

NOTICE OF HEARING

The allegations against Janet Chappell ("Ms Chappell" or the "Member"), as stated in the Notice of Hearing dated November 11, 2004 (Exhibit #1), can be summarized as follows. At all materials times, the Member was duly registered with the College of Dietitians of Ontario. Under the quality assurance regulations, members are required to comply with the requirements of the quality assurance program. Those requirements include carrying out a self-assessment (using a Self Directed Learning Tool, or SDL Tool), engaging in professional improvement and development, keeping and retaining complete and accurate records with respect to the self-assessment, professional improvement and development and submitting those records to the Quality Assurance Committee on request. Those requirements are set out in s. 30.18 of Ontario Regulation 593/94 as amended.

It was alleged that the Member has consistently failed to submit the records to the Committee as required by s. 30.18 and by s. 82 of the *Health Professions Procedural Code*. The particulars of the Member's failure to submit those records were fully set out in the Statement of Allegations that formed part of the Notice of Hearing. In order to avoid duplication, we do not set out those particulars here because they are fully set out in the Joint Submission on Finding entered into by both parties and fully reproduced below. The Statement of Allegations further states that the Member did not respond to many of the communications from the College concerning her failure to submit the SDL Tools on a timely basis.

In paragraph 5 of the Statement of Allegations, it was alleged that the Member's conduct constituted professional misconduct as defined in paragraphs 2 (contravening a condition of a certificate of registration, including paragraph 30.4.3 of Ontario Regulation 593/94 as amended), 32 (contravening the legislation, including the quality assurance regulations and s. 82 of the *Health Professions Procedural Code*), 36 (unprofessional conduct), 37 (failing to cooperate with the Quality Assurance Committee) and 38 (failing

to carry out a requirement of the Quality Assurance Committee) of Ontario Regulation 680/93 as amended.

MEMBER'S POSITION RESPECTING THE ALLEGATIONS

Ms. Chappell admitted the allegations. The panel conducted a plea inquiry and was satisfied that the Member's admission of professional misconduct was voluntary, informed and unequivocal.

Richard Steinecke, counsel for the College advised the panel that the College was not leading the testimony of any witnesses, but instead, that an agreement had been reached on the facts. College counsel then introduced a Joint Submission on Finding (Exhibit #2), which provided as follows:

JOINT SUBMISSION ON FINDING

1. At all material times Ms. Janet Chappell was duly registered with the College of Dietitians of Ontario.

2. Under the quality assurance regulations, members are required to comply with the requirements of the quality assurance program. Those requirements include carrying out a self-assessment (using a Self Directed Learning Tool, or SDL Tool), engaging in professional improvement and development, keeping and retaining complete and accurate records with respect to the self-assessment, professional improvement and development and submitting those records to the Quality Assurance Committee on request. Those requirements are set out in s. 30.18 of Ontario Regulation 593/94 as amended.

3. Ms. Chappell has consistently failed to submit the records to the Committee as required by s. 30.18 and by s. 82 of the *Health Professions Procedural Code*. Particulars of the failure are as follows:

- (a) 1998 SDL Tool
 - (i) mailed on or about September 18, 1998
 - (ii) due on or about November 30, 1998
 - (iii) first late notification letter on or about January 27, 1999
 - (iv) quality assurance regulation made on March 26, 1999
 - (v) second late notification letter on or about December 21, 1999
 - (vi) SDL Tool delivered on or about April 19, 2000

- (b) 1999/2000 SDL Tool
 - (i) mailed on or about February 7, 2000
 - (ii) due on or about April 2, 2000
 - (iii) first late notification letter on or about April 14, 2000
 - (iv) SDL Tool delivered on or about April 20, 2000

- (c) 2000/2001 SDL Tool
 - (i) mailed on or about January 29, 2001
 - (ii) due on or about April 2, 2001
 - (iii) first late notification letter on or about April 24, 2001
 - (iv) second late notification letter on or about June 14, 2001

- (v) verbal contact on or about August 15, 2001
 - (vi) on or about September 6, 2001 member requested and granted extension for delivery to October 26, 2001
 - (vii) reminder that SDL Tool had not yet been received on or about November 22, 2001
 - (viii) SDL Tool delivered on or about December 4, 2001
- (d) 2001/2002 SDL Tool
- (i) mailed on or about January 28, 2002
 - (ii) due on or about April 2, 2002
 - (iii) first late notification letter on or about April 24, 2002
 - (iv) second late notification letter on or about June 14, 2002
 - (v) SDL Tool delivered on or about June 20, 2002
- (e) 2002/2003 SDL Tool
- (i) mailed on or about January 27, 2003
 - (ii) due on or about April 2, 2003
 - (iii) first late notification letter on or about May 8, 2003
 - (iv) second late notification letter on or about July 10, 2003

- (v) verbal contact on or about September 17, 2003 where Ms. Chappell objected to the SDL Tool after which staff provided to Ms. Chappell the new SDL Tool that was being piloted
- (vi) on or about October 22, 2003 Ms. Chappell delivers email acknowledging that she had missed deadline of October 17, 2003 stating that she would submit new SDL Tool by end of the week
- (vii) on or about March 23, 2004 Executive Committee sends letter to Ms. Chappell about the non-compliance and Ms. Chappell receives letter on or about April 2, 2004
- (viii) SDL Tool delivered on or about April 19, 2004.

4. Ms. Chappell did not respond to many of the communications, as is particularized above.

5. The conduct agreed to above constitutes professional misconduct as defined in paragraphs 2 (contravening a condition of a certificate of registration, including paragraph 30.4.3 of Ontario Regulation 593/94 as amended), 32 (contravening the legislation, including the quality assurance regulations and s. 82 of the *Health Professions Procedural Code*), 36 (unprofessional conduct), 37 (failing to cooperate with the Quality Assurance Committee) and 38 (failing to carry out a requirement of the Quality Assurance Committee) of Ontario Regulation 680/93 as amended.

FINDING OF PROFESSIONAL MISCONDUCT

The panel considered the Joint Submission on Finding (Exhibit #2) and finds that the Member committed an act of professional misconduct as alleged in paragraph 5 of the Statement of Allegations, namely, professional misconduct as defined in paragraphs 2 (contravening a condition of a certificate of registration, including paragraph 30.4.3 of Ontario Regulation 593/94 as amended), 32 (contravening the legislation, including the

quality assurance regulations and s. 82 of the *Health Professions Procedural Code*), 36 (unprofessional conduct), 37 (failing to cooperate with the Quality Assurance Committee) and 38 (failing to carry out a requirement of the Quality Assurance Committee) of Ontario Regulation 680/93 as amended..

College counsel advised the panel that a Joint Submission as to Penalty had been agreed upon. The joint Submission as to Penalty (Exhibit #3) provides as follows:

JOINT SUBMISSION ON ORDER

The parties, after receiving legal advice from their respective counsel, agree to the following facts on the issue of order, for the purpose of this proceeding only:

- A. Previously the filing deadline for Ms. Chappell coincided with her date of birth which, in her case, was in April of each year. Ms. Chappell states that April was a particularly difficult time of year in academia and this and her other commitments made it difficult for her to meet this filing deadline. Given that the system has now changed, to provide for a uniform filing period and submission on-line, this problem has disappeared and Ms. Chappell has filed her 2003/2004 SDL Tool.

- B. Ms. Chappell has undergone a period of significant personal and professional stress in the past 24 months. Her husband was diagnosed with West Nile virus encephalitis in the fall of 2002. He was very ill and significantly disabled for an extended period of time. This is a chronic illness and he will likely never completely recover. He has had to cut back his professional practice and required additional time and care from Ms. Chappell. Ms. Chappell states that the stress and anxiety caused by this condition made it very difficult for Ms. Chappell to cope with all of the demands on her time and energy over the past two years.

- C. All of the SDL Tools mentioned in the notice of hearing were submitted to the College prior to the matter being referred to discipline. Ms. Chappell's SDL Tools are entirely up to date.
- D. Ms. Chappell is very well known and active in the profession. She has dedicated countless hours to her students and dietetic professionals, both Canadian and internationally educated. She has contributed to the advancement of the profession and the dietetic community. She is the Chair of the School of Nutrition at Ryerson University and was awarded the "Professor of the Year" award for 2004 for her outstanding contributions to the quality of teaching and learning at Ryerson.
- E. In addition to her professional and academic pursuits, Ms. Chappell is a founding member of the West Nile Virus Society, a not-for-profit organization dedicated to educating the public about the West Nile virus and its prevention, and to helping those infected with the West Nile virus and their families to access necessary services. Ms. Chappell is also involved in complex litigation against the Province of Ontario on behalf of her own family and up to 40 other complainants, and is a member of a small committee responsible for instructing counsel and keeping the other complainants informed of progress in the case.
- F. Ms. Chappell's community involvement, both within and outside of the dietetic community, all of which is done on a voluntary basis, is extensive and well known.

The parties, after receiving legal advice from their respective counsel, agree to the following joint submission on order:

1. The Discipline Panel orders that Ms. Chappell appear before a panel of the Discipline Committee to be reprimanded and that the fact of such a reprimand be recorded in the public portion of the register.
2. The Discipline Panel orders that Ms. Chappell pay to the College \$500 towards the costs and expenses of investigating and prosecuting this matter, payable within 30 days of this order.

The submissions made by Counsel for the College concerning the Joint Submission as to Penalty and the mitigating and aggravating factors arising in this case were as follows:

Mitigating Factors

- 1) This is the first finding of professional misconduct against the Member.
- 2) There were personal factors involved that explain some of the professional misconduct.
- 3) The Member is now up to date with her SDL Tools (and the professional misconduct has stopped).
- 4) The Member is well known and respected in the professional community.

Aggravating Factors

- 1) The failure to submit the SDL Tool has been repeated for 5 consecutive years.
- 2) Some submissions were in abeyance for over 1 year.
- 3) The Member failed to realize the importance of the Quality Assurance Tool as an important requirement for all professions.
- 4) The Member is well respected in her professional community. Because of this, she should set a positive example for her peers.
- 5) The penalty order needs to provide a sufficient deterrent to prevent the Member from engaging in it again and also to deter others.
- 6) The penalty order should convey the message that no one person is above or exempt from the College's regulatory requirements.

College counsel submitted that the proposed penalty was "just right" in that it took all of the circumstances of this case into account.

In her submissions in support of the Joint Submission on Order, Ms. Paris urged the panel to consider the mitigating factors and asked us to consider that the Member takes these allegations very seriously and has been placed in an uncomfortable position because of the allegations.

PENALTY AND COSTS DECISION

The panel accepts the Joint Submission on Order. Accordingly,

1. The Discipline Panel orders that Ms. Chappell appear before a panel of the Discipline Committee to be reprimanded and that the fact of such a reprimand be recorded in the public portion of the register.
2. The Discipline Panel orders that Ms. Chappell pay to the College \$500 towards the costs and expenses of investigating and prosecuting this matter, payable within 30 days of this order.

The panel concluded that the proposed penalty is reasonable and in the public interest. The Member has co-operated with the College and by agreeing to the facts and a proposed penalty, has accepted responsibility for her actions and has avoided the unnecessary expense to the College.

Upon inquiry, Ms Chappell waived her right to appeal. The hearing room was cleared and the reprimand was administered.

November 26, 2004

Signed:

Margaret Birkinshaw
Chairperson, Discipline Panel

Col Boyle (GIL BOYLE)
Member, Discipline Panel

Barbara Medd RD
Member, Discipline Panel

Francis Amorog
Member, Discipline Panel