

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Litzcke v. Health Professions Review Board*,
2025 BCSC 2034

Date: 20251017
Docket: S240383
Registry: Vancouver

In the Matter of the *Judicial Review Procedure Act*, R.S.B.C. 1996, c. 241

Between:

Karin Litzcke

Petitioner

And

Health Professions Review Board

Respondents

Before: The Honourable Justice Basran

Reasons for Judgment

The Claimant, appearing in person:

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Place and Date of Hearing:

Vancouver, B.C.
May 30, 2025

Place and Date of Judgment:

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October 17, 2025

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Introduction

[1] The petitioner, Karin Litzcke, filed a complaint (the “Complaint”) with the College of Physicians and Surgeons of British Columbia (the “College”) based on her observations of a two-day hearing of a court case, Vancouver Registry Actions E190334 and S191565, on February 19 and 20, 2019, involving a teenaged child, A.B., seeking treatment for gender dysphoria, and the father, C.D.’s refusal to consent to this treatment (the “*A.B. v. C.D. and E.F.*” proceedings). The BC Supreme Court’s reasons for judgment with respect to the two-day hearing are indexed as *A.B. v. C.D. and E.F.*, 2019 BCSC 254, and the BC Court of Appeal’s reasons for judgment with respect to the appeal from the BC Supreme Court’s decision are indexed as *A.B. v. C.D.*, 2020 BCCA 11.

[2] The Complaint made several allegations against one of the child’s treating physicians, an endocrinologist, who provided affidavit evidence. This doctor is identified as “Dr. G.H.” and the child who he treated is identified as “A.B.” because of a publication ban and anonymization orders granted by the trial judge.

[3] The petitioner is a self-described former dietician. The Complaint, relating specifically to Dr. G.H.’s treatment of A.B. and, more generally, his treatment of other patients, is primarily based on the petitioner’s belief that the prescription of testosterone to teenaged patients is presumptively harmful. She is concerned that children are being harmed by gender-affirming treatments.

[4] The College’s Registrar dismissed the Complaint pursuant to s. 32(3) of the *Health Professions Act*, R.S.B.C. 1996, c. 183 [*HPA*] on the basis that:

- a) the allegations relating to Dr. G.H.’s anonymity, his treatment of A.B., and A.B.’s capacity to consent to treatment, attempted to undermine the findings of fact or legal conclusions made by the court and were therefore vexatious and an abuse of process;
- b) the allegations that Dr. G.H. manipulated A.B. into consenting to treatment in order to obtain personal profit and career advancement, that Dr. G.H.

was financially motivated to rely on a psychologist’s assessment of A.B., and that Dr. G.H. had a role in selecting A.B.’s legal counsel and in determining their legal strategy, were based on speculation and, therefore, frivolous; and

- c) the allegation that Dr. G.H. engaged in professional misconduct by prescribing testosterone to A.B., by not following the practice standards of the World Professional Association for Transgender Health (“WPATH”), and/or by not following the College’s Practice Standards or Code of Ethics, did not constitute a “serious matter” as defined in the *HPA*.

(the “Disposition”)

[5] The respondent, Health Professions Review Board (the “HPRB”), upheld the Disposition in relying on one of its prior decisions, *Complainant v. College of Physicians and Surgeons British Columbia (No. 1)*, 2023 BCHPRB 88 (the “HPRB Decision”).

[6] The petitioner now seeks judicial review of the HPRB Decision based on allegations that the HPRB:

- a) ignored evidence of threats to the well-being of patients;
- b) demonstrated bias against the petitioner;
- c) made demonstrably wrong findings of fact on the record before the College;
- d) ignored evidence in the record before the College;
- e) misinterpreted s. 32(3)(c) of the *HPA*; and
- f) failed to consider the petitioner’s allegation respecting Dr. G.H.’s general practice, aside from his treatment of A.B.

[7] The Court will focus on the reasonableness of the College’s Disposition on this judicial review of the HPRB Decision. The petitioner has not sought judicial review of the College’s decision not to refer this matter to its Inquiry Committee so issues regarding the streaming of the Complaint are not before the Court.

Style of Cause

[8] The petitioner mistakenly named the HPRB as the “British Columbia Health Professions Review Board”.

[9] The HPRB is named pursuant to s. 50.51(1) of the *HPA*.

[10] The style of cause for this matter shall be amended replacing “British Columbia Health Professions Review Board” with “Health Professions Review Board”.

Health Professions Act - Complaints Process

[11] I accept and adopt the description of the scheme of the *HPA* as set out in the College’s written submissions.

9. The College is responsible for superintending the practice of medicine in British Columbia pursuant to the *HPA* and the *Medical Practitioners Regulation*, B.C. Reg. 416/2008 (the “*Regulation*”).

10. The College’s mandate is to serve and protect the public by exercising its powers and discharging its responsibilities under the *HPA*, the *Regulation* and the College’s Bylaws in the public interest. The College carries out this mandate to protect the public interest by, among other things, investigating complaints against registrants and, where appropriate, taking disciplinary action against them.

11. Part 3 of the *HPA* establishes a three-stage process for dealing with complaints about registrants.

12. The first intake stage is triggered when a complaint is received by the Registrar of the College. Upon receipt, the Registrar must either forward the complaint to the College’s Inquiry Committee pursuant to s. 32(2) of the *HPA* or dispose of the complaint summarily without reference to the College’s Inquiry Committee pursuant to s. 32(3).

13. The Registrar may only summarily dispose of a matter pursuant to s. 32(3) of the *HPA* at the initial intake stage if the Registrar determines that the complaint is: trivial, frivolous, vexatious, or made in bad faith; outside of the College’s jurisdiction; or if its allegations, even if admitted or proven, would constitute a matter other than a “serious matter”. Section 26 of the

HPA defines a serious matter as a matter which would ordinarily result in an order suspending or cancelling the respondent's registration or imposing limits or conditions on the respondent's practice. Matters ordinarily resulting in a reprimand or fine are not "serious matters".

14. Pursuant to s. 32(5) of the *HPA*, a summary disposition by the Registrar pursuant to s. 32(3) is deemed to be a disposition by the Inquiry Committee unless the Inquiry Committee directs the Registrar to deliver the complaint to the Inquiry Committee for investigation.

15. If the matter is not dismissed summarily pursuant to s. 32(3), the Registrar must refer the Complaint to the Inquiry Committee for investigation. This is the second stage at which the complaint may be addressed. The third stage occurs if and when a citation is issued by the Inquiry Committee following an investigation, referring the matter to the College's Discipline Committee.

The College of Physicians and Surgeons of British Columbia v. The Health Professions Review Board, 2022 BCCA 10 ("Dawson") at paras. 56–60.

16. The HPRB is a specialized decision-making body established pursuant to s. 50.51 of the *HPA* with the jurisdiction to review dispositions of the College's Inquiry Committee pursuant to s. 50.6 of the *HPA*. This includes the jurisdiction to review summary dispositions by the College's Registrar, which are deemed to be dispositions of the College's Inquiry Committee per s. 32(5) of the *HPA*.

17. When conducting a review pursuant to s. 50.6 of the *HPA*, the HPRB may consider only:

- (a.) the adequacy of the investigation conducted by the College respecting a complaint; and,
- (b.) the reasonableness of the disposition: *HPA* s. 50.6(5).

18. HPRB review is usually a review of the record that was before the College but may include additional evidence as reasonably required for a full and fair decision: *HPA* ss. 50.6(6) and 50.6(7).

19. A decision of the HPRB rendered pursuant to s. 50.6 of the *HPA* may only be challenged by way of judicial review.

The Complaint

[12] On March 27, 2020, the petitioner filed a 92-paragraph letter of complaint with the College regarding Dr. G.H. She alleged that Dr. G.H. provided treatment to a transgender child identified by the initials A.B. in the *A.B. v. C.D and E.F.* proceedings in the Supreme Court of British Columbia and British Columbia Court of Appeal.

[13] In those proceedings, the court ordered a publication ban on Dr. G.H.'s name and the names of other healthcare professionals involved in treating A.B. The proceedings were also subject to a publication ban and sealing order as were the proceedings before the Court of Appeal.

[14] Initially, the College declined to proceed with the Complaint on the basis that it could not investigate the conduct of a registrant whose identity was unknown to it. The petitioner applied to the HPRB for review of this decision, and HPRB directed that the College process the Complaint pursuant to s. 32 of the *HPA*.

[15] The Complaint consists of three parts:

- a) Part A alleged that Dr. G.H. should not remain anonymous because doing so permitted Dr. G.H. to avoid regulatory oversight by the College. The petitioner requested that the College seek orders lifting the court's publication ban in respect of Dr. G.H.;
- b) Part B focused on the petitioner's complaints about the clinical care provided by Dr. G.H. to A.B. based on her observations of the *A.B. v. C.D and E.F.* proceedings. She raised several allegations, including that:
 - i. Dr. G.H. prescribed testosterone to A.B. under the *Infants Act*, R.S.B.C. 1996, c. 223 [*Infants Act*] in circumstances where A.B. was not mature enough to consent to the treatment;
 - ii. A.B. had developed a crush on Dr. G.H., which Dr. G.H. had used to manipulate A.B. into a harmful drug regimen from which he profited financially and professionally; and
 - iii. Dr. G.H. was motivated by his own financial interests when he allegedly relied on a psychologist's assessment for his treatment of A.B.
- c) Part C focused on the petitioner's complaints about Dr. G.H.'s role in the *A.B. v. C.D and E.F.* proceedings, including allegations that:

- i. Dr. G.H. was involved in selecting A.B.’s lawyer and determining their legal strategy;
- ii. Dr. G.H. did not follow the WPATH standards in his treatment of A.B. and, in any event, they do not represent the College’s Practice Standards;
- iii. medical evidence was improperly presented in the court proceedings;
- iv. Dr. G.H.’s anonymity and his prescription of testosterone to A.B. was inappropriate; and
- v. Dr. G.H. engaged in professional misconduct because he did not follow the College’s Practice Standards or Code of Conduct.

[16] The petitioner sought that the College:

- a) investigate Dr. G.H.’s practice, including his specific care of A.B., and remove a publication ban regarding Dr. G.H.;
- b) restrict Dr. G.H.’s medical licence to prohibit him from practising gender-affirming care;
- c) refer Dr. G.H.’s youth patients presenting with gender dysphoria to another practitioner; and
- d) issue a “blanket order halting all administration of testosterone or puberty blockers” to Dr. G.H.’s patients because “they are presumptively harmful drugs”.

[17] The Complaint included the following enclosures:

- a) a notice of application filed by the petitioner seeking public interest standing and an order lifting a publication ban over the names of the practitioners, including Dr. G.H.;

- b) a transcript of a podcast interview dated December 20, 2018, entitled “Gender Dysphoria 101 with Dr. Susan Bradley”; and
- c) a copy of a presentation by Gordon Neufeld, Ph.D., entitled “Keys to Well-Being in Children and Youth”.

[18] After reviewing the Complaint, the College sought further information from the petitioner including particulars and evidence:

- a) of the “economic and career value” that the petitioner alleged Dr. G.H. gained as a result of prescribing testosterone to A.B.;
- b) of the harm that the petitioner alleged results from giving testosterone to any child, as well as the harm the petitioner alleged resulted from Dr. G.H. giving testosterone to A.B.;
- c) of the “financial interests” that the petitioner alleged Dr. G.H. had in his treatment of A.B.;
- d) of the petitioner’s allegations that prescribing testosterone to a child is “incompatible with any model of clinical decision-making”;
- e) that supported the petitioner’s allegations that Dr. G.H. did not follow the WPATH standards in his treatment of A.B. and that he failed to follow the College’s Practice Standards or Code of Ethics, including by identifying any Practice Standards that the petitioner believed that Dr. G.H. did not follow; and
- f) that supported the petitioner’s allegation that testosterone or puberty blockers are “presumptively harmful”.

[19] In an email sent on April 1, 2022, the petitioner declined to provide the College with any additional information. She believed that the use of pronouns on the law firm website for the College’s external counsel indicated that the law firm’s leadership “either subscribes to, or pretends to subscribe to, gender ideology” and is

irredeemably biased on the topic of her [C]omplaint”. The petitioner further advised that, in her view, all the information sought “should be known to the College” was irrelevant or was information that was “not any complainant’s job to provide”.

The Disposition

[20] On January 10, 2023, the College dismissed the Complaint, pursuant to s. 32(3) of the *HPA*., as defined at para. 4 of these reasons, the Disposition.

[21] The Disposition explained the jurisdiction of the Registrar of the College and the Inquiry Committee in relation to complaints. This included the Registrar’s authority to summarily dismiss a complaint pursuant to s. 32(3) of the *HPA*, instead of referring it to the Inquiry Committee.

[22] In the Disposition, the Registrar outlined several decisions of the HPRB that described the terms “frivolous”, “vexatious”, and “trivial” as provided for in section 32(3)(a) of the *HPA*. Specifically, the Registrar observed that “vexatious” is synonymous with the concept of abuse of process, a broad and flexible doctrine that also encompasses collateral attack, which is an attack made in proceedings other than those whose specific object is the reversal, variation, or nullification of an order or judgment.

[23] The Registrar concluded that the following allegations and complaints should be dismissed pursuant to s. 32(3)(a) of the *HPA* as vexatious or an abuse of process, because they challenged determinations made by the courts in *A.B. v. C.D. and E.F.*:

- a) Dr. G.H. should not be entitled to remain anonymous in the *A.B. v. C.D. and E.F.* proceedings because that anonymity permitted him to avoid regulatory oversight;
- b) the College ought to seek orders to lift the publication ban over Dr. G.H.’s name and to stop the administration of testosterone puberty blockers to all of his patients, including A.B.;

- c) Dr. G.H. had prescribed testosterone to A.B. under the *Infants Act* in circumstances where A.B. was not mature enough to make his own decisions;
- d) A.B. did not have capacity to consent to treatment; and
- e) complaints about Dr. G.H.'s role generally in the *A.B. v. C.D. and E.F.* proceedings.

[24] The Registrar went on to dismiss the following allegations as frivolous because they were speculative and unsupported by evidence:

- a) Dr. G.H. had used the fact that A.B. had a crush on him to put A.B. on a harmful drug regimen from which Dr. G.H. personally profited;
- b) Dr. G.H. had relied on a psychological assessment in circumstances where “the profit motive is so likely, given the lifetime value and pharmaceutical purchases that [A.B.] will represent if [he] is put into guaranteed patient for life status”; and
- c) Dr. G.H. had influenced A.B.'s choice of lawyer.

[25] The Registrar noted that the petitioner refused to provide any particulars or evidence to support her allegations that:

- a) Dr. G.H. had engaged in professional misconduct by prescribing testosterone to A.B. because prescribing testosterone to any child is harmful and “incompatible with any model of clinical decision-making”;
- b) WPATH standards were not followed in A.B.'s care and even if they were, they do not represent Practice Standards established by the College; and
- c) Dr. G.H. engaged in professional misconduct because he did not follow the College's Practice Standards or Code of Ethics.

[26] The Registrar recognized that in assessing whether a complaint raises a “serious matter” under s. 32(3)(c) of the *HPA* it is generally required to treat the complainant’s allegations as fact but emphasized that case law from the HPRB clarifies that this approach does not require the registrar “to accept bare allegations, based on unsupported speculation as if they were true”.

[27] On the issue of the alleged inherent harmfulness of prescribing testosterone, the Registrar observed that the trial decision in *A.B. v. C.D. and E.F.* found “compelling evidence to the contrary” from Dr. G.H. regarding children who, like A.B., suffer from gender dysphoria and comorbid mental health issues. The court also found that A.B.’s treating healthcare professionals are guided by the Standards of Care for the Health of Transsexual, Transgender, and Gender-Nonconforming People, published by WPATH, and that these standards “are based on the best available science and expert professional consensus”.

[28] Based on this evidence and the petitioner’s failure to provide additional information, the Registrar concluded that the allegation that Dr. G.H. had engaged in professional misconduct by prescribing testosterone to A.B. was wholly unsupported and did not raise a “serious matter” requiring further investigation. The Registrar accordingly dismissed this complaint pursuant to s. 32(3)(c) of the *HPA*.

[29] Similarly, the allegations that WPATH standards were not followed or did not represent the standard of practice established by the College and that Dr. G.H. did not follow the College’s Practice Standards or Code of Ethics were also dismissed by the Registrar pursuant to s. 32(3)(c) of the *HPA* because they did not raise a “serious matter”.

THE HPRB Decision

[30] The petitioner applied to the HPRB for a review of the Disposition. She did not provide additional information and instead relied on her previous submissions.

[31] On November 21, 2023, the HPRB dismissed the petitioner’s application, as defined at para. 5 of these reasons, the HPRB Decision (as noted, the HPRB

Decision is indexed as *Complainant v. College of Physicians and Surgeons of British Columbia (No. 1)*, 2023 BCHPRB 88).

[32] The HPRB Decision quoted extensively from the *A.B. v. C.D. and E.F.* proceedings in describing the factual background of the Complaint, including:

- a) A.B.'s gender dysphoria diagnosis;
- b) expert evidence from the medical director of the BC Children's Hospital Gender Clinic that A.B. was treated in accordance with the WPATH standards;
- c) evidence of the steps taken by Dr. G.H. to explain the risks and benefits of testosterone treatment to A.B. and his mother;
- d) Dr. G.H.'s evidence that further delay in testosterone treatment would place A.B. at risk of suicide;
- e) evidence of a psychiatrist's assessment of A.B.'s capacity to give informed consent to testosterone treatment; and
- f) evidence from the medical director of the BC Children's Hospital Gender Clinic confirming that Dr. G.H. followed the appropriate guidelines in reaching their conclusions.

[33] The petitioner alleged that the College had improperly refrained from identifying Dr. G.H., examining his practice, or seeking a response from him. However, the HPRB found that it was not necessary for the College to identify Dr. G.H. in these circumstances. In particular, "where the complaint offers no evidentiary basis other than bare assertions and speculation, and the context calls into question the good faith of the complaint, the first and possibly only step in an investigation may be to examine those aspects of the complaint".

[34] The HPRB also noted that the petitioner declined to provide further evidence or particulars regarding her complaint and that "in the face of that refusal, the

Registrar was justified in concluding that the complaint was based on speculation and inferences unsupported by any substantial evidence”. Accordingly, the HPRB found that the investigation was adequate because it was “sufficient to meet the goal of ascertaining whether there was sufficient, or any evidence to substantiate the complaint such that further investigation would be warranted”.

[35] The HPRB rejected the petitioner’s argument that the Registrar’s decision not to provide a copy of the Complaint to Dr. G.H. and solicit his response rendered the investigation inadequate.

[36] The HPRB concluded that the Disposition was reasonable because the Registrar had properly turned his mind to the aspects of the Complaint that the College could investigate but reasonably concluded that it was unnecessary to do so. In concluding that the Complaint did not raise a “serious matter” requiring further investigation, the HPRB found that the Registrar reasonably relied on the evidence accepted by the court that the clinical care provided to A.B. was in accordance with WPATH standards.

[37] The HPRB relied on one of its prior decisions for the proposition that the Registrar is not required to accept bare allegations of misconduct as if they were true: *Complainant v. College of Psychologists of British Columbia (No. 1)* 2021 BCHPRB 110.

[38] The HPRB found that the allegations that A.B. had a crush on Dr. G.H., that Dr. G.H. had a “profit motive” for his treatment recommendations, that WPATH standards may not have been followed, and that Dr. G.H. was involved in choosing A.B.’s lawyer, were all without foundation. Accordingly, the HPRB found that it was reasonable for the Registrar to reject these allegations as frivolous.

[39] The HPRB also found that in attempting to have the College seek to reverse, vary, or nullify the court’s anonymization order, the petitioner’s allegation invited a collateral attack on a court order. Similarly, the HPRB found that the Registrar reasonably concluded that the petitioner’s allegation that Dr. G.H. was wrong to

proceed under the *Infants Act* was a collateral attack on the court's conclusion that A.B. was competent to consent and that Dr. G.H. could act on that consent. Lastly, the HPRB found that it was reasonable for the Registrar to conclude that the petitioner's allegation that A.B. was incompetent to consent to treatment was a collateral attack on the court's finding that A.B. was in fact competent.

[40] In summary, the HPRB concluded that the Disposition was "intelligible, based on internally consistent reasoning, and [was] justified in relation to legal and factual constraints that bear upon it".

Alleged Errors

[41] The petitioner alleges that the HPRB erred by:

- a) sustaining the Disposition on statutory grounds it did not apply;
- b) demonstrating a reasonable apprehension of bias in its reasons; and
- c) basing its decision on patently unreasonable findings of fact regarding:
 - i. the name of the psychologist who testified in *A.B. v. C.D. and E.F.*;
 - ii. the orders regarding the use of pronouns for A.B.; and
 - iii. the lack of evidence to support the Complaint.

[42] The petitioner also alleges that the College and the HPRB:

- a) misapplied the doctrines of collateral attack and/or abuse of process because the parties and legal issues in the Complaint are distinct from those in *A.B. v. C.D. and E.F.*;
- b) improperly accepted that Dr. G.H.'s treatment was appropriate based on the findings in *A.B. v. C.D. and E.F.*;

- c) ignored evidence that Dr. G.H.'s treatment was incompetent based on the transcript of a podcast and a copy of a presentation enclosed with the Complaint;
- d) erred by dismissing speculative, bare allegations that Dr. G.H.'s practice was incompetent and unethical; and
- e) erred by dismissing speculative allegations because they did not raise a "serious matter" as contemplated in the *HPA*.

Judicial Review

[43] On judicial review, the court's role is supervisory. Its function is to review the HPRB Decision against the relevant standards of review. "A judicial review is not a rehearing. It is not an appeal. [It is not an opportunity for the petitioner] to reargue her case.": *Stein v. British Columbia (Workers' Compensation Appeal Tribunal)*, 2018 BCSC 778 at para. 66, aff'd, 2019 BCCA 406.

[44] Applying the relevant standards of review, the onus is on the petitioner to establish that the HPRB erred in concluding that the investigation was adequate and the Disposition was reasonable: *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 [*Vavilov*], at para. 100.

Standards of Review

[45] The HPRB's mandate is to review the "adequacy" of the College's investigation and the "reasonableness" of its Disposition. The HPRB does not have authority to review the College's streaming decisions or allegations of "process errors": *HPA*, ss. 50.53(1)(c), 50.6; *The College of Physicians and Surgeons of BC v. The Health Professions Review Board*, 2022 BCCA 10 [*Dawson*] at paras. 185, 190, 196, and 199.

[46] "Adequacy" describes the relationship between an action and a goal. The College's investigation will be "adequate" if it is sufficient to meet its goals. The HPRB may set the goals for an investigation and assess the adequacy of the

investigative steps taken by the College. It does not owe deference to the College on its views of the objects of the investigation or the appropriateness of the steps it took: *Dawson* at paras. 114, 115, 117, 136, and 158.

[47] “Reasonableness” in s. 50.6(5) of the *HPA* takes its meaning from the “reasonableness” standard of review in the common law: *Dawson* at para. 165; *Vavilov* at para. 11.

[48] The reasonableness standard of review is deferential. “[...], the reviewing court must consider only whether the decision made by the administrative decision maker — including both the rationale for the decision and the outcome to which it led — was unreasonable.”: *Vavilov* at para. 83.

[49] A reasonable decision is one that a rational person could sensibly reach having regard to the facts and the law. The reviewer focuses on the transparency, intelligibility, and justification for the decision as a whole, based on the decision maker’s reasoning. The HPRB owes deference to the College in assessing the reasonableness of the Disposition: *Dawson* at para. 112; *Vavilov* at paras. 15, 84–86, and 99.

[50] The HPRB is subject to s. 58 of the *Administrative Tribunals Act*, S.B.C. 2004, c. 45 [ATA]. Accordingly, relative to the courts, the HPRB is an expert tribunal in relation to all matters over which it has jurisdiction: *ATA*, s. 58(1).

[51] A finding of fact or law or an exercise of discretion on a matter with the HPRB’s exclusive jurisdiction may not be interfered with unless it is patently unreasonable: *ATA* s. 58(2)(a).

[52] Section 58(3) of the *ATA* provides that a discretionary decision is patently unreasonable if the discretion:

- a) is exercised arbitrarily or in bad faith;
- b) is exercised for an improper purpose;

- c) is based entirely or predominantly on irrelevant factors; or
- d) fails to take statutory requirements into account.

[53] On matters of facts and law, the common law standard of patent unreasonableness applies to HPRB decisions. This is “the most deferential standard of review known to Canadian law.”: *Dawson* at paras. 130 and 131.

[54] The court owes the “utmost deference” to a decision that is reviewable for patent unreasonableness: *West Fraser Mills Ltd. v. British Columbia (Workers’ Compensation Appeal Tribunal)*, 2018 SCC 22 [*West Fraser Mills*] at paras. 28–29.

[55] In applying the patent unreasonableness standard of review, the question is whether there is “any rational or tenable line of analysis supporting the decision such that the decision is not clearly irrational” or whether it is “so flawed that no amount of curial deference can justify letting it stand.”: *Dawson* at para. 129, citing *Team Transport Services Ltd. v. Unifor, Local No. VCTA*, 2021 BCCA 211 at para. 28.

[56] “[A] patently unreasonable decision is one that is ‘openly, clearly, evidently unreasonable.’”: *Dawson* at para. 131; *West Fraser Mills* at para. 28.

[57] A patently unreasonable legal determination is one that “almost border[s] on the absurd.”: *Dawson* at para. 131; *West Fraser Mills* at para. 28.

[58] A finding of fact is patently unreasonable if there is no evidence to support it. On a judicial review, the court may not reweigh the evidence that was before the administrative decision maker: *Bandic v. Workers’ Compensation Appeal Tribunal*, 2014 BCCA 490 at para. 31.

[59] The patent unreasonableness standard of review applies to the HPRB’s decision on the adequacy of the investigation. The court may not interfere with the HPRB’s decision if its assessment of adequacy was within the range of assessments that is not patently unreasonable: *Dawson* at paras. 115, 117, and 158.

[60] Instead of stacking standards of review, for example, by asking whether the HPRB Decision was patently unreasonable in finding that the Disposition was reasonable, the Court may take a shortcut by simply analyzing the reasonableness of the College’s Disposition. This is because the question of whether the College’s conclusion on a point of fact or law is reasonable is legally binary—it is either reasonable or unreasonable: *Dawson* at paras. 172, 174–182.

[61] Accordingly, in this case, if the Disposition was reasonable, then the HPRB Decision was not patently unreasonable.

[62] Applying the reasonableness standard involves answering two questions:

- a) Can the Court trace the rational and logical reasoning of the Disposition without encountering any fundamental flaws or serious shortcomings?
- b) Is the Disposition justified based on the factual and legal constraints bearing on the Registrar and the Inquiry Committee?

Vavilov at paras. 100–106.

Analysis of Alleged Errors

[63] Next, I will address each of the errors alleged by the petitioner.

Sustaining the disposition on statutory grounds the College did not apply

[64] The petitioner submits that it was patently unreasonable for the HPRB Decision to uphold the Disposition with reference to ss. 32(3)(a) and 32(3)(c) of the *HPA* because the College’s internal documents and covering letter to the Disposition only refer to s. 32(3)(a).

[65] The HPRB Decision is a review of the Disposition. It is not a review of the covering letter or the College’s internal documents. Importantly, the Disposition clearly explains that the Complaint was dismissed pursuant to both ss. 32(3)(a) and 32(3)(c). Specifically, pursuant to s. 32(3)(a):

- a) the Complaint's challenge to the court's anonymization order and publication ban was dismissed as vexatious and an abuse of the College's complaint process;
- b) the allegation that Dr. G.H. wrongly proceeded under the *Infants Act* was also dismissed as vexatious and an abuse of the College's complaint process;
- c) The allegation that the A.B. lacked capacity to consent to treatment was dismissed as vexatious and a collateral attack on the findings in *A.B. v. C.D. and E.F.*;
- d) the allegations about Dr. G.H.'s role in *A.B. v. C.D. and E.F.* and the decision to seek anonymity was dismissed as vexatious and an abuse of the College's complaint process;
- e) the allegation that Dr. G.H. manipulated A.B. because A.B. had a crush on Dr. G.H. was dismissed as frivolous;
- f) the allegation that Dr. G.H.'s actions were motivated by his own financial interests was dismissed as frivolous; and
- g) the allegation that Dr. G.H. was involved in selecting A.B.'s lawyer was dismissed as frivolous.

[66] In the Disposition, the College dismissed the following allegations pursuant to s. 32(3)(c) because they did not raise a "serious matter":

- a) Dr. G.H. engaged in professional misconduct by prescribing testosterone to A.B.;
- b) Dr. G.H. did not follow the WPATH standards and, if he did, these standards do not represent the College's Practice Standards; and

- c) Dr. G.H. engaged in professional misconduct because he did not follow the College’s Practice Standards or Code of Ethics.

[67] The Disposition clearly relied on ss. 32(3)(a) and 32(3)(c) of the *HPA* in dismissing the Complaint and the College’s application of these sections is owed deference. Accordingly, the HPRB did not act unreasonably in referring to these sections in upholding the Disposition.

Demonstrating a reasonable apprehension of bias in its reasons

[68] The petitioner bears a “high burden” of proving that the HPRB Decision was based on bias: *Yukon Francophone School board v. Yukon (Attorney General)*, 2015 SCC 25 [*Yukon Francophone*] at para. 26.

[69] Where bias is alleged, the court asks what an informed person, viewing the matter realistically and practically, and having thought the matter through, would conclude: *Yukon Francophone* at paras. 20–26.

[70] “Because there is a strong presumption of judicial impartiality that is not easily displaced, the test for a reasonable apprehension of bias requires a ‘real likelihood or probability of bias’”: *Yukon Francophone* at para. 25 [internal citations omitted].

[71] Notwithstanding an opportunity to provide additional information, the petitioner has not provided any substantive evidence that supports a realistic or practical suggestion of bias. There is certainly no evidence to displace the strong presumption of impartiality.

[72] I am satisfied that the HPRB’s comments on the petitioner’s motivations are an expression of its finding that some of the allegations were vexatious and an abuse of process. They do not suggest partiality. Similarly, the HPRB’s comments at paras. 77 and 89 of the HPRB Decision regarding the petitioner’s attitudes towards gender identity and the HPRB’s unwillingness to engage in “wild goose chases or witch hunts” speaks to the petitioner’s failure to adduce evidence to support her Complaint.

Basing its decision on patently unreasonable findings of fact and dismissing as speculative, bare allegations that Dr. G.H.'s practice was incompetent and unethical

[73] The petitioner asserts that the HPRB Decision relied on patently unreasonable findings of fact including:

- a) the assertion that the petitioner improperly identified the name of the psychologist who testified in *A.B. v. C.D. and E.F.*;
- b) the orders regarding the use of pronouns for A.B.; and
- c) the lack of evidence to support the Complaint.

[74] In my view, the assertion that the petitioner improperly identified a psychologist who testified in *A.B. v. C.D. and E.F.* in the Complaint is not material to the HPRB Decision. This was not relevant to the reasoning of the HPRB. Furthermore, in the Complaint, the petitioner named a BC-based psychologist who provides gender affirming care for youth, potentially in violation of the court's anonymization order and publication ban. In any event, this fact is peripheral and unimportant.

[75] Similarly, the orders regarding the use of pronouns for A.B. were peripheral and not material to the HPRB's Decision.

[76] In the absence of any details or specifics, the College considered the allegations that Dr. G.H. engaged in professional misconduct to be bare allegations. Accordingly, it sought further evidence and particulars from the petitioner to support these allegations. The petitioner declined to provide this further evidence. Left only with what it considered to be bare allegations, it was reasonable for the College to conclude that there was a lack of evidence to support these allegations and that they did not constitute a "serious matter" pursuant to s. 32(3)(c) of the *HPA*.

[77] The HPRB Decision did not materially rely on the aforementioned allegedly patently unreasonable findings of fact and, in any event, the evidence suggests that two of the three impugned findings of fact were not patently unreasonable.

[78] Furthermore, the College’s dismissal of the allegations in the Complaint as speculative, of what it found to be bare allegations that Dr. G.H.’s practice was incompetent and unethical, was reasonable based on the complete lack of detailed evidence or particulars to support these allegations notwithstanding its efforts to provide the petitioner with a further opportunity to provide this information.

Collateral attack and abuse of process

[79] The petitioner asserts that the doctrines of collateral attack and abuse of process do not apply to the College and that the Registrar of the College improperly considered himself bound by the court’s findings in *A.B. v. C.D. and E.F.* These arguments were raised for the first time by the petitioner on this judicial review. The petitioner did not raise these arguments with the HPRB. The court’s role on a judicial review of an HPRB decision is supervisory. It is, therefore, not appropriate for the Court to consider these new arguments that were not before the HPRB.

[80] In any event, abuse of process is a flexible doctrine that can be applied where allowing litigation to proceed would bring the administration of justice into disrepute. The petitioner has not shown that the Disposition was unreasonable such that it can not be justified on the facts and law or that its reasoning was flawed or unclear.

Improper reliance on the court’s findings in A.B. v. C.D. and E.F.

[81] I do not accept the petitioner’s assertion that the College considered itself bound by the findings in *A.B. v. C.D. and E.F.* In assessing whether the Complaint constituted a “serious matter”, the College properly considered the context of the complaint, including the evidence adduced in *A.B. v. C.D. and E.F.*, and it provided the petitioner with an opportunity to provide further evidence and/or particulars, which she declined. Neither the court nor the College were bound by each other’s decisions and there is no evidence in the Disposition that suggests that the College considered itself bound by the findings in *A.B. v. C.D. and E.F.*

Ignoring evidence that the Dr. G.H.'s treatment was incompetent based on the transcript of a podcast and a copy of a presentation enclosed with the Complaint

[82] The contents of the podcast interview and presentation enclosed with the Complaint do not provide particulars of the allegations against Dr. G.H. Nor do they provide details of Dr. G.H.'s practice or indicate the standards to which he must adhere. The College did not ignore this evidence. The College found it to be irrelevant to the specifics of Dr. G.H.'s practice and his compliance with the relevant standards. Accordingly, the College's treatment of this information was entirely reasonable.

Dismissing speculative allegations because they did not raise a "serious matter" as contemplated in the HPA

[83] As previously described, the Disposition dismissed the allegations found to be "speculative" on the basis that they were frivolous, not that they did not raise a serious matter. In assessing if factual allegations are a "serious matter", the College is not required to accept bare allegations. The petitioner refused to provide further evidence or particulars in respect of the bare allegations. Accordingly, the College reasonably concluded that these bare allegations did not raise serious matters pursuant to s. 32(3)(c) of the *HPA*.

Conclusion

[84] The College's determinations as set out in the Disposition are based on intelligible and transparent justifications. These findings are entitled to deference and there is evidence on the record that supports them. The College's findings were reasonable and accordingly, the petitioner has not demonstrated any patent unreasonableness in the HPRB's review of those determinations. The judicial review is dismissed.

[85] Neither the College nor the HPRB sought costs. Each party shall bear their own costs.

"Basran J."