as listed below.


Ms. Elizabeth Wilfert, Chair

May 27, 2013

Panel Members:

Elizabeth Wilfert, Chair
Lesia Kicak, RD
Barbara Major-McEwan, RD
Deion Weir, RD
Edith Brown