DECISION NO. 2012-HPA-050(a); 2012-HPA-051(a)
(Grouped File: 2012-HPA-G09)

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 Physicians and Surgeons of BC COLLEGE
AND: A Physician REGISTRANT 1
A Physician REGISTRANT 2
BEFORE: John H. O’Fee, Panel Chair REVIEW BOARD

DATE: Conducted by way of written submissions concluding on May 24, 2013

APPEARING: For the Complainant: Self-represented
For the College: Sarah Hellmann, Counsel
For the Registrant: Abigail C.F. Turner, Counsel

I INTRODUCTION AND BACKGROUND

[1] The Complainant applied under s.50.6 of the Act to review a January 3, 2012 disposition of the College concluded under s.32(3)(c) of the Act and communicated to him by way of a letter signed by the Registrar of the College on behalf of the Inquiry Committee.

[2] The Complainant asserts that the Registrants acted inappropriately with respect the medical treatment of his spouse over a period of years. The initial complaint and subsequent correspondence raises a wide variety of issues that can be summarized as the Complainant asserting that the medical system in general and the Registrants in particular are part of a broad conspiracy to over-medicate and institutionalize people such as his spouse.
[3] The Complainant’s spouse passed away on April 16th 2013 at the age of 92. The medical record is lengthy and indicates that the Complainant’s spouse has a long history of mental illness dating back over 40 years prior to her passing. In her later years, the Complainant’s spouse suffered from declining health generally along with declining mental health. For the final period of her life the Complainant’s spouse resided in a complex care facility where she received full time care and supervision.

[4] In support of his complaint the Complainant submitted a wide variety of material including articles and digital recordings, all of which were reviewed by the inquiry committee of the College.

[5] The College found that there was no evidence to indicate that the Registrants had acted inappropriately or negligently respecting the care of the Complainant’s spouse and that there was no clinical or factual basis to support the allegations raised by the complainant.

[6] In his Application for Review, the Complainant essentially restates his concerns and suggests that the disposition of the College should be changed because:

A senior, [the Complainant’s spouse] continues to be pilloried of her life by the actions of specific doctors who have willingly stumbled participating in state sanctioned organized mobbing against us. The College of Physicians has substantiated a sophist dialogue of obsolete medical directives in the complaint process, failing to perceive that their justification has become a treasonist [sic] final solution against many seniors of B.C. Healthcare is being used as a silent weapon in a quiet war against the people with psychiatry being the vanguard of herding and sorting people for extermination.

[7] In terms of relief sought the Complainant seeks “Please, stop the sophist justifications to use chemical restraints against [the Complainant’s spouse] and other seniors, many of her generation gave so much for us, let those who’ve survived continue to live”.

II ANALYSIS

[8] Applications brought pursuant to s.50.6(1) of the Act require the Review Board to review the disposition of a matter by a college. Upon receipt of such application for review of a disposition the review board is bound by s.50.6(5) and is to consider two core issues. First, whether or not the college conducted an adequate investigation and second, whether or not the college made a reasonable disposition of the complaint.

A. Adequacy of the Investigation

[9] In considering the adequacy of the investigation I note the record is comprised of over 850 pages of printed material and two DVD recordings. The Complainant does not advance any specific complaint as to the thoroughness of the review conducted by the College. From his submissions, the Complainant expresses a more fundamental concern with the very nature of health care generally and mental health care specifically.
The College asked for and received a reply from both Registrants as well as other physicians who are not included in the Complainant’s Application for Review. These responses were all summarized in the College’s letter to the Complainant dated January 3, 2012.

Counsel for the Registrants submits that the record of the College’s investigation reflects that it was more than adequate and confirms that the College “took all reasonable steps to obtain the key information necessary to enable the Registrar to assess the Complaint and fulfill the College’s legislated mandate.”

Counsel for the College submits that the Inquiry Committee’s investigation was “exhaustive” and outlines the steps taken by the College in its investigation. This included decades worth of hospital records, contact with physicians and hospitals involved in the care of the Complainant’s spouse and review of the lengthy materials submitted by the Complainant.

Counsel for the College refers me to Review Board Decision No. 2009-HPA-0001(a) to 0004 (a) at paragraphs [97] and [98]:

[97] A complainant is not entitled to a perfect investigation, but he or she is entitled to adequate investigation. Whether an investigation is adequate will depend on the facts. An investigation does not need to have been exhaustive in order to be adequate, provided that reasonable steps were taken to obtain the key information that would have affected the Inquiry Committee’s assessment of the complaint.

[98] The degree of diligence expected of the College—what degree of investigation was adequate in the circumstances—may well vary from complaint to complaint. Factors such as the nature of the complaint, the seriousness of the seriousness of the harm alleged, the complexity of the investigation, the availability of evidence and the resources available to the College will all be relevant factors in determining whether an investigation was adequate in the circumstances.

I accept the submissions of Counsel for both the College and the Registrants that in these circumstances the investigation of the College was adequate. The record and the response of the College indicate to me that the College conducted a review of relevant materials and carried out an adequate investigation.

B. Reasonableness of the Disposition

In considering the reasonableness of the disposition of this matter by the College, Counsel for the College and the Registrants point again to Decision No. 2009-HPA-0001(a) to 0004 (a) where at paragraph [92] it outlines a clear test for reasonableness:

While the Review Board’s application of the test will necessarily reflect its expertise as a specialized administrative tribunal rather than a Court, the Review Board’s focus is nonetheless not to step into the shoes of the Inquiry Committee, but rather to determine whether the Inquiry Committee’s disposition falls within the range of acceptable and rational solutions, and is, viewed in the context of the whole record, sufficiently justified, transparent and intelligible to be sustained.
[16] The Complainant appears to be advocating for a fundamental overhaul to the provision of health care in British Columbia. He uses strong terms such as “genocide” to describe the current state health care for seniors. He asserts his spouse was poisoned with medication and when she attempted to file a complaint she was “brutally drugged in retaliation”.

[17] There is no evidence in the Record supporting the vast conspiracy asserted by the Complainant. The Record documents a long history of medical problems suffered by the Complainant’s spouse primarily related to her mental health. As she advanced in years, other medical problems arose. The Record shows this finding is supported by multiple physicians through many examinations over the years.

[18] The Review Board should not substitute its own standards of practice for those established by a college. In Decision No. 2010-HPA-G02(b) at paragraph [44] and [45] the Review Board reaches a similar conclusion and notes “The Review Board cannot provide treatment advice to physicians”.

[19] Counsel for the College asserts that the conclusions reached in its disposition letter were reasonable, supported by the medical record and made within the College’s mandate. Counsel for the Registrants submits that the decision of the Inquiry Committee was the only one reasonably available to it based on the evidence.

[20] I have no doubt that the Complainant cared deeply for his spouse and saw himself as her only advocate. However, his blunt and sensational view of the healthcare provided to his spouse is little more than unsupported assertions. It is reasonable on the evidence before it that the College found that the Registrants met an adequate standard of practice; in the circumstances that conclusion falls within the range of acceptable outcomes defensible in respect of the facts and the law.

III DECISION

[21] My review of the record causes me to conclude that the requirements of the Act have been met. I find that there was an adequate investigation of the facts concerning the complaint and that the disposition of the complaint was reasonable. Pursuant to s. 50.6(8)(a) of the Act I confirm the disposition of the College which, pursuant to s. 32(5) of the Act, is considered to be the disposition of the Inquiry Committee of the College.

[22] In making this decision, I have considered all of the information and submissions before me, whether or not they are specifically referred to in these reasons.

“John H. O’Fee”

John H. O’Fee, Panel Chair
Health Professions Review Board

November 15, 2013