



College of Physicians and Surgeons of British Columbia

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May 28, 2021

College File No.: [REDACTED]

VIA MAIL
PERSONAL AND CONFIDENTIAL

[REDACTED]
[REDACTED]
[REDACTED]
Dear [REDACTED]

Re: Your complaint concerning Dr. Bonnie J.F. Henry

This letter is a decision of the Registrar of the College of Physicians and Surgeons of British Columbia ("the College"), concluded under section 32(3)(b) of the *Health Professions Act*.

We received your complaint letter dated November 19, 2020. A copy of the correspondence was provided to Dr. Henry's legal counsel on February 19, 2021. Please note, as your complaint could be addressed without a response from Dr. Henry, and to expedite a disposition, a response was not required.

Summary of your account

You believe Dr. Henry has abused her power and her orders are self-serving with no evidence to support the claims. You explain:

- Hospitals have been emptied and preventative healthcare has suffered.
- Travel restrictions have been unnecessary.
- Non-essential businesses have been shut down arbitrarily.
- There is no science to support small group gatherings.
- Mask mandates do not work.
- The vaccine agenda does not work.
- The virus is as deadly as the flu.
- PCR testing has a very high false positive rate.
- The virus has never been isolated.

- Dr. Henry "is complicit in helping push a larger social agenda called the 'great reset'."

Our analysis

The role of the College is to ensure physicians meet expected standards of practice and conduct. The College has determined that it does not have the authority to review your complaint as Dr. Henry's actions in the capacity of provincial health officer (PHO) are not within the jurisdiction of the College. The actions and powers of the PHO are governed by the *Public Health Act (PHA)*, while the jurisdiction of the College is set out in the *Health Professions Act*.

To address your concerns, we will provide some background information regarding provincial law and jurisdiction – a complex and legalistic area. All of the health orders made by Dr. Henry are orders made in her capacity as the PHO. The PHO holds a statutory office, created under section 64 of the *PHA*, S.B.C. 2008, c. 28. The Lieutenant Governor in Council appoints the PHO, pursuant to section 65 of the *PHA*.

The PHO has various statutory powers, including powers to issue orders pursuant to various provisions of the *PHA*, including powers under *PHA* Part 4, Division 4. For example, section 31(1) of the *PHA* empowers a health officer, which includes the PHO, to "order a person to do anything that the health officer reasonably believes is necessary for any of the following purposes: ... (b) to prevent or stop a health hazard, or mitigate the harm or prevent further harm from a health hazard...." Similarly, section 32(2) of the *PHA* provides that a health officer may order a person to, among other things, "(h) wear a type of clothing or personal protective equipment, or change, remove or alter clothing or personal protective equipment, to protect the health and safety of persons...."

The *PHA* accounts for times when the PHO must respond to health hazards and emergencies. The *PHA* establishes conditions under which a health officer may make orders under *PHA* Part 4, Division 4. *PHA* section 30(1) provides as follows:

When orders respecting health hazards and contraventions may be made

30 (1) A health officer may issue an order under this Division only if the health officer reasonably believes that

- (a) a health hazard exists,
- (b) a condition, a thing or an activity presents a significant risk of causing a health hazard,
- (c) a person has contravened a provision of the *Act* or a regulation made under it,
or
- (d) a person has contravened a term or condition of a licence or permit held by the person under this *Act*.

Additionally, *PHA* Part 5 provides for additional powers of health officers in the event of an emergency relating to localized and regional events.

Oversight of decision-making by persons who are exercising statutory powers – such as Dr. Henry in the capacity of PHO – and persons exercising statutory powers of decision, lies with the Supreme Court of British Columbia, by way of the judicial review process. The Inquiry Committee or the Discipline Committee of the College does not provide this oversight. As the appointment of the PHO lies with the Lieutenant Governor in Council, the power to remove the PHO also lies with the Lieutenant Governor in Council. The College has no role in deciding who the Lieutenant Governor in Council appoints or removes as PHO.

While the jurisdiction of the College extends to its registrants, and Dr. Henry is a registrant, Dr. Henry's conduct in her capacity as the PHO is authorized under the *PHA*. The jurisdiction of the College does not extend to determining if Dr. Henry has met the requirements for making orders pursuant to the *PHA*, nor does the jurisdiction extend to deciding if Dr. Henry has improperly exercised her discretion when applying her statutory powers. The College does not have the jurisdiction to decide about the constitutionality of Dr. Henry's statutory decisions, or about the constitutionality of laws set out in the *PHA*.

Conclusion

It has been some time since you initiated this complaint, and we thank you for your patience. We note the considerable frustration expressed in your correspondence. As explained above, the College does not have the authority to review the complaints you have submitted relating to Dr. Henry's decisions, made in the capacity of PHO. Although the information we have provided may not change your impression of Dr. Henry's performance, we hope we have provided some clarity regarding the issue of jurisdiction.

Health Professions Review Board

The College's governing legislation, the *Health Professions Act*, provides for a review process, administered by the Health Professions Review Board (HPRB). The HPRB is an independent tribunal established by the provincial government to review complaint or registration decisions for all health profession colleges in British Columbia.

You may, within 30 days from the date you receive this letter, apply to the HPRB to have the adequacy of our investigation and the reasonableness of the decision assessed. The HPRB will not commence a new investigation into the complaint but will receive a complete copy of the file containing the information we have collected.

If you choose to exercise your right to apply to the HPRB, your application must, within the same 30-day period, be (i) filed with the HPRB, (ii) delivered to the College, and (iii) delivered

to the physicians involved in your complaint. Physician contact information is available from the College website (www.cpsbc.ca).

The HPRB may be contacted at:

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

Telephone: 250-953-4956 (in Victoria)
Fax: 250-953-3195
Toll-Free: 1-888-953-4986 (within BC)

Further information on the HPRB review process may be found on their website (www.hprb.gov.bc.ca).

Yours sincerely,



Derek Puddester, MD, MEd, FRCPC
Deputy Registrar
Complaints and Practice Investigations

DP/ndb/ml

Cc: Dr. Bonnie J.F. Henry, c/o Harper Grey LLP