DECISION NO. 2012-HPA-080(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

AND: The College of Dental Surgeons of BC

AND: A Dental Surgeon

BEFORE: David A. Hobbs, Panel Chair

DATE: Conducted by way of written submissions concluding on May 28, 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 Inquiry Committee’s decision to take no further action on her complaint regarding an alleged absence of advice and treatment by the Registrant concerning the Complainant’s gum disease.

II BACKGROUND

[2] On August 4, 2011, the Complainant filed a complaint with the College regarding advice received from the Registrant in 2010 concerning the condition of her gums (the “Complaint”). The Complainant felt the Registrant should have prevented subsequent problems the Complainant encountered by doing more.

[3] In August 2011, the College assigned an investigator to investigate the Complaint. The College wrote to the Registrant and also to a dentist who treated the Complainant subsequent to the Registrant’s services.
[4] The Registrant provided his response and a copy of his file to the College by letter dated August 23, 2011. The Registrant says the Complainant consulted him in April 2010 regarding a fee estimate for implants to replace teeth at the 44/43 site. The implants were needed to support a planned upper denture and involved bone grafting. A probing appointment recommended by the Registrant for the Complainant on March 18, 2010 was not booked, so no assessment of the Complainant's periodontal status occurred at that time. The Registrant’s note on March 18, 2010 records his advice to the Complainant to take off her upper retainer at night to let the tissue breathe.

[5] The record discloses that on April 6, 2011 the Registrant received a letter from the Complainant's lawyer alleging the Registrant had been negligent in not addressing the Complainant's gum disease.

[6] On September 21, 2011 the College received the records and response of a dentist who examined the Complainant on September 8, 2010 and recommended extraction of the remaining lower teeth; a lower complete denture or partial extraction and partial denture or extraction and implant. The dentist’s records state the Complainant elected no treatment; the Complainant refused x-rays to assess the source of infection; and the clinical findings included poor oral hygiene.

[7] On November 8, 2011 the College’s investigator interviewed the Complainant and recorded the interview in a written memo. The memo notes the Complainant had very few remaining teeth with 21 teeth having been extracted.

[8] On November 24, 2011 the College’s investigator interviewed the Registrant and recorded the interview in a written memo.

[9] On November 28, 2011 the Registrant wrote the College’s investigator regarding a report submitted by the dentist who saw the Complainant on September 8, 2010.

[10] The College’s investigator sought further records from two other dentists who saw the Complainant during 2011 after the Registrant’s services. Both dentists replied they had seen the Complainant in 2011 and made recommendations for treatment including extraction, implants and dentures.

[11] The College’s investigator prepared a detailed memo dated February 14, 2012 summarizing the background to the Complaint, the content of the records produced and responses obtained from the Registrant and other treating practitioners, and discussions with the Complainant and Registrant. The College’s investigator could not conclude the Registrant had ignored the Complainant’s dental health issues and cited other reasons for the Complainant’s gum disease. The College’s investigator recommended no further action be taken on the complaint pursuant to s.33(b) of the Act and the recommendation was considered and accepted by the Inquiry Committee on February 21, 2012.

[12] The College wrote the Complainant on February 28, 2012 and explained the nature of and findings arising from its investigation and disposition to take no further action on the Complaint. The College concluded the Complainant’s periodontal health
worsened after leaving the Registrant’s care and the Complainant did not follow through with subsequently recommended treatment by other dentists. The College concluded the Registrant met the required standard of practice in all the circumstances.

[13] The Complainant filed an application for review on March 27, 2012. The Complainant states in her application that the Complaint is about “negligence, gum inflammation”. The Complainant says the Registrant “ignored her condition”.

[14] After a lengthy extension of time requested by the Complainant for filing her written submission, due to health issues, the parties completed exchange of written submissions on May 28, 2013.

III DISCUSSION AND ANALYSIS

[15] The role of the Review Board on an application for review is to consider the adequacy of the investigation and reasonableness of the disposition. A disposition will be reasonable if it falls within a range of acceptable outcomes taking into account the facts and law.

[16] The Complainant’s submissions contain an argument that the conclusion reached by the Inquiry Committee that the Registrant met the applicable standard of practice in all the circumstances and did not cause the worsening of the Complainant’s gum disease is wrong. The Complainant argues the Registrant should have stopped “the problem”.

[17] The Review Board is not in a position to substitute its opinions on standards of practice and causation issues for those of the Inquiry Committee. The Review Board considers the adequacy of the investigation and reasonableness of the disposition.

[18] The Complainant does not point to any aspect of the investigation that was inadequate and merely disagrees with the Inquiry Committee’s conclusion. In my view the record shows a thorough investigation including: obtaining all relevant records, interviewing the Complainant, Registrant and other treating practitioners, and recording steps taken and discussions relating to the investigation in detailed memos for consideration by the Inquiry Committee. I find the investigation was adequate.

[19] It follows that if the Registrant met the expected standard of practice in all the circumstances and is not the cause of the worsening of the Complainant’s gum disease, a reasonable disposition includes taking no further action on the Complaint.

[20] In the Complainant’s submissions attempts are made to introduce further documentary evidence not contained in the record. These documents include a letter, treatment plans, invoices, certificates, prescriptions and unsigned clinical notes (the “New Documents”). The New Documents are not necessary to render the disclosure more full and complete so as to enable me to make a full, fair and proper decision. Further, given the extensive delay in this matter at the Complainant’s request and the marginal relevance of the New Documents, I decline to admit them.
IV CONCLUSION

[21] I confirm the decision of the Inquiry Committee to take no further action on the Complaint.

[22] I have read the record and submissions of the parties in their entirety though not fully referred to in this decision.

“David A. Hobbs”

David A. Hobbs, Panel Chair
Health Professions Review Board

September 5, 2013