DECISION NO.  2012-HPA-244(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 Occupational Therapists of BC

AND: An Occupational Therapist

BEFORE: Marilyn Clark, Panel Chair

DATE: Conducted by way of written submissions concluding on July 12, 2013

APPEARING: For the Complainant: Self-represented

For the College: Angela Westmacott, Counsel

For the Registrant: Self-represented

I DECISION

[1] Upon considering the application made by the Complainant, it is my decision that the disposition of the Inquiry Committee of the College in dismissing the complaint is confirmed.

II INTRODUCTION

[2] The Complainant is a paraplegic as a result of a motor vehicle accident in 1979. In addition to paraplegia, in 2001 she lost the head of her femur on the right side which restricts certain movements, particularly raising her right hip. In addition she suffers from skin sores in her lower extremity.

[3] Following several months at a rehabilitation hospital in 2010, she was assessed by an Occupational Therapist to determine her needs. Among those identified in a report dated December 20, 2010, was the assignment of a community occupational therapist to “Review car transfers and prescribe custom or commercial saddle transfer board so that [the Complainant] can get out of the home.”

The Registrant was assigned by the local Health Authority to implement the recommendations in the December 20 assessment report. His first task was to fulfill the need for a car transfer board.

Although the Complainant has many issues with the services provided by the Registrant, the Health Authority and the Ministry, this particular complaint under review can be narrowed down to the Complainant’s dissatisfaction with the car transfer board recommended by the Registrant and her desire for a commercial Glide ‘n Go product which she believes is the answer to her needs.

III APPLICABLE STATUTORY PROVISIONS

Section 50.6 of the Act outlines the scope of a review by the Review Board.

50.6 (1) A complainant may apply to the review board for a review of a disposition described in section 50.53(1)(c).

... 

(5) On receipt of an application under subsection (1), the review board must conduct a review of the disposition and must consider one or both of the following:

(a) the adequacy of the investigation conducted respecting the complaint;

(b) the reasonableness of the disposition.

(6) A review under this section is a review on the record.

IV ISSUE

What I have to focus on, therefore, is:

(a) Was the College’s investigation of the complaint adequate?

(b) Was the disposition reasonable?

V BACKGROUND

The Complainant lives alone about 20 minutes outside of an interior city to which she must travel to obtain medical services. Her car has been fitted with hand controls so that she can make that journey. She needs a transfer board in order to move from her wheelchair into the driver’s seat. Without a board that works for her, she has not been able to get into the driver’s seat and has had to travel to and from the city for medical appointments by ambulance. Other than those trips, she states she has been “housebound” since December, 2010.

The Registrant had a local firm build a transfer board for the Complainant’s use. The Complainant states that the Registrant

... provided me with a car transfer seat March 28, 2011, 3 months after he was hired that did not meet my needs. [The Registrant] did not follow the assessment which states custom or commercial saddle transfer board. I lost the head of my femur [sic] on right side in 2001. I have no lifting power on this side, my leg is still connected to my body but it just drags along; my head of femur [sic] is gone.
The Complainant states in a letter to the Patient Care Quality Review Board that:

The car transfer seat was not made by a medical supply company. The occupational therapist made adjustments to the board not by my direction. I told him the mold had to touch the cushion on my wheelchair that I sit on, he did not listen to my instructions ... I gave him instructions the mold has to be wider it had to touch the cushion I am sitting on in my wheelchair. January 2012 the last time I seen him the day I told him not to come back he said he would not fill the gap. This seat never met my needs.

In responding to the complaint, the Registrant reported visiting the Complainant eleven times between January 13, 2011 and November 9, 2011. These visits were primarily to arrange for a custom transfer board for the Complainant so that she could successfully transfer from her wheelchair into her car. According to the Registrant:

[The Complainant] trialed the transfer board on three occasions; March 4th, 18th and April 1, 2011. Following the April 1st trial, [the Complainant] contacted me and indicated that she had bleeding from her perineum area which she contributed to the transfer completed on April 1, 2011. I made changes to the transfer board on two more occasions and made four subsequent visits to [the Complainant]. On each of these subsequent visits she refused to trial the transfer board. During my last visit on November 9, 2011, [the Complainant] continued to refuse to trial the transfer board and indicated she would not use it. I indicated that I would be willing to lower the height of the cushion to allow for a smoother transition from cushion to transfer board.

The Record indicates that the Registrant continued to make adjustments to the transfer board in order to try to make it work for the Complainant but he would not agree that it should be made of plastic instead of wood. During the November meeting, the Complainant tried to have the Registrant take the transfer board with him. He advised her that the transfer board was hers and he would not take it. With that, she “fired” him.

Upon complaining to the local Health Authority about the Registrant, the Complainant was advised in a letter dated June 27, 2011, “You stated you did not wish to work with [the Registrant]. If you wish to find an alternate OT provider, H&CC will be happy to work with a different local OT, providing they meet our service needs and standards.” The Complainant took that to infer it was her responsibility to find an Occupational Therapist and that the Health Authority was in effect washing their hands of the problem. She claims “I am refused essential services.” They “told me I had to find my own occupational therapist.”

In a letter to the Ministry of Housing and Social Development in June, 2011, she states: “I would like to be my own occupational therapist. The only equipment made that is usable to me is equipment I instructed how it had to be made.”

The Complainant was of the view that a Glide ‘n Go transfer seat was the optimal model for her use and sought to have it recommended by the Registrant.

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1 The dates noted by the Complainant and by the Registrant do not always coincide but their differences are not pertinent to this decision.
A. Glide ‘n Go Transfer Seat

[16] The Complainant obtained quotes from two medical supply firms for the Glide ‘n Go transfer board in August and September, 2011, ranging from $6999 to $7735.

[17] The Registrant advises he reviewed the Glide ‘n Go transfer seat online... and determined it would not be an appropriate product for [the Complainant]. The Glide and Go is mainly used to transfer from a wheelchair, up into a vehicle such as a minivan, SUV or truck. [The Complainant’s] vehicle seat height and wheelchair seat height is [sic] at the approximate same height and she does not require a device to raise her into her vehicle. In addition, [the Complainant] would still have to transfer out of her wheelchair onto the transfer platform of the Glide and Go. I informed [the Complainant] that I would not write a funding letter to support the purchase of this product.

[18] The National Sales Manager for the firm that manufactures the Glide ‘n Go reported that, in theory, his company could match a Glide ‘n Go to the Complainant’s 1977 Chevrolet. But, according to his report to the inspector engaged by the College, it...required a significant customization to meet her needs (due to her lack of the head of her femur on the right side) and would require a significant up charge. He states that it would be difficult to achieve a successful outcome with the Glide ‘n Go for any client with these issues and would require co-operation between the client, the Occupational Therapist, the local dealer and the manufacturer to achieve a successful outcome. Based on his telephone interactions with the Complainant over the past two years, he doesn’t feel the requisite level of co-operation is present for a successful outcome...

[19] The Complainant is tenacious in her pursuit of a Glide ‘n Go transfer system and adamant that she cannot use the transfer board developed with the Registrant. However, the Registrant would not recommend the purchase of a Glide ‘n Go because he did not believe it was appropriate for the Complainant. She would still have to lift herself off the transfer seat to the car seat. A representative of the manufacturer did not believe there could be a successful outcome and would not become involved. The Complainant has now been housebound for two and a half years.

VI ANALYSIS

[20] As stated in paragraph [6] above, the legislated role of the Review Board is to determine whether the investigation by the College was adequate and the disposition reasonable.

B. Adequacy of the Investigation

[21] The College had for review over the course of its investigation a total of 135 pages submitted by the Complainant.

[22] The College engaged an independent, senior Occupational Therapist to investigate on their behalf as an Inspector under the Act. The Inspector visited the Complainant in her home. The report to the Inquiry Committee from the Inspector with respect to that visit states:

She stated that the car transfer board had been modified several times and was not working. The Complainant further stated that she felt that no matter what was done to
the transfer board it would not work. The Complainant stated her concern regarding the pressure sore on her labia. She felt the sore was starting to heal, but was concerned that she not make it worse. She felt that a manual transfer to her right side would aggravate the labial pressure sore. She stated that was why she wanted the Ministry to fund the Glide ‘n Go transfer device. She felt that a power transfer device would allow her to transfer to the car without making her labial pressure sore worse. The Complainant said that the Glide ‘n Go was denied by the Ministry because there was no supporting letter from a Medical Practitioner and was angry that the Registrant refused to write a letter to support the purchase.

[23] In addition to her visit to the Complainant, the Inspector interviewed the Registrant, a number of involved individuals from the local Health Authority, the Occupational Therapist who wrote the December, 2010, report and the National Sales Manager for the company that manufactures the Glide ‘n Go transfer seat.

[24] She also reviewed the Registrant’s clinical file, minutes of care planning meetings, invoices and copies of equipment and funding requests and denials to and from the Ministry of Social Development.

[25] The Inspector comments “I would agree with the Registrant that this product is not appropriate for the Complainant and would not resolve the issue of shear on the labia sore when transferring to the right”.

[26] The Inspector concludes that the Registrant followed the Occupational Performance Process Model while trying to deal with the Complainant’s needs:

He has validated and prioritized the Occupational Performance issue (independent car transfer), he has selected an approach (fabrication of a custom transfer board, biomechanical), he has identified the components and environmental conditions (taken measurements, examined existing equipment, conferred with the Complainant & funding agency), identified strengths and resources (evaluated car transfer method, engaged with a local company for fabrication of the transfer board with the assistance of the Complainant), negotiated targeted outcomes and developed action plans (trialed the transfer board and addressed the Complainant’s feedback within funding restraints which he explained to the Complainant), implemented plans, trialed the transfer board after each modification), evaluated outcomes (modified the board to address the client concerns within the funding limits) and modified his plan to attempt to achieve the goal of an independent car transfer. The Registrant also researched the Glide n Go after the Complainant requested it as an option and explained and documented his reasons for not recommending this device.

[27] As summarized by the Inspector:

The Complainant has a history of dissatisfaction with equipment that is provided when it fails to fully meet her expectations. In regards to the car transfer board, the Complainant has reported during her interview that she felt that no matter what was done to the transfer board it would not work.

[28] I am satisfied that on a review of the Record the College took reasonable steps to properly investigate the complaint and I find the investigation was adequate.
C. Reasonableness of the disposition

[29] The College in its response to the Complainant writes:

The Inquiry Committee also determined that there was no foundation for your complaint regarding the Registrant’s refusal to provide a letter of support for funding the Glide ‘n Go transfer board. When you indicated that you wanted this commercial system, the Registrant researched it on-line but concluded that it was not an appropriate device in his clinical judgment. An occupational therapist cannot simply order, or support funding for, items because they are requested by a client without exercising independent clinical judgment in assessing whether the requested items are appropriate for a client’s needs and safety. The Registrant was aware that you wanted a Glide ‘n Go system but concluded that it was not clinically appropriate for your needs.

[30] According to the Inspector, the Complainant told her the outcome she wanted from her complaint to the College was a Glide ‘n Go transfer device and the Registrant was not helping her to accomplish that.

[31] The College concluded:

However, based on a review of the services which the Registrant provided, the Inquiry Committee was satisfied that the Registrant provided the services in accordance with proper standards of practice for our profession and that those services were appropriately client-centered.

[32] The only outcome the Complainant was seeking was a Glide ‘n Go transfer seat. Clearly, she is not satisfied with the College’s disposition of her complaint against the Registrant. The Review Board is only able to determine whether the investigation conducted by the College was adequate and whether the disposition was reasonable. It is not within the jurisdiction of the Review Board to supply a Glide ‘n Go transfer seat nor can it instruct the College to do so. I find that the College’s disposition of the complaint was reasonable.

VII CONCLUSION

[33] I find the College’s investigation adequate and the disposition of the investigation reasonable. Accordingly, the disposition of the Inquiry Committee is confirmed.

[34] In making this decision, I have considered all of the information and submissions in the record whether or not specifically reiterated herein.

“Marilyn Clark”

Marilyn Clark, Panel Chair
Health Professions Review Board

September 10, 2013