

INQUIRY COMMITTEE RECORD OF DECISION

FILE NAME: DH1399

FACTS

On February 19, 2013, the College received a complaint alleging that the Registrant contravened the *University Act* and regulations and university policies in the manner in which (s)he dealt with the Complainant regarding an issuance of academic misconduct. The Complainant also alleged that the Registrant contravened the *Freedom of Information and Protection of Privacy Act* (FOIPPA) and made false statements in his/her statement of defence in response to litigation commenced by the Complainant.

By letter dated February 20, 2013, the Registrar of the College notified the Registrant of the complaint and invited a response in accordance with s. 33(5) of the *Health Professions Act*, RSBC 1996, c. 183 (the "Act"). On March 15, 2013, the College office received a response from legal counsel for the Registrant in response to the complaint.

COMMITTEE DECISION

At the conclusion of the investigation, the Inquiry Committee determined that the complaint under the *Health Professions Act* was frivolous within the meaning of s. 33(6)(a) in terms of being groundless and lacking in substance. The Inquiry Committee concluded that the College does not have jurisdiction over the conduct of University faculty in the administration of their statutory and administrative powers with respect to academic matters. As the subject matter of the complaint related to the internal university process for addressing academic misconduct, it was not reviewable by the College. The Inquiry Committee also determined that it lacks jurisdiction to consider whether the Registrant contravened the FOIPPA as there is a separate regulatory scheme for the administration of that legislation. The Inquiry Committee determined that the allegation that the Registrant made false statements in his/her statement of defence was equally misconceived. The validity of the Registrant's defence to the allegations will be determined in the trial. The Inquiry Committee cannot interject itself into that process. In summary, the Inquiry Committee concluded that there was no aspect of the complaint that raised concerns regarding the Registrant's conduct as a dental hygienist or as a registrant of the College.

The Inquiry Committee also determined that the complaint was vexatious within the meaning of s. 33(6)(a) of the Act.. After acknowledging that portions of the Complainant's assignment were plagiarized, (s)he availed her/himself of the internal appeal process and then entered a settlement agreement. The terms of the settlement agreement permitted the Complainant to redo the assignment. The Complainant's failure to pass the supplemental assignment apparently fueled the dispute with the Registrant and lead to litigation. Having regard to all the circumstances, including the long history of this dispute, the Complainant's admission of academic misconduct, the settlement agreement, the litigation, the Complainant's inflammatory allegations that the Registrant acted in bad faith, in a discriminatory manner, and without integrity, and his/her design of a "sinister" plan, and the Complainant's statement that (s)he was seeking "professional support" from his/her peers in the court proceedings, the Inquiry Committee concluded that the filing of this complaint was an abuse of the complaint process under the *Health Professions Act* which was intended to embarrass and harass the Registrant.

RELEVANT PROVISION OF ACT, REGULATION, OR BYLAWS: *Act*, section 33(1); 33(5); 33(6)(c) 36(1)(a); 36 (1)(d); and *Bylaws*, section 70

STATUS: Closed

LEGISLATIVE AUTHORITY: *Health Professions Act* s 33, 36