

DECISION:

MR GORAN SABOTKOSKI (DENTAL PROSTHETIST)

28th May 2003

Panel: Mr Victor Harcourt
Dr Gerard Condon
Mr Tony Edwards

The Panel, having considered the evidence and submissions placed before it, found the following allegations in the Notice of Formal Hearing to be established:

- (a) Mr Sabotkoski practised as a dental prosthetist in Victoria over the period from 31 July 2001 to 22 November 2002;
- (b) Mr Sabotkoski was not registered to do so under the *Dental Practice Act* 1999 during this period;
- (c) Mr Sabotkoski was accordingly in breach of section 61 of the *Dental Practice Act* 1999;
- (d) Mr Sabotkoski's conduct in practising as a dental prosthetist in Victoria over this period while unregistered constitutes unprofessional conduct of a serious nature;
- (e) Mr Sabotkoski did not have professional indemnity insurance in place while he was practising while unregistered as a dental prosthetist in Victoria over the period from 14 May 2002 to 22 November 2002;
- (f) When Mr Sabotkoski submitted an application for the renewal of his registration as a dental prosthetist in January 2002, Mr Sabotkoski agreed to comply with the Board's minimum terms and conditions for professional indemnity insurance whenever he was providing dental health care in Victoria and acknowledged that if he did not do so the Board could take disciplinary action against him;
- (g) Mr Sabotkoski nevertheless failed to take out appropriate professional indemnity insurance complying with the minimum terms and conditions that the Dental Practice Board had specified for professional indemnity insurance;
- (h) Mr Sabotkoski's conduct in practising as a dental prosthetist in Victoria over the relevant period without professional indemnity insurance in place constitutes unprofessional conduct of a serious nature.

Having considered the matter and having given due weight to the submissions placed before it, the Panel considered it appropriate under section 47(2) of the *Dental Practice Act* 1999 to impose the following penalty:

1. It required him to undergo counselling regarding his professional responsibilities with an officer of the Dental Practice Board;
2. It cautioned him in respect of his failure to comply with his professional obligations;
3. He was reprimanded for his careless disregard of his professional obligations;
4. A fine of \$2,500.00 was imposed upon him.

The fine was to be paid and the counselling undertaken by Friday, 27 June 2003. The Panel drew Mr Sabotkoski's attention to section 47(5) of the *Dental Practice Act* 1999 which provides that if he did not undertake the counselling or pay the fine the Board might suspend his registration until the determination was complied with.

In determining the penalty the Panel had regard to Mr Sabotkoski's admissions. However it was very concerned about Mr Sabotkoski's careless disregard of his professional obligations. The evidence of Mr Sabotkoski was entirely unsatisfactory in seeking to explain his failure to renew his registration or maintain his professional indemnity insurance and demonstrated at the very least a serious lack of understanding of his professional obligations.

Mr Sabotkoski has placed at risk members of the public by practising while unregistered and uninsured. The Panel recommended to Mr Sabotkoski that he review the patients he treated during the relevant period and ensure that they had not suffered financial loss due to his breaches.

The Panel expressed its hope that Mr Sabotkoski would ensure appropriate systems were in place to prevent this failure and that a higher priority was accorded to his professional obligations than demonstrated in this matter. It be noted that the penalty imposed should be seen as a deterrent to Mr Sabotkoski (and indeed to others) for failing to maintain registration and insurance and therefore putting the public at risk.

Mr Sabotkoski admitted the allegations made in paragraphs 3(a), (b), (c), (e), (f) and (g) of the Notice of Formal Hearing dated 31 January 2003.

Mr Sabotkoski did not admit the allegations made in paragraphs 3(d) and (h), submitting that while he had engaged in unprofessional conduct it was not of a serious nature. Mr Sabotkoski also made admissions as to various documents and their contents although notably Mr Sabotkoski did not admit receiving

- a letter dated 9 August 2001 from the Dental Practice Board or
- a letter dated 18 January 2002 (sic) from the Dental Practice Board.

Evidence was given by three witnesses which was in all material respects uncontested, and accepted by the Panel. By his own admission Mr Sabotkoski may have received the documents mentioned in the preceding paragraph, but due to his own personal neglect he did not attend to renewing his registration or maintaining his professional indemnity insurance. The Panel did not accept Mr Sabotkoski's explanations or submission that he did not receive the documents.

Further, by his own admission, Mr Sabotkoski failed to renew his professional indemnity insurance in the belief that he did not require it. This demonstrated a clear and serious lack of understanding of Mr Sabotkoski's professional obligations in relation to maintaining professional indemnity insurance.

The Panel acknowledged Mr Sabotkoski's admissions and his expression of regret about his careless conduct.