

IN THE MATTER OF

The Health Professions Act, RSBC 1996 c. 183

Between:

THE COLLEGE OF DENTAL SURGEONS OF BRITISH COLUMBIA

And:

DR. LUC MAGNE

ORDER OF THE INQUIRY COMMITTEE

Under s. 37.1 of the *Health Professions Act*

The Inquiry Committee of the College of Dental Surgeons of British Columbia (the "College") accepted a proposal for resolution submitted by the registrant, Dr. Luc Magne on 30 March 2022 (the "Proposal") and accordingly issues this Order, pursuant to section 37.1(3)(a) of the *Health Professions Act*. The Proposal is attached to and forms part of this Order.

The Inquiry Committee accepts Dr. Magne's admissions that, with respect to a number of patients, he committed professional misconduct as follows:

- a. he provided sedation services at Dr. Magne Practice (the "Facility") when it was not being operated in compliance with both the College's Standards and Guidelines for Minimal and Moderate Sedation and for Deep Sedation (Non-Hospital Facilities);
- b. he allowed patients to enter a deeper level of sedation than he was approved to provide and continued the dental procedure;
- c. he failed to perform and/or record the level of consciousness during the procedure or recovery to pre-sedation consciousness prior to discharge and failed to conduct adequate monitoring;
- d. he failed to undertake and/or record diagnostic testing necessary to support a proper diagnosis and treatment plan;
- e. he administered oral ketamine without permission;
- f. he provided sedation to pediatric patients without a current PALS certificate and/or current CPR-HCP/BLS;
- g. he allowed a Licensed Practical Nurse to administer oral sedation medication.

The Inquiry Committee accepts Dr. Magne's admissions that, with respect to one patient, he committed professional misconduct by failing to:

- a. perform and/or record required assessments prior to providing sedation;
- b. ensure he had the necessary training, skills and/or equipment for pediatric airway management to allow rescue of the patient.

The Inquiry Committee further accepts Dr. Magne's admissions that he failed to do the following with respect to the Facility:

- a. adequately maintain the medication and equipment in the emergency mobile cart;
- b. ensure Facility staff were appropriately qualified and/or trained to assist with sedation and/or managed medical emergencies;
- c. conduct mock emergency drills to the required standard or frequency, and without full staff present;
- d. ensure required equipment was available during sedation; and
- e. adequately store restricted drugs.

After considering the seriousness of the conduct identified in the College's investigation, Dr. Magne's admissions, and the disciplinary action proposed, the Inquiry Committee resolves to accept Dr. Magne's Proposal.

The Inquiry Committee therefore orders as follows:

1. Dr. Magne is reprimanded.
2. Dr. Magne is permanently prohibited from providing any level of sedation services, including minimal sedation, in any dental facility in the province of British Columbia, unless and until authorized, in writing, by the College.
3. This prohibition constitutes a limit on Dr. Magne's practice that will be disclosed by the College on its registrant look-up on the College's website.
4. Dr. Magne is permanently prohibited from:
 - a. acting as the operator or director of the Facility, located in Prince George, British Columbia, except as set out in order 5;
 - b. being involved in the management of the Facility as it relates to the provision of sedation services, or the clinical directorship responsibilities relating to ensuring

the Facility is in full compliance with the College's Standards and Guidelines for the provision of sedation ("Sedation Standards"); and

- c. acting as the operator or director of any other non-hospital facility which provides sedation.
5. Dr. Magne may continue to act as the Facility's operator or director, but only in relation to non-sedation issues.
6. The Facility may only provide sedation services if it is being maintained in full compliance with the Sedation Standards, and there is a qualified member of the College of Dental Surgeons or College of Physicians and Surgeons acting as the Facility director and performing the clinical directorship responsibilities.
7. Dr. Magne must include a statement on the Facility's website, and on the informed consent documents given to patients at the Facility, providing the name of the member of the College or CPSBC who is acting as the Facility director and performing the clinical directorship responsibilities.
8. Dr. Magne must pay a fine of \$40,000 by August 31, 2022.
9. Dr. Magne must pay \$2,000 representing partial costs of the College's investigation by August 31, 2022.
10. Dr. Magne must provide the College with a list of all current staff at the Facility with contact information, and continuously and promptly update the College of any staff changes.
11. Dr. Magne is subject to all further acknowledgments and conditions stated in the Proposal, all of which are incorporated by reference and form part of this Order.

This Order is effective March 30, 2022.

The Order is approved by the Panel of the Inquiry Committee as indicated by their signatures below.

Dr. Preet Bhatti, Panel Chair

Date

Ms. Marg Vandenberg, Panel Member

Date

Dr. Ahmed Hieawy, Panel Member

Date

IN THE MATTER OF
The Health Professions Act, R.S.B.C. 1996 c. 183

Between:

THE COLLEGE OF DENTAL SURGEONS OF
BRITISH COLUMBIA

And:

DR. LUC MAGNE

**CONSENT ORDER PROPOSAL TO
INQUIRY COMMITTEE**

REGISTRANT ADMISSIONS AND CONSENTS

Citation issued: May 21, 2021, amended December 22, 2021 for new hearing dates

Hearing dates: June 15-17; 20-21, 2022

Proposal submitted: March 5, 2022

1.0 AUTHORITY AND ACKNOWLEDGMENTS

- 1.1 As permitted under section 37.1 (1) of the *Health Professions Act* (the “HPA”), Dr. Magne hereby provides this consent order proposal to the Inquiry Committee (the “Committee”) of the College of Dental Surgeons of British Columbia (the “College”).
- 1.2 Dr. Magne acknowledges that acceptance of this proposal by the Committee would result in the Committee making an order consistent with the proposal, which order would be considered to be that of the Discipline Committee for all purposes in accordance with section 37.1(3)(a) of the *HPA*.
- 1.3 Dr. Magne acknowledges that rejection of this proposal by the Committee would result in a hearing of the citation in this matter proceeding and that the Discipline Committee in that hearing must not consider any admission or consent provided herein.

2.0 BACKGROUND

- 2.1 Dr. Magne registered with the College as a dentist in 1986. Dr. Magne is a certified specialist in pediatric dentistry and the owner and operator of Dr. Magne Practice (the “Facility”), located in Prince George, British Columbia. Dr. Magne is authorized to provide moderate sedation level 2.
- 2.2 On December 12, 2019, the College received notice from a Prince George hospital that a seven year old child (JB) was admitted to the hospital following an incident at the Facility while JB was being treated under sedation by Dr. Magne. The next day, Dr. Magne provided the College with a Critical Incident Report.
- 2.3 As a result, the Committee directed the opening of a complaint file as well as a site inspection of the Facility by a team from the College of Physicians and Surgeons (the “CPSBC”). The inspection occurred on January 9, 2020, and revealed initial concerns with patients entering a deeper level of sedation than Dr. Magne was approved to provide, unauthorized use of ketamine, staff qualifications, storage of restricted medications, and missing and expired emergency equipment and medications.
- 2.4 To address the concerns identified during the inspection, Dr. Magne signed an Undertaking on January 10, 2020 to immediately cease providing all levels of sedation and not allow any other practitioner to provide sedation in the Facility, pending the completion of the investigation and disposition by the Committee. Dr. Magne also acknowledged that this would constitute a limit on his practice.
- 2.5 The inspection team from the CPSBC subsequently provided reports on January 22, 2020 and February 10, 2020, and pediatric anaesthesiologist Dr. Cedric Ho provided a review of 15 patient files on January 24, 2020. Further serious

concerns were identified with the sedation provided to the 15 patients and with the emergency preparedness of the Facility.

- 2.6 On March 5, 2020, JB's mother made a complaint to the College regarding the December 12, 2019 incident, and a separate complaint file was opened. Dr. Ho prepared a report dated June 1, 2020 reviewing the care of JB, and identified concerns regarding the level of sedation, lack of pre-sedation assessments, and discharge.
- 2.7 On December 9, 2020, the Committee directed the Registrar to issue a citation under section 37 of the *HPA*.
- 2.8 The citation in this matter was issued on May 21, 2021 and was amended on December 22, 2021 to establish new hearing dates of June 15-17; 20-21, 2022.

3.0 ADMISSIONS

- 3.1 Dr. Magne admits to professional misconduct in that, with respect to a number of patients, he:
 - a. Provided sedation at the Facility, which was not being operated in compliance with both the College's Standards and Guidelines for Minimal and Moderate Sedation (Non-Hospital Facilities);
 - b. Allowed patients to enter a deeper level of sedation than he was approved to provide and continued the dental procedure;
 - c. Failed to perform and/or record the level of consciousness during the procedure or recovery to pre-sedation consciousness prior to discharge and failed to conduct adequate monitoring;
 - d. Failed to undertake and/or record diagnostic testing necessary to support a proper diagnosis and treatment plan;
 - e. Administered oral ketamine without permission;
 - f. Provided sedation to pediatric patients without a current PALS certificate and/or current CPR-HCP/BLS;
 - g. Allowed a Licensed Practical Nurse to administer oral sedation medication.
- 3.2 Dr. Magne admits to professional misconduct in that, with respect to his patient JB, he failed to:
 - a. Perform and/or record required assessments prior to providing

sedation;

- b. Ensure he had the necessary training, skills and/or equipment for pediatric airway management to allow rescue of the patient.

3.3 Dr. Magne admits to professional misconduct in that he failed to do the following with respect to the Facility:

- a. Adequately maintain the medication and equipment in the emergency mobile cart;
- b. Ensure Facility staff were appropriately qualified and/or trained to assist with sedation and/or manage medical emergencies;
- c. Conduct mock emergency drills to the required standard or frequency, and without full staff present;
- d. Ensure required equipment was available during sedation; and
- e. Adequately store restricted drugs.

4.0 CONSENT TO ORDER

4.1 Given Dr. Magne's admissions above, Dr. Magne proposes resolution on the following terms:

A) Reprimand

4.2 Dr. Magne consents to a reprimand.

B) Prohibition from Providing Sedation

4.3 Dr. Magne voluntarily and permanently agrees not to provide any level of sedation, including minimal sedation, in any dental facility in the province of British Columbia, unless and until authorized, in writing, by the College.

4.4 This restriction will constitute a limit on his practice that may be disclosed by the College on its registrant look-up on the College's website.

C) Removal as Director of the Facility

4.5 The Facility may continue to provide sedation services, as long as the Facility is being maintained in full compliance with all of the College's relevant sedation Standards and Guidelines, and there is a qualified member of the College or College of Physicians and Surgeons ("CPSBC") acting as director and performing the clinical directorship responsibilities.

- 4.6 Dr. Magne is not permitted to be the operator or director of any non-hospital facility which provides sedation services in British Columbia.
- 4.7 If the Facility resumes providing sedation services, Dr. Magne must not be involved in the management of the Facility as it relates to the provision of sedation services, or the clinical directorship responsibilities related to ensuring that the Facility is in full compliance with the College's Standards and Guidelines for the provision of sedation.
- 4.8 If the Facility resumes providing sedation services, Dr. Magne agrees to include a statement on the Facility's website, and on informed consent documents that are given to patients attending the Facility, providing the name of the member of the College or CPSBC who is acting as the Facility director and performing the clinical directorship responsibilities.

D) Payment of a Fine

- 4.9 Dr. Magne must pay a fine in the amount of \$40,000, which amount must be paid in full no later than August 31, 2022.

E) Payment of partial investigation costs

- 4.10 Dr. Magne must pay partial costs of the investigation in the amount of \$2,000, which amount must be paid in full no later than August 31, 2022.

F) Inspections

- 4.11 Dr. Magne acknowledges and agrees that the College may conduct random inspections of the Facility at any time during business hours without prior notice, in accordance with the *HPA*.
- 4.12 Dr. Magne must provide the College with a list of all current staff at the Facility with contact information, and continuously and promptly update the College of any staff changes. Dr. Magne acknowledges and agrees that the College may communicate directly with his former and current staff.

5.0 FURTHER ACKNOWLEDGEMENT AND AGREEMENT

A) Non-compliance

- 5.1 Dr. Magne acknowledges that the failure to satisfy any one or more of the terms herein may constitute professional misconduct or unprofessional conduct and may trigger an investigation and disciplinary proceedings in accordance with the provisions in the *HPA*.

B) Publication

- 5.2 Dr. Magne acknowledges and agrees that an order made based upon this proposal results in mandatory public notification as set out in section 39.3 of the *HPA*, and CDSBC Bylaws including his understanding that his name, the nature of the action taken and the reason for the action taken will be included in this public notice. The College will issue the public notification in the form and by the means that it sees fit.
- 5.3 Dr. Magne acknowledges and agrees that the College will issue the notifications provided for in College Bylaw 10.05.

C) Effect of order made based upon this proposal

- 5.4 Dr. Magne acknowledges that any order made by the Committee based upon this proposal constitutes "past action" for the purposes of section 39.2 of the *HPA*.

D) Receipt of legal advice

- 5.5 Dr. Magne confirms that he has received legal advice before agreeing to all of the facts, admissions, consents, indemnities and other terms and conditions herein.


Having read, understood, and agreed to each and every term above, this proposal is respectfully submitted to the Committee by:



Dr. Luc Magne

March 5, 2022
Date

Signature of Dr. Magne witnessed on the above date by:



Witness name and signature
RICHARD A. WASSWORTH