DECISION NO. 2012-HPA-011(a)

In the matter of an application under section 50.6 of the Health Professions Act, R.S.B.C. 1996, c. 183, as amended, (the “Act”) for review of a complaint disposition made by an inquiry committee

BETWEEN: The Complainant COMPLAINANT

AND: The College of Dental Surgeons of BC COLLEGE

AND: A Dentist REGISTRANT

BEFORE: David A. Hobbs, Panel Chair REVIEW BOARD

DATE: Conducted by way of written submissions concluding on July 2, 2013

APPEARING: For the Complainant: Self-represented

For the College: Greg Cavouras, Counsel

For the Registrant: Self-represented

I INTRODUCTION

[1] The Complainant applies to the Review Board for review of the disposition of the Inquiry Committee to take no further action on her complaint regarding orthodontic treatment provided to her by the Registrant over a period of approximately four years from February, 2002 until April, 2006.

II BACKGROUND

[2] In August, 2002, the Registrant orthodontist put braces on the Complainant’s front upper and lower teeth. The goal was to level and align the teeth. The Complainant paid the Registrant $5,200 for the aforesaid services (the “Services”).

[3] The Complainant wore the braces from August, 2002 to May, 2004 when they were removed. The Complainant was given retainers and had follow up visits with the Registrant until April, 2006.

[4] During the treatment with the Registrant the Complainant needed a crown on tooth #46. The Registrant suggested the Complainant have the crown work performed
by a dentist the Registrant had worked with. The Complainant had the crown work performed by that dentist. Subsequently, the Complainant sued that dentist regarding the crown work.

[5] The Complainant expressed concern to the Registrant about her bite. The Registrant examined her bite and concluded the teeth were making contact.

[6] The Complainant and Registrant had no further contact after April, 2006 until the Complainant filed her complaint with the College by letter dated June 15, 2009 (the “Complaint”).

[7] In the Complaint the Complainant said she did not have a proper bite following the treatment provided by the Registrant. The Complainant stated she did not receive a “full” set of braces nor were her teeth aligned top to bottom. The Complainant stated the Registrant did not honour his agreement and asked the College to hold the Registrant responsible for unnecessary and additional costs. The Complainant said that the Registrant disclosed her records to persons outside his office without permission; refused to provide her with a copy of her record; and referred her to a dentist whose crown work she took issue with. The Complainant has worn a new full set of braces since September, 2008.


[9] The Registrant stated in his Response that the post clinical photos indicated a nice result was achieved with no crowding in either arch. The upper and lower 6’s and 7’s were not bonded during treatment as the Registrant said he did not want to disrupt the Complainant’s stable bite.

[10] The Registrant stated in his Response that a subsequent report by another dentist noting a bite discrepancy was not credible as it was based on hand held models with no examination of the Complainant. The models did not articulate.

[11] As the Registrant had no contact with the Complainant or any subsequent dental practitioner treating the Complainant since April 2006, the Registrant was not given any opportunity to examine the Complainant or offer corrective options, if the same were required.

[12] In the Response the Registrant states that many things might have impacted the Complainant’s teeth following the cessation of his treatment in 2006, including:

    (a) whether retainers were used as prescribed; and
    (b) changes in jaw condition, health and “TMJ etc.”.

[13] The Registrant admits he refused to give the Complainant her clinical records when requested by her.

[14] In his Response the Registrant states he would have been happy to assess the Complainant’s condition but, he was not given the opportunity to do so.
By letter dated October 22, 2008 the Complainant sought a refund. The Registrant replied by letter dated October 30, 2008 raising various issues with the request for a refund and refused to provide it.

Following a lengthy delay after receipt of the Response, by letter dated June 10, 2010 the College’s Complaint Investigator sought the Complainant’s pre and post treatment models.

By letter dated November 3, 2010 the Complainant asked the College if it had forwarded the Complaint to the B.C. Dental Association (the “BCDA”) as the Complainant understood the BCDA would deal with the “financial issues of the case”. The Complainant stated “I am anxiously awaiting my refund”.

By letter dated November 5, 2010 the College’s Investigator incorrectly advised the Complainant the College had the post treatment models. The Investigator also stated the College had no authority to deal with financial issues and does not forward its investigations to the BCDA. The College Investigator sought the pre-treatment models from the Complainant as the Registrant had advised he gave the pre-treatment models to the Complainant.

The College’s Investigator invited further response from the Registrant by letter dated November 5, 2010.

By letter dated January 6, 2011 the Complainant advised the College’s Investigator she had given the pre-treatment models to some other dentist but, could not locate their whereabouts. The Complainant surmised a dentist may have returned the pre-treatment models to the Registrant who in turn provided them to the College’s Investigator.

The College’s Investigator spoke to the Complainant by telephone on June 29, 2011 and explained the College does not get involved in financial issues between patients and dentists.

The College tried to reach the Complainant by telephone in June and July, 2011 and wrote the Complainant on July 14, 2011. The Complainant replied by letter on August 16, 2011 asking if the College’s Investigator had the post-treatment models, and further, asking questions about the investigation.

The College staff made efforts to set up a telephone conference call with the Complainant.

On August 25, 2011 the College’s complaint officer contacted a dentist who saw the Complainant after the Registrant’s Services.

By letter dated August 26, 2011 the College advised the Complainant that they were trying to reach her to set up a telephone conference call; that the College did not have the post-treatment models and were advised by the Registrant none were taken; and that the College wished to discuss the matter further.
A dentist saw the Complainant around February, 2007 and wrote the Complainant on February 16, 2007 advising, among other things, there was lack of occlusion only on tooth #46. That dentist asked the Complainant to return with her models.

The dentist contacted in February, 2007 advised he saw the Complainant’s models on June 2, 2007 but, as the models did not articulate, it was difficult to use them to assess the bite.

The College’s Investigator interviewed the Registrant by telephone on September 19, 2011 for 45 minutes. The College’s Investigator discussed the lack of detail in the treatment record and the Registrant ensured he would follow the recommendations for greater detail in his records.

On September 23, 2011 the Complainant wrote the College’s Investigator raising issues concerning the models, the record requests, the crown treatment by another dentist and the forwarding of the matter to the BCDA so the financial issues could be mediated.

By memo dated September 27, 2011 the Complaint Investigator reported to the Inquiry Committee the results of his investigation and recommendation that no further action be taken on the Complaint.

The College’s Investigator exchanged communications with the Complainant to set up a telephone conference call in October and November, 2011, without success.

At the Inquiry Committee meeting on December 13, 2011, the Inquiry Committee considered and accepted the recommendation to take no further action on the Complaint. This decision was communicated to the Complainant by letter dated December 14, 2011 (the “Disposition”).

Subsequent to the Disposition, efforts were made to locate the post treatment models but, the conclusion was reached that such post treatment models did not exist; that only photographs were taken, and that the photographs indicated a nice result.

The Complainant filed her application for review with the Review Board on January 11, 2012. The Complainant stated she felt that she was owed a refund as the Registrant did not provide the services for which he was paid. The Complainant also raised the issue of locating the post-treatment models she believes exist.

The parties exchanged written submissions during the period April, 2013 to July, 2013.

III DISCUSSION AND ANALYSIS

The jurisdiction of the Review Board is to consider the adequacy of the investigation and reasonableness of the Disposition.

The Complainant is not satisfied with the quality of the work performed by the Registrant and seeks a refund. Having paid the Registrant $5,200 for braces she ended
up years later having to pay for braces again. The Inquiry Committee concluded the Registrant’s Services were not substandard. The photos taken post treatment indicate a nice result. The Review Board is not in a position to substitute a different opinion for the Inquiry Committee’s opinion as to the quality of the Services provided by the Registrant.

[38] Reasonable efforts were made to locate post treatment models during the investigation but, the conclusion reached by the College’s Investigator was that no post-treatment models exist. This conclusion may be incorrect but, the investigation to locate the post-treatment models was reasonable and the conclusion justifiable. The absence of the post-treatment models, assuming they do exist, does not appear critical as post-treatment photos of the teeth exist and show a nice result.

[39] This dispute, in reality, is simply a fee dispute between a patient and a dentist which is a matter falling outside the jurisdiction of the Review Board.

[40] The College’s Investigator obtained the relevant records; interviewed the appropriate witnesses and prepared detailed memos and telephone call logs. I find the investigation was adequate, albeit very slow, due to various factors involving all parties.

[41] It follows that the Disposition to take no further action was reasonable based on the facts and law as the Registrant’s conduct was found to be within the acceptable standard of practice.

IV CONCLUSION

[42] I confirm the Inquiry Committee’s Disposition to take no further action on the Complainant.

[43] I have read the record and submissions of the parties although not referred to in their entirety herein.

“David A. Hobbs”

David A. Hobbs, Panel Chair
Health Professions Review Board

December 2, 2013