



Hospital Appeal Board

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October 13, 2017

APPEAL FILE: 2017-HA-002

VIA EMAIL

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Attention: Penny Washington and Melissa Perry

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Attention: Brent Windwick, Q.C.

Dear Ms. Jakeman, Mr. Windwick, Ms. Washington and Ms. Perry:

Re: *Hospital Act Appeal – Dr. Paul Sanghera v. Vancouver Coastal Health Authority – Ruling on Application for Standing by Dr. N to make submissions on Preliminary Application re: Jurisdiction to Order Remedy sought*

On September 21, 2017, I made a ruling in this appeal that the jurisdictional challenge to the remedy sought by the appellant was to be heard as a preliminary matter by way of a written hearing. At that time I also directed that Dr. N be advised of the appeal and be invited to apply to the Hospital Appeal Board (HAB) for standing or the right to make written submissions on the preliminary jurisdiction application.

On October 11, 2017, counsel for Dr. N electronically delivered an application for standing on behalf of Dr. N, hard copies of which were received on October 12, 2017. Copies were also provided to the appellant and respondent. The respondent Vancouver Coastal Health Authority (VCHA) supports the participation of Dr. N and the appellant Dr. Sanghera takes no position on that issue. Accordingly, I did not request reply submissions to the standing application made by Dr. N.

Dr. N applied for standing or the right to make written submissions in regard to whether the HAB has jurisdiction to alter or affect another physician's privileges in circumstances of an appeal like that brought by Dr. Sanghera. Dr. N submits that given that the outcome of the appeal may result in the revocation of his hospital privileges, which would have a direct and lasting impact on his professional livelihood, he ought to be

granted standing as a third party intervener and be allowed to make written submissions on the preliminary issue of the HAB's jurisdiction to order the remedy requested by Dr. Sanghera. I agree.

The issue in regard to the remedy of potentially replacing Dr. N as the appointed member of the medical staff of the VCHA, complete with hospital privileges, as is sought by the appellant on this appeal is a novel one for the HAB. In determining this issue, the HAB will benefit from fulsome submissions from varying perspectives. Dr. N possesses a significant professional stake in these proceedings and potentially a direct interest in the outcome of the appeal. In addition, I agree with Dr. N's submissions that granting him standing would afford the HAB the benefit of a unique, valuable and necessary perspective that he would bring to the proceedings.

Further, I find that granting Dr. N standing would not impose any additional burden upon the parties, would not broaden the scope of the issues on appeal and therefore the potential benefits of his participation outweigh any prejudice to the parties caused by granting him intervener status.

Finally, I find that the facts as set out in the submissions of Dr. N support a grant of intervener status pursuant to section 33 of the *Administrative Tribunals Act*, which is made applicable to the Hospital Appeal Board by section 46(4.2)(d) of the *Hospital Act*.

Therefore, standing as a third-party intervener is granted to Dr. N on the preliminary issue of jurisdiction, without prejudice to his right to seek standing or make further submissions on the appeal on the merits should Dr. Sanghera be successful in regard to the preliminary issue of jurisdiction to grant the remedy he has requested on appeal.

The schedule for the preliminary application on jurisdiction is as follows:

October 6, 2017 – submission of Dr. Sanghera (received)

October 23, 2017 –submissions of VCHA and Dr. N

November 6, 2017 –reply from Dr. Sanghera (if any)

November 10, 2017 – sur-reply from VCHA and Dr. N, if necessary

"David Perry"

David G. Perry, Chair
Hospital Appeal Board