



Hospital Appeal Board

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December 20, 2018

APPEAL FILE: 2015-HA-002

Via email

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Attention: Susan Precious

Attention: Ryan Berger

Re: *Hospital Act Appeal –Dr. David Kates v. Interior Health Authority – Order Implementation*

I would like to thank the parties for participating in today's teleconference to discuss the Appellant's application for the following: an Order from the Board that the Respondent provide the Appellant with the forms to apply for Active Medical Staff Privileges; and, clarification from the Board on the proper interpretation of Term #2 of the December 05, 2016 Dismissal Order.

As held on our call today, I have listened to the oral submissions and reviewed the written materials provided by both parties, and have determined that the Board lacks the jurisdiction to grant the order requested by the Appellant requiring the Respondent to provide forms. The Appellant's request is more akin to enforcement of the Dismissal Order than clarification of the Dismissal Order. As such, the proper forum to bring this application is the courts.

The general intent of Term #2 of the Dismissal Order was that no later than January 01, 2019 Dr. Kates would be eligible to transition from Provisional to full Active Medical Staff privileges without undue delay, and without hiatus in his employment pending consideration of the application for active privileges.

I understand from the oral submissions of Counsel for the Respondent that his client agrees and accepts that Dr. Kates is applying for Active Medical Staff Privileges, and that the appropriate forms (electronic or otherwise) have either already been provided to Dr. Kates, or will be provided as soon as possible. While the intent of the Dismissal Order was that Dr. Kates would have to apply for Active Medical Staff privileges, it was also the intent of the Order that IHA would facilitate such application through the provision of the appropriate forms.

I further understand that it is the Respondent's position that despite section 6.1.8 of the Medical Staff Bylaws, Dr. Kates' provisional privileges will not lapse on January 01, 2019; being two years after Dr. Kates' Provisional privileges were first assigned.

Counsel for the Respondent advised he will seek instructions from his client to have Dr. P communicate with Dr. Kates to ensure Dr. Kates understands that: IHA is currently considering Dr. Kates for full Active Medical Staff privileges; there are some forms that need to be completed in CACTUS; IHA sees no barriers to Dr. Kates being endowed with Active Medical Staff privileges; and, IHA's position is that Dr. Kates' Provisional Privileges will not expire while IHA is working to process his application for Active Medical Staff privileges.

I expect that the parties will work together diligently to ensure the spirit and intent of the Order are respected, and that the matter of Dr. Kates' application for full Medical Staff Privileges is sorted out as soon as is reasonably possible.

"Cheryl Vickers"

Cheryl Vickers,
Panel Chair
Hospital Appeal Board

2018-12-20 Ruling re clarification Application