



Health  
Professions  
Review  
Board  
2012  
Annual  
Report

Covering the reporting period from  
January 1 – December 31, 2012





## Health Professions Review Board

Suite 900, 747 Fort Street  
Victoria British Columbia  
**Telephone:** 250 953-4956  
**Toll Free:** 888 953-4986 (within BC)  
**Facsimile:** 250 953-3195  
Email: [hprbinfo@gov.bc.ca](mailto:hprbinfo@gov.bc.ca)  
**Mailing Address:**  
PO 9429 STN PROV GOVT  
Victoria BC V8W 9V1  
[www.hprb.gov.bc.ca](http://www.hprb.gov.bc.ca)

---

July 29, 2013

The Honourable Terry Lake  
Minister of Health  
Parliament Buildings  
Victoria, British Columbia  
V8V 1X4

Dear Minister Lake:

Re: Health Professions Review Board Annual Report

On behalf of the Health Professions Review Board, it is my pleasure to respectfully submit the Annual Report of the Health Professions Review Board for the period January 1, 2012 to December 31, 2012.

This report is submitted as required by Section 50.65(1) of the *Health Professions Act*.

We remain committed to fulfilling the important mandate entrusted to the Review Board to ensure the highest levels of accountability and transparency in the governance of British Columbia's health professions.

Yours truly,

J. Thomas English, Q.C.

Chair

Health Professions Review Board

# Table of Contents

<b>Message from the Chair</b>	3
<b>Executive Director's Report</b>	5
<b>About the Review Board</b>	7
The Mandate of the Review Board	8
Review Board Members	8
<b>Mediation Summaries</b>	10
<b>The Review Process and Activity</b>	12
<b>The Adjudication Process</b>	13
<b>Key Decisions</b>	14
Preliminary Issue: Jurisdiction of the Inquiry Committee	14
Preliminary Issue: Oral or Written Hearing	15
Hearing on the merits: Jurisdiction of the Registrar – What is a “serious matter”?	16
Hearing on the merits: Investigation inadequate where Registrant's response was grossly inadequate	18
Hearing on the merits: Investigation inadequate where the College allowed the Registrant to “self-select” comparator files or a practice assessor	18
Hearing on the merits: Adequate Investigation	19
Hearing on the merits: Reasonableness of the Disposition	19
Registration Reviews – Mootness	20
<b>Judicial Reviews of Review Board Decisions</b>	21
<b>Review Activity Statistics</b>	23
<b>Financial Performance</b>	27

# Message from the Chair

The Health Professions Review Board (the “Review Board”), was created by the Legislature through amendments in 2008 to the *Health Professions Act* (the “Act”). Since its inception it has proven to be an appropriately focused and effective forum in which both citizens and health professionals can bring their concerns about the operations of health colleges in the areas of both complaint investigation (for citizens) and registration to practice (for professionals).

Consistent with the pattern that I noted and commented on in our last Annual Report, the Review Board has continued to grapple with a caseload marked by increasing complexity as new issues are presented. In response the Review Board provides well-reasoned guidance to the users of the Act through an expanding body of case law. Some examples of the Review Board’s recent case law are provided in this Report under the heading “Key Decisions.”

On occasion the Review Board produces a decision that has the effect of expanding – or perhaps defining is a more appropriate term – the legal authority underlying a core health college function. On the important question of the Registrar’s jurisdiction, the Review Board’s previous position (see decision 2011-HPA-0018(a)), based on a strict reading of the Act, held that such matters must go directly to the Inquiry Committee for investigation – even if the Registrar has reason to believe that there is no evidentiary substance to an otherwise serious allegation. In the first days of 2012 the Review Board revised this position by finding that health college Registrars indeed have the power to conduct early investigations to determine whether there is any evidence to go before the Inquiry Committee in cases where an allegation that on its face constitutes a “serious matter” is made against a registrant (see decisions 2010-HPA-163(a) and

2010-HPA-0198(a)). If there is no substance to the allegation then the Registrar may dismiss the application.

On a similar theme, another 2012 decision (see 2011-HPA-0036(b)) articulated the scope of authority possessed by Inquiry Committees under the Act in British Columbia. I wish to highlight that decision as it differentiates the mandate of Inquiry Committees from that of their counterparts in Ontario, the only other province with a similar Health Professions Review Board scheme. The Ontario Superior Court in *McKee v. Health Professions Appeal and Review Board* [2009] O.J. No. 4112 (S.C.J.) held that the equivalent of our inquiry committee in Ontario only serves a “screening function” and has no power to determine credibility as it pertains to statements offered in evidence. As *McKee* is often quoted as authority as to the limits of our review power it is important to determine if *McKee* represents the law in BC. In a carefully worded and well reasoned judgment the Review Board panel reviewed the differences between the BC and Ontario statutes and concluded that the statements in *McKee* do not apply to our inquiry committees. Our inquiry committees have significantly wider powers under the Act, as is set out in the decision. Logically, this means that the Review Board has a corresponding authority to scrutinize the element of credibility assessment when present in Inquiry Committee dispositions; this challenging topic will undoubtedly be further examined in future Review Board decisions.

Our continuing emphasis on non-adversarial dispute resolution has resulted in many productive settlements, along with satisfied parties who have been spared the additional time and effort of participating in a Review Board hearing, whether it be in written or oral format. A sample of the effective resolutions

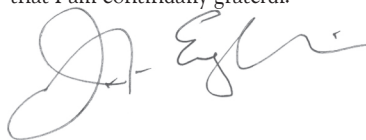
achieved by members and staff of the Review Board is provided in this Report under the heading “2012 Mediation Summaries”.

At a statutory decision-making level, the Review Board and indeed, the people of British Columbia are well served by its 18 (as at the date of writing) appointed members. These members are responsible for conducting hearings under the Act and, with the Review Board’s three case managers, conducting non-adversarial resolution processes such as mediation. As an example of how well the public are served, here is a comment from a person who, happily for us, took the time to let us know how the process worked for her:

My name is [name withheld for privacy reasons]. I just want to let my intake worker know that I am pleased with the correspondence I received from Michael Mark, Panel Chair of the HPRB. I think it shows that proper and prudent consideration of the matter was made, as well as a respectful explanation of the “issues” under consideration. I am very moved by this. I can say that this would be one of the first, perhaps the only time, my concerns have been responded to with this kind of diligence and fairness. Thank you.

While Panel Chair Michael Mark was fortunate to be recognized in such a glowing fashion, I am confident that his work represents the rule and not the exception with respect to quality of decision-writing at the Review Board. We invest time every year in ongoing training to ensure that Review Board members are equipped to discharge their statutory duties at a consistently high standard.

The Review Board recently recognized its 4th anniversary as part of the administrative tribunal landscape in BC. The effective and productive execution of its statutory mandate is a credit to the diligent and conscientious staff of the Review Board, and in particular to our Executive Director, Michael Skinner, and to our legal counsel Frank Falzon, Q.C., and I thank them for their continuing service. As in past years, I acknowledge the hard work and expert guidance provided to the Review Board by the staff of the Environmental Appeal Board and Forest Appeals Commission, who from the inception of our organization, have effectively functioned as our “back office” with respect to matters of finance and administration. They help keep us running smoothly, and for that I am continually grateful.



J. Thomas English, Q.C.

Chair

Health Professions Review Board

# Executive Director's Report

“Growth in number and complexity of review applications brings with it certain demands and stresses. The Review Board has had to seriously grapple with allocating scarce resources to meet the demands posed by a heavier and more complex caseload. The primary challenge exists at the administrative level, where our hard-working Review Board staff receive applications for review, process the applications, open files, communicate with the parties, prepare case files for review by Members, and wherever possible manage cases with a view toward resolution without the need for a formal hearing.”

I wrote these words in our last Annual Report; the stresses referred to continue more or less unabated as a result of the continuation of the government-wide hiring freeze. To provide the highest level of public service in the face of such resource constraints, we have continued our efforts to eliminate whatever inefficiencies can be found in our processes through the disciplined application of “LEAN” methodology. Through the continuous-improvement lens of the LEAN initiative, we are looking at new ways of assessing and reporting on our own performance, including the team-based development of Key Performance Indicators. In addition, we have actively sought representative input from our user base (complainants, health colleges, registrants and legal counsel) with a view to refining our processes for maximum efficiency and minimum burden on the parties involved in a review. Implementation of the proposals coming out of the LEAN initiative will take place throughout the latter half of 2013. This will include solicitation of user group comments (and incorporation of any consequential refinements) prior to the introduction of new or amended Review Board Rules and Procedures.

Initiatives are also taking place outside the HPRB that have the potential to dovetail with and beneficially impact the Review Board's Rules, processes and procedures. BC's health college leaders – representing the only organizations over which the Review Board has direct statutory jurisdiction – have in the past met with one another informally under the title “BC Health Regulators Organization” (HRO) to exchange information and ideas on topics such as complaint investigation processes and compliance with the *Health Professions Act* (the Act). New leadership at the HRO is helping it evolve from an ad hoc group to a formally-structured organization with a well-defined mandate. The HRO has recently embarked on a project with a view to becoming, over time, the public face of the health college community in BC, and a resource for College members, registrants, and the public. The overall goal of the Colleges is to promote:

- a consistent regulatory philosophy;
- standardized or consistent Codes of Ethics and Conduct for registrants and College Board members;
- consistent standards for investigative and registration processes.

We endorse the Colleges' goals and will be looking closely at the ideas and recommendations emerging from their project insofar as they represent College “best practices” regarding compliance with the requirements of the Act. We will also be looking carefully at HRO suggestions regarding the continuing refinement of Review Board processes. As we have from our beginnings in 2009, we will continue to examine and learn from health college processes involving both complaint investigation and registration matters, and in a manner consistent with our

statutory mandate, provide periodic guidance aimed at assisting colleges to employ procedures that are “transparent, objective, impartial and fair”.

As always, it is a pleasure to recognize the consistently great work done by Review Board staff who are the public face of this office, and who strive to settle disputes to the satisfaction of all parties. I also applaud the Review Board appointed members who are the literary face, if I may use that term, of the organization as they prepare the decisions that articulate the public protection principles set out in the Act.

A handwritten signature in black ink, appearing to read "M. Skinner", with a stylized, flowing script.

Michael Skinner,  
Executive Director  
Health Professions Review Board



# About the Review Board

On March 16, 2009, the Health Professions Review Board (the “Review Board”) opened its doors and began receiving applications for review, making British Columbia the second province, after Ontario, to establish an independent health professions review body.

The Review Board is an independent quasi-judicial administrative tribunal created by the *Health Professions Act*, R.S.B.C. 1996, c. 183, as amended, (the “Act”) that provides oversight of the regulated health professions of British Columbia. As such, the Review Board is an innovative and integral component of the complex health professions regulatory system in British Columbia. It is a highly specialized administrative tribunal, with a specific mandate and purpose, designed to address a few carefully defined subjects outlined in the Act. The Review Board’s decisions are not subject to appeal and can only be challenged in court (on limited grounds) by judicial review.

The Review Board is responsible for conducting complaint and registration reviews of certain decisions of the colleges of the 22 self-regulating health professions in British Columbia. The 22 health professions designated under the Act and whose decisions are subject to review by the Review Board are listed below:

- Chiropractors
- Dental Hygienists
- Dental Surgeons
- Dental Technicians
- Denturists
- Dietitians
- Massage Therapists
- Midwives
- Naturopathic Physicians
- Nurses (Licensed Practical)
- Nurses (Registered)
- Nurses (Registered Psychiatric)
- Occupational Therapists
- Opticians
- Optometrists
- Pharmacists
- Physical Therapists
- Physicians and Surgeons
- Podiatrists
- Psychologists
- Speech and Hearing Professionals
- Traditional Chinese Medicine Practitioners and Acupuncturists

# The Mandate of the Review Board

Through its reviews, early resolution processes and hearings, the Review Board monitors the activities of the colleges' complaint inquiry committees and registration committees, in order to ensure they fulfill their duties in the public interest and as mandated by legislation. The Review Board provides a neutral forum for members of the public as well as for health professionals to resolve issues or seek review of the colleges' decisions.

The Review Board's mandate is found in Section 50.53 of the Act. Under this section the Review Board has the following two types of specific powers and duties:

## 1. On request to:

- review registration decisions of the designated health professions colleges;
- review the timeliness of college inquiry committee complaint dispositions or investigations; and
- review dispositions by the inquiry committee of complaints made by a member of the public against a health professional.

The Review Board has potentially broad remedial powers after conducting a review in an individual case. In the case of registration and complaint decisions it can either:

- confirm the decision under review;
- send the matter back to the registration or inquiry committee for reconsideration with directions; or
- direct the relevant committee of the college to make another decision it could have made.

In cases where a review has been requested of the college's failure to complete an investigation within the time limits provided in the Act, the Review Board can either send the matter back to the inquiry committee of the college, with directions and a new deadline, to complete the investigation and dispose of the complaint, or the Review Board can take over the investigation itself, exercise all the inquiry committee's powers, and dispose of the matter.

## 2. On its own initiative the Review Board may:

- develop and publish guidelines and recommendations to assist colleges to develop registration, inquiry and discipline procedures that are transparent, objective, impartial and fair.

This particular power of the Review Board allows for preventive action to be taken, recognizing that while the review function of deciding individual requests for review is important, it may not have the same positive systemic impact as a more proactive authority to assist colleges, in a non-binding process, to develop procedures for registration, inquiries and discipline that are, in the words of the Act, transparent, objective, impartial, and fair.

Further information about the Review Board's powers and responsibilities is available from the Review Board office or the website: <http://www.hprb.gov.bc.ca>

## Review Board Members

Unlike the colleges, the Review Board is a tribunal consisting exclusively of members appointed by the Lieutenant Governor in Council. This is required by the Act to ensure that the Review Board can perform its adjudicative functions independently, at arm's-length from the colleges and government. This is reinforced by Section 50.51(3) of the Act which states that Review Board members may not be registrants in any of the designated colleges or government employees.

The Review Board consists of a part-time Chair and part-time members, drawn from across the Province. They are highly qualified citizens from various occupational fields who share a history of professionalism and community service. These members apply their respective expertise and adjudication skills to hear and decide requests for review in a fair, impartial and efficient manner. In addition to adjudicating matters that proceed to a hearing, members also conduct mediations and participate on committees to develop policy, guidelines and recommendations.

During the present reporting period the Review Board consisted of the following members:

## Tribunal Members as of December 31, 2012

Member	Profession	From
J.Thomas English Q.C., Chair	Lawyer	Vancouver
Michael J.B. Alexandor	Business Executive/Mediator (Retired)	Vancouver
Lorianna Bennett	Lawyer/Mediator	Kamloops
Judith J. Berg	Health Professional	West Vancouver
Rex Blane	Lawyer (Retired)	Abbotsford
Lorne Borgal	Business Executive	Vancouver
D. Marilyn Clark	Consultant/Business Executive	Sorrento
Arlene Doll	Lawyer	Richmond
David A. Hobbs	Lawyer	North Vancouver
Victoria (Vicki) Kuhl	Consultant/Mediator	Victoria
Michael R. Mark	Lawyer	Victoria
Sandra Kathleen McCallum	Lawyer	Victoria
Lori McDowell	Lawyer/Consultant	Vancouver
Michael J. Morris	Business Executive/RCMP Officer (Retired)	Prince George
Maurice R. Mourton	Business Executive	Vancouver
John O'Fee	Lawyer/CEO	Kamloops
W. Laurence Scott	Lawyer	New Westminster
Herbert S. Silber	Lawyer	Vancouver
Donald A. Silversides, Q.C.	Lawyer	Prince Rupert
Helen Ray del Val	Lawyer	North Vancouver

### The Review Board Office

The administrative support functions of the Review Board are consolidated with the Environmental Appeal Board/Forest Appeals Commission (EAB/FAC) offices, which also provide administrative services to a number of other tribunals.

The Review Board staff complement currently consists of the following positions:

- Executive Director
- Three Case Managers
- One Intake and Administration Officer
- One Administrative Assistant
- One Auxiliary Administrative Assistant, and one position vacant (hiring freeze)
- Finance, Administration and Website Support (provided by EAB/FAC)

The Review Board may be contacted at:

#### Health Professions Review Board

Suite 900 – 747 Fort Street  
Victoria, BC V8W 3E9

Telephone: 250-953-4956

Toll-free number: 1-888-953-4986

Facsimile: 250-953-3195

**Website Address:** [www.hprb.gov.bc.ca](http://www.hprb.gov.bc.ca)

#### Mailing Address:

Health Professions Review Board  
PO Box 9429 STN PROV GOVT  
Victoria, BC V8W 9V1

# Mediation Summaries

The very brief mediation summaries that follow are intended to provide a flavour of what has been achieved by Review Board members and staff in the resolution of health practices disputes in 2012. Because of the clear requirement that such resolutions be absolutely confidential, only the most general comments about the nature of the resolution have been provided – no information has been included in this report that would identify the parties, the college, or the nature of the dispute such that the participants in the matter can be identified.

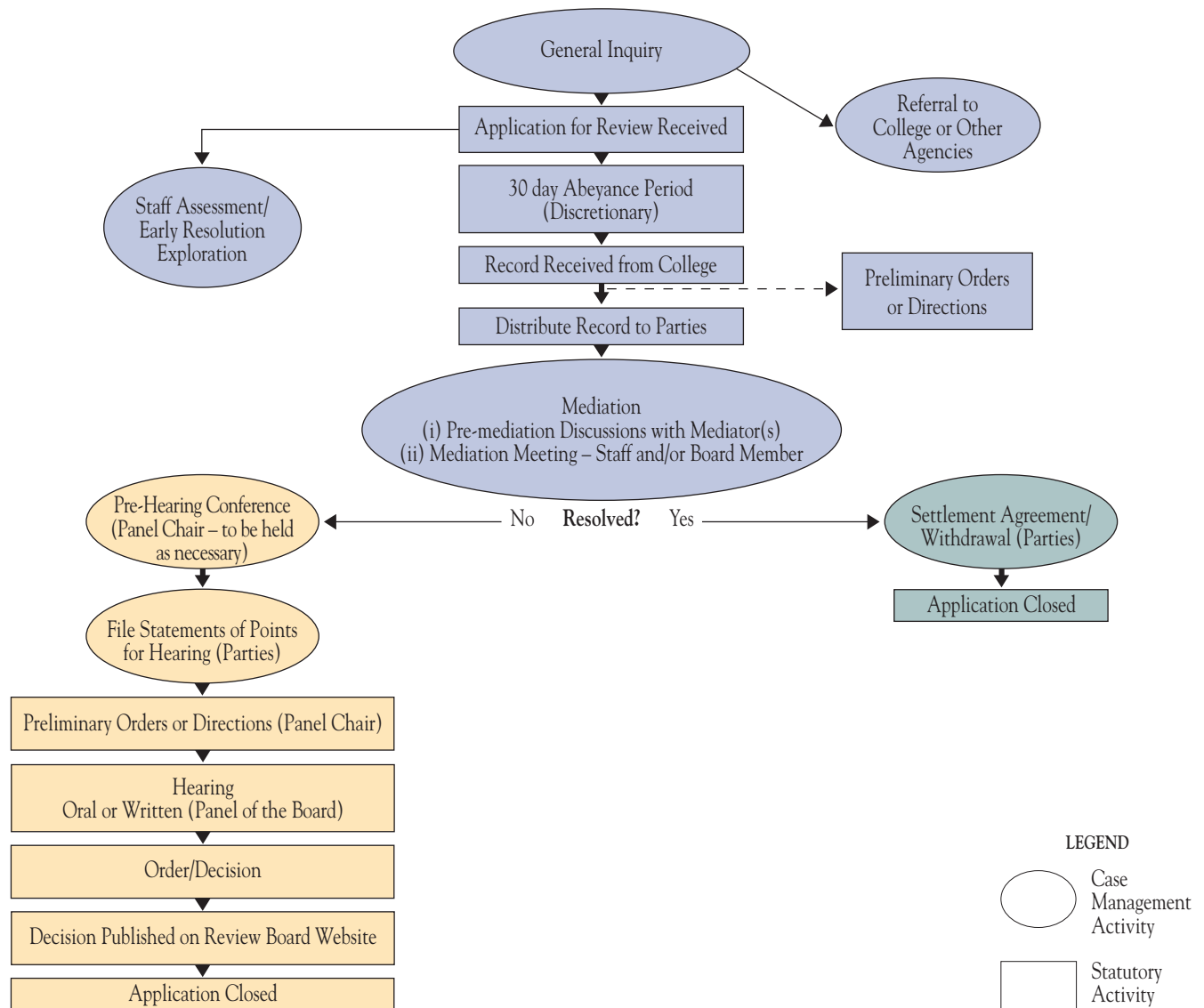
Some encouraging resolutions in 2012:

- With Review Board facilitation, a foreign-educated applicant was able to resolve and better understand the requirements of the College for registrants in British Columbia. Information was exchanged between the parties which resulted in a better appreciation by the College of the applicant's competencies. The parties created a workable agreement on further training courses for the applicant that would transition the applicant to BC standards and satisfy the College that the applicant was fully qualified and competent to be registered.
- Settlement agreements were achieved in a number of applications through the exchange of written proposals facilitated by the Review Board. The parties determined to proceed in this manner for various reasons: diverse geographic locations throughout BC, competing schedule priorities, and availability of, and personal comfort with the mediation processes.
- In three cases parties were able to reach mutually agreeable terms through the exchange of written proposals and draft agreements facilitated by the Review Board. These agreements included an apology by one Registrant, a jointly drafted letter to a different regulatory body in another and, in the third, an opportunity for a Complainant to provide a letter to a Registrant on the impact the matter had upon the Complainant.
- A Complainant who rejected the registrant's treatment advice for a chronic condition alleged that serious complications developed because the initial problem was left untreated. The matter was settled when the registrant expressed regret that he hadn't been more forceful and insistent that the Complainant take the treatment immediately. The college also clarified a confusing part of its decision that had been misinterpreted by the Complainant.
- A complaint that a college took two years to investigate an allegation was resolved when:
  - the college apologized for the delay and took steps to improve timeliness of its investigations, and
  - the registrant acknowledged the pain experienced by the Complainant, took steps to improve his referral process, and expressed regret about how long it took the Complainant to resolve the matter with a specialist.

- A Complainant who objected to a registrant's clinical report accepted that the registrant was entitled to form a medical opinion, thus settling the most contentious issue in the application for review.
- A settlement was achieved when the Complainant received documents that the college had withheld from the Complainant.
- A complaint of rude and unfair treatment by a registrant's office staff was resolved when the registrant undertook to instruct the staff about client courtesy, and to post the patient priority and wait-time policy in plain view.
- A Complainant was satisfied with a letter from a registrant expressing sympathy for the Complainant's situation and explaining in simple terms the reasons for the treatment administered to the Complainant.
- A complaint about a college's investigation was resolved when the Complainant accepted the college's explanation about its investigative processes and the legal authority relating to those processes.
- With the assistance of the Review Board facilitation the complainant accepted a letter of apology from the Registrant that set out that while there was no authority to change the child custody and access report submitted years ago to the court, there was an acknowledgement that with the passage of time, and changing circumstances, it may appropriate to have another assessment done.
- A complaint about the wording of a letter the Complainant had received from the Registrant regarding her medical leave was resolved with the assistance of the Review Board when the Complainant accepted a letter of apology from the Registrant for any misunderstandings that her letter may have caused.
- A complaint about complications experienced during delivery of the Complainant's child was resolved when the Complainant accepted a letter of apology from the Registrant.

# The Review Process and Activity

The following is an overview of the review process. For more detailed information, a copy of the Review Board's *Rules of Practice and Procedure* and other information can be obtained from the Review Board Office or the website.



# The Adjudication Process

As the Review Board's Rules indicate, mediation may not be appropriate for every case. Mediation may be inappropriate where, for example, an application identifies a broad systemic problem, where a dispute raises an issue of law, policy or interpretation that needs to be determined on the record, where an applicant is proceeding with a vexatious application, or where there are allegations of abuse of power or process. Each of these situations can raise special concerns that require adjudication and determination within the Review Board's formal decision-making process.

In other cases, even though the parties have entered into mediation in a sincere effort to resolve the issues on the application for review, the application may remain unresolved and must therefore be decided by the Review Board's adjudication (hearing) process.

A formal review before the Review Board is conducted as a "review on the record". The "record" is the full collection of recorded documentation held by the college pertaining to its examination of an application for registration by a health professional (in the case of reviews by the Review Board of registration committee decisions) or the investigation of a complaint by a member of the public against a registrant (in the case of reviews by the Review Board of Inquiry Committee dispositions). The record is what the Review Board looks at in determining whether an investigation by an Inquiry Committee was adequate, whether the disposition was reasonable, and whether a registration decision by a Registration Committee should be confirmed or returned to the Registration Committee with directions for reconsideration.

The Review Board also has discretion to admit additional information or evidence that was not part of the record that it accepts as "reasonably required for a full and fair disclosure" of all matters related to the issues under review. The Review Board may direct that a review hearing be conducted in person, in writing or by using an electronic format such as video or teleconferencing or by any combination of these formats. Reviews that are conducted by way of an oral hearing are generally open to the public, unless the Review Board orders otherwise.

An oral hearing gives the parties an opportunity to present their evidence and submissions to the Review Board in person. If a written hearing is held, the Review Board will provide directions regarding the process and timeframe for the parties to provide their evidence and submissions to the Review Board in writing.

The chair of the Review Board will designate one or more members of the Review Board to sit as a Panel for each individual hearing. A member of the Review Board who conducts a mediation will not be designated to conduct a hearing of the matter unless all parties consent. Further, in order to ensure that there is no conflict of interest or reasonable apprehension of bias, a board member who has previously been a registrant of a college or served on a college's board of directors, registration committee or inquiry committee will usually not sit on a panel designated to conduct a hearing in any case involving that particular college, unless all parties consent.

After a written or oral review hearing, the Review Board will issue a written decision and will deliver a copy to each party and post it to the website.

# Key Decisions

The Review Board conducted over 100 hearings (including preliminary, procedural and final decisions on the merits) in 2012, and a selection of significant decisions are summarized below. Statistically, the bulk of the Review Board's decisions are preliminary in nature. The Review Board process, which finds its authority in Part 4.2 of the *Health Professions Act* (the Act) and in the provisions of the *Administrative Tribunals Act* (ATA), is codified in the Review Board's *Rules of Practice and Procedure*. These Rules provide for the efficient adjudication of questions arising at the beginning of a Review Board proceeding, such as:

- Does the Review Board have jurisdiction (legal authority) to hear this particular complaint?
- Is this complaint clearly without merit? (i.e., is it frivolous, vexatious, or trivial)
- If the complaint was not filed in time, should an extension of time for filing be granted?
- Should certain confidential or sensitive third party information in a health college record of investigation be withheld from a party to a proceeding?

When a complaint about a health college's inquiry committee investigation proceeds to a Review Board hearing, the Review Board will focus on two primary questions set out in the Act:

1. Was the investigation adequate?
2. Was the disposition (reasoning, conclusion and outcome) reasonable?

An interesting feature of certain 2012 decisions is that they addressed in detail the jurisdiction of Colleges – their Inquiry Committees and Registrars – to take specific actions under the Act. In this, the Review Board fulfils an important function in providing guidance to the Colleges by articulating and clarifying the scope of their legal authority.

## Preliminary Issue: Jurisdiction of the Inquiry Committee

**Decision 2009-HPA-0090(b), September 27, 2012, College of Dental Surgeons, Members Silversides and Mourton [complaint about the improper insertion of a crown by the registrant dentist]:**

In this case the College of Dental Surgeons advanced the argument that sections 32 and 33 of the HPA do not authorize a college to act upon an isolated lapse by a registrant vis-a-vis a complaint in performing a procedure. The College argued that its regulatory role is only properly triggered only when an individual incident of alleged substandard service is part of a larger problem with the member's professional delivery of services. The Panel summarized the College's argument as follows (paras. 40, 42):

*... the College takes the position that it has no obligation to adjudicate isolated cases of alleged negligence and that unsatisfactory performance of dental services by any registrant is a matter that should be left to the courts. At the hearing of this matter, the College submitted that it has no role to play in dealing with specific incidents which are the subject of a complaint and that the Inquiry Committee must decide to take no further action*



*pursuant to section 33(6)(a) of the Act unless it determines after investigation that the conduct or competence of a registrant constitutes a continuing danger to the public...*

The Registrant submitted that even if the Registrant had provided substandard care to the Complainant, which the Registrant denied doing, that the Inquiry Committee was obliged pursuant to section 33(6)(a) of the Act to take no further action unless there was evidence that the alleged substandard care was not an isolated incident. The Registrant submits that “competence” in section 33(6)(a) of the Act refers to general competence and does not include any single case of improperly performed professional services.

The Panel rejected this argument, ruling as follows (paras. 45–47):

*We have considered what the word “matter” means when used in section 33(6)(a) of the Act. Section 33(1) requires an inquiry committee to “investigate the matter raised by the complaint”. Section 33(6)(b) allows an inquiry committee to “take any action it considers appropriate to resolve the matter between the complainant and the registrant”. The word “matter” must be given its plain and ordinary meaning. In our opinion, in the context of the Act and, in particular, section 33, the meaning of “matter” in section 33(6)(a) is the specific complaint or other actions complained of. It does not mean the general conduct or competence of a registrant unless, of course, that is what the complainant complained about.*

*In this case the “matter” which the Inquiry Committee was required to consider was the complaint that the crown and bridge were not properly inserted which caused the Complainant pain and had to be replaced.*

The Panel outlined what it regarded as being the Inquiry Committee’s task (paras. 52–54):

*Before the Inquiry Committee could decide pursuant to section 33(6)(a) to take no further action regarding the complaint it had to form the view that the conduct or competence of the Registrant in inserting the bridge and crown was satisfactory. The Inquiry Committee does not appear to have formed this view but, instead, as set out in the disposition letter quoted in paragraph [30], the Inquiry Committee concluded that a “satisfactory resolution had been reached”. This, however, is not the same as concluding that the conduct or competence of the Registrant to which the complaint relates was satisfactory.*

*Based on the information which the Inquiry Committee had available to it and their expressed reasons for making the disposition, we find that the disposition of this complaint by the Inquiry Committee was not reasonable.*

Note that the College has filed a Judicial Review application from the Review Board’s decision in this case: see *College of Dental Surgeons of British Columbia v. Health Professions Review Board*, B.C.S.C. Vancouver Registry No. S128199.

## Preliminary Issue: Oral or Written Hearing

This question has been the subject of active consideration in several Review Board decisions over the past year.

Review Board Rule 43(2) states that “hearings will be oral hearings unless the Review Board directs otherwise”. However, panels have in several cases held that Rule 43(2) “is not intended to and does not limit the Review Board’s discretion in determining the format of a hearing”: see for example 2011-HPA-120(b), September 27, 2012, Physicians & Surgeons (Member Berg), at para. 16. The Review Board has stated that: “The Complainant’s desire to be heard is not in and of itself a sufficiently compelling reason to conduct an oral hearing”: 2010-HPA-0201(c)-0204(c), April 13, 2012, Physicians & Surgeons (Member Clark) at para. 22.

Decisions on this issue have sought to balance fairness, proportionality, flexibility and timeliness. The following factors have been emphasized as supporting a written hearing:

- The length of time an oral hearing would take.
- The fact that additional panel members would have to be appointed for an oral hearing, leading to delays in scheduling.
- The desire to avoid “unrestrained emotion” in the hearing room, to avoid “a possible accusatory, contradictory and contentious oral hearing” or to avoid an oral hearing becoming a forum or platform “for a continuation of professional and personal attacks”.
- The finding that the matter is not so complex as to require an oral hearing.
- The desire to keep hearing costs proportional to the matters at hand.

- The finding that, for some Complainants, an oral hearing may be unfair and unjust given their personal limitations.

### Case example:

In 2010-HPA-0156(a), May 1, 2012, College of Physicians & Surgeons, Member Kuhl: it was held that an oral hearing was necessary to do justice in view of the Complainant’s English language limitations (paras. 43–44):

*The Complainant, without benefit of an interpreter, is at an unfair disadvantage. He seems unable to understand how to make his case adequately to the inquiry committee or the Review Board nor is he able to clearly state his concerns and complaints. I therefore direct that an oral hearing of this matter be held.*

*In making the foregoing observations concerning the benefits of competent language translation, and in providing the direction concerning an oral hearing, I should be clear that the Complainant is at liberty, on his own initiative and at his own expense or with the assistance of a volunteer, to retain the services of a competent and independent interpreter to assist as necessary in the Complainant’s preparation for and participation in an oral hearing process. The Review Board does not provide language translation services, nor does it pay for the services of interpreters that the party(ies) may consider necessary to retain.*

## Hearing on the merits: Jurisdiction of the Registrar – What is a “serious matter”?

In 2011-HPA-0018(a), January 6, 2012, College of Physicians and Surgeons: a five person panel of the Review Board confirmed that Registrars disposing of complaints under s. 32 of the HPA must act within the scope of their authority in order to render a reasonable decision. What constitutes the scope of their authority has been expanded in a series of Review Board Decisions.

Decision 2011-HPA-0018(a) clarified that, when acting within their authority under s. 32, Registrars may assess the evidence for the purpose of determining whether to (a) make a request under s. 36(1), (b) dismiss a complaint as being frivolous or vexatious [s.32(3)(a)] or (c) dismiss a complaint that meets the test in 32(3)(c): “contains allegations that, if admitted or proven,

would constitute a matter, other than a serious matter, subject to investigation by the inquiry committee under section 33(4).”

In s. 26 of the HPA, “serious matter” is defined as “a matter which, if admitted or proven following an investigation under this Part, would ordinarily result in an order being made under section 39(2)(b) to (e)”.

Note: Based on 2011-HPA-0018(a), the **conventional view** held that while a Registrar could weigh the evidence for the purposes of dismissing a complaint that is not a serious matter, the question whether it is a serious matter was an question that had to be decided based on the “allegations, if admitted or proven” (paras. 56, 65). In articulating this view, the Panel stated:

*Subject to any inquiries the Registrar needs to make to clarify allegations in a complaint for this purpose, we agree with Decision 2009-HPA-0045(a) that, based on the wording of s. 32(3)(b), a dismissal under this subsection must be based solely on the complaint allegations. Its purpose is to allow the dismissal of complaints that would not be subject to investigation, because they are not within the jurisdiction of the Inquiry Committee to investigate. Section 33(4), in effect, sets forth the matters in respect of which a complaint has to be based in order to be successful. Even if admitted or proven the facts alleged in the complaint must constitute behaviour which comes within the ambit of the matters set forth in the paragraphs of s. 33(4). If not, s. 32(3)(b) applies and the complaint could be dismissed by the Registrar subject to s. 32(5) as mentioned above. An example of a s. 32(3)(b) fact pattern is 2010-HPA-0002(b)...*

*How is a Registrar to determine whether the complaint, if admitted or proven, would ordinarily result in one of the remedies listed in ss. 39(2)(b)-(e)? This is admittedly not the most helpful jurisdictional test. What is evident, however, is that the Registrar’s assessment is not intended to be a sophisticated penalty determination, where for example mitigating factors and the registrant’s personal circumstances are considered. The allegations must be taken as proven or admitted, and they must be objectively assessed by the Registrar. The more objectively serious is the misconduct alleged and the greater the impact on the public interest in the College context, the more likely it will meet the specialized legal test for being a “serious matter”. While the line between 39(2)(a) and (f) on the one hand, and the remedies in ss. 39(2)(b)-(e) on the other, will pose problems in some cases, a complaint will be a “serious matter”*

where, if the allegations were admitted or proven, the significant measures reflected in ss. 39(2)(b)-(e) would be required to protect the public interest, as the Panel found to be obvious in 2009-HPA-0045(a), where the complaint was that due to improper care and professional neglect over an extended period of time, a registrant caused a patient's death.

**Two Review Board decisions from this past year challenge that “conventional” view.** They conclude that the Registrar's assessment of the evidence is properly part of deciding whether or not a complaint is a “serious matter”:

- 2010-HPA-0163(a), April 12, 2012, College of Physicians & Surgeons, Member Morris, paras. 21–22:

*In the matter before me, the College has not made any orders pursuant to s.39(2)(b) to (e), nor has it administered any reprimand or fine. It has chosen to dismiss the complaint because the complaint cannot be substantiated. From my review of the record, I find this outcome reasonable and supportable.*

*I therefore do not consider this to be a serious matter, as defined under s.26 of the Act.*

- 2010-HPA-0198(a), November 8, 2012, College of Physicians & Surgeons, Chair English, paras. 26–29:

*Dealing with the matter of “allegations” a literal reading would be that regardless of how outlandish the allegation is, it is deemed to be “admitted or proven” and if it is a matter that falls within s.33(4) and is a serious matter then it has to be referred to the inquiry committee. On the other hand, if the allegation after investigation by the registrar is determined by the registrar to be “trivial, frivolous, vexatious or made in bad faith” then the registrar may dismiss if his investigation reveals that there is no substance to the allegation and it happens to fit within one of the judicially defined concepts of “trivial, frivolous, vexatious or made in bad faith”.*

*It is interesting to note that since the Review Board's inception, out of the more than 600 matters it has been requested to review, not once has a College relied on s.32(3)(a) as a grounds for dismissal. One explanation may be that the Colleges are reluctant to use that as a ground of dismissal because the use of any of those expressions would infuriate the Complainant. In addition, relying on some of the grounds in s.32(3)(a) requires a determination of the intent*

*or state of mind of the Complainant which based on a letter of complaint presents obvious difficulties. So what is the College to do when the expressions in s.32(3)(a) don't apply but after a thorough investigation there is no substance to the allegation even though it alleges a “serious matter”.*

*Given a literal interpretation the registrar must refer the matter to the inquiry committee. Was this what the Legislature intended? It seems improbable that it was the intention of the Legislature on one hand to require the registrar to investigate and assess to determine if s.32(3)(a) applies while on the other hand providing that, if it doesn't apply, and the allegation is serious but utterly without substance, the registrar has no jurisdiction and must refer the matter to the inquiry committee.*

*I suggest there are two hurdles that an allegation has to meet to warrant referral to the inquiry committee. First, it must allege a “serious” matter which I will deal with next; and second, the investigation must reveal that there is some substantive basis to the allegation. If there is a substantive basis to the allegation (and it is a serious matter) it must go to the inquiry committee. If there is not a substantive basis to the allegation, then in my view the allegation is not to be deemed to be “admitted or proven” and the registrar may dismiss it. This interpretation would be in accord with what I consider the Legislature intended in the interaction between s.32(2), s.32(3)(a) and (c) and s.33. Otherwise, any person with ill will toward a registrant could fabricate very serious allegations literally out of thin air, and the Registrar, while finding no evidence whatsoever to support the allegations, would be duty bound to transmit the matter to the Inquiry Committee. In an environment where Inquiry Committees are heavily burdened with matters of substance, this would, in my view, amount to an abuse of process. The Registrar must in my opinion be assumed to have an intake function that includes a general duty to sort the wheat from the chaff – that is what I believe section 32(3) to be about.*

## Hearing on the merits: Investigation inadequate where Registrant's response was grossly inadequate

- 2010-HPA-0102(c) to 0105(c) (April 4, 2012, College of Registered Nurses, Member McDowell) [allegation of improper nursing care in residential facility], para. 59:

*In the case of Registrant #2 the disposition cannot be sustained because the investigation itself was inadequate. The response from this Registrant was insufficient and did not support a decision to forego further action on the part of the College.*

- 2010-HPA-0063; 2010-HPA-0076 (August 21, 2012, Physicians & Surgeons, Member Silversides) [allegation of improper treatment of inmate with heart condition] at para. 96:

*The Inquiry Committee did not investigate any of the issues described in paragraph [93] and the Record does not contain any information which would resolve them. It would have been a relatively simple matter for the College to write to the Second Registrant and pose specific questions to him regarding these issues but it chose not to do so, apparently relying on whatever information the Second Registrant provided in his letters to them, although that information was incomplete, non-responsive and woefully inadequate...*

- 2010-HPA-0040(b) – August 21, 2012, College of Psychologists, Member Hobbs, [allegation of an unauthorized disclosure of information by the Registrant in the context of a custody dispute involving the Complainant and his former spouse] at paras. 53–54:

*An exchange of written questions and answers is limited by the questions chosen and the wording of the questions. In this instance the investigation produced very little evidence about the circumstances of the impugned disclosure, including: production of all related documents; what discussions took place; clarifying who did what to fulfill the request for the disclosure; and determining what was the precise involvement and state of knowledge of the Registrant regarding the disclosure.*

*For the most part the Inquiry Committee proceeded on the stated opinion of the Registrant that the disclosure was an*

*unintentional oversight. In my view the Inquiry Committee had a duty to investigate more thoroughly the facts surrounding the disclosure to determine objectively from the facts how and why the disclosure occurred and not simply rely on the Registrant's personal characterization of what she had done.*

## Hearing on the merits: Investigation inadequate where the College allowed the Registrant to “self-select” comparator files or a practice assessor

- 2010-HPA-0040(b) (August 21, 2012, College of Psychologists, Member Hobbs) [allegation of an unauthorized disclosure of information by the Registrant in the context of a custody dispute involving the Complainant and his former spouse] at paras. 55–57:

*I also have difficulty with the adequacy of the investigation which involved permitting the Registrant to choose the colleague to review the Registrant's practices and procedures.*

*Section 27 of the Act states: (1) The inquiry committee may appoint persons as inspectors for the college. (2) The registrar is an inspector.*

*In my view it was the duty of the Inquiry Committee to exercise its discretion to appoint the inspector or the Registrar to perform this function. It was not appropriate to have the Registrant make this choice.*

- 2009-HPA-0090(b) – September 27, 2012, College of Dental Surgeons, Members Silversides & Mourton [allegation that a crown was improperly inserted, resulting in pain and cost to fix], at para. 38:

*That part of the investigation which consisted of a review of the Registrant's crown and bridge treatments provided for other patients was fundamentally flawed because of the manner in which the patient records were selected. To allow the Registrant to select which records from among the several hundred patients for which he had performed crown and bridge treatments over five or six years would be reviewed by the College leads to the inescapable conclusion that the Registrant could have selected records which he*

was satisfied did not show any inappropriate procedures. In order for the chart review conducted by the College to have allowed them to ascertain whether the crown and bridge work performed for the patient was an isolated incident or a pattern of practice the College should have controlled the selection of a representative number of patient records and should not have allowed the Registrant to self-select which work he wanted the College to review. By allowing the Registrant to self-select 25 records out of many hundreds of records, this aspect of the investigation was completely inadequate

## Hearing on the merits: Adequate Investigation

- 2010-HPA-0120(a);2010-HPA-0121(a);2010-HPA-0122(a);2010-HPA-0123(a) – September 14, 2012, College of Physicians & Surgeons, Member McDowell [allegation arising from stillbirth of child at 27 weeks] paras. 50–52:

*I find that the College did meet its obligation to investigate the complaints adequately. Even applying a greater standard within the broad meaning of “adequate” the College fulfilled the requirement. The College not only requested responses from each Registrant but it followed up with requests for more specific information when necessary. The College went so far as to request corroborating evidence from another physician regarding Registrant No. 1. The College also reviewed the extensive hospital records and the autopsy report.*

*The College availed itself of enough information to meet the requirement of an adequate investigation, even held to a higher standard of adequacy within the meaning of the term. Did the College answer every question that arose from the complaints? No. However, they did undertake a sufficiently adequate investigation to satisfy themselves about the events in question.*

## Hearing on the merits: Reasonableness of the Disposition

- 2010-HPA-0004(b) – November 7, 2012, College of Physicians & Surgeons, Chair English: Complaint that registrant had used racially abusive language toward complainant. After the Inquiry Committee made its decision to take no action despite finding the complaint “partly sustained”, the Deputy Registrar, based on his knowledge of a history of similar complaints, wrote to the Registrant advising that the College would be watching closely and would not be so lenient in the future. The Review Board held that the IC disposition was unreasonable because the IC’s decision was not informed by the past conduct history (paras. 33–34):

*The College submits that*

*...it was reasonable for the Inquiry Committee not to pursue or consider any further remedial consequences based on the conduct at issue in the complaint. The degree and manner in which additional complaints or conduct history may have led to an alternative outcome cannot be determined with certainty.*

*But that is just the point. The Inquiry Committee did not have a chance to realistically consider any other remedial outcome.*

*The Registrant submits that “remitting the matter to the College would not result in a substantially different outcome”. No detail is provided in support of that assertion. It may have made no difference or it may have made a big difference. The Review Board has not seen the information and it is not our job to stand in the shoes of the Inquiry Committee. The point is that, from the perspective of assessing reasonableness, which is our mandate, it is difficult to see how a disposition can be allowed to stand as being “reasonable” when the body charged with fashioning an appropriate remedial outcome was not allowed to see information that any credible body with that responsibility would be expected to see precisely because it may significantly influence the outcome. I repeat that this is especially clear where, as here, the Deputy Registrar himself considered the history sufficiently relevant to warrant sending out the “warning letter”. Clearly, this should have been a situation where the Inquiry Committee made the relevant assessment, and included it transparently in its disposition to the Registrant, copied to the Complainant.*

Disposition held to be unreasonable where Inquiry Committee found registrant failed to meet professional standards, but disposition lacked specificity and transparency:

- 2010-HPA-0120(a);2010-HPA-0121(a);2010-HPA-0122(a);2010-HPA-0123(a) – September 14, 2012, College of Physicians & Surgeons, Member McDowell: Complaint about several Registrants in relation to stillbirth of child at 27 weeks. The College found that Registrant No. 1 had not kept adequate records and that he failed to ensure ongoing care for the Complainant. The College required Registrant No. 1 to attend at a meeting with the College Registrar staff to review their criticisms and to secure his commitment to make changes to his practice. The College also stated that it would review other aspects of the Registrant’s practice to determine whether there were broader concerns. The Review Board held that this disposition was unreasonable (paras. 56, 60, 61):

*There is no reference to any specific actions to be undertaken by Registrant No. 1 to rectify his deficient practice or prevent a recurrence. There is no follow-up information provided regarding the outcome of the meeting, or indeed, if the meeting was ever held. One is left to wonder if in fact the Inquiry Committee was able to secure the commitment of Registrant No. 1 to address their concerns. There is no evidence of this. In short, there are no consequences provided in the disposition other than attendance at a future meeting...*

*A disposition finding that a registrant failed to meet professional standards on two grounds must provide information regarding the consequences. A reference to a future meeting to secure a commitment to improve practice is not sufficient...*

*A solution that is intelligible, transparent and justifiable must be apparent in the Inquiry Committee disposition. This disposition cannot satisfy the public or complainants. It must articulate its reasons in a more readily apparent way. The disposition of the Inquiry Committee in relation to Registrant No. 1 fails. More information must be provided.*

## Registration Reviews: Mootness

What should the Review Board do if a College argues that an application for review should be dismissed as moot? In this case, despite the College’s ongoing disagreement with the Registrant about whether he should have been registered based on substantial equivalency, the Registrant went ahead and wrote the exam while the review application was before the Review Board; he was now fully registered. What should the Review Board do with the outstanding application?

- This very thorny problem arose in 2012-HPA-016(b), November 22, 2012, College of Physicians & Surgeons (Member Bennett). In response to the College’s submission that the case should be dismissed because there was no longer “any live dispute”, the Review Board granted the College’s application, stating as follows (paras. 38–42):

*The Applicant is not applying to the Review Board for a review of a registration decision as contemplated by s. 50.54 (2). Rather, the Applicant is asking this Review Board to review the process or reasonableness behind the College’s deliberations since the making of his application for registration.*

*I appreciate that the Applicant expresses obvious dissatisfaction with the College’s handling of his licensure application, and with the inherent processes, financial costs, and delays involved with the licensure process. I appreciate that the Applicant takes issue with the College’s decision not to simply qualify him pursuant to College Bylaw 1-15(3). Presumably all of the delay created inconvenience and interruption to the Applicant’s practice of medicine, and as he says, negatively impacted his livelihood and career.*

*Notwithstanding, one cannot overlook that the College ultimately granted the Applicant full registration and licensure on May 30, 2012. Had the College declined to do so, then clearly it would be within my jurisdiction to review that registration decision. It is not within my jurisdiction, however, to review the reasons behind the inherent delays, or to question the College process behind its making of an affirmative decision. Section 50.54 makes no accommodation for such deliberations.*

Copies of these decisions are available from the Review Board office or website.

# Judicial Reviews of Review Board Decisions

Just as the Review Board was created by statute to ensure that College decision-making is accountable, the British Columbia Supreme Court can hold the Review Board accountable for its decisions in a process known as judicial review. The court's role on judicial review is specialized: it is a review, not an appeal. The court's role is to ensure that the Review Board had the jurisdiction (legal authority) to make a decision, used a fair and impartial process, and made a decision within its jurisdiction that was not "patently unreasonable."

## Moore v. Health Professions Review Board (Petition filed December 2011)

This judicial review petition, commenced by a registrant, applied to quash Review Board decision 2010-HPA-0108(b) (College of Physicians & Surgeons, October 20, 2011).

**Summary:** The Review Board decision concluded that the College failed to adequately investigate a complaint by an inmate that a physician terminated his prescription based on a national guideline rather than based on medical needs. The Review Board remitted the matter to the Inquiry Committee for reconsideration with directions. The Registrant, supported by the College, alleged that the Review Board failed to show sufficient deference to the College, and crafted directions that were unreasonable.

**Status:** A three day judicial review hearing was conducted before the British Columbia Supreme Court in February 2013. Judgment remains under reserve at the time of writing.

## College of Traditional Chinese Medicine Practitioners & Acupuncturists of BC v. Health Professions Review Board (Petition filed May 2012)

This judicial review petition, commenced by the College of Traditional Chinese Medicine Practitioners & Acupuncturists of BC, applied to quash Review Board decision 2011-HPA-109(a) (March 30, 2012).

**Summary:** The College refused to process an applicant's registration application, stating that under its bylaws the applicant must write an examination before his application could be considered, and further that its ability to waive requirements did not include waiver of examination requirements. The Review Board held that the College decision to reject the application was subject to review, but went further and remitted the matter to the College, ordering it to reconsider his waiver application.

**Status:** Following the filing of the Petition, the Review Board wrote to the parties acknowledging that the College was not given an opportunity to be heard on whether the College's interpretation of its bylaws was reasonable. As a result, the Petition was placed in abeyance by consent pending a Review Board reconsideration process. Subsequently, the underlying dispute between the College and the applicant was resolved in a mediation facilitated by the Review Board. Neither the Review Board reconsideration, nor the Petition proceeded.

## TM v. Health Professions Review Board (Petition filed June 20, 2012)

This judicial review petition, commenced by a complainant, applied to set aside Decision No. 2012-HPA-004(a); 2012 HPA-005(a) (College of Physicians & Surgeons, April 20, 2012).

**Summary:** The Review Board Decision under judicial review held that special circumstances did not exist to grant an extension of time to file the application for review.

**Status:** Following the filing of the Petition, the Review Board determined that the application for review had in fact been filed in time. As such, the Review Board continued with the application for review. At the time of writing, the review application remains before the Review Board for decision, and the Petition remains outstanding.

## College of Dental Surgeons v. Health Professions Review Board et al (Petition filed November 2012)

This judicial review petition, commenced by the College of Dental Surgeons, applied to quash Review Board decision 2009-HPA-0090(b) (College of Dental Surgeons, September 27, 2012).

**Summary:** The Review Board decision found that the Inquiry Committee's disposition was unreasonable because the Inquiry Committee concluded the complaint under s. 33(6)(a) of the *Health Professions Act* without finding that the conduct or competence was satisfactory. The Review Board rejected the College's position that it has no role to play in dealing with specific incidents of substandard dental work, and remitted the matter to the Inquiry Committee for reconsideration with the direction "that it may only dispose of the matter under s. 33(6)(a) of the Act if it is satisfied that the Registrant's conduct or competence in the specific matter of the insertion of the crown and the insertion of the bridge work were satisfactory". The College, supported by the Registrant, challenged the Review Board's interpretation of the College's role under s. 33(6).

**Status:** The court hearing is expected in Fall 2013.



# Review Activity Statistics

For the reporting period from January 1, 2012 –  
December 31, 2012

**Figure 1: Number of Applications, by type and month**

Month	Complaint Disposition	Delayed Investigation	Registration Decision	Total Number of Applications	%
January	9	0	9	18	7
February	25	1	5	31	13
March	21	0	2	23	9
April	25	1	3	29	12
May	7	2	3	12	5
June	9	2	5	16	7
July	9	2	4	15	6
August	26	1	5	32	13
September	13	0	1	14	6
October	12	0	5	17	7
November	20	3	3	26	11
December	6	1	2	9	4
<b>Total</b>	<b>182</b>	<b>13</b>	<b>47</b>	<b>242</b>	<b>100</b>
<b>% of Total Applications</b>	<b>75</b>	<b>5</b>	<b>20</b>		<b>100</b>

Figure 2: Total Applications for Review, classified by respondent College

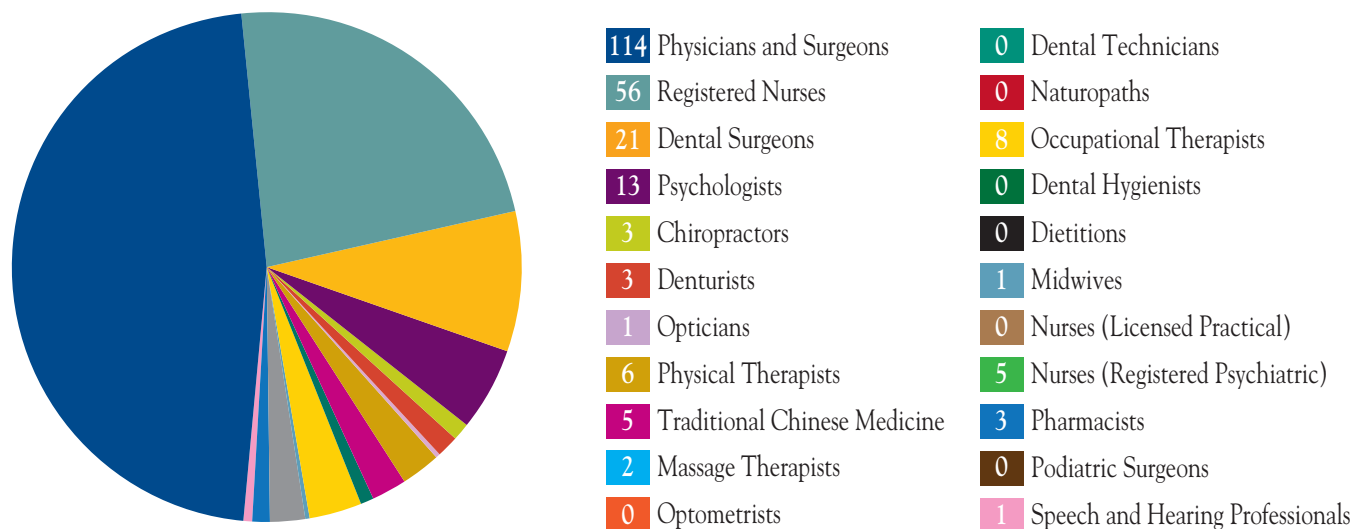


Figure 3: Applications for Review, by College and type

Respondent College	Complaint Disposition	Delayed Investigation	Registration Decision	Total Number of Applications	%
Physicians and Surgeons	106	5	3	114	47
Registered Nurses	23	0	33	56	23
Dental Surgeons	18	3	0	21	9
Psychologists	10	2	1	13	6
Chiropractors	3	0	0	3	1
Denturists	1	0	2	3	1
Opticians	0	0	1	1	0
Physical Therapists	6	0	0	6	3
Traditional Chinese Medicine	0	2	3	5	2
Massage Therapists	1	1	0	2	1
Optometrists	0	0	0	0	0
Dental Technicians	0	0	0	0	0
Naturopaths	0	0	0	0	0
Occupational Therapists	8	0	0	8	4

Figure 3: Applications for Review, by College and type (continued)

Respondent College	Complaint Disposition	Delayed Investigation	Registration Decision	Total Number of Applications	%
Dental Hygienists	0	0	0	0	0
Dietitians	0	0	0	0	0
Midwives	0	0	1	1	0
Nurses (Licensed Practical)	0	0	0	0	0
Nurses (Registered Psychiatric)	3	0	2	5	2
Pharmacists	3	0	0	3	1
Podiatric Surgeons	0	0	0	0	0
Speech and Hearing Professionals	0	0	1	1	0
<b>Total</b>	<b>182</b>	<b>13</b>	<b>47</b>	<b>242</b>	<b>100</b>
% of Total Applications	75	5	20		100

Figure 4: Applications for Review, by status

Applications for Review	Number
Number of applications open at January 1, 2012 (Case Management in Progress)	250
Number of applications for review received in 2012	242
Applications closed in 2012	181
Number of applications open at December 31, 2012 (Case Management in Progress)	311

**Figure 5: Applications for Review, closed by decision type in 2012**

Closed files	2012
<b>Total Decisions Rendered</b>	<b>249</b>
<b>Total Preliminary Decisions</b>	<b>146</b>
ATA s. 42 Denied	2
ATA s. 42 Granted	5
ATA s. 42 Granted in Part	1
Preliminary Directions Provided	14
Preliminary Dismissed	5
Preliminary Denied	23
Preliminary Returned to Inquiry/Registration Committee	2
Preliminary Granted	13
Preliminary Granted in Part	2
ATA s. 17(1) Withdrew	44
ATA s. 17(1) Settled	6
ATA s. 18(c) Failure to Comply with Board Order	0
ATA s. 31(1)(a) Lack of Jurisdiction	7
ATA s. 31(1)(b) Filed out of Time	1
ATA s. 31(1)(c) Frivolous, vexatious or trivial	1
ATA s. 31(1)(d) Made in bad faith	0
ATA s. 31(1)(e) Failure to diligently pursue or comply	5
ATA s. 31(1)(f) No reasonable prospect of success	13
ATA s. 31(1)(g) Substance already dealt with	0
Applications Refused	5
<b>Total Final Decisions</b>	<b>103</b>
Disposition Confirmed	2
Denied	4
ATA s. 50.54(9)/50.6(8)(a) Consent Order – Decision/Disposition Confirmed	13
ATA s. 50.54(9)/50.6(8)(c) Consent Order – Decision/Disposition Sent Back to Committee	10
ATA s. 50.58(1)(a) Delayed Investigation – Order to Committee to continue and dispose	8
ATA s. 50.54(9)/50.6(8)(a) Hearing – Decision/Disposition Confirmed	52
ATA s. 50.54(9)/50.6(8)(c) Hearing – Decision/Disposition Sent Back to Committee	4
ATA s. 17(1) Withdrew	3
ATA s. 17(1) Settled	2
ATA s. 31(1)(a) Lack of Jurisdiction	1
ATA s. 31(1)(f) No reasonable prospect of success	2
ATA s. 16 Consent Order	1

# Financial Performance

## 2012 Year Expenditures

This reporting period covers the 2012 fiscal year of operation for the Review Board. Following is a table showing the expenditures made by the Review Board during its 2012 fiscal year.

### Health Professions Review Board

Operating Costs: April 1, 2012 – March 31, 2013	
Salary & Benefits	\$ 510,000
Operating Costs	\$ 705,000
Other Expenses	\$ 0
<b>Total Operating Expenses</b>	<b>\$ 1,215,000</b>

## Shared Services Administrative Support Model

Administrative support for the Health Professions Review Board is provided by the office of the Environmental Appeal Board and the Forest Appeals Commission.

This shared services approach takes advantage of synergy and keep costs to a minimum. This has been done to assist government in achieving economic and program delivery efficiencies allowing greater access to resources while, at the same time, reducing administration and operational costs.

In addition to the Health Professions Review Board, the office for the Environmental Appeal Board and the Forest Appeals Commission provides administrative support to seven other appeal tribunals.

