

COLLEGE OF DIETITIANS OF BRITISH COLUMBIA

Case Outcome Report #07-05 - Competence and professionalism

In October 2007 the College received a complaint against two dietitians from the mother of a mentally and physically disabled adult child:

1. The mother alleged that in 1987, Dietitian A recommended a feeding tube be unnecessarily inserted and accused the mother of having symptoms of Munchausen by Proxy. The College of Dietitians of BC was not created as the regulatory body until 2004. Consequently Dietitian A was not regulated by the College at the time of the complaint and was never a registrant with the CDBC as the registrant left the province many years ago. The College has no authority to pursue this part of the complaint.

2. Dietitian B, a registrant of the CDBC, assumed responsibility for the adult child's dietetic care when Dietitian A left the province. Against the recommendation of the dietitian and several consulting health care professionals, the mother removed the adult child's feeding tube and fed the adult child orally. The mother obtained correspondence written by Dietitian B that said in the dietitian's opinion, the mother's actions resulted in hospitalization of the adult child and continued deterioration of the adult child's health. The mother alleged the dietitian exceeded authority and acted in an unprofessional manner.

On March 11, 2008, the Inquiry Committee reviewed all correspondence and determined under section 33(6)(a) of the *Health Professions Act* (HPA) that Dietitian B's competence and professionalism was satisfactory. The complainant appealed the decision to the Board on April 4 and submitted additional documents. On April 29, 2008, the Inquiry Committee considered all the information, including the new documents, and resolved to uphold the original decision that the registrant's practice was competent and ethical. The Committee determined that the registrant's written statement constituted a professional opinion and not unprofessional conduct.

The Board reviewed all documentation and decisions on May 12, 2008 and denied the appeal (section 34(4)(a) of the HPA). The complainant and registrant were informed of the Board's decision and reason. The case was closed.

On December 1, 2008 the Office of the Information and Privacy Commissioner (OIPC) contacted the College on the complainant's behalf, asking the College to agree to extend the deadline for review of the letter Dietitian B wrote in response to the letter of complaint (past the 30-day limit allowed in the *Freedom of Information Protection of Privacy Act* (FIPPA)). After discussion with CDBC's legal counsel, the registrant agreed to release the letter to the complainant. It was mailed on April 2, 2009.

On August 17, 2009 the CDBC received notification from the Health Professions Review Board (HPRB) that the complainant had filed an appeal of the Inquiry Committee decision. Even though the complaint was resolved before the HPRB came into effect on March 16, 2009, the complainant argued that a proper case could not be made without a copy of the registrant's response which was received after the HPRB was active. On December 7, 2009 the CDBC was informed by the HPRB that the complainant's appeal was denied due to lack of jurisdiction - the case was resolved under the law in effect at the time, well prior to the HPRB's existence.

The case is closed.