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CASE SUMMARY: DECISION BY THE HEALTH PROFESSIONS REVIEW BOARD WAS SET ASIDE ON THE BASIS THAT THE PANEL CHAIR'S FINDINGS ON THE ADEQUACY OF THE UNDERLYING INVESTIGATION WERE PATENTLY UNREASONABLE AND THE REGISTRAR'S UNDERLYING DISPOSITIONS WERE REASONABLE

Decision by the Health Professions Review Board was set aside on the basis that the panel chair's findings on the adequacy of the underlying investigation were patently unreasonable and the registrar's underlying dispositions were reasonable.

Administrative law – Decisions reviewed – Health Professions Review Board – Inadequate investigations – Judicial review – Jurisdiction – Procedural requirements and fairness – Standard of review – Patent unreasonableness – Chiropractors

College of Chiropractors of British Columbia v. British Columbia (Health Professions Review Board), [2023] B.C.J. No. 611, 2023 BCSC 529, British Columbia Supreme Court, April 5, 2023, S. Matthews J. (In Chambers)

A complaint was made against two chiropractors to the College of Chiropractors of British Columbia (the "College") in relation to representations that were made on their website. The complainant, Dr. Desaulniers, was also a registrant of the College. The two respondent chiropractors were on the board of the College and, at the time of the complaint, were seeking re-election.

The registrar of the College disposed of both complaints as complaints that, if proven, would not constitute serious matters subject to an investigation by the inquiry committee of the College, pursuant to the registrar's authority granted under section 32(3) of the *Health Professions Act*, RSBC 1996, c.183 ("HPA").

Dr. Desaulniers applied to the Health Professions Review Board (the "HPRB") for a review of the registrar's decision. The HPRB overturned the registrar's dispositions on the basis that the investigations were inadequate and the outcomes were not reasonable, primarily because the registrar had not involved the inquiry committee before disposing of the complaints. The College sought judicial review of the HPRB's decision.

On judicial review, the court noted that the standard of review was patent unreasonableness. The court overturned the HPRB's decision and re-instated the registrar's disposition on the basis that the panel chair's findings regarding the adequacy of the investigation were patently unreasonable and the registrar's dispositions were reasonable.

Regarding the panel member's findings on the adequacy of the investigation, the court held that the panel member's decision was patently unreasonable for a number of reasons. The court noted that the panel member's interpretation of the summary process for review rendered the process redundant and meaningless, as the panel member had suggested that the registrar should have apprised the inquiry committee of the allegations, the results of the investigations, and the registrar's "proposed disposition" of the complaint, actions that are not required by the HPA. The panel member had also concluded that the use of the summary complaint process was inappropriate because the complainant had raised the issue of impartiality. The court noted that this was essentially a determination that the complaint was inappropriately screened, which is not a matter of investigative adequacy unless the panel chair identified an investigative goal that was not met by the failure to proceed under the s.32(2) ordinary process.

This case was digested by [JoAnne G. Barnum](#), and first published in the LexisNexis® Harper Grey Administrative Law Netletter and the Harper Grey Administrative Law Newsletter. If you would like to discuss this case further, please contact JoAnne G. Barnum at jbarnum@harpergrey.com.